VOL. 73 – NO. 8 FEBRUARY 20, 2026

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council passes Law 26-89, D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025
- D.C. Council proposes authorizing the Chief of Police to establish extended juvenile curfew hour zones in specified circumstances (Act 26-257)
- D.C. Council schedules a public hearing on the Office of Human Rights Rulemaking Authority Amendment Act of 2026
- Alcoholic Beverage and Cannabis Administration updates the licensing process for medical cannabis businesses
- Board of Elections schedules a public hearing to review initiative measure "District of Columbia Living Wage for All Amendment Act of 2026"
- Board of Ethics and Government Accountability updates meeting requirements for the Director of the Office of Open Government
- Department of Energy and Environment announces funding availability for "Lead Poisoning Prevention Outreach for Expectant and New Parents"
- Department of Housing and Community Development announces funding availability for the 2026 Consolidated Request for Proposals for Affordable Housing Projects
- Department of Housing and Community Development solicits proposals for the Site Acquisition Finance Initiative – Bridge Loan Program and applications for the District Opportunity to Purchase Act - Property Management Services Grant
- Mayor of the District of Columbia declares a public emergency due to the collapse of the Potomac Interceptor sewer pipeline into the Potomac River (Mayor's Order 2026-028)

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA
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ADMINISTRATOR

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ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-89

"D.C. Income and Franchise Tax Conformity and Revision Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-458 on First Reading and Final Reading, on November 4, 2025, and December 2, 2025, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 26-217 and was published in the January 2, 2026 edition of the D.C. Register (Vol. 73, page 000009). Act 26-217 was transmitted to Congress on December 30, 2025 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-217 is now D.C. Law 26-89, effective February 12, 2026.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
December	30,31
January	2,5,6,7,8,9,12,13,14,15,16,20,21,22,23,26,27,28,29,30
February	2,3,4,5,6,9,10,11

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-257

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 11, 2026

To amend, on an emergency basis, due to congressional review, the Juvenile Curfew Act of 1995 to authorize the Mayor to extend the juvenile curfew hours in the District when appropriate to protect public safety or public or private property, to authorize the Chief of Police to establish extended juvenile curfew hour zones in specified circumstances, to start the juvenile curfew hours at 11 p.m. every day, and to extend the applicability of the juvenile curfew to 17-year olds; and to amend the Volunteer Services Clarification Temporary Amendment Act of 2025 to make conforming changes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Juvenile Curfew Congressional Review Emergency Amendment Act of 2026".

Sec. 2. The Juvenile Curfew Act of 1995, effective September 20, 1995 (D.C. Law 11-48; D.C. Official Code § 2-1541 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 2-1542) is amended as follows:

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

"(1) "Chief of Police" means the Chief of the Metropolitan Police Department.".

(2) A new paragraph (1A) is added to read as follows:

"(1A) "Curfew hours" means:

"(A) From 11:00 p.m. every day until 6:00 a.m. on the following day;

"(B) Extended curfew hours established by the Mayor pursuant to section 3a; and

"(C) Extended curfew hours in extended juvenile curfew zones established by the Chief of Police pursuant to section 3b.".

(3) Paragraph (5) is amended by striking the phrase "under the age of 17 years" and inserting the phrase "under the age of 18 years" in its place.

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

"(6A) "Notice of violation of curfew" means a verbal warning, authorized by an official that informs a groups of juveniles that they are violating the terms of a curfew, that they may be arrested if they continue to violate the curfew, and identifies reasonable steps that they can take to leave the area to avoid arrest.".

(b) New sections 3a and 3b are added to read as follows:

"Sec. 3a. Temporary extensions of juvenile curfew hours.

"(a) The Mayor may, by issuance of an administrative order pursuant to section 422(11) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 790; D.C. Official Code § 1-204.22(11)), extend the juvenile curfew hours in the District, or any part of the District, beyond the hours established in section 3(1A)(A), (B), and (C), if the Mayor determines that such an extension is appropriate to protect public safety or public or private property.

"(b) An administrative order issued by the Mayor under subsection (a) of this section shall:

"(1) State the basis for the extension of the juvenile curfew hours;

"(2) State the locations in the District where the extended juvenile curfew hours shall apply or state that the extended juvenile curfew hours shall apply throughout the District; and

"(3) State the days and hours during which the extended juvenile curfew hours shall be in effect; provided, that the extended juvenile curfew hours:

"(A) Shall not begin earlier than 8:00 p.m., nor extend past 6:00 a.m., on any day;

"(B) Shall not remain in effect for more than 4 consecutive days, except as provided in subsection (e) of this section; and

"(C) Shall not apply to groups of 8 or fewer individuals.

"(c) Except where emergency circumstances, as determined by the Mayor and described in the administrative order issued under subsection (a) of this section, warrant otherwise, extended juvenile curfew hours imposed under this section shall not take effect until at least 24 hours after the issuance of the administrative order.

"(d) Notice of the issuance of each administrative order issued under this section shall be promptly posted on the main website of the District government and on the website of the Metropolitan Police Department.

"(e) The Mayor may extend the duration of the designation of an extended juvenile curfew hours zone to 30 days by issuing a subsequent order extending the duration of the designation.

"(f) If members of the Metropolitan Police Department discover juveniles in the designated extended juvenile curfew hours zone during the hours of curfew, the Metropolitan Police Department shall:

"(1) Where there:

"(A) Is not an imminent danger of bodily injury of significant damage to property, issue at least 2 clearly audible and understandable notices of violation of curfew; or

"(B) Is imminent danger of bodily injury or significant damage to property, issue at least one clearly audible and understandable notice of violation of curfew;

"(2) Provide juveniles a reasonable and adequate time to disperse; and

"(3) Capture on body-worn camera each component of the order to return home described in paragraph (1) of this subsection.

"Sec. 3b. Temporary designations of extended juvenile curfew hour zones.

"(a) The Chief of Police may designate any area of the District as an extended juvenile curfew hours zone, in which extended juvenile curfew hours determined by the Chief of Police shall apply, if the Chief of Police determines that the designation of the extended juvenile curfew hours zone is appropriate to protect public safety or public or private property in the extended juvenile curfew hours zone.

"(b) To designate an extended juvenile curfew hours zone, the Chief of Police shall issue an order that includes:

"(1) The basis for the designation of the extended juvenile curfew hours zone;

"(2) The boundaries of the extended juvenile curfew hours zone; and

"(3) The days and hours of the extended juvenile curfew hours in the extended juvenile curfew hours zone; provided, that the extended juvenile curfew hours in the extended juvenile curfew hours zone:

"(A) Shall not begin earlier than 8:00 p.m., nor extend past 6:00 a.m., on any day;

"(B) Shall not remain in effect for more than 4 consecutive days, except as provided in subsection (e) of this section; and

"(C) Shall not apply to groups of 8 or fewer individuals.

"(c) In determining whether to designate an extended juvenile curfew hours zone, the Chief of Police shall consider the following:

"(1) Within the preceding 30 days, the occurrence of:

"(A) Juvenile curfew violations in the proposed extended juvenile curfew hours zone;

"(B) Police reports of disturbances of the public peace described in section 1 of An Act To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-1301), sections 6, 3,9, or 16 of An act for the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 323; D.C. Official Code §§ 22-1307, 22-1309, 22-1312, or 22-1318), section 211 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (67 Stat. 98; D.C. Official Code § 22-1321), or section 901 of An Act relating to crime and criminal procedure in the District of Columbia, approved December 27,

1967 (81 Stat. 742; D.C. Official Code § 22-1322), in the proposed extended juvenile curfew hours zone;

"(C) Police reports of dangerous crimes, as that term is defined in D.C. Official Code § 23-1331(3), in the proposed extended juvenile curfew hours zone;

"(D) Police reports of crimes of violence, as that term is defined in D.C. Official Code § 23-1331(4), in the proposed extended juvenile curfew hours zone; or

"(E) Police reports of destruction of or damage to public or private property in the proposed extended juvenile curfew hours zone;

"(2) Intelligence or verifiable information indicative of an intent of 9 or more juveniles to gather in the proposed extended juvenile curfew hours zone in such a manner that is likely to result in substantial harm to the public safety, the safety of those gathering, or substantial damage to public or private property; and

"(3) Any other verifiable information from which the Chief of Police may ascertain that public safety or public or private property in the proposed extended juvenile curfew hours zone is likely to be endangered by the presence of unaccompanied juveniles in the extended juvenile curfew hours zones.

"(d) Upon the designation of an extended juvenile curfew hours zone the Chief of Police shall post notice of the designation on the website of the Metropolitan Police Department and shall post signs in the immediate area of the extended juvenile curfew hours zone.

"(e) The Chief of Police may extend the duration of the designation of an extended juvenile curfew hours zone to 30 days by issuing a subsequent order extending the duration of the designation.

"(f) If members of the Metropolitan Police Department discover juveniles in the designated extended juvenile curfew zone during the hours of curfew, the Metropolitan Police Department shall:

"(1) Where there:

"(A) Is not an imminent danger of bodily injury or significant damage to property, issue at least 2 clearly audible and understandable notices of violation of curfew; or

"(B) Is imminent danger of bodily injury or significant damage to property, issue at least one clearly audible and understandable notice of violation of curfew;

"(2) Provide juveniles a reasonable and adequate time to disperse; and

"(3) Capture on body-worn camera each component of the order to return home described in paragraph (1) of this subsection.

"(g)(1) An Advisory Neighborhood Commission, business improvement district, or Main Street organization may petition the Chief of Police to establish an extended juvenile curfew hours zone in an area covered by, or adjacent to the area covered by, such entity. Such petition shall be approved by a formal vote of the members of the Advisory Neighborhood Commission, the members of the board of the business improvement district, or the members of the board of the Main Street organization.

ENROLLED ORIGINAL

"(2) A petition submitted pursuant to this subsection shall include the following information:

"(A) The proposed boundaries of the extended juvenile curfew hours zone;

"(B) The proposed hours of the extended juvenile curfew;

"(C) The proposed duration, in days, of the proposed extended juvenile curfew hours;

"(D) The reasons why the Advisory Neighborhood Commission, business improvement district, or Main Street organization is requesting the designation of an extended juvenile curfew hours zone; and

"(E) Such other information as the Chief of Police may require.

"(3) Consideration of a petition submitted under this section, and the determination of whether to designate an extended juvenile curfew hours zone in response to the petition, shall be at the sole discretion of the Chief of Police.".

Sec. 3. The Volunteer Services Temporary Amendment Act of 2025, effective December 18, 2025 (D.C. Law 26-61; 72 DCR 175), is amended as follows:

(a) Section 3 is amended as follows:

(1) Amendatory section 3(1A) within subsection (a)(2) is amended to read as follows:

"(1A) "Curfew hours" means:

"(A) From 11:00 p.m. every day until 6:00 a.m. on the following day; "(B) Extended curfew hours established by the Mayor pursuant to section 3a; and

"(C) Extended curfew hours in extended juvenile curfew zones established by the Chief of Police pursuant to section 3b.".

(2) Amendatory section 3a(e) within subsection (b) is amended to read as follows:

"(e) The Mayor may extend the duration of the designation of an extended juvenile curfew hours zone to 30 days by issuing a subsequent order extending the duration of the designation.".

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

"Sec. 3a. Sunset.

"This act shall expire as of April 15, 2026.".

Sec. 4. Sunset.

Section 2 shall expire as of April 15, 2026.

Sec. 5. Fiscal impact statement.

ENROLLED ORIGINAL

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 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 11, 2026

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

B26-0594 Contracting and Procurement Reform Amendment Act of 2026

Intro. 02-06-2026 by Councilmembers Nadeau, and Lewis George and referred to the Committee on Public Works and Operations

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PR26-0536 Health Benefit Exchange Authority Executive Board Leighton Ku Confirmation Resolution of 2026

Intro. 02-05-2026 by Chairman Mendelson and referred to the Committee on Health

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Council of the District of Columbia
COMMITTEE ON PUBLIC WORKS AND OPERATIONS
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER BRIANNE K. NADEAU, CHAIRPERSON
COMMITTEE ON PUBLIC WORKS AND OPERATIONS

ANNOUNCES A PUBLIC HEARING ON

B26-0570, THE "OFFICE OF HUMAN RIGHTS RULEMAKING AUTHORITY AMENDMENT ACT OF 2026"

Thursday, March 12, 2026, 10 a.m.
John A. Wilson Building, 1350 Pennsylvania Ave., N.W.,
Room 120 and virtual via Zoom.

To Watch Live:

https://www.brianneknadeau.com/live

On **Thursday, March 12, 2026,** Councilmember Brianne K. Nadeau, Chairperson of the Committee on Public Works and Operations, will convene a public hearing to consider B26-0570, "Office of Human Rights Rulemaking Authority Amendment Act of 2026". The hearing will be held in person in the John A. Wilson Building and virtually via the Zoom platform beginning at 10 a.m.

B26-0570, "Office of Human Rights Rulemaking Authority Amendment Act of 2026", amends the Language Access Act of 2004 to include enforcement and relief provisions for violations of the act. The bill also authorizes the Office of Human Rights to adopt rules and regulations to implement the provisions of this act.

Those who wish to testify must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:30 p.m. Tuesday, March 10, 2026.** Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals (and any subsequent representatives of the same organizations) will be allowed a maximum of three minutes. 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 by emailing

publicworks@dccouncil.gov. We will make every effort to fulfill timely requests. Witnesses will receive instructions on how to participate by Zoom or in person prior to the hearing. If you have additional questions, please email publicworks@dccouncil.gov.

Testimony should be submitted through the Council's Hearing Management System https://lims.dccouncil.gov/hearings in advance of the hearing. 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.

The record will close at 5:30 p.m. on Thursday, March 26, 2026.

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
NOTICE OF PUBLIC HEARING

Placard Posting Date:	February 20, 2026
Protest Petition Deadline:	April 6, 2026
Roll Call Hearing Date:	April 27, 2026
Protest Hearing Date:	June 10, 2026
License No.:	ABRA-128728
Licensee:	ABT, LLC
Trade Name:	N/A
Registration/License Type:	Medical Cannabis Retailer
Address:	2335 Bladensburg Road, N.E.
Retailer Contact:	Abeba Beyene: (703) 587-8488; mimibirru@yahoo.com

WARD 5 ANC 5C SMD 5C04

Notice is given that the above-named medical cannabis manufacturer applicant has requested a new license to be located at **2335 Bladensburg Road, N.E.** Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the new license application. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the petition deadline. The **Roll Call Hearing is scheduled for April 27, 2026, at 10 a.m., Suite 4200-A, 899 North Capitol Street N.E., Washington, DC, 20002.** The **Protest Hearing date** is scheduled for **June 10, 2026, at 1:30 p.m.** All hearings before the Board are conducted virtually.

NATURE OF OPERATION

The medical cannabis retailer applicant is requesting to locate its operations at **2335 Bladensburg Road, N.E.** and will provide cannabis flowers, cannabis concentrates, and a line of edible products and home delivery services to registered patients in Washington, D.C. The applicant is requesting delivery, education tasting and safe-use treatment facility endorsements.

HOURS OF OPERATION FOR RETAILER

Sunday – Thursday 10 am – 10 pm
Friday – Saturday 9 am – 10 pm

HOURS OF RETAILER SALES OPEN TO THE PUBLIC

Sunday – Thursday 10 am – 10 pm
Friday – Saturday 9 am – 10 pm

HOURS OF DELIVERY FOR RETAILER

Sunday – Thursday 10 am – 10 pm
Friday – Saturday 9 am – 10 pm

HOURS OF OPERATION FOR SAFE-USE TREATMENT FACILITY

Sunday – Thursday 10 am – 10 pm
Friday – Saturday 9 am – 10 pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	February 20, 2026
Protest Petition Deadline:	April 6, 2026
Roll Call Hearing Date:	April 27, 2026
License No.:	ABRA-118175
Licensee:	Culture L.L.C.
Trade Name:	Culture / Vera
License Class:	Retailer's Class "C" Tavern
Address:	2002 – 2006 Fenwick Street, N.E.
Contact:	Matthew Minora, Esq.: (202) 625-7706, mminora@malliosobrien.com

WARD 5 ANC 5D SMD 5D02

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 27, 2026 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.

CURRENT OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND FOR SUMMER GARDEN
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY
Sunday through Saturday 8am – 1am

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

PROPOSED HOURS OF OPERATION INSIDE PREMISES
Sunday 12am – 2am, Monday through Thursday 8am – 2am, Friday 8am – 12am, Saturday 12am – 12am (24-hour operations)

PROPOSED HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday 12am – 2am, Monday through Thursday 6pm – 2am, Friday 8am – 12am, Saturday 12am – 12am (24-hour operations)

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	February 20, 2026
Protest Petition Deadline:	April 6, 2026
Roll Call Hearing Date:	April 27, 2026
Protest Hearing Date:	June 10, 2026
License No.:	ABRA-135171
Licensee:	Ellizabetta DC, LLC
Trade Name:	Ellizabetta La Strega
License Class:	Retailer's Class "C" Restaurant
Address:	2401 Pennsylvania Avenue, N.W.
Contact:	Matthew Minora, Esq.: (202) 625-7700, mminora@malliosobrien.com

WARD 2 ANC 2A SMD 2A08

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 April 27, 2026, 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 10, 2026, at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Restaurant with a Seating Capacity of 170, Total Occupancy Load of 199, and a Sidewalk Café with 45 Seats. The Licensee is also requesting Holiday Extension of Hours and the Alcohol Carry-out and Delivery Endorsement.

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

Sunday through Saturday 9am – 1am

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

Sunday through Saturday 10am – 12am

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY

Sunday through Saturday 9am – 1am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date:	** February 20, 2026
Protest Petition Deadline:	**April 6, 2026
Roll Call Hearing Date:	**April 27, 2026
Protest Hearing Date:	**June 10, 2026

License No.:	ABRA-133857
Licensee:	Aradhya Enterprise, LLC
Trade Name:	Mr. Pollo Peruvian Charcoal Chicken II
License Class:	Retailer's Class "C" Restaurant
Address:	3703 14th Street, N.W.
Contact:	Manny Desai: (703) 380-0467, Crosonstore@aol.com

WARD 4 ANC 4C SMD 4C04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on **April 27, 2026 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 10, 2026 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant serving Peruvian foods. Total Occupancy Load of 14 with indoor seating for 12. Sidewalk Café with seating for 16. Game of Skill Endorsement request to place five (5) devices offering the game District of Skill by Pace-o-Matic.

HOURS OF OPERATION FOR INSIDE PREMISE

Sunday through Saturday 5am – 11pm

HOURS OF OPERATION FOR SIDEWALK CAFÉ AND STREATERY

Sunday 8am – 11pm, Monday through Saturday 5am – 11pm

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

Sunday through Saturday 12pm – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**February 6, 2026
Protest Petition Deadline:	**March 23, 2026
Roll Call Hearing Date:	**April 13, 2026
Protest Hearing Date:	**May 20, 2026

License No.:	ABRA-133857
Licensee:	Aradhya Enterprise, LLC
Trade Name:	Mr. Pollo Peruvian Charcoal Chicken II
License Class:	Retailer's Class "C" Restaurant
Address:	3703 14th Street, N.W.
Contact:	Manny Desai: (703) 380-0467, Crosonstore@aol.com

WARD 4 ANC 4C SMD 4C04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on **April 13, 2026 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 ****May 20, 2026 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant serving Peruvian foods. Total Occupancy Load of 14 with indoor seating for 12. Sidewalk Café with seating for 16. Game of Skill Endorsement request to place five (5) devices offering the game District of Skill by Pace-o-Matic.

HOURS OF OPERATION FOR INSIDE PREMISE

Sunday through Saturday 5am – 11pm

HOURS OF OPERATION FOR SIDEWALK CAFÉ AND STREATERY

Sunday 8am – 11pm, Monday through Saturday 5am – 11pm

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

Sunday through Saturday 12pm – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	February 20, 2026
Protest Petition Deadline:	April 6, 2026
Roll Call Hearing Date:	April 27, 2026
License No.:	ABRA-086012
Licensee:	The Juniper Group, LLC
Trade Name:	The Blaguard
License Class:	Retailer's Class "C" Restaurant
Address:	2003 18th Street, N.W.
Contact:	Nic Makris: (202) 232-9005, nic@blaguarddc.com

WARD 1 ANC 1C SMD 1C01

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 27, 2026 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 a Streatery Endorsement with 16 seats.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES
Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

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

PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR STREATERY
Sunday through Saturday 11am – 12am

DC BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public meeting whether the proposed measure, the "District of Columbia Living Wage for All Amendment Act of 2026," is a proper subject matter for initiative at the Board's regular meeting on **Wednesday, March 4, 2026 at 10:30 a.m.**, at 1015 Half Street SE, Suite 750, Washington DC 20003. The Board will meet remotely. Members of the public can only access the meeting by using the following information:

Join from PC, Mac, iPad, or Android:
https://us06web.zoom.us/j/82850264046

Phone one-tap:
+13017158592,,82850264046# US (Washington DC) 13052241968,,82850264046#
+US

Join via audio:
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 408 638 0968 US (San Jose)
Webinar ID: 828 5026 4046
International numbers available: https://us06web.zoom.us/u/kOIymaTGz

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

- The measure conflicts with or seeks to amend the Title IV of the DC Home Rule Act ("the District Charter");

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

Those who wish to testify at the hearing on the propriety of the proposed measure in light of the above-referenced criteria should contact the Board's Office of the General Counsel at 202-727-2194 or ogc@dcboe.org and provide their name, address, telephone number, and name of the organization represented (if any) by no later than Friday, February 27, 2026 at 4:00 p.m.. Any written testimony or memoranda should be submitted for the record to the Board's Office of the General Counsel, 1015 Half Street SE, Suite 750, Washington, DC 20003 or at ogc@dcboe.org by that date and time as well. All persons testifying shall be permitted a maximum of three minutes for oral presentations.

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

INITIATIVE MEASURE
No. ___

SHORT TITLE

District of Columbia Living Wage for All Amendment Act of 2026

SUMMARY STATEMENT

If enacted, this Initiative would gradually increase the minimum wage to $25.00 per hour for eligible employees by July 1, 2029 and gradually eliminate the credit for tips received by tipped workers. The "tipped minimum wage" for tipped workers (currently $10.00 per hour, indexed to inflation) would gradually increase until July 1, 2031, when the base wage for tipped workers would match the regular minimum wage (currently $17.95 per hour, proposed to increase to $25.00 hour by July 1, 2029 and thereafter indexed to inflation). Service charges collected from customers by employers of tipped workers will belong to employees.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Living Wage for All Amendment Act of 2026".

Sec. 2. Resolution R26-0134, Effective June 3, 2025 is repealed.

Sec. 3. Sec. 3 of the Minimum Wage Act Revision Act of 1992, effective March 25,1993 (D.C.

Law 9-248; D.C. Official Code § 32-1002), as amended, is further amended by adding a new subsection (7B-1) to read as follows:

"(7B-1) The term 'service charge' means any fee or charge added to a customer's bill and required to be paid by the customer (other than taxes), by an employer which employs employees who customarily receive tips or gratuities."

Sec. 4. Sec. 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), as amended, is further amended as follows:

(a) Subparagraph (A) of paragraph (a)(5) is amended to read as follows:

"(A)(1) Except as provided in subsection (h) of this section and subsection (B) of this paragraph, the minimum hourly wage for any employee of the District of Columbia or employee employed to perform services provided under contracts with the District of Columbia shall be as of:

(i) July 1, 2016: $11.50;
(ii) July 1, 2017: $12.50
(iii) July 1, 2018: $13.25
(iv) July 1, 2019: $14.00; and
(v) July 1, 2020: $15.00."

(b) A new subparagraph (A)(2) of paragraph (a)(5) is added to read as follows:

"(A)(2) Except as provided in subsection (h) of this section and subparagraph (B) of this paragraph, the minimum hourly wage for any employee who works in the District of Columbia and is not an employee of the District of Columbia or an employee employed to perform services provided under contracts with the District of Columbia shall be as of:

(i) July 1, 2026: $20.00;
(ii) July 1, 2027: $21.75;
(iii) July 1, 2028: $23.50; and
(iv) July 1, 2029: $25.00."

(c) Subparagraph (A) of paragraph (a)(6) is amended to read as follows:

"Except as provided in subsection (h) of this section, beginning on July 1, 2021, and no later than July 1 of each successive year, the minimum wage provided in subparagraph (A)(1) of this paragraph, and, beginning on July 1, 2030, and no later than July 1 of each successive year, the minimum wage provided in subparagraph (A)(2) of this paragraph, shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05."

(d) Paragraph (f)(6) is amended to read as follows:

‘‘(f)(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025, the tipped minimum wage shall be not less than $10.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.”

(e) Paragraph (f)(7) is amended to read as follows:

“(f)(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2026, the tipped minimum wage shall be not less than $13.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.”

(f) Paragraph (f)(8) is amended to read as follows:

“(f)(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2027, the tipped minimum wage shall be not less than $16.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.”

(g) Subsection (f) is amended by adding at the end thereof the following new paragraphs (9), (10), (11) and (12) to read as follows:

“(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2028, the tipped minimum wage shall be not less than $19.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2029, the tipped minimum wage shall be not less than $22.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(11) Except as provided in subsections (h) and (i) of this section, as of July 1, 2030, the tipped minimum wage shall be not less than $25.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.”

“(12) Except as provided in subsections (h) and (i) of this section, as of July 1, 2031, the tipped minimum wage shall be not less than the minimum wage as set by subsection (a) of this section, with tips on top.”

(h) Paragraph 3 of subsection (g) is amended to read as follows:

"(g) All gratuities, tips and service charges received by the employee or collected by the employer have been remitted to the employees who performed services directly for the customers from whom the fee was collected, in addition to such employees' wages, and the employer has prominently disclosed the amount or rate of any service charge to the customer in a manner visible to the customer before the customer places an order; and provided that, the distribution of such gratuities, tips and service charges has occurred as follows:

"(1) If a gratuity, tip or service charge has been collected by the employer from a customer who obtained table service, such gratuity, tip or service charge has been remitted to those employees to those employees who directly provided service to that table;

"(2) If a gratuity, tip or service charge has been collected by an employer from a customer who received catering services from such employer for a meeting or event, the gratuities, tips and service charges have been distributed equally among all employees who rendered any services in connection with such meeting or event;

"(3) No portion of any gratuity, tip or service fee has been distributed to any supervisory or managerial employees; except that, the parties to a bona fide collective bargaining agreement may establish rules for the distribution of gratuities, tips and service charges different from those set out in paragraphs (1), (2) and (3)."

(i) Subsection (i) is amended to read as follows:

(i) The provisions of subsections (f)(2), (3), (4), (5), (6), (6A), (7), (8), (9), (10), (11) and (12) of this section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Those employees shall continue to be subject to the minimum wage requirements of this chapter as they existed before February 23, 2023, including but not limited to the minimum hourly wage set by subparagraph (A)(1) of paragraph (a)(5) as increased by subparagraph (A) of paragraph (a)(6), and to the requirements of all other applicable laws, regulations, or policies relating to wages or benefits, including subchapter X-A of Chapter 2 of Title 2.

Sec. 5. This act shall take effect following a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § l-206.02(c)(l)), and publication in the District of Columbia Register.

DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF HEARING

Case No. 25-0002-F In re Trayon White

The District of Columbia Board of Ethics and Government Accountability will continue the hearing in **Case No. 25-0002-F In re Trayon White** at the Board of Ethics and Government Accountability, 1030 15th Street, NW, Suite 700 West on March 5, 2026 at 12:00 p.m., and to be continued as may be necessary.

Questions about the meeting may be directed to bega@dc.gov.

ALCOHOLIC BEVERAGE AND CANNABIS BOARD
ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage and Cannabis Board ("Board"), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13); and Mayor's Order 2020-099, dated September 30, 2020; hereby gives notice of the adoption of amendments to Chapter 1 (General Provisions), Chapter 2 (Conditions of Registration), Chapter 3 (Use of Medical Marijuana), Chapter 5 (Qualifying Patients), Chapter 6 (Caregivers), Chapter 7 (Registration Cards), Chapter 8 (Recommending Authorized Practitioners), Chapter 10 (Enforcement Actions), Chapter 12 (Investigations and Inspections), Chapter 13 (Fees), Chapter 14 (Medical Marijuana Advisory Committee), Chapter 19 (Inquiries to the Board), Chapter 50 (Registration, Licensing, and Enforcement of Cultivation Centers, Dispensaries, and Testing Laboratories), Chapter 51 (Registration and Permit Categories), Chapter 52 (Registration Limitations), Chapter 54 (Registration Applications), Chapter 55 (Registration Changes), Chapter 56 (General Operating Requirements), Chapter 57 (Prohibited and Restricted Activities), Chapter 59 (Records and Reports), Chapter 60 (Board Approval Procedures), Chapter 61 (Mandatory Revocation and Mandatory Suspension), Chapter 62 (Enforcement Proceedings and Hearings), Chapter 63 (Sliding Scale Program), Chapter 64 (Testing Laboratories), and Chapter 99 (Definitions) and the addition of new Chapter 65 (Cannabis Testing), Chapter 66 (Adulterated Cannabis), Chapter 67 (Couriers), Chapter 96 (Moratoriums), Chapter 97 (Hearing Procedures), and Chapter 98 (Sliding Scale Program), of Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

PROCEDURAL HISTORY

On July 28, 2020, the Council of the District of Columbia (Council) passed legislation that transitioned the District's Medical Marijuana Program (Program) from the District of Columbia Department of Health (Department of Health) to the Board. *See* Medical Marijuana Program Administration Amendment Act of 2020, effective December 3, 2020 (D.C. Law 23-149; 67 DCR 10493).

On January 30, 2023, Mayor Muriel Bowser signed the Medical Cannabis Amendment Act of 2022, effective March 22, 2023 (D.C. Law 24-332; D.C Official Code § 7-1761.01 *et seq*.) (Act). Among other changes, the legislation allows qualifying patients to self-certify to participate in the Medical Cannabis Program (Program), provides a mechanism for unlicensed cannabis businesses to obtain medical cannabis facility licenses, creates new license categories and endorsements, creates various benefits for qualified social equity applicants and medical cannabis certified business enterprises, reforms the license application process, allows for Advisory Neighborhood Commissions to protest the issuance of cultivation center, manufacturer, retailer, and internet retailer licenses, and permits the Board to enforce Section 1761 of Title 7 of the D.C. Official Code and Title 22-C of the DCMR.

On April 12, 2023, the Board, by a vote of five (5) to one (1), approved emergency rules, which were set to expire on August 10, 2023. As part of its approval, the Board further gave notice to adopt the

same rules as proposed rules pursuant to D.C. Official Code § 7-1671.13(b), for submission to the Council for review.

On June 7, 2023, the Board held a public hearing and received extensive testimony on the emergency and proposed rules. On August 9, 2023, the Board, by a vote of five (5) to zero (0), enacted the notice of second emergency and proposed rulemaking in response to the numerous comments that were received.

The notice of second emergency and proposed rulemaking also included changes resulting from the Medical Cannabis Clarification and Non-Resident Patient Access Emergency Amendment Act of 2023 (Clarification Act), which took effect on July 31, 2023; and was superseded by the Medical Cannabis Clarification and Non-Resident Patient Access Temporary Amendment Act of 2023, which took effect on November 28, 2023. The Clarification Act makes temporary patient cards available to non-residents for periods other than 30 days, expands the definition of a social equity applicant to include arrests and convictions of qualifying family members related to drug-related offenses, and adds siblings and grandparents to the list of eligible family members. The legislation clarifies that the 50 percent set aside requirement does not include medical cannabis cultivation center, manufacturer, or retailer license applications that are statutorily permitted to be filed with ABCA outside of an open application period. The legislation further clarifies that the five cultivation center applicants that scored 150 points or more during the prior open application period are automatically eligible to receive a manufacturer's license provided they register with the Board and pay the annual fee. Finally, the legislation permits the waiver of the application fee for testing laboratories, allows the issuance of conditional licenses to testing laboratories, allows testing laboratories to test products submitted by qualifying patients and caregivers, and allows testing for the purposes of quality assurance and research and development.

The Notice of Third Emergency and Proposed Rulemaking further complied with the Medical Cannabis Patient Access Clarification Emergency Amendment Act of 2023, effective October 30, 2023, (D.C. Act 25-276; 70 DCR 14480), and the Medical Cannabis Patient Access Clarification Temporary Amendment Act of 2023, effective January 23, 2024 (D.C. Law 25-103; 70 DCR 15444). It also included changes resulting from comments that were received regarding employee training requirements and caregiver patient limits.

On April 3, 2024, the Board voted unanimously to approve the Notice of Fourth Emergency and Proposed Rulemaking, which mostly maintained the same rules as the prior rules. On April 11, 2024, an amended version of the rule was adopted by unanimous vote of the Board to further clarify rules related to the documents non-District residents must submit to retailers to qualify to purchase medical cannabis.

On July 31, 2024, the Board voted 3 to 0, to adopt the Notice of Fifth Emergency and Proposed Rulemaking. On November 20, 2024, the Board voted 5 to 0, to adopt the Notice of Sixth Emergency and Proposed Rulemaking. On March 19, 2025, the Board, in a 5 to 0 vote, adopted the Notice of Seventh Emergency Rulemaking. On July 9, 2025, the Board, in a 5 to 0 vote, adopted the Notice of Eighth Emergency Rulemaking. And on October 22, 2025, the Board, in a 5 to 0 vote, adopted the Notice of Ninth Emergency Rulemaking.

Although the first through fourth rulemakings were not published in the *District of Columbia Register*, the rulemakings were posted to the agency's website. The initial emergency rules were published on the agency's website on April 12, 2023; the second emergency rulemaking was published on the agency's website on August 11, 2023; the third emergency rulemaking was published on the agency's website on December 11, 2023; the original fourth emergency rulemaking was published on the agency's website on April 3, 2024; and the amended fourth emergency rulemaking was published on the agency's website on April 11, 2024. The fifth emergency rulemaking was published on the agency's website on July 31, 2024. The sixth emergency and proposed rulemaking was published on the agency website on November 20, 2024. The seventh emergency rulemaking was published on the agency website on March 20, 2025. The eighth emergency rulemaking was published on the agency website on July 15, 2025. The ninth emergency rulemaking was published on the agency website on October 22, 2025.

The Notice of Fifth Emergency and Proposed Rulemaking was published in the *District of Columbia Register* on December 13, 2024 at 71 DCR 015088. The Notice of Sixth Emergency and Proposed Rulemaking was published in the *District of Columbia Register* on April 25, 2025 at 72 DCR 5051. The Notice of Seventh Emergency Rulemaking was published in the *District of Columbia Register* on June 20, 2025 at 72 DCR 006887. The Notice of Eighth Emergency Rulemaking was published in the *District of Columbia Register* on November 28, 2025 at 72 DCR 013218. The Notice of Ninth Emergency Rulemaking was published in the *District of Columbia Register* on February 6, 2026 at 73 DCR 001195.

PUBLIC COMMENTS

The Board has reviewed and duly considered the comments it received at the public hearing and in writing. Below is a summary of those comments and the Board's response in italics. The Board notes that many commentators broadly supported the emergency and proposed regulations and only took issue with a few aspects of the proposed rules. The Board's responses, while largely the same during the prior rulemakings, have been revised in light of changes made as part of the rulemaking process.

Kinner & McGowan PLLC, the Generational Equity Movement, and other commentators requested that the Board revise the rules to modify the social equity criteria; and refrain from applying the 50 percent set aside to unlicensed establishments or delay implementation of the set aside until a later date.

Response: The revised rulemaking has been amended to modify the social equity criteria based upon recently enacted legislation. The other proposed changes require modification of the statute and are beyond the scope of the Board's authority to change by rulemaking. Of note, D.C. Official Code § 7-1671.06a(e)(1) states that "At least half of all licenses issued to unlicensed establishments shall be issued to social equity applicants."

Kinner & McGowan PLLC, the Generational Equity Movement, and other commentators requested that the Board eliminate consideration of unlicensed establishment applications on a first come, first serve basis.

Applications must be considered in the order that they are filed because the statute requires that unlicensed establishment applications be considered on a first in time basis pursuant to D.C. Official Code § 7-1671.06a(d)(2). As a result, the Board cannot select different criteria.

Various public comments requested that the Board lower the purchase limit of medical cannabis to an amount lower than 8 ounces.

ANC Commissioner Gwendolyn Lohse, ANC Commissioner Zach Adams, and other commentators urged the agency to increase the minimum distance from schools to 400 feet as required by the District's alcohol laws, rather than 300 feet, as noted in the regulations.

The minimum distance requirement of 300 feet from schools and recreation centers was placed in the regulations because it is required by D.C. Official Code § 7-1671.06(q). The Board is not authorized to change the statutory distance requirement by regulation. The Board notes that it is still authorized to consider the appropriateness of an application for a proposed location that is more than 300 feet from a school or recreation center notwithstanding the 300-feet threshold.

Antoine Pritchett, II, commented that the regulations unfairly prevent employees of licensees from consuming medical cannabis on-site even though such consumption would be for medical purposes.

On the issue of employee consumption of medical cannabis, the Board notes that permitting employees to consume cannabis at a licensed medical cannabis facility in most cases would require a change to D.C. Official Code § 7-1671.03(b). Nevertheless, if a retailer has a safe-use treatment facility or summer garden, nothing prevents employees of a licensee from consuming medical cannabis in that location in accordance with the rules of those facilities. The Board reminds licensees that they remain responsible for the behavior of their employees if they are intoxicated while working.

ANC Commissioner Jeffrey Rueckgauer expressed concern that unlike alcohol licenses, only ANCs have been given the right to protest an application and no other groups have been given standing to protest a license. Jen Brunenkant indicated that requiring notice to all ANCs in a Ward was excessive.

On the issue of standing, the Board is aware that the standing requirement to protest a medical cannabis license is different than the alcohol license process. Nevertheless, the Board has no authority to change statutory standing requirements through rulemaking.

On the issue of requiring notice of an application to all ANCs within a Ward, the Board notes that this requirement is mandated by the statute and cannot be altered by the Board.

ANC Commissioner Zach Adams requested that criminal background checks be eliminated for all medical cannabis facility applicants.

On the issue of criminal background checks, the statute requires some consideration of an applicant's criminal background, and thus cannot be eliminated by regulation (D.C. Code § 7-

1671.06(u)). The Board notes that the proposed rules significantly limit the review as described in D.C. Code § 7-1671.06(u).

Jen Brunenkant and Linda Greene suggested that insurance be required to cover medical cannabis use in certain circumstances.

On the issue of requiring insurance coverage for medical cannabis, the Board notes that imposing such a requirement goes beyond the scope of the Board's authority.

Kinner & McGowan PLLC and other commentators asked the Board to modify the open application timeline for unlicensed operators and stated that "ABCA has complete discretion over the open application timeline."

Response: Current law requires the Board to open the open application period for unlicensed establishments no earlier than 180 days after the effective date of the Medical Cannabis Amendment Act of 2022 and mandates that the period be open for 90 days. D.C. Official Code § 7-1671.06a(a)(1). The Board cannot shorten or extend the 90-day application period. The Board further finds that the current start date for this application period is appropriate and best serves the interests of the program and the public.

Kinner & McGowan PLLC requested that the rules address and permit the use of management agreements.

Response: The Board agrees that the medical cannabis industry requires guidance on this common business practice and the matter should be addressed by the rules. The rules have been revised to adopt the current management agreement rulemaking requirements found in Title 25 of the D.C. Official Code.

Advisory Neighborhood Commission (ANC) Commissioner Chander Jayaraman and other commentators suggested that the Board delay the implementation of the safe-use treatment facility and summer garden endorsement privileges based upon concerns regarding potential health and nuisance concerns regarding smoke both inside and outside of the facility and its impact on neighboring properties. ANC Commissioner Chuck Elkins, ANC 3D, and Laurence J. Schoen requested that the Board include more technical requirements and elicit more information regarding the applicant's plans to abate smoking nuisances in safe-use treatment facilities and summer gardens. ANC 3D and ANC 3B further requested the elimination of the requirement that windows and doors be closed and ANC 3B specifically requested that smoking be banned in summer garden spaces. Jen Brunenkant commented that it was unreasonable to mandate that summer garden holders prevent odor, smoke, and smells from entering private indoor space.

Response: The Board does not believe it is authorized to further delay the issuance of summer garden permits since the law passed by the Council permits retailers to apply for a summer garden. In writing the law, the Council can select the start date of when specific privileges become available and the choice not to do so implies that the privilege is intended to be available as soon as practicable.

Moreover, regarding potential impact on neighboring properties, a recent court case related to cannabis smoke puts medical cannabis businesses on notice that their impact on neighboring properties may subject them to injunction and liability and it is their responsibility to ensure that they do not create a private nuisance. Josefa Ippolito-Shepherd v. Angella Farserotu, Case No. 2020 CA 004616 B, 28-34 (D.C. Super. Ct. Jun. 5, 2023). *As a result, medical cannabis businesses already have a legal obligation to ensure that smoke and smells from their business do not invade separately owned indoor private space.*

The Board does not agree that the requirement that windows and doors of the residence remain closed should be eliminated because the requirement ensures that the odor or smoke nuisance is pervasive and not a one-time or infrequent occurrence and that the resident has taken reasonable means to secure their property from outdoor odors. Finally, unlike safe-use treatment facilities, the legislation did not propose a specific standard regarding summer garden smoke emanating into private outdoor space; as a result, the Board is limiting its regulation of odor, smells, and smoke emanating from summer gardens to the nuisance standard set by the Ippolito-Shepard case, as the appropriateness standard is generally influenced by nuisance law.

As to banning smoking entirely, as suggested by ANC 3B, the Board is not convinced that such an across-the-board requirement is necessary. The Board notes that an ANC can argue that smoking should be banned in a specific area during a protest and such a restriction could appear in a settlement agreement, as noted in § 5445.11(c). The ANC can also further argue for additional restrictions and conditions related to odor, smoke, and smells, as noted in § 5421.5(d).

The Board is also not persuaded that additional technical requirements related to odor control and smoke emanation need to be expounded in the regulations where D.C. Official Code § 7-1671.06c(c)(3) provides a clear standard for medical cannabis businesses to adhere to and the failure to comply with this standard could subject a licensee to penalties, loss of privileges, and conditions placed on the license. The Board also finds limiting the issuance of safe-use treatment facility and summer garden privileges to a few licensees would be unfair to licensees. Also, any delay to the issuance of such privileges is harmful to the interests of patients who need access to a location to consume medical cannabis necessary for their treatment or condition. Additionally, summer garden endorsement applications are subject to a 45-day public comment period with notice provided to all ANCs in an affected ward where additional conditions or requirements can be agreed upon with the ANC in a settlement agreement.

Finally, it should be further noted that implementing technical standards could result in a conflict of law and authority between ABCA, the Department of Buildings, the Department of Health, and the Department of Energy and Environment. Therefore, if technical requirements are warranted, the Board prefers such requirements be undertaken by the appropriate agency that oversees the specific discipline governed by the suggested technical requirement.

Advisory Neighborhood Commission (ANC) Commissioner Chander Jayaraman and other commentators suggested that the renewal period for retailers not coincide with the renewal of on-premises and tavern retail alcohol licenses. ANC Commissioner Jeffrey Rueckgauer requested that the renewal period be two years rather than three years. Jen Brunenkant also asked how existing licensees will be treated under the new renewal schedule.

Response: The rules have been amended to address ANC Commissioner Jayaraman's concern by not having the renewal period for medical cannabis retailers coincide with the on-premises renewal period of alcohol retailers. The Board does not agree that the license renewal period should be reduced to two years because two years is an insufficient period to assess the impact of a licensee on the community and will be too burdensome for licensees, ANCs, and the agency. The three-year time frame is also consistent with alcohol license renewals. Finally, existing licensees will be subject to the new renewal calendar based on their license class so that all licenses of the same class are renewed at the same time, similar to how alcohol licenses are renewed.

ANC Commissioner Gwendolyn Lohse, Rabbi James Kahn, and other commentators expressed concerns about the maximum number of medical cannabis businesses that may be permitted. The I-71 Committee and other commentators further expressed concerns about the potential maximum number of licenses and the supply of medical cannabis available to businesses.

Response: The Board notes that the overconcentration of medical cannabis businesses and other negative impacts are addressed through distance limitations between retailers, schools, recreation centers, and protests against problematic licensees, which may consider overconcentration (22-C DCMR § 5421.3). The set-aside requirement acts as a limit on the total number of licenses. Unlike alcohol applications, medical cannabis applications may not be filed at any time but rather only when the Board elects to schedule an open application period. As a result, there are adequate tools in place in the law and regulations to address concerns regarding overconcentration. Moreover, the same rules allowing the limitation of licenses may be activated if supply issues are having a detrimental impact on patients. Finally, the Board finds that setting a limit on retail licensees may discourage cultivation center applicants from applying because potential cultivator applicants may deem the market too small to support their business.

ANC Commissioner Gwendolyn Lohse raised questions about how ABCA will verify ownership.

Response: This comment did not specify a specific regulation or concern regarding identifying or verifying ownership that the regulations failed to address but rather raises questions about operational issues. The application process is designed to elicit and confirm the ownership of the applicant and the failure to disclose all required information regarding the ownership could result in the denial or revocation of the license, as well as other penalties. The current application process is based upon the same process used for alcohol licenses and no specific concerns regarding that process to elicit appropriate information about the ownership have been brought to the Board's attention to date. It should also be noted that all information submitted by applicants may be subject to verification and investigation. If there is a specific question regarding ownership verification, such as a specific fact scenario, then such questions should be addressed to ABCA or the Board for guidance or an advisory opinion.

If a third party has a concern regarding a specific ownership's compliance, then that complaint may be forwarded to ABCA's Enforcement Division or the Board for investigation and review. Finally, false statements regarding ownership made in the application may be punishable under the criminal law. See, e.g., D.C. Code § 22-2405 (False Statements).

ANC Commissioner Gwendolyn Lohse and ANC Commissioner Jeffrey Rueckgauer suggest that a licensed medical cannabis business may have a negative impact on traffic and parking due to courier activities and therefore the Board should require a District Department of Transportation ("DDOT")-approved traffic control plan.

Response: Commentators did not establish that this requirement is necessary or that DDOT is even mandated or willing to undertake such a requirement in the context of the medical cannabis industry. If commentators are interested in having DDOT engage in traffic control related to pick up and deliveries, then those comments and requests should be addressed to DDOT. Finally, the Board notes that alcohol retailers and other businesses engage in similar pickup and delivery activities related to food and beverage sales; yet, the Board is not aware of similar plans being requested or utilized for those types of businesses. Therefore, there is insufficient evidence in the record that such a plan is warranted at this time.

ANC Commissioner Gwendolyn Lohse requested that the agency develop a verification process related to out-of-state cannabis purchases by minors due to the risk of fraudulent parental permission and to delay this part of the program.

Response: The Board agrees with the commentator that it is critical that medical cannabis businesses avoid providing medical cannabis to unapproved minors. Medical cannabis facilities cannot facilitate the purchase of cannabis by minors except under limited, statutorily approved circumstances and with sufficient safeguards to ensure that the medical cannabis was duly recommended by an authorized practitioner and with knowledge and permission of a parent or guardian. The Board is not aware of any case of a minor forging their parent or guardian's approval to obtain access to the District or another state's medical cannabis program. Furthermore, any patient application filed with the agency is saved and ABCA can contact any minor's parents or legal guardians to confirm their approval and signatures, conduct its own investigation of an application, and report the issue to law enforcement and child welfare authorities for further investigation.

In addition, it should be noted that even though minors may participate in the program (1) minors are not eligible for self-certification pursuant to D.C. Official Code § 7-1671.02(c)(1)(A), which is limited to persons 21 years of age and older; and (2) a minor may only register in the District's medical cannabis program if approved by their parent or guardian and with the recommendation of an authorized practitioner in accordance with D.C. Official Code § 71671.02(e)(1)-(2) and 22-C DCMR §§ 504.2 and 504.3. Finally, the Board emphasizes that it remains committed to ensuring that licensed medical cannabis businesses do not distribute medical cannabis to unapproved minors and that licensees that violate these rules may face severe sanctions.

Antoine Pritchett, II, indicated that rules related to adulterated cannabis should be amended to remediate adulterated product and that testing occur before the product is in its finished state. He also suggested that the Board look to the remediation rules adopted by Maryland.

Response: This comment is addressed by the Board's adoption of testing and remediation rules in the Notice of Emergency and Proposed Rules adopted by the Board and published in the District of Columbia Register at 71 DCR 16357.

Antoine Pritchett, II, indicated concerns regarding the disclosure of fertilizers and nutrients to testing facilities, which could threaten the cultivation centers intellectual property and recipes for plant growth. Instead, Mr. Pritchett suggested adopting the nutrient management plan used by the State of Maryland.

Response: Current law requires that testing labs test for the presence and concentration of fertilizers and other nutrients; therefore, the regulations need to obtain this result.

Antoine Pritchett, II, indicated that leaf tissue sampling is too expensive and unnecessary.

Response: 22-C DCMR § 6510.2 does not require a "leaf tissue sample" and also permits other tests that elicit the necessary information; therefore, licensees may elect a different testing method if one is cheaper than a leaf tissue sample.

Antoine Pritchett, II, indicated the regulations permit a cultivation center to "only include the very best and top colas for testing" which may skew the results.

Response: 22-C DCMR § 6503.1 requires that products be divided into "homogenous batches"; therefore, if the actual product selected for testing is not sufficiently homogenous to the other products in the batch, then this may be deemed a violation or an improper test.

Antoine Pritchett, II, suggested that the industry standard for measuring residual solvents should be measured in parts per million (PPM) not milligrams per gram (mg per g).

Response: The microgram per gram standard for measuring residual solvents is used in California, which renders the regulations in accord with one of the largest cannabis markets in the United States on the issue of measuring residual solvents. ABCA will continue to study this issue and may in the future develop alternative testing measures as practices develop. Mr. Pritchett did not provide sufficient evidence that the proposed standard in his comment represents the industry standard. Nevertheless, the Board is willing to consider such evidence if provided.

Antoine Pritchett, II and other commentators indicated that the proposed regulations need to consider that Colorado's cannabis limits are based on daily limits and not monthly limits like the District. Antoine Pritchett, II, expressed concern that the regulations will encourage patients to buy more edibles and disadvantage cultivation centers that primarily sell dried flower. Many commentators expressed concern that the limit on concentrates and maximum THC limit was too low to satisfy patient demand and need as part of managing treatment plans for various conditions. Jen Brunenkant suggested that any problems regarding persons under 21 accessing concentrated cannabis products could be addressed by requiring a practitioner recommendation.

Response: The rulemaking has been amended to address this concern regarding the use of Colorado's cannabis purchase limits. The Board is willing to review the purchase limits in the future if the purchase limits are having a negative impact on patients or the industry. The Board will continue to study practices in other states and to review the concerns of patients, regulators, and the medical community regarding this issue.

The Board agrees with public comments that the amount of medical cannabis concentrate that can be possessed and consumed needs to be increased to reflect patient needs over a 30-day period and that the prior limits contained in the first rulemaking did not consider that Colorado's limits, including limits in its medical cannabis program, are daily limits and not monthly limits. The Board also changed the total amount of medical cannabis products that may be purchased or possessed in any form based upon the limits of Colorado's medical cannabis program. The Board notes that the medical cannabis concentrate limits for persons under 21 has been modified to take into account that Colorado's limits are daily limits and not monthly limits. The Board further intends to leave in the medical cannabis concentrate limits for persons under 21 as the Board is persuaded by the reasoning relied upon by Colorado in enacting the limitation to address the health, safety and welfare of persons under 21.

Antoine Pritchett, II, expressed concern regarding the burden the submission of plans puts on applicants and licensees.

Response: In the prior and current version of the rules, the Board has eliminated the requirement to file various plans, which were part of the prior competitive application process, except for security plans. In particular, the Board has eliminated the previously required staffing plan, product safety and labeling plan, business plan, educational material plan, environmental plan, cultivation plan, and the laboratory testing plan. The Board further notes that similar to the District's alcohol system, licensees will be permitted to change security plans by submitting them to the Board to replace any existing plan on file.

Antoine Pritchett, II, expressed concern about whether his business is eligible for social equity status.

Response: The Board cannot comment on whether a specific business is eligible for social equity status as part of the rulemaking process. Nevertheless, an existing licensee is welcome to apply to convert their existing license into a social equity license if they qualify for such status.

Antoine Pritchett, II, suggested that the Board should permit "tamper evident" packaging rather than "tamper proof" packaging, which is cheaper for licensees.

Response: The revised rulemaking has been amended to allow for licensees to utilize either "tamper proof" or "tamper evident" packaging that is difficult for children under 5 years of age to open. The Board notes that tamper evident packaging is permitted in other jurisdictions such as California and Maine. Cal. Bus. & Prof. Code § 26120; Me. Rev. Stat. tit. 22, § 2423-F.

Antoine Pritchett, II, and other commentators support the creation of a social equity advisory panel. Kinner & McGowan PLLC and Linda Greene suggested creating a subcommittee on the Advisory Committee comprised of medical cannabis licensees and industry stakeholders before November 1, 2023.

Response: There are adequate alternative means of providing advice and guidance to the agency and the Board. The Board notes that any person or group may provide Aproposed legislation,

rules, and other policy changes to the Board for consideration on its weekly agenda.

Rabbi James Kahn and Linda Greene support implementing temporary card changes earlier than the proposed October 2, 2023, date.

Response: The rulemaking was amended to implement the temporary card changes for non-residents with an earlier date of Monday, September 25, 2023, during a prior emergency. The current rules maintain this change.

Stephanie Kahn requested that the Board consider a workaround when ABCA is not open to address problems registering new non-resident patients.

Response: The rulemaking significantly addresses this concern by creating non-resident cards that are 90, 180, and 365 days in length. Specifically, issues that have arisen for patients regularly attempting to renew a 30-day non-resident card will be reduced as a result of patients being able to obtain non-resident patient cards that are valid for up to 1 year.

Former Councilmember Yvette Alexander, on behalf of the D.C. Cannabis Trade Association, requested a reduction in fees for temporary patient cards. Other commentators also supported such a change.

Response: The rules reduce the fee for a 30-day temporary non-resident card from $30 to $20. The rules also create a new less expensive 3-day card that is available for $10.

The D.C. Cannabis Trade Association and other commentators advocated for ABCA to conduct a study as to the anticipated supply and demand of medical cannabis in order to inform the licensing process.

Response: The proposed study falls outside the scope of the present rulemaking, but commentators are welcome to submit suggested information and data that the Board should collect and consider in making licensing and other policy decisions.

The D.C. Cannabis Trade Association recommended that internet retailers be limited to businesses with brick-and-mortar locations.

Response: Additionally requiring internet retailers to operate a brick-and-mortar location would require a legislative change as it appears contrary to the Council's decision to create separate license classes for retailer and internet retailer businesses and the statute prohibits an internet retailer from operating an establishment open to the public. D.C. Official Code § 7-1671.06(a)(4).

The D.C. Cannabis Trade Association requested the elimination of the sliding scale discount report required by the regulations. Norbert Pickett, Linda Greene, and Jen Brunenkant requested the elimination of the sliding scale discount.

Response: The Board agrees to eliminate the sliding scale reporting requirement. Further legislation would be required to eliminate the sliding scale discount program which is required by

statute; however, the Board understands that it is having a harmful impact on licensees serving low-income neighborhoods.

Robin Walker Salas asked the Board to support providing additional education resources for patients.

Response: Production of such materials falls outside the scope of the rulemaking to implement the legislation enacted by the Council, but commentators are welcome to suggest topics, data, and information that should be generated or included in educational materials provided to patients or posted on ABCA's website or presented at community events for consideration.

ANC Commissioner Jeffrey Rueckgauer asked whether the 50 percent social equity set aside requirement applied to the system as a whole or to specific areas.

Response: The 50 percent set aside requirement applies to each of the specific retailer, internet retailer, courier, cultivation center, and manufacturer license categories. The 50 percent set aside requirement does not apply to the overall number of medical cannabis business licenses issued as a whole nor is it location dependent.

ANC Commissioner Jeffrey Rueckgauer requested that safe-use treatment facilities be required to have someone on staff certified to provide medical aid present.

Response: The Board considered the request to have staff present with certified medical training in medical cannabis consumption facilities; however, the Board is not aware of any other jurisdiction having such a requirement or evidence that such a costly requirement is necessary for the health, safety, and welfare of patients.

ANC Commissioner Jeffrey Rueckgauer requested that the smoking of cannabis products be prohibited within 25 feet of the property.

Response: The Board considered the request to create a 25 foot no smoking requirement around medical cannabis facilities; however, the Board does not have the authority to issue or enforce rules governing the behavior of non-licensees in public space. It should be further noted that public consumption of cannabis is already prohibited by law. D.C. Code § 48-911.01.

Barbara Biddle requested that the Board clarify the legality of hemp-derived food products and industrial hemp products and liberalize rules related to hemp derived products. She further suggested that the Board create licenses for cannabidiol (CBD) only businesses.

Response: Modifying the status of hemp derived products and cannabidiol (CBD) requires additional legislation modifying the legal definition of cannabis under District law and cannot be addressed by rulemaking. The Board agrees that this area of the law could benefit from clarification.

Terrance White, Linda Greene, Grace Hyde and other commentators asked that the Board liberalize its advertising and signage rules.

Response: The commentators have not clearly articulated any specific issue with current medical cannabis advertising and signage rules. The Board requires additional feedback from stakeholders as to any issues and concerns that they may have.

Jen Brunenkant asked whether the revision to § 503.5 "implies that the internet retailer or retailer does not need to retain a copy of the ABCA issued non-resident card and their government-issued ID."

Response: The amendment to Title 7 creates three categories of patients: (1) a District resident; (2) a non-District resident registered in another state; and (3) a non-resident cardholder. Section 503.5 addresses the internet retailer and retailer's document retention requirement regarding a qualifying patient enrolled in another state's medical cannabis program; therefore, the patient may not have and is not required to have an ABCA issued card under that specific scenario, as they will be able to present their own state-issued documents.

Jen Brunenkant asked to exempt THC syringes sold in 250 mg, 500 mg, and 2,500 mg sizes similarly to how capsules and tinctures are exempted in § 5608.7.

Response: The Board has concerns regarding high THC products. As noted by the National Institute on Drug Abuse (NIDA), high THC products "deliver extremely large amounts of THC to the body, and their use has sent some people to the emergency room." National Institute on Drug Abuse, "Cannabis (Marijuana) DrugFacts," available at https://nida.nih.gov/publications/drugfacts/cannabis-marijuana (last visited Jul. 28, 2023). Furthermore, according to NIDA, high THC products carry a risk of mental health issues, including hallucinations, delusions, and psychosis. Id. These products carry further risks to new and inexperienced patients because if taken in edible form they may "consume more to feel the effects faster, leading to dangerous results." Id. Finally, "Higher THC levels may also mean a greater risk for addiction." Id.

Nevertheless, in the case of non-injectable syringes, which is generally taken orally, the Board will include them in the exemption for capsules and tinctures for two reasons. First, there is no evidence at this time that persons under 21 years of age are abusing this specific category of products or that this specific type of product is leading to harmful outcomes in other jurisdictions or the District. And second, where it has been shown that these products have been on the market for several years without objection from the Department of Health, the Board finds it appropriate to "grandfather" or carve out an exemption to the regulation's THC limits for this class of products.

Jen Brunenkant suggested that § 504.2 add the word "foreign" to permit "international patients" to participate in the medical cannabis program.

Response: This change is not needed as the term "non-resident cardholder" as defined in D.C. Code § 7-1671.01(13B) now includes the term "foreign country" and "foreign territory."

Jen Brunenkant asked whether § 1001.4 requires the printing out of records if stored electronically.

Response: If a licensee elects to solely use electronic records there is no obligation to create physical records. Electronic records may be transferred digitally or provided through the submission of a digital storage device if required to be submitted to ABCA.

Jen Brunenkant commented that internet and retailer licenses should be limited to one per person to promote ownership diversity.

Response: The combined limit in the proposed rules not allowing a licensee to hold more than 3 retailer and internet retailer licenses is consistent with D.C. Code § 7-1671.06(e)(1)(D), which contains the very same restriction.

Jen Brunenkant asked that the spousal conflict of interest rule found at § 5424 be eliminated in order to prevent spousal control of licenses as a way to collude to avoid the impact of the conflict-of-interest rules.

Response: Section 5424 is adapted from Title 23 of the D.C. Official Code. The Board generally opposes the adoption of rules and requirements that may violate the policy behind the D.C. Human Rights Act. Therefore, the Board opposes prohibiting both spouses from holding separate licenses because such a prohibition is inconsistent with District of Columbia policy as expressed by the D.C. Human's Right Acts prohibition on discrimination based on family relationships and marital status. D.C. Official Code § 2-1501.01 ("Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life . . . ."); D.C. Official Code § 2-1402.11. Section 5424 creates clear guidelines for situations when both spouses own separate licenses in order to ensure compliance with existing law, and that without this section there would be no additional requirements.

Jen Brunenkant commented that delivery drivers should be permitted to deliver to patients curbside at their residence.

Response: Section 5624.7 allows for deliveries of medical cannabis to occur anywhere on the resident's property but not on public property, such as the sidewalk or curb. Current law requires delivery to the qualifying patient's address and not "on District government . . . property." D.C. Code § 7-1671.06E(a).

Jen Brunenkant expressed concern that the regulations do not indicate the legal responsibility of a retailer or internet retailer when using a courier.

Response: Retailers and internet retailers may be liable for the violations of a courier when it is shown the retailer engaged in a violation of a specific statute or regulation as part of the delivery transaction. Questions regarding specific scenarios that require clarification should be addressed to ABCA or the Board. The Board notes that in assessing the liability under the statute the Board will consider how the statutory language assigns responsibility and may consider other general legal principles if relevant such as vicarious liability or respondeat superior in administrative enforcement actions on a fact-specific basis, but in general, the licensee is responsible for the acts of its agents. This is especially true in a regulated industry where the Board's powers to ensure

compliance are strongest over licensees.

Jen Brunenkant raised concerns regarding the curbside delivery camera requirement.

Response: The Board has eliminated the requirement formerly in § 5703.4(e) for curbside sales to be within view of the retailer's security camera system because the requirement is of limited utility when off-premise delivery is permitted without video recording being required, the sales are still tracked through METRC, and there is a low risk of diversion where illegal cannabis is generally cheaper than product sold through a licensed medical cannabis retailer.

Jen Brunenkant raised concerns regarding the regulation's allowance for the use of a summary suspension in the case of an assault on a government official in or around the establishment.

Response: The requirement in § 6203.2 mirrors a similar and long-standing authority in Title 25 of the D.C. Official Code governing the operation of the alcohol industry. The requirement is necessary because an assault on a government official raises questions about the operation of and the security measures in place at the medical cannabis facility. Furthermore, such a suspension may be warranted to permit an appropriate investigation of the incident. The Board notes that this type of suspension is short term and is subject to the right to an almost immediate hearing and decision on the suspension. Further, this type of authority is also necessary where the on-premises consumption of medical cannabis is now authorized by the additional safe-use treatment facility and summer garden endorsements.

Lauren Berlekemp asked that the Board consider allowing patients to engage in testing at testing labs. She further advocated for the creation of a public-private partnership to establish a testing laboratory.

Response: Recent legislation passed by the Council allows for patient and caregiver testing at testing labs and this version of the rulemaking addresses this new privilege enacted by D.C. Official Code § 7-1671.05(11A)(A). Public investment or partnership with a testing laboratory likely would require the enactment of legislation authorizing such activity and appropriate funding that falls outside the scope of the Board's authority.

Phyto Cultivation requested that licensees should be permitted to provide their own training in lieu of providing a Board-certified trainer due to the expense.

Response: Nothing in the current regulations prevents a licensee from creating their own program for their own employees, having it certified by the Board, and then conducting their own in-house training and certification under the program.

Phyto Cultivation requested that the Board adjust the definition of waste to allow for the disposal of green waste.

Response: The matter of waste disposal requires additional study because waste disposal rules are administered by a separate District Government agency and the transportation of medical cannabis waste, even if no THC is present, may create interstate commerce and federal law issues

that need to be examined before any rule change to medical cannabis waste disposal can be implemented.

Linda Greene requested that the Board eliminate the sales tax on medical cannabis.

Response: The elimination of the 6% medical cannabis sales tax is outside the authority of the Board and requires a statutory change.

Michael Bobo suggested that caregivers be permitted to assist an unlimited number of patients.

Response: The Board agrees that this limit does not serve the interests of patients, and the Board has removed the previous limit of five (5) patients per caregiver.

Linda Greene, Camille Tindal, and others took issue with current mandatory training requirements and suggested that the mandatory certified training of all employees be eliminated.

Response: The Board agrees with this change in part. The rules have been amended to only require managers to obtain mandatory training once every three-years from a Board-approved certified provider. Medical cannabis licensees are responsible for ensuring that their directors, officers, members, incorporators, agents, and employees have received training on District law, medical cannabis use, security and theft prevention once every three years; however, this training is not required to be from a Board-approved certified provider. These changes will help to reduce costs on the medical cannabis industry because the mandatory training can be provided in-house. Managers are still being required to obtain training from a Board approved certified provider once every three years because this position requires an additional level of knowledge to ensure compliance with the medical cannabis laws and regulations and mirrors the requirement for alcohol licensees.

FINAL RULEMAKING ACTION

The final rulemaking substantially adopts the proposed rules included in the Notice of Sixth Emergency and Proposed Rulemaking without making any changes. For the purposes of clarity, in this version of the rules, the Board provides the entire revised text of the amended regulations in Chapters 64 and 65 of the final rulemaking.

On June 4, 2025, the Board voted five (5) to zero (0) to adopt this proposed final rulemaking for transmittal to the Council for its review and approval pursuant to D.C. Official Code § 7-1671.13(b).

On September 24, 2025, the Mayor transmitted the proposed final rules to the Council for its review and approval pursuant to the Medical Cannabis Technical Rulemaking Approval Resolution of 2025 (P.R. 26-318). In accordance with D.C. Official Code § 7-1671.13(b), "If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within th[e] 30-day review period [excluding Saturdays, Sundays, legal holidays, and Council recesses, after the Mayor submits the proposed final rules to the Council], the proposed rules shall be deemed approved."

The Council not having taken action to approve or disapprove the proposed final rules before the end of the 30-day review period, the proposed final rules were deemed approved by the Council on November 19, 2025. Therefore, on December 3, 2025, the Board voted five (5) to zero (0) to adopt the rules as final.

These final rules shall take effect five (5) days after this Notice of Final Rulemaking is published in the *District of Columbia Register*, and the final rules shall supersede the emergency rules that were previously adopted by the Board and published in the *District of Columbia Register* on February 6, 2026 at 73 DCR 001195.

The rules are as follows:

Subtitle C, MEDICAL MARIJUANA, of Title 22, HEALTH, of the District of Columbia Municipal Regulations, is amended as follows:

Strike the phrase "Alcoholic Beverage Regulation Administration" wherever it appears and insert the phrase "Alcoholic Beverage and Cannabis Administration" in its place.

Strike the phrase "Alcoholic Beverage Control Board" wherever it appears and insert the phrase "Alcoholic Beverage and Cannabis Board" in its place.

Strike the phrase "ABRA" wherever it appears and insert the phrase "ABCA" in its place.

Strike the word "marijuana" wherever it appears and insert the word "cannabis" in its place.

Strike the phrases "dispensary, cultivation center, or testing laboratory"; "cultivation center, dispensary, or testing laboratory"; "cultivation center, or dispensary or testing laboratory"; "cultivation centers, dispensaries, and testing laboratories"; "cultivation center, dispensary, or testing laboratory"; " registered cultivation center, dispensary, or testing laboratory"; "cultivation center or dispensary"; "dispensary, cultivation center or testing laboratory"; "registered cultivation center or dispensary" wherever they appear and insert the phrase "medical cannabis business" or "a medical cannabis business" in their places and as appropriate.

Strike the words "dispensary" or "a dispensary" where they appear and insert the phrases "internet retailer or retailer" or "an internet retailer or retailer" in their respective places.

Strike the phrase "his or her" wherever it appears and insert the word "their" in its place.

The heading is amended to read as follows:

Subtitle C, MEDICAL CANNABIS

Chapter 1, GENERAL PROVISIONS, is amended as follows:

Section 100, APPLICABILITY, is amended as follows:

Subsections 100.3 and 100.4 are repealed.

A new Section 101, SIGNATURE REQUIREMENTS, is added to read as follows:

101 SIGNATURE REQUIREMENTS

101.1 Where the Act or this subtitle requires a signature, the requirement shall be satisfied by a wet ink signature, e-signature, digital signature, clickwrap signature, or any other mark demonstrating an intent to sign unless a specific type of signature is specifically required by the Act or this subtitle.

Chapter 2, CONDITIONS OF REGISTRATION, is amended as follows:

Section 200, GENERAL PROVISIONS, is amended as follows:

Subsection 200.4 is amended to read as follows:

200.4 The applications for a patient or caregiver registration shall specifically recite, verbatim, each of the following notices:

(a) **Limitation of Liability** -- To the extent provided by Section 12 of the Act (D.C. Official Code § 7-1671.11), the District of Columbia shall not be liable to the registrant, its employees, agents, business invitees, licensees, customers, clients, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from a person's participation in the District of Columbia's medical cannabis program, including: any fire, robbery, theft, mysterious disappearance or any other casualty; or injury arising from the use of medical cannabis obtained through the program. This Limitation of Liability provision shall survive expiration or the earlier termination of this registration if such registration is granted; and

(b) **Federal Prosecution** -- The United States Congress has determined that cannabis is a controlled substance and has placed cannabis in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing cannabis in any capacity, other than as a part of a federally authorized research program, is a violation of federal laws. The District of Columbia's law authorizing the District's medical cannabis program will not excuse any person from any violation of the federal laws governing cannabis or authorize any person to violate federal laws.

Subsection 200.11(a) is amended to read as follows:

(a) Within forty-eight (48) hours after discovery, provide verbal notification to the Board or the Board's designee;

Chapter 3, USE OF MEDICAL MARIJUANA, is renamed USE OF MEDICAL CANNABIS and amended as follows:

Section 300, USE BY QUALIFYING PATIENT, TRANSPORTATION BY CAREGIVER, AND LIMITATIONS ON MEDICAL MARIJUANA, is renamed and amended to read as follows:

300 MEDICAL USE OF CANNABIS

300.1 A qualifying patient shall only purchase, possess, and administer medical cannabis, or use paraphernalia, for treatment of a qualifying medical or dental condition or the side effects of a qualifying medical treatment after:

(a) Obtaining a signed, written recommendation from an authorized practitioner within the last two (2) years in accordance with the Act, except for individuals twenty-one (21) years of age and older, who shall be permitted to self-certify on a form provided by ABCA that they are utilizing cannabis for medical purposes as part of the registration process, and registering with ABCA; or

(b) Enrolling in another jurisdiction's medical cannabis program.

300.2 A qualifying patient or caregiver shall only purchase, possess, dispense, use, administer, or assist in the administration of medical cannabis, medical cannabis products, and paraphernalia obtained from an internet retailer or retailer licensed with the Board. A qualifying patient or caregiver may purchase medical cannabis, medical cannabis products, and paraphernalia at any internet retailer or retailer that is licensed with the Board.

300.3 A qualifying patient or caregiver shall only transport medical cannabis and medical cannabis products in a container or sealed package bearing the label received from the internet retailer or retailer.

300.4 A qualifying patient or caregiver shall not use or administer medical cannabis or medical cannabis products at a medical cannabis business, except that a qualifying patient or caregiver may use or administer medical cannabis at a Board-approved safe-use treatment facility, summer garden, or educational activity that occurs at a licensed retailer.

300.5 Medical cannabis shall only be administered by or to a qualifying patient at:

(a) The qualifying patient's residence, if permitted by the property owner;

(b) If permitted by the landlord, the residence of an individual who has given permission to the qualifying patient to administer medical cannabis at their

residence;

(c) A medical treatment facility when receiving medical care for a qualifying medical or dental condition or a qualifying medical or dental treatment, if permitted by the medical treatment facility;

(d) A Board-approved safe-use treatment facility, summer garden, or educational activity that occurs at a licensed retailer; or

(e) To the extent consistent with federal law, a school where the qualifying patient is enrolled, if the school has a policy in place for allowing the administration of medication at school and medical cannabis is administered in a non-smokeable form.

300.6 A qualifying patient who is a minor shall only purchase, possess, use, and administer medical cannabis, medical cannabis products, and paraphernalia after receiving: (1) a recommendation from an authorized practitioner and registering with ABCA and (2) a signed, written statement from the minor's parent or legal guardian that is submitted with the minor's ABCA registration. The signed, written statement shall affirm that the parent or legal guardian:

(a) Understands the qualifying medical or dental condition or qualifying medical or dental treatment of the minor;

(b) Understands the potential benefits and adverse effects of the use of medical cannabis in general, and specifically, in the case of the minor;

(c) Consents to the use of medical cannabis for the minor's qualifying medical or dental condition or qualifying medical or dental treatment;

(d) Consents to, or designates another adult to, serve as the caregiver for the minor qualifying patient; and

(e) Consents that the caregiver shall control the acquisition, possession, dosage, and frequency of use of medical cannabis by the minor qualifying patient.

300.7 Nothing in the Act or this subtitle shall be construed as permitting a qualifying patient to:

(a) Undertake any task under the influence of medical cannabis when doing so would constitute negligence or professional malpractice; or

(b) Operate, navigate, or be in actual physical control of any motor vehicle, scooter, bicycle, e-bike, aircraft, or motorboat while under the influence of medical cannabis.

300.8 No qualifying patient or caregiver shall use butane or other explosive gases to extract or separate resin from cannabis, or tetrahydrocannabinol from cannabis, or in any other manner.

Section 301, BARRING NOTICES, is renumbered as a new Section 302.

Section 301 is then renamed and amended to read as follows:

301 MEDICAL CANNABIS POSSESSION AND PURCHASE LIMITS

301.1 The maximum amount of medical cannabis or medical cannabis products a qualifying patient or caregiver may possess at any time or purchase from a licensed internet retailer or retailer within a 30-day period, whether individually or in combination, is:

(a) Eight (8) ounces of dried medical cannabis; or

(b) Two hundred and forty (240) grams of medical cannabis concentrate for a patient twenty-one (21) years old of age or older, or sixty (60) grams of medical cannabis concentrate for a patient between eighteen (18) and twenty (20) years old; or

(c) Medical cannabis products in any form containing a combined total of six hundred thousand milligrams (600,000 mg) of THC.

Chapter 5, QUALIFYING PATIENTS, is amended as follows:

Section 500, QUALIFICATION FOR PATIENT REGISTRATION, is amended as follows:

Subsection 500.1(c) is amended to read as follows:

(c) Have a signed recommendation from an authorized practitioner, or if twenty-one (21) years of age or older, self-certify on a form provided by ABCA, for the use of medical cannabis meeting the requirements of this chapter; and

Section 501, RESIDENCY, is amended as follows:

Subsection 501.2(b) is amended to read as follows:

(b) At least one (1) of the following items:

(1) A valid unexpired lease or rental agreement in the name of the applicant on a District of Columbia residential property;

(2) A pay stub issued less than forty-five (45) days prior to the

application date which shows evidence of the applicant's withholding of District income tax;

(3) Current official documentation of financial assistance received by the applicant from the District Government including, but not limited to Temporary Assistance for Needy Families (TANF), Medicaid, the State Child Health Insurance Program (SCHIP), Supplemental Security Income (SSI), housing assistance, or other governmental programs;

(4) A current motor vehicle registration in the name of the applicant evidencing District residency;

(5) A valid unexpired District motor vehicle operator's permit or other official non-driver identification in the name of the applicant;

(6) Bank statements, utility bills, and telephone bills, including cell phone bills from a period within the two (2) months immediately preceding the application date in the name of the applicant on a District of Columbia residential address; or

(7) Any other document that, in the judgment of the Board, demonstrates that the applicant is a current resident.

Section 502, QUALIFYING PATIENTS APPLICATION, is amended as follows:

Subsection 502.1(e) is amended to read as follows:

(e) Either a signed and dated authorized practitioner's recommendation for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date, or a signed ABCA self-certification form;

Section 503, NONRESIDENT QUALIFYING PATIENTS, is amended as follows:

Subsection 503.1 is amended to read as follows:

503.1 Before dispensing medical cannabis to a nonresident qualifying patient, a registered internet retailer or retailer shall:

(a) Verify the nonresident qualifying patient's identity through comparison of their unexpired government-issued identification card and either their temporary medical cannabis patient card issued by ABCA or a valid, unexpired nonresident patient card or state-issued or U.S. territory-issued document from the jurisdiction that the patient resides; and

(b) Confirm through the real-time electronic records system that the nonresident qualifying patient has not reached the allowable medical cannabis purchase limits for the thirty (30)-day period.

Subsection 503.2 is amended to read as follows:

503.2 An internet retailer or retailer shall not dispense medical cannabis to a nonresident qualifying patient that does not hold either a temporary medical cannabis patient card issued by ABCA or a valid unexpired nonresident patient card or state-issued or U.S. territory-issued document from the jurisdiction that the patient resides.

Subsection 503.3 is repealed.

Subsection 503.4 is amended to read as follows:

503.4 A licensed internet retailer or retailer shall not dispense medical cannabis to a nonresident qualifying patient if ABCA determines that there is a shortage of medical cannabis, or the real-time electronic records system is inactive.

Subsection 503.5 is amended to read as follows:

503.5 In the case of purchase by a nonresident qualifying patient that does not hold a temporary medical cannabis patient card issued by ABCA, the internet retailer or retailer shall retain a copy of both the nonresident patient card or state-issued or U.S. territory-issued document, and a copy of the government-issued identification card.

New Subsections 503.7 and 503.8 are added to read as follows:

503.7 Notwithstanding § 503.1(a) and § 503.2, an internet retailer or retailer may satisfy § 503.1(a) and § 503.2 and dispense medical cannabis and medical cannabis products to a nonresident patient by verifying the nonresident patient's identity through a comparison of:

(a) An unexpired government-issued identification card of the patient;

(b) If required by the issuing jurisdiction, proof of residency in the other jurisdiction, along with any other document necessary to prove enrollment in the other jurisdiction's program; and

(c) A written certification form issued by the patient's state or jurisdiction of residence that has been completed by an authorized practitioner provided the state or jurisdiction's written certification form contains:

(1) The name, address, and telephone number of the practitioner;

(2) The name of the qualifying patient presenting the written

certification form;

(3) The date the certification form was issued by the practitioner;

(4) The signature or electronic signature of the practitioner; and

(5) Confirmation that the authorized practitioner has determined that medical cannabis is appropriate for the treatment of a qualifying medical or dental condition or a side effect of a qualifying medical or dental treatment, that is consistent with the standard of care in that jurisdiction.

503.8 In the case of purchase by a nonresident qualifying patient utilizing a written certification form issued by another state or jurisdiction that has been completed by an authorized practitioner, the internet retailer or retailer shall use the number on the unexpired government issued identification card as the non-resident's patient number.

A new Section 504, TEMPORARY NON-RESIDENT MEDICAL CANNABIS PATIENT CARD, is added to read as follows:

504 TEMPORARY NON-RESIDENT MEDICAL CANNABIS PATIENT CARD

504.1 A non-resident qualifying patient visiting the District of Columbia may apply to ABCA to receive a temporary non-resident medical cannabis patient card that is either 3 days, 30 days, 90 days, 180 days or 365 days in length.

504.2 To apply for a temporary non-resident medical cannabis patient card, an applicant shall submit a complete application to ABCA on the required forms, which shall include:

(a) The applicant's full legal name and date of birth;

(b) One (1) recent passport-type photograph of the applicant's face measuring two inches by two inches (2 in. x 2 in.), which clearly expose the area from the top of the forehead to the bottom of the chin;

(c) One (1) clear photocopy of a photo ID issued by a U.S. state, U.S. territory, the District of Columbia, or a foreign government-, such as a driver's license or passport, as proof of identity;

(d) A signed and dated written authorized practitioner's recommendation for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date, except for individuals twenty-one (21) years of age and older, who shall be permitted

to self-certify on a form provided by ABCA that they are utilizing cannabis for medical purposes as part of their application;

(e) Designation of the individual who will serve as the patient's caregiver, if applicable; and

(f) Payment of the required application fee.

504.3 An applicant applying for a temporary non-resident medical cannabis patient card who is a minor shall further provide that the application is completed by the parent or legal guardian of the minor, and includes

(a) All of the information required by Section 504.2; and

(b) A signed written statement from the minor's parent or legal guardian attesting to the information set forth in § 300.6.

504.4 A minor shall not be issued a temporary non-resident medical cannabis patient card until a registered caregiver is designated on the application and the caregiver has been issued a medical cannabis caregiver registration card from ABCA.

504.5 After the expiration of a temporary non-resident medical cannabis patient card, the nonresident cardholder may apply to ABCA to be issued another temporary non-resident identification card.

A new Section 505, SELF-CERTIFICATION FORM, is added to read as follows:

505 SELF-CERTIFICATION FORM

505.1 The ABCA Self-Certification Form shall require the following information:

(a) Name;

(b) Address;

(c) Date of Birth;

(d) Age; and

(e) Whether the applicant has any condition for which treatment with medical cannabis would be beneficial, as determined by an authorized practitioner, or is undertaking a qualifying medical or dental treatment.

505.2 The ABCA Self-Certification Form shall require the qualifying patient to make the certifications required by D.C. Official Code §§ 7–1671.02(c) and 7-1671.05(b)(3).

505.3 Any qualifying patient registration card containing a self-certification form that was issued to a person under the age of twenty-one (21) or who has otherwise falsified information contained in the self-certification form shall be revoked.

505.4 If the Board has cause to believe that a self-certification form is false or otherwise filed in violation of this title or this subtitle, the Board may require the qualifying patient to demonstrate through the submission of evidence that the self-certification is valid.

505.5 A qualifying patient required to submit proof of their self-certification shall have 15 calendar days unless extended by the Board to file appropriate documentation of their condition or treatment. If the qualifying patient fails to respond, then the Board may immediately revoke their registration.

Chapter 6, CAREGIVERS, is amended as follows:

Section 601, CAREGIVER QUALIFICATIONS, is amended as follows:

Subsections 601.1(c) and 601.1(d) are amended to read as follows:

(c) Not previously had its registration revoked by the Board to serve as a caregiver; and

(d) Be at least eighteen (18) years of age.

Subsection 601.1(e) is repealed.

Section 602, CAREGIVER APPLICATION, is amended as follows:

Subsection 602.1(b) is amended by striking the phrase "Two recent passport type photographs" **and inserting the phrase** "One (1) recent passport-type photograph" **in its place.**

Subsections 602.1(c) and 602.1(d) are amended to read as follows:

(c) One (1) clear photocopy of a photo ID issued by a U.S. state, U.S. territory, the District of Columbia, or a foreign government-, such as a driver's license or passport, as proof of identity; and

(d) The caregiver's residential address, which shall not be a post office box number.

Subsection 602.1(e) is repealed.

Subsection 602.1(f) is repealed.

Subsection 602.2 is repealed.

Section 603, MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY, is amended as follows:

The heading is amended to read as follows:

603 MEDICAL CANNABIS OBTAINED FROM INTERNET RETAILER OR RETAILER

Subsection 603.1(b) is amended to read as follows:

(b) Purchase medical cannabis from unlicensed sources; or

CHAPTER 7, REGISTRATION CARDS, is amended as follows:

Section 700, ISSUANCE OF REGISTRATION CARDS, is amended as follows:

Subsection 700.2 is amended to read as follows:

700.2 A registration identification card issued pursuant to this chapter shall expire two (2) years after the date of issuance and may be renewed in accordance with the renewal provisions under this chapter. Upon receipt of a complete application, ABCA shall issue the applicant a temporary patient registration card that shall be valid for thirty (30) days.

Section 701, CONTENTS OF REGISTRATION CARDS, is amended to read as follows:

Subsection 701.1(f) is amended to read as follows:

(f) The District of Columbia medical license number of the recommending physician, if the qualifying patient is a minor.

Subsection 701.2(f) is amended to read as follows:

(f) The District of Columbia medical license number of the recommending physician, if the qualifying patient is a minor.

Section 702, RENEWAL OF REGISTRATION CARDS, is amended as follows:

Subsection 702.1(a)(3) is amended to read as follows:

(3) A signed and dated written recommendation from an authorized practitioner for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date or, for patients twenty-one (21) years of age and older, a signed ABCA self-certification form; and

Subsection 702.2(c) is amended to read as follows:

(c) A signed and dated written recommendation from an authorized practitioner for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date or, for patients twenty-one (21) years of age and older, a signed ABCA self-certification form;

Chapter 8, RECOMMENDING AUTHORIZED PRACTITIONERS, is amended as follows:

The heading is amended to read as follows:

Chapter 8 AUTHORIZED PRACTITIONERS

Section 801, FORM OF RECOMMENDATION, is amended follows:

Section 801.1(h) is amended to read as follows:

(h) The authorized practitioner’s signature and date.

Section 801.1.(i) is amended to read as follows:

(i) The qualifying patient's signed consent for the release of medical or dental information related to the patient's qualifying medical or dental condition or treatment.

Section 803, NO OFFICE AT A DISPENSARY, CULTIVATION CENTER, OR TESTING LABORATORY, is amended as follows:
The heading is amended to read as follows:

803 PROHIBITED OFFICE LOCATIONS

Chapter 10, ENFORCEMENT ACTIONS, is amended as follows:

The heading is amended to read as follows:

Chapter 10 ENFORCEMENT

Section 1000, COMPLAINTS AGAINST PATIENTS, CAREGIVERS OR RECOMMENDING AUTHORIZED PHYSICIANS, is deleted, renamed, and replaced to read as follows:

1000 ENFORCEMENT AUTHORITY

1000.1 The Board and ABCA shall have the authority to enforce the provisions of the Act and this subtitle with respect to licensees, any premises where an application

pursuant to the Act has been filed, and unlicensed establishments.

1000.2 ABCA investigators may issue citations for civil violations of the Act and this subtitle that are set forth in the schedule of civil penalties.

1000.3 A citation for any violation for which the penalty includes the suspension of a license shall be issued under the direct authority of the Board as a result of an investigation carried out by ABCA investigators.

1000.4 Violations committed by an unlicensed person selling cannabis in violation of the provisions of the Act and the regulations may be referred by the Board to the Office of the Attorney General for investigation and prosecution.

1000.5 ABCA investigators may request and check the identification of a patient or caregiver inside of or attempting to enter a licensed medical cannabis facility. ABCA investigators may seize evidence that substantiates a violation under the Act and the regulations, which may include seizing cannabis and cannabis products sold to unregistered minors and unauthorized persons and fake identification documents used by minors and other unauthorized persons to register or be licensed with ABCA.

1000.6 ABCA investigators may seize a medical cannabis license or registration from an establishment or individual if:

(a) The license has been suspended, revoked, or cancelled by the Board;

(b) The license has expired;

(c) The license has been tampered with, altered, belongs to another person, or otherwise used in a fraudulent manner;

(d) The medical cannabis facility is no longer in existence; or

(e) The medical cannabis facility has been closed by another District government agency.

1000.7 ABCA investigators are authorized to conduct announced and unannounced, as well as undercover, inspections and investigations of all licensees and any premises where an application for licensure has been filed.

Section 1001, [REPEALED], is renamed and amended to read as follows:

1001 EXAMINATION OF PREMISES AND BOOKS AND RECORDS

1001.1 An applicant for a license, and each licensee, shall allow an ABCA investigator or any member of ABCA's enforcement division a full opportunity to examine, at any

time during business hours:

(a) The premises where medical cannabis or medical cannabis products are cultivated, manufactured, kept, sold, delivered, tested, or consumed for which an application for a license or endorsement has been made or for which a license or endorsement has been issued; and

(b) The books and records of the business for which an application for a license has been made or for which a license has been issued. This shall include the license holder's confidential records, including those related to qualifying patients, nonresident qualifying patients, caregivers, and authorized practitioners.

1001.2 ABCA investigators shall examine the premises and books and records of each licensed medical cannabis facility in the District at least once each year. The investigators shall make reasonable efforts to ensure that the licensee will know in advance the date of the inspection.

1001.3 All books and records required to be maintained by a licensee shall be maintained at the licensed premises unless a separate location in the District is approved by the Board.

1001.4 Notwithstanding § 1001.3, a medical cannabis facility may store its books and records electronically; provided that they provide the ABCA investigator, or another employee of ABCA's enforcement division with access to the electronic records during normal business hours and produce the physical books and records within forty-eight (48) hours of notice of an inspection.

Section 1002, REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS, is deleted, renamed, and replaced to read as follows:

1002 NOTICE OF INVESTIGATIVE REPORTS

1002.1 ABCA shall provide a licensee with an ABCA investigative report that may result in a show-cause civil enforcement hearing by ABCA within 90 days of the date upon which the incident occurred.

1002.2 The requirement in subsection § 1002.1 of this section shall be stayed if the report is referred to another federal, state, or District agency for investigation and such investigation remains pending.

1002.3 A licensee that has not received an investigative report in compliance with § 1002.1 may petition the Board to obtain a copy of the document.

Section 1003, NOTICE OF CONTEMPLATED ACTION AND HEARING, is deleted, renamed, and replaced to read as follows:

1003 AUTHORIZATION TO ISSUE FINES, SUSPEND, AND REVOKE LICENSES

1003.1 The Board may fine, as set forth in the schedule of civil penalties, and suspend or revoke the license of, any licensee during the license period if the licensee violates any provision of the Act or this subtitle.

Section 1004, NOTICE OF SUMMARY SUSPENSION OR REVOCATION ACTION AND HEARING, is deleted, renamed, and replaced to read as follows:

1004 GENERAL VIOLATIONS

1004.1 It shall be a violation when:

(a) The licensee violates any of the provisions of the Act or this subtitle;

(b) The licensee fails to superintend in person, or through a manager approved by the Board, the facility for which the license was issued;

(c) The licensee interferes or fails to cooperate with an ABCA investigation;

(d) The licensee fails to follow its settlement agreement;

(e) The licensee fails to follow its security plan or other plan submitted as part of its license application;

(f) The licensee fails to follow a Board order or condition;

(g) The licensee fails to follow the terms of its license approved by the Board;

(h) The licensee purposely or knowingly destroys evidence of a crime;

(i) The licensee directly or indirectly gives, offers, or promises anything of value to an ABCA investigator, or offers or promises any ABCA investigator to give anything of value to any other person or entity, with the intent to:

(1) Influence any official act or investigation;

(2) Influence an ABCA investigator to commit or aid in committing, collude in, or allow any fraud on the Board; or

(3) Induce an ABCA investigator to do or omit to do any act in violation of the lawful duty of the ABCA investigator; or

(j) The licensee knowingly tampers with evidence. For purposes of this paragraph, the term "tampers with evidence" means any action that destroys, alters, conceals, or falsifies any sort of evidence.

A new Section 1005, UNLAWFUL AND DISORDERLY PURPOSE VIOLATION, is added to read as follows:

1005 UNLAWFUL AND DISORDERLY PURPOSE VIOLATION

1005.1 It shall be a violation for the licensee to allow the licensed establishment to be used for any unlawful purpose contrary to District law.

1005.2 A single incident of criminal assault as defined in Chapter 4 of Title 22 of the D.C. Official Code, criminal sexual abuse as defined in Chapter 30 of Title 22 of the D.C. Official Code, or crime of violence as defined in D.C. Official Code § 23-1331(4) shall be sufficient to prove a violation of Subsection 1005.1 of this section; provided, that the licensee has engaged in a method of operation that is conducive to unlawful or disorderly conduct.

1005.3 A violation of 1005.1 shall not require the showing of a criminal conviction but only substantial evidence that the criminal conduct occurred.

A new Section 1006, [RESERVED], is added to read as follows:

1006 [RESERVED]

A new Section 1007, PROHIBITION ON UNAUTHORIZED SALES, is added to read as follows:

1007 PROHIBITION ON UNAUTHORIZED SALES

1007.1 A licensee shall not deliver, dispense, give, sell, or serve medical cannabis, medical cannabis products, or paraphernalia to the following persons at the time of purchase:

(a) A person who is not a registered qualifying patient, caregiver, or otherwise authorized to purchase medical cannabis, medical cannabis products, or paraphernalia; or

(b) A minor unless the person holds a valid and unexpired medical cannabis patient card issued by ABCA or another jurisdiction and is accompanied by a parent or legal guardian.

1007.2 No licensee shall permit the possession or consumption of medical cannabis or medical cannabis products by a minor at the licensed facility unless the minor:

(a) is a qualifying patient at a Board-approved safe-use treatment facility, summer garden, or educational activity;

(b) Holds a valid and unexpired medical cannabis patient card issued by ABCA or another jurisdiction; and

(c) Is accompanied by a parent or legal guardian.

1007.3 Any stayed suspension days imposed by the Board shall activate and be served by the licensee upon a finding by the Board that the licensee has committed another violation of this section within one year of the date that the violation that resulted in the stayed suspension was adjudicated.

1007.4 It shall be an affirmative defense to a charge under this section that the licensee or the licensee's agent was shown and inspected a fake or fraudulent identification document from the patient of such quality, and that lacked any of the indicia of a fake or fraudulent identification document, that a reasonable person would believe that it was valid. For the purposes of this subsection, if at the time of inspection, any of the following were present, the presumption shall be that a reasonable person would not believe that the identification document shown by the patient or the patient's caregiver was valid:

(a) The identification was visibly damaged;

(b) The identification lacked the physical materials or features of the valid identification being imitated;

(c) The photograph contained in the identification that was shown did not match the bearer;

(d) The identification is displayed past the printed expiration date; or

(e) The licensee or their agent knew or had reason to know the person who self-certified to obtain a patient registration card from ABCA was under the age of twenty-one (21).

A new Section 1008, ILLEGAL CONSUMPTION, is added to read as follows:

1008 ILLEGAL CONSUMPTION

1008.1 A licensee that does not hold a safe-use treatment facility endorsement, summer garden, or an education tasting endorsement shall not allow any person to consume, inhale, or otherwise use medical cannabis or medical cannabis products on the premises or possess medical cannabis or medical cannabis products on the premises in an open or unsealed container.

A new Section 1009, OPEN CONTAINERS, is added to read as follows:

1009 OPEN CONTAINERS

1009.1 No licensee shall knowingly permit a person to leave the premises with an open or unsealed container of medical cannabis or medical cannabis products.

A new Section 1010, MANDATORY REVOCATION, is added to read as follows:

1010 MANDATORY REVOCATION

1010.1 The Board shall revoke the license of a licensee as a result of any of the following events during the period for which the license was issued:

(a) The licensee has been convicted of multiple violations of the terms of the Act or this title in accordance with 22-C DCMR § 6301.1(e);

(b) The licensee has knowingly permitted, in the licensed establishment:

(1) The illegal sale, or negotiations for sale, or the use, of any controlled substance identified in the Controlled Substances Act; or

(2) The possession, other than for personal use, or sale, or negotiations for sale, of drug paraphernalia in violation of the Controlled Substances Act or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et* seq.), except for medical cannabis, medical cannabis products, and medical cannabis paraphernalia;

(c) The licensee has been convicted of a felony after the issuance of the license if the felony constitutes a crime of violence, a gun offense, tax evasion, fraud, or credit card fraud; or

(d) The licensee has been convicted of assaulting an ABCA investigator or other District government official while the investigator or other official was conducting an investigation or performing other governmental functions.

1010.2 For the purposes of this section:

(a) The term "personal use" means the possession of drug paraphernalia in circumstances where there is no evidence of an intent to distribute or manufacture a controlled substance; and

(b) Successive sales or negotiations for sale shall be deemed evidence of knowing permission.

Chapter 12, INVESTIGATIONS AND INSPECTIONS, is renamed and amended to read as follows:

Chapter 12 [RESERVED]

Chapter 13, FEES, is amended as follows:

Section 1300, REGISTRATION, RENEWAL, AND REPLACEMENT FEES, is renamed and amended to read as follows:

1300 PATIENT AND CAREGIVER REGISTRATION FEES

1300.1 The registration, renewal, and replacement fees for a two (2) year patient or caregiver registration or other patient card are as follows:

(a) Initial registration fee for a qualifying patient - $0.00;

(b) Initial registration fee for a caregiver - $0.00;

(c) Renewal fee for a qualifying patient - $0.00;

(d) Renewal fee for a caregiver - $0.00;

(e) Replacement card fee - $10.00;

(f) The fee for a physical patient or caregiver registration card beginning on August 11, 2023 - $10.00;

(g) The fee for a 30-day temporary non-resident medical cannabis patient card shall be $30.00 until September 24, 2023;

(h) Beginning on September 25, 2023, the fees for a temporary non-resident medical cannabis patient card fee are as follows:

(1) Temporary non-resident medical cannabis patient card fee (3 days) - $10.00;

(2) Temporary non-resident medical cannabis patient card fee (30 days) - $20.00;

(3) Temporary non-resident medical cannabis patient card fee (90 days) - $50.00;

(4) Temporary non-resident medical cannabis patient card fee (180 days) - $75.00; and

(5) Temporary non-resident medical cannabis patient card fee (365 days) - $100.00.

1300.2 Notwithstanding the initial or renewal application fees for a qualifying patient set forth in § 1300.1(a)-(d), a qualifying patient who files an initial or renewal application by August 10, 2023, shall receive a two-year registration card at no cost.

1300.3 Beginning on August 11, 2023, ABCA shall only issue a qualifying patient or caregiver a digital registration card. On or after August 11, 2023, a qualifying patient or caregiver may request a physical card from ABCA for a fee of $10.00.

1300.4 A qualifying patient who establishes pursuant to § 1300.5 that their income level is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical cannabis directly, or through a caregiver, on a sliding scale from a licensed internet retailer or retailer in the District of Columbia if the qualifying patient satisfies the Board of the following:

(a) That the individual is a current Medicaid or DC Alliance recipient or eligible for Medicaid or to participate in the DC Alliance program; or

(b) Documentation verifying that the individual's total gross income and other financial resources, including child support payments, alimony and rent payments received, and any other income received on a regular basis, is equal to or less than two hundred percent (200%) of the federal poverty level, as defined by the U.S. Department of Health and Human Services; and

(c) The Board is otherwise satisfied that the qualifying patient lacks sufficient income and existing financial resources to obtain a sufficient supply of medical cannabis.

1300.5 To verify income for the purposes of § 1300.4(b), an individual shall submit an affidavit providing the following, if applicable:

(a) Earning statements received within the previous thirty (30) days;

(b) District of Columbia or Federal tax filings for the most recent tax year;

(c) For newly employed applicants, a verifiable copy of an offer of employment that states the amount of salary to be paid;

(d) A copy of a social security or worker's compensation benefit statement;

(e) Proof of child support or alimony received;

(f) Proof of any other unearned income or assets, including but not limited to,

stocks, bonds, annuities, private pension and retirement accounts; and

(g) Any other item(s) of proof deemed by the Board, the Director or the Director's agent reasonably calculated to demonstrate a person's income.

1300.6 An individual shall submit the required verifying information set forth in § 1300.5 for each renewal or request for a replacement card in order to continue to purchase medical cannabis from a licensed internet retailer or retailer on a sliding scale.

A new Section 1301, PAYMENT OF MEDICAL CANNABIS FACILITY ANNUAL FEES, is added to read as follows:

1301 PAYMENT OF MEDICAL CANNABIS FACILITY ANNUAL FEES

1301.1 Medical cannabis facility license fees shall be paid annually. The fee for the first year shall be paid within sixty (60) calendar days of Board approval but prior to license issuance. The renewal fee shall be paid on or before the anniversary date of issuance of the license.

1301.2 The applicant shall pay the annual license fee for the first year to the D.C. Treasurer. The applicant's duplicate receipt shall accompany the annual license fee payment.

1301.3 A licensee's failure to timely remit the annual license fee shall be cause for the Board to suspend a previously approved or issued license until the licensee pays the fee and any late fees imposed by the Board for late payment not to exceed the annual cost of the license. If a licensee is delinquent thirty (30) days or more on payment of the annual license fee, the Board shall give notice to the licensee of its intent to cancel the license. The licensee shall have fourteen (14) days to respond to the notice in writing. If the Board thereafter determines that the failure to pay the annual fee and late fee is not for good cause, the Board shall cancel the license.

1301.4 Nothing in this section shall preclude a medical cannabis business from paying in advance the second or third-year annual license fee.

A new Section 1302, APPLICATION FEES, is added to read as follows:

1302 APPLICATION FEES

1302.1 The application filing fees for standard medical cannabis business applicants are as follows:

(a) Retailer, Internet Retailer, Cultivation Center - $8,000;

(b) Manufacturer, Courier - $4,000;

(c) Testing Laboratory - $0;

(d) Transfer to New Location - $5,000;

(e) Facility Capacity or Physical Plant Change - $2,000;

(f) Transfer of Ownership Change - $2,000;

(g) Change of Director, Officer, Member, Incorporator, or Agent - $100; and

(h) Corporate or Trade Name Change - $100.

1302.2 The application filing fees for social equity medical cannabis business and substantial change applicants are as follows:

(a) Retailer, Internet Retailer, Cultivation Center - $2,000;

(b) Manufacturer, Courier - $1,000;

(c) Testing Laboratory - $0;

(d) Transfer to New Location - $5,000;

(e) Facility Capacity or Physical Plant Change - $2,000;

(f) Transfer of Ownership Change to Another Social Equity Applicant - $625;

(g) Change of Director, Officer, Member, Incorporator, or Agent - $100; and

(h) Corporate or Trade Name Change - $25.

1302.3 The application filing fees for both standard and social equity applicants for a retailer endorsement or permit are as follows:

(a) Retailer Delivery Endorsement, Summer Garden Endorsement - $ 300;

(b) Safe-Use Treatment Facility Endorsement - $1,000;

(c) Education Tasting Endorsement - $130; and

(d) Certified Training Provider Permit - $100.

1302.4 The application fees for conditional licenses are as follows:

(a) For a standard applicant for a cultivation center, manufacturer, retailer, internet retailer, or courier, the applicant shall pay an application fee of $800 and an additional $1,200 fee if approved;

(b) For a social equity applicant for a cultivation center, manufacturer, retailer, internet retailer, or courier, the applicant shall pay an application fee of $200 and an additional $300 fee if approved;

(c) For either a standard or social equity applicant for a testing laboratory, the applicant shall pay an application fee of $0;

(d) For a standard applicant for a testing laboratory, the applicant shall pay a $0 fee if approved; and

(e) For a social equity applicant for a testing laboratory, the applicant shall pay a $0 fee if approved.

A new Section 1303, LICENSE AND ENDORSEMENT FEES, is added to read as follows:

1303 LICENSE AND ENDORSEMENT FEES

1303.1 The annual license fees for standard cultivation center, manufacturer, internet retailer, retailer, courier, and testing laboratory licensees are as follows:

(a) Cultivation Center Tier 1 -$11,000;

(b) Cultivation Center Tier 2 -$16,000;

(c) Cultivation Center Tier 3 -$21,000;

(d) Cultivation Center Tier 4 -$26,000;

(e) Cultivation Center Tier 5 -$31,000;

(f) Cultivation Center Tier 6 -$36,000;

(g) Manufacturer -$4,000;

(h) Manufacturer and Extraction -$8,000;

(i) Retailer -$16,000;

(j) Internet Retailer License -$16,000;

(k) Courier – $8,000; and

(l) Testing Laboratory License -$7,500.

1303.2 The annual license fees for social equity cultivation center, manufacturer, internet

retailer, retailer, courier, and testing laboratory licensees for the first three (3) years of operation shall be as follows:

(a) Cultivation Center Tier 1 -$2,750;

(b) Cultivation Center Tier 2 -$4,000;

(c) Cultivation Center Tier 3 -$5,250;

(d) Cultivation Center Tier 4 -$6,500;

(e) Cultivation Center Tier 5 -$7,750;

(f) Cultivation Center Tier 6 -$9,000;

(g) Manufacturer -$1,000;

(h) Manufacturer and Extraction -$2,000;

(i) Retailer -$4,000;

(j) Internet Retailer License -$4,000;

(k) Courier – $2,000; and

(l) Testing Laboratory License -$1,875.

1303.3 The annual endorsement and permit fees for both standard and social equity licensees are as follows:

(a) Retailer Delivery -$300;

(b) Summer Garden - $300;

(c) Education Tasting - $130;

(d) Safe-Use Treatment Facility - $2,000; and

(e) Medical Cannabis Certification Training Permit - $300.

1303.4 The fee for a duplicate, replacement, or lost license, permit, or endorsement shall be $25.

1303.5 The fee for a returned or declined check shall be $100.

1303.6 Late fees for failing to timely renew a license shall be $50 per day, up to a maximum

of the fee for the relevant license.

A new Section 1304, DETERMINING CULTIVATION CENTER TIER, is added to read as follows:

1304 DETERMINING CULTIVATION CENTER TIER

1304.1 A cultivation center shall be deemed to qualify for a specific Tier for the purposes of assessing fees based upon the following criteria:

(a) Tier 1 - Mature cannabis plant grow canopy area greater than 0 square feet but no more than 10,000 square feet;

(b) Tier 2 - Mature cannabis plant grow canopy area greater than 10,000 square feet but no more than 25,000 square feet;

(c) Tier 3 - Mature cannabis plant grow canopy area greater than 25,000 square feet but no more than 50,000 square feet;

(d) Tier 4 - Mature cannabis plant grow canopy area greater than 50,000 square feet but no more than 75,000 square feet;

(e) Tier 5 - Mature cannabis plant grow canopy area greater than 75,000 square feet but no more than 100,000 square feet; and

(f) Tier 6 - Mature cannabis plant grow canopy area greater than 100,000 square feet.

1304.2 The size of the mature cannabis plant grow canopy area shall be assessed at the greatest size at any point or time during the licensing period for the entire license period.

1304.3 A cultivation center that permits the mature cannabis plant grow area to grow in size sufficient to qualify under a higher Tier shall pay the fee for the new Tier immediately upon reaching the new Tier or within thirty (30) days written notice provided by ABCA. A cultivation center that fails to pay the required fee shall be subject to the suspension of its license until the appropriate Tier fee is paid.

1304.4 A cultivation center shall not be able to obtain a refund should the mature cannabis plant growth area be reduced sufficiently to qualify for a lower Tier.

1304.5 The mature cannabis plant grow canopy area shall include all plant grow areas in the facility whether adjoined or in separate locations.

A new Section 1305, CANOPY MEASUREMENT, is added to read as follows:

1305 CANOPY MEASUREMENT

1305.1 In order to measure the cannabis grow canopy area to determine the appropriate Tier, the measurement shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain flowering or vegetative plants larger than eight (8) inches tall and eight (8) inches wide at any point in time, including all of the space(s) within the boundaries.

1305.2 A canopy may be noncontiguous, but each separate area included in the total canopy calculations shall be separated by an identifiable boundary which includes: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If flowering or vegetative plants larger than eight (8) inches tall and eight (8) inches wide are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

A new Section 1306, DETERMINING MANUFACTURER CATEGORY, is added to read as follows:

1306 DETERMINING MANUFACTURER CATEGORY

1306.1 There shall be two types of manufacturing license categories:

(a) A Type 1 manufacturing license shall authorize the production of all medical cannabis products except for those authorized by a Type 2 manufacturing license; and

(b) A Type 2 manufacturing and extraction license shall be required if the medical cannabis facility intends to manufacture medical cannabis products utilizing hazardous materials, flammable and combustible liquids, compressed gases, cryogenic fluids, or extraction equipment that requires an operational permit from the Office of the Fire Marshal, Fire Prevention Division, DC Fire and Emergency Medical Services Department (Office of the Fire Marshal). A listing of when an operational permit is required from the Office of the Fire Marshal is set forth in Sections F-107.10.1 through F-107.10.43 of the D.C. Fire Prevention Code (2008).

Chapter 14, MEDICAL MARIJUANA ADVISORY COMMITTEE, is amended as follows:

Section 1400, COMPOSITION OF ADVISORY COMMITTEE, is amended as follows:

Section 1400.5 is amended to read as follows:

1400.5 Each member of the Committee shall serve at the pleasure of the Mayor, the appointing agency director, or City Administrator. Public members of the

Committee shall serve a maximum term of three (3) years from the date of appointment and may be reappointed.

Section 1401, DUTIES AND RESPONSIBILITIES OF THE ADVISORY COMMITTEE, is amended as follows:

Subsection 1401.1 is replaced in its entirety to read as follows:

1401.1 The Advisory Committee shall convene as needed to monitor best practices in other states, monitor scientific research on the use of medical cannabis, monitor the effectiveness of the District's medical cannabis program, the adequacy of the medical cannabis supply in the District of Columbia, and make recommendations to the Mayor, the Council, the Board, or consult with other agencies.

A new CHAPTER 19, INQUIRIES TO THE BOARD, is added to read as follows:

CHAPTER 19 INQUIRIES TO THE BOARD.

1900 COMPLAINTS

1900.1 The Board shall receive, at any time during the license period, complaints from any person, or an affected ANC, alleging a violation by a licensee of the terms of its license or an unlicensed person.

1900.2 Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.

1900.3 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any ABCA investigator.

1900.4 Anonymous complaints shall be investigated to the best of the Board's ability but may result in no action being taken if an anonymous complainant fails to provide the Board or the ABCA investigator with sufficient information.

1900.5 All written complaints under this section that identify the complainant by name and address shall be responded to by the Board or its staff within ninety (90) days of receipt of the complaint. The response shall advise the complainant of the action that the Board or its staff has taken on the matter or provide a copy of the establishment's investigative history.

1900.6 The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

1900.7 In the case where a complainant has not received a timely response, the complainant may petition the Board to release a copy of the target licensee's investigative history for review.

1901 LETTERS OF INFORMATION

1901.1 Any person, group, licensee, or business organization may make a written request to the Board for general information concerning staff procedures, Board procedures, the Act, this title, or any other matter of a general nature affecting the licensing of medical cannabis in the District of Columbia.

1901.2 The Board shall respond to all such letters in writing and may refer the writer directly to a member of the ABCA Staff, to a specific section of the Act or this title, or to other District of Columbia government officials. The response may also suggest that the writer retain the services of an attorney to properly advise the individual as to how to proceed in a particular matter. If the writer's inquiry is so broad, inexact, or vague that the Board is unable to respond, the Board shall so advise the writer and may request that the writer provide additional information.

1901.3 Any statement contained in the Board's letters of information provides only general guidance to the writer and shall not be binding on the writer or binding on the Board if the Board is later presented with a more particularized factual situation. Further, the Board's responses shall not provide any basis for appeal to any court in the District of Columbia.

1902 ADVISORY OPINIONS

1902.1 Any ANC, person, group, licensee, or business organization may make a written request to the Board for an advisory opinion when:

(a) The requestor is confronted with a situation involving the Act or this title which requires, or may require, the individual to take action; and

(b) The legality or propriety of the action to be taken is not clear from the plain text of the Act or this title.

1902.2 Any request for an advisory opinion shall set forth sufficient information to allow the Board to understand the issues involved and to frame a response. The requestor shall also state which section of the Act or section of this title the requestor wishes the Board to interpret or clarify, with respect to the stated set of facts.

1902.3 If the requestor presents insufficient facts in any request for an advisory opinion, the Board may, in its discretion, issue a letter of information; engage in fact-finding through investigation or a discretionary hearing; request the requestor to provide by letter more facts or details in support of their request; or decline to issue an advisory opinion.

1902.4 The decision to issue or not issue an advisory opinion shall be solely in the discretion of the Board.

1902.5 If issued, an advisory opinion is not binding upon the requestor but shall constitute guidance to the requestor as to how the Board may interpret the Act or this title on a particular matter, the facts of which are consistent with those raised by the requestor. Where the requestor is also a licensee, the Board may issue a show-cause notice pursuant to § 6204 of this title in the instance where the facts raised by the requestor provide the Board with reasonable cause to believe that the licensee should be fined, suspended, or revoked.

1902.6 If the requestor disagrees with the Board's advisory opinion in any respect, the individual may, within twenty (20) calendar days after issuance of the opinion, petition the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions shall not be deemed a final order of the Board.

1902.7 All advisory opinions of the Board shall be made available to the public on the agency's website.

1903 DECLARATORY ORDERS

1903.1 Any ANC, person, group, licensee, or business organization may make a written request to the Board to issue a declaratory order in accordance with the DC APA regarding the applicability of the Act, this subtitle or any other statute or regulation enforceable by the Board, to terminate a controversy other than a contested case or to remove uncertainty regarding a specific factual situation. If the request for a declaratory order involves an existing settlement agreement, the Board, in its discretion, may decline to issue an order or require a party to provide notice of the request to the other signatories to an existing settlement agreement and permit the other parties to intervene in the matter.

1903.2 Any request for a declaratory order shall:

(a) Set forth a particular and specific set of facts; and

(b) State in detail the reasons for uncertainty as to the applicability of the Act, this title or other statutes enforceable by the Board or state in detail why a controversy exists.

1903.3 Any declaratory order issued by the Board shall state the Board's Findings of Fact and Conclusions of Law. If the circumstances so warrant, the declaratory order may include an order by the Board to the requestor to cease and desist any practice or activity which is violative of applicable statutes or this title.

1903.4 All facts asserted in a request for a declaratory order shall be supported by sworn affidavit of the requestor. If the Board determines that further facts are necessary, it shall request the requestor to provide those facts by written affidavit or may receive those facts by stipulation at a non-contested case fact-finding hearing.

1903.5 Any requestor may appeal the order by petitioning the Board, in writing, within twenty (20) calendar days after issuance of the declaratory order, to reconsider its order by setting forth, in detail, either newly discovered facts or legal arguments that show one (1) or more errors of law in the Board's order.

1903.6 All declaratory orders of the Board determined to be in the public interest in accordance with Section 9 of the DC APA (D.C. Official Code § 2-508), shall be published in the *District of Columbia Register* and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.

Chapter 50, REGISTRATION, LICENSING, AND ENFORCEMENT OF CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES, is amended as follows:

The heading is amended to read as follows:

Chapter 50 LICENSED MEDICAL CANNABIS BUSINESSES

Section 5000, MEASURING DISTANCES, is amended as follows:

Section 5000.1 is amended to read as follows:

5000.1 In establishing the distance between one (1) or more places, (such as the actual distance of a medical cannabis business from a school or recreation center, as defined in the Act), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

Section 5002, PERMISSIBLE ACTIVITIES AND LIMITATIONS ON CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES, is deleted.

Section 5003, LOCATION AND OWNERSHIP, is renumbered as Section 5002, its Subsections are renumbered accordingly, and Section 5003 is renamed [RESERVED].

CHAPTER 51, REGISTRATION AND PERMIT CATEGORIES, is amended as follows:

Section 5100.1, REGISTRATION PERIODS, shall be amended to read as follows:

5100.1 Each license issued by the Board shall be valid for three (3) years unless otherwise stated in this title, except in the following circumstances:

Section 5101, RENEWAL PERIODS, is replaced in its entirety and amended to read as follows:

5101.1 The three (3) year renewal period for each medical cannabis facility license listed below shall occur sequentially every three (3) years starting with the following dates:

License Classification	Licensure Period	Ending Year
Courier	Jan. 1 to Dec. 31	2024
Cultivation Center	Jan. 1 to Dec. 31	2025
Internet Retailer	Jan. 1 to Dec. 31	2023
Manufacturer	Jan. 1 to Dec. 31	2025
Retailer	Jan. 1 to Dec. 31	2023
Testing Laboratory	Jan. 1 to Dec. 31	2024

Section 5103, REGISTRATION AND PERMIT FEES, is amended as follows:

Subsections 5103.2 through 5103.9, 5103.12 through 5103.13, and 5103.15 through 5103.21 are deleted and the remaining subsections are renumbered accordingly.

Section 5105, MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT, is amended as follows:

The header is amended to read as follows:

5105 MEDICAL CANNABIS CERTIFICATION PROVIDER PERMIT

Subsection 5105.2 is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.3(a) is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.5 is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.7 is added to read as follows:

5105.7 When a person completes the approved education training program provided by a medical cannabis certification provider, the provider shall issue the person a medical cannabis training certificate. The certificate shall be valid for three (3) years and may be reissued to the holder upon completion of the training necessary to qualify for the initial certificate.

Section 5106, MANAGER CERTIFICATION, is renamed as follows:

5106 MANAGER LICENSE

Sections 5106.1 and 5106.2 are amended to read as follows:

5106.1 A manager's license shall authorize the licensee to manage a licensed medical cannabis business.

5106.2 The holder of a manager's license may be employed by one or more licensed medical cannabis facilities without further investigation, subject to compliance by the licensed business. A manager's license issued to a manager may be utilized by the manager at any licensed medical cannabis facility.

Section 5107, NOTICE TO ADVISORY COMMISSIONS, is repealed and renamed to read as follows:

5107 [RESERVED]

Section 5108, POSTED NOTICE TO THE PUBLIC, is repealed and renamed to read as follows:

5108 [RESERVED]

Section 5109, COMMENTS FROM ANCS LOCATED IN THE AFFECTED WARD, is repealed and renamed to read as follows:

5109 [RESERVED]

Chapter 52, REGISTRATION LIMITATIONS, is amended as follows:

Section 5200, LIMITATION ON THE NUMBER OF DISPENSARIES, CULTIVATION CENTERS, AND TESTING LABORATORIES, is deleted.

Section 5201, REGISTRATION APPLICATIONS NEAR SCHOOLS AND RECREATION CENTERS, is renumbered as Section 5200, renamed, and amended to read as follows:
5200 DISTANCE REQUIREMENTS

5200.1 A medical cannabis business, except for a courier license, shall not locate within three hundred feet (300 ft.) of a preschool, primary or secondary school, or recreation center unless the main entrance to the preschool, primary, or secondary school, or recreation center, or the nearest property line of the school or recreation center, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.

5200.2 No new retailer license shall be issued for a location that is within four hundred feet (400 ft.) of another retailer.

5200.3 An academy or other facility providing educational services operated by the Department of Youth Rehabilitation Services or the D.C. Department of

Corrections at a residential facility subject to mandatory detention at the facility shall not be deemed to be a school.

Chapter 54, REGISTRATION APPLICATIONS, is amended as follows:

Section 5400, GENERAL QUALIFICATIONS FOR ALL APPLICANTS, is amended as follows:

The heading is amended to read as follows:

5400 QUALIFICATIONS FOR LICENSURE

Subsection 5400.1(c) is amended to read as follows:

(c) The applicant has not had a felony conviction for a crime of violence as defined in D.C. Official Code § 23-1331(4), a gun offense, tax evasion, fraud, or credit card fraud within the three (3) years preceding the date the application is filed with ABCA unless the applicant demonstrates rehabilitation and fitness for licensure in accordance with section 7 of the Act (D.C. Official Code § 7-1671.06);

A new Subsection 5400.3 is added to read as follows:

5400.3 In addition to the requirements of § 5400.1, an applicant for a licensed medical cannabis facility shall demonstrate to the satisfaction of the Board that the applicant is the true and actual owner of the facility for which the license is sought and the individual intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, limited liability company, or corporation not identified in the application.

Section 5401, OPEN APPLICATION PERIOD AND REQUIRED LETTER OF INTENT, is amended as follows:

The heading is amended to read as follows:

5401 OPEN APPLICATION PERIOD

Subsections 5401.1 through 5401.4 are amended to read as follows:

5401.1 Applications for a new medical cannabis business license shall only be accepted by the Board during an open application period as specified by the Board by publishing a Notice in the *District of Columbia Register*. The period selected by the Board shall not be extended.

5401.2 An application for a new testing laboratory may be filed with the Board at any time.

5401.3 At the start of each open application period for a new cultivation center, manufacturer, internet retailer, retailer, or courier license the Board shall publish a notice in the *District of Columbia Register* setting forth the process for submission of the applications, which shall include:

(a) The opening and ending dates for the submission of applications for a new cultivation center, manufacturer, internet retailer, retailer, or courier license;

(b) The address and email address to submit an application to the Board; and

(c) The process for obtaining application materials from the Board.

5401.4 The Notice required in § 5401.3 of this chapter shall appear, at a minimum, in the *District of Columbia Register* and on ABCA's website.

Section 5402, SELECTION PROCESS, is renamed and amended to read as follows:

5402 APPLICATION REQUIREMENTS

5402.1 A person applying for issuance, transfer to a new owner, or renewal of a license, endorsement, or permit, or for approval of substantial changes in operation, including a transfer to a new location related to a licensed medical cannabis facility, shall file with the Board an application in the form prescribed by the Board.

5402.2 The application shall contain the information set forth in this chapter and any additional information that the Board may require.

5402.3 A separate application shall be filed for each medical cannabis facility for which a license is sought.

5402.4 The Board may require an applicant to submit additional documents and information needed to properly process an application.

5402.5 The Board shall not accept as filed, and shall take no action upon, any application that is not complete.

5402.6 An applicant for a medical cannabis business may amend or correct its license application at any time prior to Board approval.

5402.7 Any changes to an applicant's listed contact information, including mailing address, e-mail address, and telephone number, and other information as required by this chapter and provided on its license application that has been submitted to or approved by the Board shall be reported to ABCA within thirty (30) calendar days of the change. The failure to comply with this subsection after a written warning has been issued concerning the licensee's timely compliance shall be deemed a violation if not corrected within fifteen (15) days of receipt of the warning.

Section 5403, SELECTION CRITERIA, is renamed and amended to read as follows:

5403 APPLICATION CONTENTS

5403.1 The application of a person or entity applying for a medical cannabis business license shall include:

(a) In the case of a partnership or limited liability company applicant, the names and addresses of each member of the partnership or limited liability company and their ownership shares;

(b) In the case of a corporation, the legal name of the corporation, the proposed trade name of the business, place of incorporation, principal place of business, and the names and addresses of each of the corporation's principal officers, directors, and shareholders holding, directly or beneficially, one percent (1%) or more of its common stock;

(c) Whether the corporation is for-profit or non-profit;

(d) The name, address, telephone number, and e-mail address of the owners of the medical cannabis facility for which the license is sought;

(e) The address of the premises where the license is sought;

(f) The name and e-mail address of either an owner of the medical cannabis facility or the owner's designee, for purposes of receiving communications from ABCA, including correspondence, hearing notices and other types of service of process, and Board orders;

(g) The type of license, endorsements, and other permits sought through submission of the application;

(h) The proximity of the facility to the nearest public or private, elementary, middle, charter, junior high, or high school and recreation center, and the name of the school and recreation center;

(i) Proposed hours of operation of the facility; hours of sale of medical cannabis and medical cannabis products; summer garden hours; and safe-use treatment facility hours if applicable;

(j) The size and design of the facility, which shall include the number of occupants permitted both inside and on any safe-use treatment facility or summer garden;

(k) The location of all restricted access areas closed to the public;

(l) An affidavit that complies with § 47-2863;

(m) Documents or other written statements or evidence establishing to the satisfaction of the Board that the person applying for the license, endorsement, or permit meets all of the qualifications set forth in the Act and this subtitle;

(n) The size and design of the facility;

(o) A lease or deed for the proposed location;

(p) A zoning certificate authorizing the proposed business activity or a certificate of occupancy for the proposed location;

(q) A food manufacturing permit and other permits from the Department of Health, if required;

(r) An operational permit from the Office of the Fire Marshal, if required.

(s) A certificate of good standing for the corporation;

(t) A site plan showing the entire structure of the medical cannabis facility, including the street(s), parking lot(s), other tenants within the facility, any other entities in facilities that physically border the applicant; and the area designated for trash disposal; and

(u) The medical cannabis facility applicant acknowledgment attestation form.

5403.2 An applicant for a medical cannabis business license shall file a security plan with their application.

5403.3 If protested by an affected Advisory Neighborhood Commission, the applicant for a cultivation center, manufacturer, internet retailer, or retailer license shall also provide information at the Board protest hearing related to the appropriateness of the facility regarding:

(a) The facility's impact on peace, order, and quiet, including measures to prevent noise disturbances and litter, and measures to foster public safety;

(b) The facility's impact on residential parking and vehicular and pedestrian safety, including the availability of parking at or near the establishment and the proximity of the business to public transportation and shared transportation services (e.g., Metro, bus, bike share station); and

(c) The facility's impact on real property values, including measures to prevent blight and maintain its building and efforts to prevent odor nuisances from impacting neighboring properties, and whether the property was subject to any building code violations while under the ownership or control of the applicant, and whether the violations indicated have been resolved.

5403.4 An applicant for any license shall advise the Board, in the application, as to the source of funds used to acquire or develop the business for which the license is sought.

Section 5404, APPLICATION FORMAT AND CONTENTS, is renamed and amended to read as follows:

5404 APPLICATION FOR A SUBSTANTIAL CHANGE

5404.1 A licensee shall obtain the approval of the Board by filing an application for a substantial change, if not initially approved as part of the licensee's initial application, prior to:

(1) Changing or expanding its location;

(2) Increasing the facility's plant capacity or physical plant count to another tier, if a cultivation center;

(3) Adding a safe-use treatment facility or summer garden;

(4) Extracting medical cannabis if not previously permitted or authorized;

(5) Increasing the hours of operation, delivery, or the hours of sale, service, or consumption of cannabis at the premises, the safe-use treatment facility, or the summer garden; or

(6) Increasing the physical occupancy or capacity of the premises, the safe-use treatment facility, or the summer garden or allowing or permitting more persons than permitted by the Board.

Section 5405, DISPENSARY REGISTRATION APPLICATION REQUIREMENTS, is renamed and amended to read as follows:

5405 ABANDONMENT OF APPLICATION

5405.1 The Board may deem an application abandoned or withdrawn if an applicant fails to provide any additional documents within thirty (30) days of a request from ABCA or the Board for additional or required information.

5405.2 An applicant may seek an extension of time to submit documents needed to process

the application upon a showing of good cause. An extension granted by the Board shall not exceed thirty (30) days.

Section 5406, CULTIVATION CENTER REGISTRATION REQUIREMENTS, is renamed and amended to read as follows:

5406 APPLICATION CERTIFICATION AND SIGNATURE

5406.1 An individual applicant, all of the general partners of an applicant partnership, all of the members of a limited liability company, or the president or vice-president of an applicant corporation shall sign a statement with an original signature, which may be a signature by wet ink, an electronic signature, or a copy thereof, certifying that the application is complete and accurate, and agreeing to all certifications required by the Board.

5406.2 The medical cannabis facility application of a person or entity applying for a medical cannabis business license shall state each of the following notices:

(a) **Limitation of Liability** -- To the extent provided by Section 12 of the Act (D.C. Official Code § 7-1671.11), the District of Columbia shall not be liable to the registrant, its employees, agents, business invitees, licensees, customers, clients, family members or guests for any damage, injury, accident, loss, compensation, or claim, based on, arising out of, or resulting from a person's participation in the District of Columbia's medical cannabis program, including but not limited to the following: any fire, robbery, theft, mysterious disappearance, or any other casualty; or injury arising from the use of medical cannabis obtained through the program. This Limitation of Liability provision shall survive expiration or the earlier termination of this registration if such registration is granted; and

(b) **Federal Prosecution** - The United States Congress has determined that cannabis is a controlled substance and has placed cannabis in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing cannabis in any capacity, other than as a part of a federally authorized research program, is a violation of federal laws. The District of Columbia's law authorizing the District's medical cannabis program will not excuse any licensee from any violation of the federal laws governing cannabis or authorize any licensee to violate federal laws.

(c) **Knowledge of Law** – The applicant swears or affirms that the ownership is sufficiently familiar with the District of Columbia's medical cannabis laws to superintend a medical cannabis business and has the ability to ensure the business complies with the law.

(d) **True and Actual Owner-** The applicant is the true and actual owner of the business for which the license is sought and that he or she intends to carry

on the business for himself or herself and not as the agent of any other individual, partnership, association, or corporation not identified in the application; and that the licensed establishment will be managed by the applicant in person or by a manager approved by the Board.

5406.3 As part of the application process, every applicant for a licensed medical cannabis business shall sign a written statement attesting to the following:

(a) The applicant acknowledges receipt and advisement of the notices set forth in § 5406.2 of this subtitle;

(b) The applicant agrees to and accepts the limitation of liability against the District, and the requirement to indemnify, hold harmless, and defend the District, as set forth in § 5406.2 of this subtitle;

(c) The applicant assumes any and all risk or liability that may result under District of Columbia or federal laws arising from the possession, use, cultivation, administration, dispensing, or testing of medical cannabis;

(d) The applicant understands that the medical cannabis laws and enforcement thereof by the District of Columbia and the Federal government are subject to change at any time; and

(e) The applicant chooses to sign this attestation willingly and without reservation and is fully aware of its meaning and effect.

5406.4 The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the reasonable discretion of the Board based on the materiality and willfulness of the false statement, constitute sufficient cause for denial of the application or revocation of the license.

5406.5 A person shall not knowingly submit an altered document or application to the Board for the purpose of deceiving the Board. The submission of an altered document intended to deceive the Board, may, at the reasonable discretion of the Board, constitute sufficient cause for denial of the application or revocation of the license.

Section 5407, CULTIVATION CENTER, DISPENSARY, AND TESTING LABORATORY REGISTRATION ISSUANCE, is renamed and amended to read as follows:

5407 BOARD AUTHORITY TO ISSUE LICENSES

5407.1 The Board may issue medical cannabis facility licenses to persons who meet the requirements set forth in the Act and the regulations.

5407.2 All medical cannabis facility licenses issued under this title, unless otherwise stated,

shall be valid for a term of three (3) years and may be renewed upon completion of the procedures set forth in the Act and this title and payment of the required fees.

5407.3 A license to sell medical cannabis, medical cannabis products, and paraphernalia in the District can be granted only by the Board upon completion of the application and review process as contained in the Act and this title.

5407.4 Unless otherwise stated in the Act or this title, each license or permit shall particularly describe the place where the rights of the license are to be exercised.

5407.5 The Board, in issuing licenses, may require that certain conditions be met if it determines that the inclusion of the conditions will be in the best interest of the locality, section, or portion of the District where the licensed facility is to be located. The Board, in setting the conditions, shall state, in writing, the rationale for the determination.

Section 5408, DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5408.1(b) is amended to read as follows:

5408.1(b) An individual who has been approved by the Board as a director, officer, member, incorporator, or agent shall not be required to register as an employee or manager. However, nothing in this subsection shall obviate the requirement in Subsection 5604.1 that in the absence of an owner, a licensed medical cannabis business is required to have a Board-approved manager present at the licensed establishment during the hours that the licensed medical cannabis business is open.

Section 5409, EMPLOYEE REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5409.1(a) is amended by striking the phrase "registration qualifications; and" and inserting the phrase "registration qualifications."

Subsection 5409.1(b) is repealed.

Section 5410, MANAGER'S REGISTRATION REQUIREMENTS, is amended as follows:

The section heading is amended to read as follows:

5410 MANAGER LICENSE REQUIREMENTS.

Subsection 5410.3 is amended to read as follows:

5410.3 An owner of a medical cannabis business may request that the Board issue a temporary license card to a manager valid for forty-five (45) days.

Section 5411, CRIMINAL BACKGROUND CHECKS, is amended to read as follows:

5411 CRIMINAL BACKGROUND CHECKS

5411.1 Each applicant for a medical cannabis business license, except for an applicant for an agent, employee, or manager registration, shall be required to undergo a criminal background check prior to being registered or licensed. In the case of an applicant for a non-profit or for-profit corporation, a criminal background check shall be conducted on all of its directors, officers, members, and incorporators.

5411.2 Except for social equity applicants, ABCA shall not require the submission of a criminal background check for a director, officer, member, or incorporator until the agency deems the applicant otherwise qualified for licensure and its license application accepted by the agency.

5411.3 Consistent with D.C. Official Code § 7-1671.06(u)(2)(A), ABCA's determination that an applicant is qualified, or its license or registration application should be accepted does not overrule the Board's authority to deem the applicant qualified or unqualified, hold a qualifications hearing, or to otherwise deem the applicant unfit for licensure.

Section 5412, REGISTRATION PROHIBITED IN RESIDENTIAL USE DISTRICT, is renamed and amended to read as follows:

5412 LICENSE PROHIBITED IN RESIDENTIAL USE DISTRICT

5412.1 No license shall be issued to a medical cannabis business located in a residential-use district as defined in the Zoning Regulations and shown in the official atlases of the Zoning Commission for the District.

Section 5413, RESTRICTIONS ON OWNERSHIP AND HOLDING A CONFLICT OF INTEREST, is renamed and amended to read as follows:

5413 RESTRICTIONS ON OWNERSHIP AND HOLDING A CONFLICTING INTEREST

5413. 1 The holder of a testing laboratory license shall not hold, own, control or have any beneficial or other financial interest in a cultivation center, manufacturer, internet retailer, retailer, or courier license.

5413.2 The holder of a courier license shall not hold, own, control or have any beneficial or other financial interest in a cultivation center, manufacturer, internet retailer, retailer, or testing laboratory license.

5413.3 The holder of a cultivation center license shall not hold, own, control, or have any beneficial or other financial interest in more than two (2) cultivation center licenses.

5413.4 The holder of a retailer or internet retailer license shall not hold, own, control, or have any beneficial or other financial interest in a combined number of more than three (3) internet retailer and retailer licenses.

5413.5 The holder of a cultivation center license shall not hold, own, control or have any beneficial or other financial interest in more than one retailer license.

5413.6 The holder of an internet retailer license shall not hold, own, control or have any beneficial or financial interest in a cultivation center license.

5413.7 The Board may fine as set forth in the schedule of civil penalties, suspend, and revoke the license of a person that obtains ownership or control of a license, whether in whole or in part, in violation of this section or permit the person to place the license in safekeeping for a period not to exceed one hundred and eighty (180) days to facilitate the sale, transfer, divestment or other action necessary to comply with this section.

5413.8 It shall be a violation for a licensee to obtain an interest prohibited by this section.

Section 5414, RENEWAL PROCESS, is renamed and amended to read as follows:

5414 RENEWAL APPLICATION

5414.1 An applicant for license renewal shall self-certify the accuracy of its application, including any changes in ownership or other documents and submissions constituting a part of the application for its initial license or, if appropriate, at the time of application by the medical cannabis facility for a substantial change in operation.

5414.2 Each license for a medical cannabis business issued by the Board shall be valid for three (3) years, except in the following circumstances:

(a) When suspended or revoked; or

(b) When the license takes effect on a date in between the dates established by the Board for the regular renewal licensing period, in which case the license shall be valid only until the end of the license period.

Section 5415, [REPEALED], is renamed and amended to read as follows:

5415 SECURITY PLAN

5415.1 All medical cannabis businesses shall be required to file with their initial application and maintain a written and compliant security plan with the Board.

5415.2 A compliant security plan shall fully provide or describe the following:

(a) A statement on the type of security training provided for, and completed by, establishment personnel, which shall include conflict resolution, handling robberies and violent incidents, and medical emergencies;

(b) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;

(c) The type of security or alarm system and outdoor lighting to be used by the applicant;

(d) A site and floor plan detailing:

(1) All entrances and exits to the facility;

(2) The location of any windows, skylights, roof hatches, and outdoor lighting;

(3) The number and location of security cameras used by the business and their field of view;

(4) The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;

(5) The location of the digital video recorder and alarm control panel;

(6) Restricted and public areas; and

(7) The structure the facility is housed in, including nearby street(s), parking lots and other tenants that are within or border the facility;

(e) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the premises;

(f) Procedures for using and maintaining an incident log;

(g) Procedures for preserving a crime scene;

(h) The closing procedures after the cessation of business each day, including steps to properly store cannabis in a secure area and to prevent theft; and

(i) Procedures to prevent theft, robbery, or the diversion of medical cannabis in compliance with District law.

5415.3 A licensee shall provide either in-person or virtual training regarding its security plan to all employees and security within thirty (30) days of hire and at least once per year thereafter.

5415.4 A licensee may amend or replace an existing security plan on file with the Board by filing a new security plan that is compliant with this section.

5415.5 A licensee provided written notice that its submitted plan is deficient under this regulation shall file a corrected security plan within fifteen (15) days of receiving notice.

Section 5416, [REPEALED], is renamed and amended to read as follows:

5416 CONDITIONAL LICENSE

5416.1 A conditional license application may be filed by both standard and social equity applicants for a cultivation center, manufacturer, internet retailer, retailer, or courier license that do not currently have a proposed location. A conditional license application may only be filed with the Board during an open application period noticed in the *District of Columbia Register* and on the ABCA website.

5416.2 An applicant for a conditional license shall indicate the type of license facility applied for in the application and request conditional status.

5416.3 If approved, the holder of a conditional license has one (1) year from the date of Board approval to submit to ABCA:

(1) A lease or similar documentation;

(2) A security plan;

(3) A certificate of occupancy for the proposed location;

(4) A permanent medical cannabis facility license application;

(5) Any remaining or additional licensing or endorsement fees owed to ABCA; and

(6) Any other documentation requested by the Board.

5416.4 The Board shall deem the conditional license expired and cancel the license if all the documents listed in §§ 5403 and 5416.3 are not provided within one (1) year from the date of Board approval.

5416.5 A conditional license application is not required to undergo a forty-five (45)-calendar day public comment period. Approved conditional license applicants are

required to undergo a forty-five (45)-calendar day public comment period after their permanent medical cannabis facility application is filed with ABCA.

5416.6 A conditional license does not permit the holder to distribute, purchase, possess, cultivate, manufacture, or sell medical cannabis or medical cannabis products.

5416.7 A one (1)-year conditional license cannot be sold or transferred to a new owner.

5416.8 The holder of a conditional license is required to have their facility operational within one (1)-year of Board approval.

5416.9 The one (1)-year conditional license period shall not be extended.

5416.10 A conditional license approved by the Board shall count toward the requirement that at least fifty percent (50%) of all new cultivation center, manufacturer, internet retailer, retailer, and courier licenses be set aside for social equity applicants.

Section 5417, [REPEALED], is renamed and amended to read as follows:

5417 SOCIAL EQUITY APPLICANT STATUS

5417.1 At least fifty percent (50%) of all new cultivation center, manufacturer, internet retailer, retailer, and courier licenses shall be set aside for social equity applicants. Only social equity applicants and medical cannabis certified business enterprises are eligible to receive equity, grants, and loans from the medical cannabis social equity fund.

5417.2 A social equity applicant is entitled to a seventy-five percent (75%) fee reduction on application and licensing fees associated with receiving a medical cannabis facility license for the first three years. The seventy-five (75%) fee reduction for social equity applicants does not apply to endorsement fees, including the application fees.

5417.3 To qualify as a social equity applicant, an applicant must satisfy two (2) or more of the following criteria:

(a) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (50%) of the business, and is a returning citizen;

(b) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (50%) of the business, and is married to or in a civil union, has a child, or is the child of a person or has a non-parent legal guardian, or a grandparent or a sibling who is or has been arrested, convicted, or incarcerated in the District or any other jurisdiction for a cannabis or drug-related offense; or

(c) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (50%) of the business and has an income that does not exceed one hundred and fifty percent (150%) of the median family income as set forth by the United States Department of Housing and Urban Development, adjusted for household size, at the time the applicant submits the application.

5417.4 In order to qualify for a social equity applicant status, an applicant shall file with its application a Social Equity Declaration Form.

5417.5 A complete application from a social equity applicant shall also provide or describe the following for each owner:

(a) The two (2) or more criteria that qualify the applicant for social equity status in accordance with § 5417.3;

(b) An affidavit, which shall be referred to as the Social Equity Applicant Attestation Form, attesting to:

(1) The number of owners who meet the criteria for a social equity applicant;

(2) The ownership interests, incomes, and net worth of any owners;

(3) The location of all managerial employees in the principal office;

(4) The residency of owners, employees, and contractors; and

(5) The locations of the assets and the percentages of the assets in each location.

(c) Proof of District residency for each owner claiming social equity applicant status, which shall include two (2) of the following:

(1) Proof of payment of D.C. personal income tax during the last tax period;

(2) A current tax withholding statement which contains the applicant's name;

(3) Current official documentation of financial assistance from the District (such as Temporary Assistance for Needy Families or housing assistance);

(4) Valid, unexpired D.C. driver's license or non-driver's identification;

(5) Valid, unexpired vehicle registration;

(6) Valid, unexpired lease and rent receipts for a period within two (2) months immediately preceding consideration of residency; or

(7) Utility bills with paid receipts or cancelled checks from a period within the two (2) months immediately preceding the filing of the application.

(d) If claiming social equity applicant status based upon returning citizen status, each owner claiming this status shall provide with their application law enforcement or court documents demonstrating proof of arrest, conviction, or incarceration for a drug-related offense;

(e) If claiming social equity applicant status based upon the incarceration of an immediate family member due to cannabis or drug-related offense, each owner claiming this status, shall:

(1) Identify the immediate family member that qualifies the applicant;

(2) Identify the nature of the qualifying relationship, including whether the relation is based on a marriage or civil union, and whether the applicant is the parent of a qualifying child or the child of a qualifying parent or non-parent legal guardian, or has a qualifying grandparent or sibling;

(3) Provide documents proving the relationship (e.g., birth certificate, marriage certificate, proof of legal guardianship);

(4) Provide law enforcement or court documents demonstrating arrest, incarceration, or conviction; and

(5) Provide law enforcement or court documents demonstrating that the arrest, conviction, or incarceration of the qualifying relative was due to a cannabis or drug-related offense.

(f) If claiming social equity applicant status based on income, for each owner claiming this status, the applicant shall provide proof of income and household size, which shall include:

(1) Documentation establishing proof of income tax filing or withholding in the District of Columbia from the tax year prior to the date of the application; or

(2) If the documentation described in subparagraph (1) is not possible to obtain, a notarized statement of net income anticipated to be received with the next twelve (12) months, based on the previous twelve (12) months and explanation of the reason for failing to obtain one of the documents listed in subparagraph (1) of this paragraph.

Section 5418, LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL, is amended to read as follows:

5418 LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL

5418.1 The Board shall not consider an application for the same class of license, permit, endorsement, or substantial change by the same applicant if the Board has denied a previously filed application within five (5) years.

5418.2 Notwithstanding Subsection 5418.1, if an application is withdrawn for good cause, as determined by the Board, and prior to the protest status hearing, or if a previously filed application for the same license class, permit, endorsement, or substantial change was denied by the Board on purely technical or procedural grounds, a successive application by such applicant may be considered.

A new Section 5420, MEDICAL CANNABIS CERTIFIED BUSINESS ENTERPRISE AFFIDAVIT, is added to read as follows:

5420 MEDICAL CANNABIS CERTIFIED BUSINESS ENTERPRISE AFFIDAVIT

5420.1 The applicant shall attest by completing the Annual Personal Net Income Attestation Form that the annual personal net income of each owner of the enterprise applying for a medical cannabis business license does not exceed $349,999.

A new Section 5421, APPROPRIATENESS REQUIREMENT, is added to read as follows:

5421 APPROPRIATENESS REQUIREMENT

5421.1 To qualify for issuance, renewal of a license, transfer of a license to a new location, or an application for the approval of a substantial change in operation as determined by the Board, an applicant shall demonstrate to the satisfaction of the Board that the medical cannabis establishment is appropriate for the locality, section, or portion of the District where it is to be located.

5421.2 In determining the appropriateness of a medical cannabis establishment, the Board shall consider all relevant evidence of record, including:

(a) The effect of the establishment on real property values;

(b) The effect of the establishment on peace, order, and quiet; and

(c) The effect of the establishment upon residential parking needs and vehicular and pedestrian safety;

5421.3 In determining the appropriateness of a medical cannabis establishment for initial issuance of a license or a transfer of a license to a new location, the Board shall also consider the following as they relate to the appropriateness factors described in § 5421.2:

(a) The proximity of the establishment to schools, recreation centers, day care centers, public libraries, or other similar facilities;

(b) The effect of the establishment on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities; and

(c) Whether issuance of the license would create or contribute to an overconcentration of licensed medical cannabis establishments of the same type.

5421.4 The requirements of this section shall only apply to applicants for a cultivation center, manufacturer, internet retailer, or retailer license.

5421.5 For purposes of establishing the appropriateness of the medical cannabis establishment, the applicant shall present to the Board such evidence and argument as would lead a reasonable person to conclude the following:

(a) The establishment will not interfere with the peace, order, and quiet of the relevant area, considering such elements as noise, rowdiness, loitering, litter, and criminal activity;

(b) The establishment will not have an adverse impact on residential parking needs, considering available public and private parking and any arrangements made to secure such parking for the clientele of the establishment;

(c) The flow of traffic to be generated by the establishment will be of such pattern and volume as to neither increase the likelihood of vehicular accidents nor put pedestrians at an unreasonable risk of harm from vehicles; and

(d) The establishment will not have an adverse impact on real property values in the locality, section, or portion of the District of Columbia where it is to

be located, considering such elements as blight, the presence of graffiti, the history of building violations and vacancy status under the applicant, and the physical impact of the property on neighboring properties, including odors and noise.

5421.6 Whenever an applicant has initially presented evidence to show that the establishment is appropriate, any protestant opposing the license shall present to the Board such evidence and argument as would establish the inappropriateness of the establishment, and as would overcome, to the satisfaction of a reasonable person, the evidence and argument presented by the applicant.

A new Section 5422, PRESUMPTION OF APPROPRIATENESS, is added to read as follows:

5422 PRESUMPTION OF APPROPRIATENESS

5422.1 If notice in accordance with the Act and this chapter is provided and no valid objection regarding appropriateness is filed by a protestant, the application shall be presumed to be appropriate for the locality, section, or portion of the District where it is located.

A new Section 5423, DENIAL FOR VIOLATIONS OF THE LAW, is added to read as follows:

5423 DENIAL FOR VIOLATIONS OF THE LAW

5423.1 The Board may deny a license to an applicant if the preponderance of the evidence shows that the applicant has permitted conduct at the medical cannabis establishment that is in violation of the Act or this chapter.

A new Section 5424, SPOUSAL INTEREST IN LICENSE, is added to read as follows:

5424 SPOUSAL INTEREST IN LICENSE

5424.1 The spouse of a license holder may apply for a separate medical cannabis business license if the individual can establish that the conflict-of-interest provisions found at 22-C DCMR § 5413 will not be violated. Specifically, in applying for a license the spouse not holding a medical cannabis business license must submit a signed and notarized affidavit which states that:

(a) The applicant has no present or future ownership, except for an executory interest or property distributed in accordance with Title 16 of the D.C. Official Code or similar marriage or domestic partnership separation, annulment, or divorce law in another jurisdiction, in any other licensed medical cannabis business that the applicant is prohibited from owning under the Act;

(b) The applicant's spouse will have no ownership interest in the license being sought by the applicant;

(c) The applicant or another corporation (in which the spouse is not an officer, shareholder or member) is solely liable for the business rather than the spouse or spouse's business;

(d) The applicant's spouse will not have any operational control over the establishment and will not serve in a management capacity for the establishment or apply for a manager's license for that establishment; and

(e) The applicant will not transfer any medical cannabis inventory to, or receive any medical cannabis inventory from, their spouse's licensed establishment.

5424.2 The applicant shall provide documentation, upon request of the Board, necessary to validate the applicant's sworn affidavit. Failure to submit the necessary documentation within ten (10) business days of the Board's request may result in the suspension or revocation of the applicant's license unless an extension is granted by the Board.

A new Section 5425, NOTICE BY BOARD, is added to read as follows:

5425 NOTICE BY BOARD

5425.1 Upon the receipt of an application filed by a cultivation center, manufacturer, internet retailer, or retailer, excluding conditional license applications, for the issuance or renewal of a license, for a substantial change in operation as determined by the Board, for the transfer of a license to a new location, or for a unilateral petition to amend or terminate a settlement agreement, the Board shall give notice of the application to the following parties:

(a) The Councilmember of the ward where the establishment is or will be located; and

(b) All ANCs in the ward where the establishment is or will be located.

5425.2 The notice shall contain the legal name and trade name of the applicant, the street address of the establishment for which the license is sought, the type of license sought, and a description of the nature of the operation the applicant has proposed or the proposed change in operation.

5425.3 The notice shall state that ANCs objecting to approval of the application are entitled to be heard before the granting of the application and shall inform the recipient of the final day of the protest period and the date, time, and place of the roll call hearing in accordance with this chapter.

5425.4 The Board shall give notice by electronic mail on or before the first day of the forty-five (45)-day comment period to:

(a) The ANC office established pursuant to D.C. Official Code § 1-1309.13(e), with a copy to each ANC member in the affected ward;

(b) The ANC chairperson in the affected ward; and

(c) The ANC member in whose single-member district the establishment is or will be located.

5425.5 The Board shall publish the notices required under this section in the *District of Columbia Register*.

A new Section 5426, LICENSEE NOTICE REQUIREMENT, is added to read as follows:

5426 LICENSEE NOTICE REQUIREMENT

5426.1 A cultivation center, manufacturer, or retailer applicant that is required to undergo a forty-five (45)-day public comment period under the Act or this chapter shall post two (2) notices, furnished by ABCA, of the application in conspicuous places on the outside of the establishment for the duration of the protest period.

5426.2 The notices shall state:

(a) The information required by § 5425;

(b) The final day of the protest period;

(c) The date, time, and place of the roll call hearing;

(d) The telephone number and mailing address of ABCA; and

(e) That any person willfully removing, obliterating, or defacing the notices shall be guilty of a violation of this chapter.

5426.3 An applicant who fails to maintain the posted notices continuously during the protest period shall be guilty of a violation of this chapter.

5426.4 If the Board determines that the notices posted at an applicant's establishment have not remained visible to the public for the duration of the forty-five (45)-day protest period, the Board shall require the reposting of the notices and shall reschedule the roll call hearing for a date at least forty-five (45) days after the originally scheduled hearing, unless the applicant has fully performed all other notice requirements and the Board determines that it is in the best interest of the parties to proceed at an

earlier date.

5426.5 An applicant for an internet retailer license shall not be required to post the two (2) notices required by this section; provided, that the notice shall be posted on the applicant's website for the entire forty-five (45)-day public comment period.

5426.6 An applicant for a new or renewal license or for the transfer of a license to a new location shall take a picture of the posted placards within two (2) calendar days of the date the placards were posted, and upon request of the Board provide a copy of the picture, or pictures, of the posted notices that includes the date and time that the pictures were taken.

A new Section 5427, STANDING TO FILE PROTEST, is added to read as follows:

5427 STANDING TO FILE PROTEST

5427.1 An ANC located within 600 feet of the applicant's proposed location may protest the issuance or renewal of a license, or the transfer of a license to a new location involving a cultivation center, manufacturer, retailer, or internet retailer.

A new Section 5428, FILING A PROTEST, is added to read as follows:

5428 FILING A PROTEST

5428.1 Any affected ANC objecting to the approval of an application shall notify the Board in writing of its intention to object and the grounds for the objection within the protest period. The initial protest letter filed by the ANC shall state all appropriateness grounds that the ANC intends to raise, and any other legal issue related to the application.

5428.2 Protests submitted by the ANC shall be signed by the Chairperson, the Vice-Chairperson or any other person authorized to sign a protest by the ANC's bylaws, or a resolution adopted by the ANC.

5428.3 The protest shall state the name and position of the designated representative who shall receive correspondence from the Board on behalf of the ANC.

A new Section 5429, ANC COMMENTS, is added to read as follows:

5429 ANC COMMENTS

5429.1 An affected ANC shall notify the Board in writing of its recommendations, if any, and serve a copy upon the applicant or licensee, not less than seven (7) calendar days before the date of the protest hearing. The Board shall give great weight to the ANC recommendations as required by Section 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official

Code § 1-309.10). The applicant or licensee may file a written objection or respond to the comments at the protest hearing.

A new Section 5430, EXTENDING THE LICENSURE PERIOD, is added to read as follows:

5430 EXTENDING THE LICENSURE PERIOD

5430.1 Licenses that have been made the subject of protest hearings shall be extended as provided by this section.

5430.2 If the Board has not issued a decision on the matter, and the license has expired, the license shall continue in effect until such time as the Board has rendered a final decision.

5430.3 In the case of protested applications for a transfer to a new location, the license shall continue in effect only for purposes of the original location, and operations at the new location shall be prohibited until the Board has rendered a final decision.

A new Section 5431, APPLICATION REVIEW, is added to read as follows:

5431 APPLICATION REVIEW

5431.1 Upon receipt of a complete new, renewal, or transfer to new location application filed by a cultivation center, manufacturer, internet retailer, or internet retailer, excluding conditional license applications, the Board shall schedule a roll call hearing on the application. The roll call hearing shall not take place until after the close of the forty-five (45)-day protest period.

5431.2 Before any license is issued or renewed, the Board shall ensure that proper notice has been provided to the public and that an ANC located in the same ward as the applicant has been given at least forty-five (45) days in which to protest the license and that a roll call hearing has been conducted.

5431.3 If no protest has been received by the Board from an affected ANC during the protest period, the Board shall consider the application within ten (10) days after the end of the protest period.

5431.4 If a protest has been received by the Board during the protest period, the Board shall take the following actions:

(a) The Board shall schedule a protest hearing, to be held within one hundred and twenty (120) days of the end of the protest period, for new license applications to receive testimony and other evidence regarding the application.

(b) The parties shall be informed of their obligation to attend a mediation for

the purpose of discussing and resolving, if possible, the objections raised by the protestants.

(c) The parties shall be informed of their rights and responsibilities with respect to reaching a settlement.

5431.5 The Board shall issue a decision in accordance with the Act and this chapter.

A new Section 5432, ROLL CALL HEARING, is added to read as follows:

5432 ROLL CALL HEARING

5432.1 The roll call hearing shall be a non-adversarial proceeding conducted by the Board or the Board's agent, in which a list of applications for a new or renewed license, transfer to new location, or a substantial change in operation, and the protestants thereto, shall be read to the public.

5432.2 For the purposes of this subsection, the term "Board's agent" means an employee at or above the Grade 12 level in the Office of the General Counsel within ABCA, excluding the ABCA General Counsel, who shall have the authority to:

(a) Regulate the course of the hearing;

(b) Request the persons appearing at the hearing to identify themselves, and to provide contact information, including e-mail addresses;

(c) Request or accept written documentation from the parties, including letters of representation;

(d) Identify the parties with standing and the filed protest issues;

(e) Schedule mediation;

(f) Adjourn a hearing and establish the date when the hearing will be continued; and

(g) Take any other action considered necessary by the Board.

5432.3 Each applicant and each protestant shall attend the roll call hearing in person or appear through a designated representative.

5432.4 The ANC may designate any member or every member of its Commission, or a non-member of the Commission, to participate in the protest process, hearings, and negotiating settlement agreements.

5432.5 Failure to appear in person or through a designated representative at the roll call

hearing may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear may include:

(a) Sudden, severe illness or accident;

(b) Death or sudden illness in the immediate family, such as spouse, partner children, parents, siblings;

(c) Incarceration; or

(d) Severe inclement weather.

5432.6 A recommendation by the Board's agent to dismiss a license application or dismiss a protest for failure to attend the roll call hearing shall be forwarded to the Board for issuance of a written order.

5432.7 At the roll call hearing, the Board's agent shall have the authority to:

(a) Regulate the course of the hearing;

(b) Request the persons appearing at the hearing to identify themselves, and provide contact information including email addresses;

(c) Request or accept written documentation from the parties including letters of representation;

(d) Identify the parties with standing and the filed protest issues, if undisputed;

(e) Approve a joint request from the parties to schedule mediation;

(f) Adjourn a hearing and establish the date when the hearing will be continued; and

(g) Take any other action authorized by, or necessary under, this section.

5432.8 At the roll call hearing the parties shall be required, on a form prescribed by the Board, to provide their name, address, email address, and telephone numbers, as well as the same information for any attorney or non-attorney representative representing the parties. The parties shall also indicate on the form their consent to service by electronic means to their email address or to the email address of their attorney or representative.

5432.9 Upon the scheduling of the roll call hearing, all parties shall be prohibited from participating in any ex parte communication with the Board's agent relevant to the merits of the proceeding. This shall include any oral or written communication not

in the public hearing record with respect to which reasonable prior notice is not given to all parties to the proceeding.

5432.10 The roll call hearing shall be open to the public and transcribed by a certified court reporter.

A new Section 5433, PROTEST STATUS HEARING, is added to read as follows:

5433 PROTEST STATUS HEARING

5433.1 The protest status hearing is a proceeding held by the Board at which the parties may address any unresolved legal issues from the roll call hearing, including whether a protestant granted conditional standing has subsequently met the standard for full standing, or address motions or pleadings previously filed with the Board.

5433.2 At the protest status hearing, the parties also inform the Board of their progress in reaching a settlement agreement. The Board in its discretion may set another status hearing if the Board determines that the parties are close to reaching a settlement agreement or that mediation might be helpful.

5433.3 Failure to appear at the protest status hearing either in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:

(a) Sudden, severe illness or accident;

(b) Death or sudden illness in the immediate family, such as spouse, partner, children, parents, or siblings;

(c) Incarceration; or

(d) Severe inclement weather.

5433.4 The protest status hearing shall be open to the public and transcribed by a certified court reporter.

A new Section 5434, PARTY DISMISSAL, is added to read as follows:

5434 PARTY DISMISSAL

5434.1 If an applicant or a protestant is dismissed and not reinstated by the Board for good cause after failing to appear at a roll call hearing, status hearing, or protest hearing, the Board may deny the license application, dismiss the protest, or take both actions

if appropriate.

5434.2 If an applicant's request to renew its license is dismissed and not reinstated by the Board for good cause, the applicant shall be permitted to submit a second renewal application upon the filing of an application fee of one thousand dollars ($1,000).

5434.3 The re-filed second renewal application shall be submitted to ABCA within ten (10) calendar days of receipt of the Board's order dismissing the license application or not reinstating the license application in the event that a request for reinstatement was filed by the applicant. In the event that the applicant fails to resubmit its second renewal application within ten (10) calendar days, the Board shall issue a cease-and-desist order to the applicant notifying the business to immediately cease the sale, distribution, manufacturing, or delivery of medical cannabis, medical cannabis products, and paraphernalia upon expiration of the non-renewed license for the prior licensing period.

5434.4 If a second renewal application is re-filed by an applicant within ten (10) calendar days, any protestant that appeared at the roll call hearing or status hearing where the applicant was dismissed for failure to appear shall not be required to refile a previously submitted valid protest letter.

5434.5 If an applicant's re-filed second renewal application is dismissed for failure to appear at a hearing and not reinstated by the Board for good cause, the license renewal application shall be denied. The applicant shall be required to file a new license application, and the Board shall not accept a third license renewal application from the applicant.

5434.6 If an applicant's request to terminate or amend its settlement agreement is dismissed and not reinstated by the Board for good cause, the applicant shall not be permitted to file a subsequent request to terminate or amend its settlement agreement until the next three-year renewal period.

A new Section 5435, ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES IN A PROTEST, is added to read as follows:

5435 ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES IN A PROTEST

5435.1 Upon recognition by the Board of a properly filed protest at a roll call hearing, the geographic boundary of the protest shall be deemed the "section." The applicant may select another geographic area permitted by this section. The applicant shall submit the alternative proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing.

5435.2 Any protestant may object to the area and boundaries proposed by an applicant by filing a written objection with the Board no later than thirty (30) calendar days after receipt of the applicant's proposed boundaries. The objection shall also be served

on the applicant in accordance with the Act and this title. The objection shall state in detail the following:

(a) The reasons for objecting to the boundaries proposed by the applicant;

(b) The boundaries proposed by the protestant; and

(c) The reasons why the protestant's boundaries should be adopted by the Board.

5435.3 The applicant may file a reply to the protestant's objection within seven (7) days of receipt of the objection.

5435.4 Any protestant or applicant who makes a submission to the Board may forward written argument or documentary evidence to the Board in support of the boundaries he or she proposes.

5435.5 The Board shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

5435.6 For the purpose of determining the appropriateness of a license, the geographic areas to be considered by the Board shall be measured pursuant to § 101.1 and shall be as follows:

(a) A "locality," which shall be the immediate neighborhood of the establishment and whose boundary shall be at a distance of six hundred feet (600 ft.) from the establishment;

(b) A "section," whose boundary shall be at an area larger than the immediate neighborhood and whose boundary shall be at a distance of twelve hundred feet (1,200 ft.) from the establishment; and

(c) A "portion," whose boundary shall be at an area larger than a "section" and whose boundary shall be at a distance of eighteen hundred feet (1,800 ft.) from the establishment.

5435.7 In determining the area to be considered, the Board shall consider the overall characteristics of the alternative areas, including the following:

(a) The population and density of the areas surrounding the establishment;

(b) The general commercial and residential activities in the areas surrounding the establishment;

(c) Geographical factors, such as parks, rail lines, major thoroughfares, bodies of water, cemeteries, and unimproved or unused property, which may tend to define physically an area to be considered; and

(d) Historical patterns of commercial or residential activity leading to an identification of a given area as a distinct, generally recognized neighborhood, or larger area.

5435.8 The Board shall make a final decision on the boundaries without a hearing and based on the submissions received from the applicant and the protestant.

5435.9 The Board's final decision shall be made and announced at the first status hearing for the application at issue unless no geographic boundary selection is made by the parties.

5435.10 In establishing a geographic boundary, including the designations of locality, section, or portion set forth in the Act or this chapter, the Board shall measure the specified distance in an arc from each corner of the building on which the licensed establishment is located, connecting the arcs by tangent lines.

A new Section 5436, DECISIONS OF THE BOARD, is added to read as follows:

5436 DECISIONS OF THE BOARD

5436.1 No application shall be approved until the Board has determined that the applicant has complied with the Act and this title or, in the case of a renewal, has fulfilled the license requirements. The Board shall make findings of fact with respect to each requirement, including the appropriateness standards set forth in the Act and the regulations.

5436.2 For the purposes of this section, the record shall close thirty (30) days after a hearing is concluded to allow the parties to submit proposed findings of fact and conclusions of law and any other document submissions requested by the Board.

5436.3 Within ninety (90) days after the close of the record, the Board shall issue its written decision accompanied by findings of fact and conclusions of law.

A new Section 5437, PROTEST PARTIES, is added to read as follows:

5437 PROTEST PARTIES

5437.1 The parties to the protest hearing shall be the applicant and the protestants as identified at the roll call hearing.

5437.2 If there is more than one protestant, the Board, in its discretion, may request that multiple protestants confer among themselves and designate one person to conduct

the protestants' case. In the case where the protestants fail to agree, the Board may select the protestant presentation order and limit the presentation time of one or more parties to ensure that the applicant and protestants have similar presentation times.

A new Section 5438, MEDIATION, is added to read as follows:

5438 MEDIATION

5438.1 A mediation among the parties shall be held to discuss and resolve, if possible, the objections raised by the protestants. If the parties fail to reach a settlement agreement on one or more of the protest issues, they shall so inform the Board at the scheduled protest status hearing or the protest hearing and the Board shall proceed with a protest hearing as to all unresolved issues.

5438.2 Mediation, which may be arranged at a roll call hearing or any other time, shall be set on a mutually convenient date before the scheduled protest status hearing or the protest hearing.

5438.3 At the request of all parties, and if a mediation would be unlikely to succeed, the Board may waive the parties' obligation to attend a mediation.

A new Section 5439, PROTEST HEARINGS, is added to read as follows:

5439 PROTEST HEARINGS

5439.1 The parties to a protest hearing shall be the applicant or licensee and the protestants.

5439.2 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony they intend to present regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence they intend to present to rebut or overcome the evidence and argument presented by the applicant or licensee.

5439.3 At the conclusion of the opening statements, the Board shall call its own witnesses, if any, who shall testify to the results of their investigation into the appropriateness of the establishment.

5439.4 At the conclusion of testimony by the Board's witnesses, if any, the applicant shall call its witnesses to give testimony and present evidence regarding the appropriateness of the establishment.

5439.5 At the conclusion of testimony by the applicant's witnesses, the protestant shall call witnesses to give testimony and present evidence.

5439.6 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

5439.7 In any case where there is more than one (1) protestant, the Board, in its discretion, may request that the protestants designate one (1) person to conduct the protestant's case, to give opening and closing statements, and to examine and cross-examine witnesses.

5439.8 The Board may, on a motion from either party or on its own motion, limit the number of persons who may testify on behalf of the applicant, licensee, or protestant if the Board determines the testimony would be redundant.

A new Section 5440, SETTLEMENT AGREEMENTS, is added to read as follows:

5440 SETTLEMENT AGREEMENTS

5440.1 The applicant and one or more ANCs that have protested, or would have standing to protest, an application pursuant to the Act or this title may, at any time, negotiate a settlement and enter into a written settlement agreement setting forth the terms of the settlement.

5440.2 The signatories to the agreement shall submit the agreement to the Board for approval. A settlement agreement, amendment to a settlement agreement, or cancellation of a settlement agreement shall not be effective until the Board issues a written Order approving the proposed settlement.

5440.3 All provisions of a settlement agreement approved by the Board shall be enforceable by ABCA or the Board unless prohibited by the Act or this chapter.

5440.4 A settlement agreement not approved by the Board shall not be enforced by ABCA or the Board.

5440.5 Unless a shorter term is agreed upon by the parties, a settlement agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.

5440.6 The terms of a settlement agreement submitted by the parties shall be consistent with District of Columbia law, typed, and in compliance with the Act and this title.

5440.7 A settlement agreement submitted to the Board shall include the form provided by the Board that shall be deemed part of the agreement and at a minimum:

(a) Identify all parties to the agreement;

(b) Contain the contact information for all parties; and

(c) Contain the signatures of all parties.

5440.8 When the parties file an additional settlement agreement or amendment to an existing settlement agreement, the Board may, before considering the agreement or amendment, require the parties to cancel all prior agreements and consolidate all intended settlement terms into one comprehensive document before approval.

A new Section 5441, SUCCESSOR ANC, is added to read as follows:

5441 SUCCESSOR ANC

5441.1 After the approval of a settlement agreement between the licensee and an ANC or the filing of a protest, if the District legally changes the boundaries of ANCs and the licensed location is located in a new ANC's jurisdiction, the new ANC shall, to the extent consistent with governing law, be deemed the successor-in-interest and replace the original ANC as a party to the agreement and the protest.

A new Section 5442, AUTOMATIC TERMINATION, is added to read as follows:

5442 AUTOMATIC TERMINATION

5442.1 A settlement agreement shall be terminated by the Board upon petition of the applicant if the applicant shows that the Board has approved a transfer of the license to a new location at least twelve hundred feet (1,200 ft.) away from the prior location after the initial approval of the agreement. The licensee may request a declaratory order terminating the settlement agreement if its settlement agreement qualifies for termination under this section.

A new Section 5443, BOARD REVIEW OF SETTLEMENT AGREEMENTS, is added to read as follows:

5443 BOARD REVIEW OF SETTLEMENT AGREEMENTS

5443.1 If the Board determines that the settlement agreement complies with all applicable laws and regulations and the applicant otherwise qualifies for licensure, it may, in its discretion, approve the license application, conditioned upon the licensee's compliance with the terms of the settlement agreement. The Board shall incorporate the text of the settlement agreement in its order and the settlement agreement shall be enforceable by the Board.

5443.2 The Board may reject any settlement agreement that is not in accordance with the law, not in the public interest, or otherwise not in the interest of ABCA to enforce.

5443.3 The Board may reject a settlement agreement that does not represent the entire agreement of the parties or when any or all of the terms of the settlement agreement:

(a) Violate the Act or this title, the Constitution, the D.C. Human Rights Act, or any other law or regulation;

(b) Are not in the public interest;

(c) Are not in the agency's interest to enforce because it is overly burdensome, unenforceable, or overrides the prosecutorial or other discretion provided to the Board or the District;

(d) Are incomplete, not final, or vague; or

(e) Require the licensee or the District to exercise control over third parties outside the premises.

5443.4 The parties may submit a settlement agreement at any time, except that, on the date of the protest hearing or after the close of the record, the parties may only file a settlement agreement with the permission of the Board.

5443.5 If the Board determines that a settlement agreement submitted by the parties does not comply with all applicable laws and regulations, the Board may condition approval of the settlement agreement on the parties' acceptance of modifications of the agreement proposed by the Board. If the parties reject the modifications proposed by the Board, they may submit a new settlement agreement for Board review that complies with applicable laws and regulations, or the Board may order the parties to proceed to a Protest Hearing.

5443.6 The Board shall issue an Order rejecting the settlement agreement if the parties to a settlement agreement reject the modifications proposed by the Board and fail to submit a new settlement agreement, or fail to respond to the Board's modifications, within thirty (30) days of receiving notice of the modifications.

5443.7 If the Board issues an Order denying the settlement agreement and a protest has been filed against the application, the matter will be scheduled for a Protest Hearing.

A new Section 5444, UNILATERAL AMENDMENT OR TERMINATION, is added to read as follows:

5444 UNILATERAL AMENDMENT OR TERMINATION

5444.1 The Board may accept an application to amend or terminate a settlement agreement by fewer than all parties in the following circumstances:

(A) During the license's renewal period; and

(B) After four (4) years from the date of the Board's decision initially approving the settlement agreement.

5444.2 Notice of an application under § 5444.1 to amend or terminate a settlement agreement shall be given both to the parties of the agreement and to the public at the time of the applicant's renewal application according to the renewal procedures required under the Act and this chapter.

5444.3 The Board may approve a request by fewer than all parties to amend or terminate a settlement agreement for good cause shown if it makes each of the following findings based upon sworn evidence:

(a) The applicant seeking the amendment or termination has made a diligent effort to locate all other parties to the settlement agreement; or if non-applicant parties are located, the applicant has made a good faith attempt to negotiate a mutually acceptable amendment or termination of the settlement agreement;

(b) The need for an amendment or termination is either caused by circumstances beyond the control of the applicant or is due to a change in the neighborhood where the applicant's establishment is located; and

(c) The amendment or termination will not have an adverse impact on the neighborhood where the establishment is located.

5444.4 To fulfill the good-faith attempt criteria of this section, the applicant shall file a sworn affidavit with the Board at the time that an application to amend or terminate a settlement agreement by fewer than all parties is filed stating that either:

(a) A meeting occurred between the parties which did not result in agreement; or

(b) The non-applicant parties refused to meet with the applicant.

5444.5 For the purposes of this section, the term "license's renewal period" means the sixty (60)-day period before the expiration date of a license.

5444.6 Upon the filing of a valid petition for termination or amendment, any signatory party that has not filed a valid protest against the petition shall automatically be removed from the agreement.

A new Section 5445, ENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS, is added to read as follows:

5445 ENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS

5445.1 A settlement agreement enforceable by the Board under this chapter may, to the extent consistent with the Act, include:

(a) Provisions allowing or prohibiting background or recorded music or other amplified sounds, restricting the location of music and sound equipment, and the hours that recorded or background music may be provided;

(b) Provisions requiring specific methods to mitigate sound or noise disturbances, including, but not limited to, specific architectural features; requiring doors and windows to remain closed except in the case of ingress and egress; sound barriers and other sound proofing elements; the use of sound limiters and other equipment; and the placement of sound equipment;

(c) Provisions requiring cleanliness, odor, smoke, litter, and trash control on the premises and in the immediate area surrounding the premises, including, but not limited to, the frequency the immediate area is cleaned; trash removal times; efforts to limit rat and vermin infestation, the use of odor control technology, the establishment of non-smoking areas, and trash and recycling management;

(d) Provisions requiring specific parking arrangements;

(e) Provisions requiring the use of validated or valet parking so long as the required valet service is properly approved and has all licenses, permits, and other approvals required by law;

(f) Requirements that the applicant or existing licensee use and maintain an incident log and that the incident log be made available to ABCA and the Board, upon request;

(g) Provisions requiring the filing and compliance with a security plan in accordance with the Act and this title;

(h) Notice to cure provisions;

(i) Provisions restricting the indoor and outdoor hours of operation, and hours of medical cannabis sales and delivery;

(j) Provisions prohibiting or restricting the utilization of floors and outdoor areas, or the occupancy of all or a portion of the premises;

(k) Provisions requiring the use security cameras, minimum identification checking procedures, minimum security personnel staffing, the use of various doors as exits and entrances except in the case of an emergency, restricting the consumption of cannabis and cannabis products, and other safety and security policies and procedures unless otherwise required by law

or the Board;

(l) Provisions requiring minimum training for managers and staff;

(m) Provisions requiring the posting of signage or information on the establishment's website; and

(n) Provisions that mandate that the establishment comply with existing District law and all licenses, permits, and other privileges granted by the District.

A new Section 5446, UNENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS, is added to read as follows:

5446 UNENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS

5446.1 The Board shall not enforce the following if included in a settlement agreement covered by this chapter:

(a) Provisions that require approval from a signatory or third party to file an application or request with the Board;

(b) Provisions that require additional or specific notice to a signatory or third party outside of the notice required by law;

(c) Provisions that restrict the sale or transfer of the business to new or different owners or require or restrict a change in the type of license;

(d) Provisions that prohibit the act of filing of an application or request with the District. This section does not prevent the settlement agreement from allowing, restricting, or prohibiting various activities of the business;

(e) Provisions that mandate the purchase, service, or sale of specific types of food, non-alcoholic beverages, and medical cannabis; mandate the type of cuisine; mandate the use of brands or types of medical cannabis and other products; or mandate any or all prices set by the business;

(f) Provisions restricting customers based on age, gender, national origin, status as a student, or other criteria prohibited by the D.C. Human Rights Act (D.C. Official Code § 2-1401.01 *et seq*.);

(g) Provisions requiring the use of specific businesses; require the joining of any group; or requiring the hiring of any specific person or local individuals;

(h) Provisions that create additional administrative procedures in addition to those required by ABCA or the District, alter the penalties of existing laws, or otherwise restrict prosecutorial or Board discretion;

(i) Provisions that require the licensee or their agents to attend ANC or community meetings, events, or otherwise require them to appear or communicate with the signatories or third parties;

(j) Provisions that require the establishment to provide money, buy specific goods or services, or provide financial or other benefits to the community or its agents; provide discounts, free goods and service; or offer specific promotions;

(k) Provisions requiring the provision of contracts, incident logs, and other documents to the signatories or third parties except to ABCA or the Board;

(l) Provisions that require a minimum or maximum level of food, non-alcoholic beverage, or cannabis sales to the public, individuals, qualified patients, or other persons authorized to purchase goods and services from the establishment or require the purchase of specific products by qualified patients, caregivers, or other customers.

(m) Provisions that require future negotiation or create probationary periods that may alter the terms of the license, the settlement agreement, or the operation of the business after approval of the agreement; and

(n) Provisions that create a plant limit or restrict the products that may manufactured, dispensed, or sold by the licensee.

5446.2 A settlement agreement provision that requires a violation of District law shall not be enforced, even if the law did not exist at the time the agreement was approved.

5446.3 If a settlement agreement provision is deemed unenforceable after approval of the agreement, it shall be presumed that the parties intended for the remainder of the agreement to remain enforceable.

A new Section 5447, DISCOVERY OF LICENSEE DOCUMENTS, is added to read as follows:

5447 DISCOVERY OF LICENSEE DOCUMENTS

5447.1 An ANC granted standing as a protestant during the pendency of the protest may request from ABCA a copy of a contract to which a licensee is a party, an incident log kept by a licensee, or similar document, if obtained by ABCA, except for patient and caregiver records, financial information, or any other document that in the determination of the Board merits privacy protection.

A new Section 5448, QUALIFICATIONS HEARING, is added to read as follows:

5448 QUALIFICATIONS HEARING

5448.1 The Board may hold a qualifications hearing before issuing, transferring, or renewing a license, registration, or permit to determine whether the applicant, licensee, registrant, or permittee meets the criteria set forth in the Act and this subtitle even if not raised as part of a protest.

5448.2 A qualifications hearing shall be conducted as a contested case pursuant to the DC APA.

5448.3 The Board shall give notice to the applicant, licensee, or permittee, by personal service or certified mail, requiring the person to appear before the Board within 15 calendar days after receipt of the notice to provide evidence establishing that the person meets the criterion set forth in the Act and this title.

5448.4 The hearing notice required by § 5448.3 of this section shall include:

(a) The criterion about which the Board is requesting information;

(b) The evidence to be considered by the Board at the hearing, including documentation, exhibits, investigative reports, or electronic or digitally stored information; and

(c) The conditions, if any, that the Board is considering imposing on the applicant.

5448.5 If after notice has been provided, as required by § 5448.3 of the section, the applicant refuses or otherwise fails to appear at the hearing, the Board may hold the hearing ex parte.

5448.6 The Board shall deny the issuance, transfer, or renewal of a license, registration, or permit application if it determines that the applicant does not meet the criteria set forth in the Act or this title.

5448.7 In issuing or renewing a license, registration, or permit, or approving a transfer, the Board may require that certain conditions be met, consistent with the requirements set forth in the Act or this title.

A new Section 5449, UNLICENSED ESTABLISHMENT APPLICATION, is added to read as follows:

5449 UNLICENSED ESTABLISHMENT APPLICATION

5449.1 An unlicensed establishment described in Section 7a of the Act (D.C. Official Code § 7-1671.06a) applying for a cultivation center, internet retailer, or retailer license shall provide the information required by Section 7a of the Act (D.C. Official Code § 7-1671.06a) in order to be eligible to file a license application for a cultivation

center, internet retailer, or retailer license.

5449.2 In order to satisfy Section 7a(a)(2)(B) of the Act (D.C. Official Code § 7-1671.06a(a)(2)(B)), an applicant for an unlicensed establishment applying for a cultivation center shall provide an architectural map of the facility indicating where medical cannabis will be grown, processed, and packaged and attest that the proposed facility will have sufficient power and heating and ventilation systems to support medical cannabis growing activity.

5449.3 Once an unlicensed establishment files an application, no amendment to the selected location for the license may be accepted until the license is issued.

A new Section 5450, [RESERVED], is added to read as follows:

5450 [RESERVED]

Chapter 55, REGISTRATION CHANGES, is amended as follows:

Section 5501, INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES, is amended to read as follows:

5501 INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES

5501.1 For a corporation that holds a medical cannabis business license, if there is a change in corporate officers or directors, or other persons, owning or controlling one percent (1%) or more, but less than fifty percent (50%), of that corporation's common stock, the corporation shall submit to the Board, within fifteen (15) calendar days of the change, the minutes or other instrument giving the names and addresses of any new officer, director, or person owning or controlling any percentage of the stock.

5501.2 For a partnership or limited liability company that holds a medical cannabis business license, if there is a change in the ownership of the partnership or limited liability company of one percent (1%) or more, but less than fifty percent (50%), of the total ownership interest of the business, the partnership or limited liability company shall submit to the Board in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in ownership interests.

5501.3 Within fifteen (15) calendar days of the changes set forth in § 5501.1 and § 5501.2, the individual owner, partnership, limited liability company or partnership, or corporation shall submit to the Board any relevant data pertaining to the personal and business history of any new officer, director, stockholder, member, general or limited partner, or other person that the Board may require, and each new person shall apply for a license as required under this subtitle.

5501.4 Each individual seeking to own or control interest of at least one percent (1%) in a partnership, limited liability company, or corporation shall pass a criminal background check and pay the applicable registration fee as required by the Act and this subtitle.

5501.5 The proposed transferee(s) shall not operate the licensed medical cannabis business until they have received a license issued by the Board.

Section 5502, TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL, is amended to read as follows:

5502 TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL

5502.1 At least thirty (30) days before executing an agreement that will result in the transfer of ownership or control of fifty percent (50%) or more of the ownership interest or common stock of an entity that holds a licensed medical cannabis business, the current licensee shall submit to the Board an application for a transfer of equal or majority ownership or control.

5502.2 A licensee shall not complete the sale or transfer of fifty percent (50%) or more of its ownership or control of an entity that holds a licensed medical cannabis business until the licensee has received written approval from the Board of the sale or transfer.

5502.3 If a licensee transfers ownership or control of fifty percent (50%) or more of its ownership or control of an entity that holds a licensed medical cannabis business without Board approval, the license shall automatically be deemed void and shall be surrendered to the Board upon demand.

5502.4 The Board shall not approve an application for a transfer of fifty percent (50%) or more of its ownership or control of a licensed medical cannabis business until a complete application providing the following information is filed:

(a) The legal name or trade name of the business and a copy of the trade name registration, if applicable;

(b) The name, address, date of birth, and social security number of the individual owner, partners, limited liability company or partnership member, principal officers, directors, or shareholders (no P.O. Boxes will be accepted);

(c) The Certificate of Good Standing for the partnership, limited liability company or partnership, or corporation, issued within thirty (30) days of the date of submission of the application;

(d) A Basic Business Registration with a General Business registration endorsement;

(e) A certificate of occupancy for the premises issued in the name of the new owner, if applicable;

(f) Evidence that the transferee has entered into a bona fide agreement with the owner of the building to lease, purchase, or occupy the premises;

(g) A signed and notarized Acknowledgment and Attestation form;

(h) Information on the source of funds used to acquire the ownership or control interests of the business;

(i) A copy of both the Bill of Sale and the Purchase and Sale Agreement between the licensee and the transferee, if such documents exist; and

(j) A notarized and signed copy of the Transfer of License Affidavit Form.

5502.5 The proposed transferee(s) shall pass a criminal background check as required by the Act and the regulations.

5502.6 The proposed transferee(s) shall not operate the licensed medical cannabis business until they have received a license issued by the Board.

Chapter 56, GENERAL OPERATING REQUIREMENTS, is amended as follows:

Section 5601, POSTING OF IDENTIFICATION REQUIREMENT BY DISPENSARY, is renamed and amended to read as follows:

5601 POSTING OF IDENTIFICATION REQUIREMENT BY RETAILER AND INTERNET RETAILER

5601.1 The notice required to be posted by the retailer shall state that no person shall be sold medical cannabis who does not produce both:

(a) A valid registration card issued by the Board or valid out of state documentation demonstrating enrollment in another jurisdiction's medical cannabis program; and

(b) A valid government issued photo identification document displaying proof of age that matches the name on the registration card.

5601.2 An internet retailer shall be required to post the information required by § 5601.1 on its website.

Section 5602, HOURS OF OPERATION, SALE, SERVICE, AND DELIVERY, is amended

as follows:

Subsection 5602.1 is amended to read as follows:

5602.1 A retailer may operate and sell medical cannabis, and a retailer with a retail delivery endorsement may deliver medical cannabis, on any day and at any time except between the hours of 11:00 p.m. and 7:00 a.m.

Subsection 5602.2 is amended to read as follows:

5602.2 A licensed courier, cultivation center, internet retailer, manufacturer, and testing laboratory shall not be open to the public.

Subsection 5602.3 is amended to read as follows:

5602.3 A manufacturer may operate its business twenty-four (24) hours a day.

Subsection 5602.8 is renumbered Subsection 5602.9.

Subsection 5602.9 is renumbered Subsection 5602.10.

A new Subsection 5602.8 is added to read as follows:

5602.8 A courier and internet retailer may operate, sell, and deliver medical cannabis on any day and at any time except between the hours of 11:00 p.m. and 7:00 a.m.

A new Subsection 5602.11 is added to read as follows:

5602.11 A medical cannabis business may maintain its websites, mobile applications, and third-party listings active after its Board-approved hours and receive internet orders for medical cannabis so long as no medical cannabis is dispensed or delivered to a qualifying patient, caregiver, or courier until its Board-approved hours permit the business to open.

Section 5604, MANAGER'S REGISTRATION, is amended to read as follows:

5604 MANAGER'S APPLICATION

5604.1 In the absence of an owner, a licensed medical cannabis business shall have a Board-approved manager present at the licensed premises during the hours that the licensed medical cannabis business is open.

5604.2 An applicant for a manager's license shall submit:

(a) An application to the Board on the prescribed form;

(b) A copy of their certificate showing completion of a medical cannabis training and education program from a Board-approved medical cannabis certification provider; and

(c) The required fee.

5604.3 If a licensed medical cannabis business has designated one or more persons to manage the licensed business, each manager shall be the holder of a valid manager's license which shall be renewable each year.

5604.4 A manager's license shall remain valid until surrendered, expired, suspended, or revoked.

5604.5 An applicant for a manager's license shall be subject to the requirements of the Act and this title.

5604.6 A licensed medical cannabis business may file a written request with the Board that an applicant for a manager's license who has not completed a medical cannabis training and education certification program be issued a temporary manager's license and shall attest that the applicant for the manager's license will complete the medical cannabis and cannabis training within thirty (30) calendar days of receipt of the temporary manager's license.

5604.7 The written request for a temporary manager's license shall set forth the name of the licensed establishment, the trade name, the address of the establishment, the name of the applicant for the manager's license, and the reason why the issuance of the temporary manager's license is necessary.

5604.8 The temporary manager's license issued pursuant to § 5604.8 shall cease after thirty (30) days or upon the approval or denial of the manager's license application.

5604.9 A manager's license shall expire one (1) year from issuance.

Section 5606, NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE, is amended to read as follows:

5606 NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE

5606.1 If a licensed medical cannabis business discovers that any director, officer, member, incorporator, agent, or employee has at any time during their employment been convicted of a felony, it shall notify the Board within seven (7) days of that discovery.

Subsection 5606.2 is deleted.

Section 5607, LABELING AND PACKAGING OF MEDICAL CANNABIS, is amended as follows:

Subsection 5607.1(f) is repealed.

Subsection 5607.13 is amended to read as follows:

5607.13 The cultivation center or manufacturer shall place medical cannabis or medical cannabis products in either tamper-evident or tamper-proof packaging so long as such packaging is difficult for children under five (5) years of age to open prior to transporting the products to the internet retailer or retailer.

Subsection 5607.17 is amended to read as follows:

5607.17 An internet retailer, retailer, cultivation center, and manufacturer shall submit its labeling to the Board for approval and record.

Section 5608, INGESTIBLE ITEMS, is amended to read as follows:

5608.1 No medical cannabis business shall produce any cannabis product in an edible form, or other form which is intended to be eaten, drunk, or otherwise consumed orally, unless it has:

(a) Prepared the product at a cultivation center facility that meets all requirements of a retail food establishment, including any Department of Health licensing and certification requirements;

(b) Complied with all District of Columbia health regulations relating to the production, preparation, and sale of prepared food items in accordance with Title 25 DCMR, Subtitle A (Food and Food Operations); and

(c) Obtained all licenses, permits, endorsements, or other permissions required by law, including any Hazard Analysis and Critical Control Points (HACCP) plan required by law, before producing any ingestible products.

5608.2 A medical cannabis business shall not create, process, sell or transfer a cannabis item that:

(a) That by its shape, design or flavor is likely to appeal to minors, including:

(1) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or

(2) Products in the shape of an animal, vehicle, person, fruit, or character;

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items;

(c) That contains dimethyl sulfoxide (DMSO);

(d) That contains more than 200 mg of THC per package;

(e) That contains more than 20mg of THC per serving size or piece; or

(f) That requires cooking or baking by the consumer.

5608.3 In addition to the requirements of § 5608.2, chocolate cannabis-infused products shall comply with the following requirements:

(a) Each serving size piece shall be individually wrapped; and

(b) Each serving size piece shall be affixed with a stamp or the imprinted letters "THC."

5608.4 The sale of an ingestible item containing either a serving size piece of more than 20 mg of THC or more than 200 mg of THC per package shall be permitted as follows:

(a) Notwithstanding the THC limits set forth in subsections 5608.2, a medical cannabis business may apply to the Board to manufacture, sell, and transfer to other medical cannabis businesses as permitted by law ingestible items that may be sold only to qualifying patients with a written recommendation from an authorized practitioner, and that contain:

(1) Serving size pieces with a maximum of 50 mg of THC; and

(2) No more than 500 mg of THC per package.

(b) It shall be a violation of this title for a medical cannabis business to sell ingestible items containing more than 20 mg of THC per serving size piece or 200 mg of THC per package to a qualifying patient that does not possess a valid written recommendation from an authorized practitioner.

(c) The serving size and per package THC limits set forth in paragraph (a) of this subsection shall not apply to the sale of:

(1) Ingestible capsules;

(2) Tinctures; and

(3) Non-injectable syringes no larger than 5,000 mg.

(d) A qualifying patient with a valid non-resident patient card issued by another state or jurisdiction that does not permit patient self-certification shall be deemed as possessing a written recommendation from an authorized practitioner and shall be eligible to purchase ingestible items consistent with the limits set forth in paragraphs (a)(1) and (a)(2).

Section 5611, EDUCATIONAL CLASSES AND DEMONSTRATIONS, is amended to read as follows:

5611 EDUCATIONAL CLASSES AND DEMONSTRATIONS

5611.1 A retailer may offer educational classes and demonstrations to qualifying patients, caregivers, and non-resident qualifying patients upon issuance of an education tasting endorsement.

5611.2 Educational classes and demonstrations permitted to be offered on-site shall include cooking and how-to classes and demonstrations, including how to utilize cannabis paraphernalia, how to cook foods with medical cannabis, and other medical cannabis preparation techniques.

5611.3 A retailer shall only offer educational classes and demonstrations on the retailer's registered premises.

5611.4 A retailer may permit a qualifying patient, caregiver, or non-resident qualifying patient to smell or touch medical cannabis products provided medical cannabis is not administered or consumed on the registered premises and the medical cannabis has not been sold or otherwise given away.

5611.5 An educational activity that includes the smoking, administering, or consumption of medical cannabis shall be prohibited.

5611.6 A retailer shall ensure that containers of medical cannabis to be utilized for educational activities are labeled as such and may not be sold.

5611.7 A retailer shall ensure that medical cannabis containers to be utilized for educational purposes remain in its secure storage area during non-operating hours.

5611.8 A retailer shall not allow a qualifying patient, caregiver, or non-resident qualifying patient to leave the premises with medical cannabis that was made available or offered as part of the educational activity.

5611.9 A retailer shall destroy and dispose of medical cannabis utilized during the educational activity consistent with the requirements of this subtitle. This subsection shall include all medical cannabis that is physically touched or handled by patients, caregivers, or staff as part of the educational activity.

5611.10 A retailer with an educational tasting endorsement may offer educational activities on the registered premises between the hours of 7:00 a.m. and 11:00 p.m., daily.

5611.11 A retailer shall be permitted to charge a qualifying patient, caregiver, or non-resident qualifying patient an additional fee to attend or participate in the educational class or demonstration.

Section 5612, PRODUCTION OF VALID PHOTO IDENTIFICATION REQUIRED, is renamed and amended to read as follows:

5612 PRODUCTION OF VALID IDENTIFICATION REQUIRED

5612.1 An internet retailer or retailer shall refuse to sell or deliver medical cannabis to any person who fails to produce a valid medical cannabis patient card issued by ABCA or a nonresident patient card or state-issued document and a valid government issued photo identification document displaying proof of age that matches the name on the patient card.

5612.2 A licensee shall take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves medical cannabis is a qualifying patient registered or authorized to purchase or possess medical cannabis, and that the sale otherwise complies with the medical cannabis quantity and sale limits provided by the Act and this title.

5612.3 Any person who supplies a valid and unexpired medical cannabis patient card or medical cannabis caregiver card showing their legal age to be the legal age and authorization to obtain medical cannabis and all other documents required by the Act and this title, if required, shall be deemed authorized to obtain medical cannabis.

5612.4 The provisions of this section notwithstanding, no licensee shall discriminate on any basis prohibited by the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq*.).

5612.5 It shall be an affirmative defense to a violation of § 5612.1 that the licensee or their agent was shown and inspected a fake or fraudulent identification document of such quality that a reasonable person would believe that it was valid unless:

(a) The identification was visibly damaged;

(b) The identification lacked the physical materials or features of the valid identification being imitated;

(c) The photograph contained in the identification that was shown did not match the bearer;

(d) The identification is displayed past the printed expiration date; or

(e) The licensee or their agent knew the person was not authorized or ineligible to obtain medical cannabis.

Section 5614, CO-LOCATION AND INTEGRATION, is amended as follows:

Subsection 5614.2 is amended to read as follows:

5614.2 Separately licensed medical cannabis businesses may be located in the same building or space but shall maintain separate books and records and a separate secure space. A medical cannabis business may share space or the same address if the licensed medical cannabis businesses demonstrate to the satisfaction of the Board that the medical cannabis businesses will have their own separate secure space, maintain separate inventory, records, and financial accounts, and otherwise operate in accordance with the Act and this title.

Subsection 5614.4 is repealed.

Section 5615, SEED-TO-SALE TRACKING SYSTEM, is renamed and amended to read as follows:

5615 SEED-TO-SALE TRACKING

5615.1 A medical cannabis business shall purchase access to the METRC real-time electronic records system.

5615.2 All information required by this section shall be entered into the real-time electronic records system designated in § 5615.1.

5615.3 All information entered into the METRC real-time electronic records system shall be true, complete, and a real-time electronic record of the event, information, or occurrence recorded in the system.

5615.4 All information required to be entered into the real-time electronic records system shall be entered immediately at the time of the transaction, event, or occurrence, or the information becomes available to the licensee or its agents.

5615.5 A courier, internet retailer, or retailer shall enter the following information into the real-time electronic records system:

(a) All transactions where the licensee distributed or sold medical cannabis to a qualifying patient, nonresident qualifying patient, or caregiver, including,

(1) The quantity of medical cannabis distributed, delivered, or dispensed;

(2) Whether the transaction was fulfilled at the store, by curbside delivery, or delivery at another location;

(3) The amount of money or other consideration provided by the purchaser; and

(4) The name and address of the purchaser;

(b) The quantity of medical cannabis or medical cannabis products at the facility; and

(c) The destruction or disposal of cultivated, processed, or acquired medical cannabis, the method used, the reason for its destruction or disposal, and proof of disposal.

5615.6 A cultivation center and manufacturer shall enter the following information into the real-time electronic records system:

(a) The date of each distribution, transportation, or sale of medical cannabis to an internet retailer, manufacturer, retailer, or testing laboratory;

(b) The name, address, and license number of the internet retailer, manufacturer, or retailer;

(c) The quantity of medical cannabis and paraphernalia distributed, transported, or sold to the internet retailer, manufacturer, or retailer;

(d) The price charged and the amount received for the medical cannabis or medical cannabis products distributed, transported, or sold to the internet retailer, manufacturer, or retailer;

(e) The type, brand, and quantity of medical cannabis or medical cannabis products maintained at the cultivation center on a daily basis;

(f) The number of plants being grown at the cultivation center on a daily basis;

(g) The type, brand name, and quantity of medical cannabis or medical cannabis products produced on a daily basis;

(h) The results of the testing laboratory analysis for five (5) years from the date of the test; and

(i) The destruction or disposal of cultivated, processed, or acquired medical cannabis or medical cannabis products, the method used, the reason for its destruction or disposal, and proof of disposal.

5615.7 It is an affirmative defense to a violation of § 5615.6(h) that the medical cannabis or medical cannabis product was not subject to a testing requirement due to the absence of testing laboratory licenses in the District of Columbia or that all testing laboratories were in safekeeping, not in operation, or out of business for a period of more than fourteen (14) days.

Section 5616, SIGN REQUIREMENTS, is amended as follows:

Subsection 5616.1 is amended to read as follows:

5616.1 A retailer shall post at its building entrance in a conspicuous place, a sign from the Board that states the following:

(a) Minors are precluded from entering the premises unless they are a qualifying patient and are in the presence of a parent or guardian; and

(b) Smoking, ingesting, or consuming cannabis on the premises is prohibited.

5616.2 A retailer with a Board-approved safe-use treatment facility, summer garden, or education tasting endorsement shall not be required to post the language contained in § 5616.1(b).

Subsection 5616.4 is amended to read as follows:

5616.4 An internet retailer or retailer shall conspicuously post a sign on the premises accessible to the public; make a booklet or other document readily available to the public; or on its website post information or a document containing the current retail prices of all items available for sale.

Section 5620, MANUFACTURING STANDARDS, is amended to read as follows:

5620 MANUFACTURING STANDARDS

5620.1 In the course of producing and growing medical cannabis, a cultivation center or manufacturer is forbidden from using any of the following substances or techniques:

(a) Synthetic pesticides (for example defoliants and desiccants, fungicides, insecticides and rodenticides), or wood preservatives (such as arsenate);

(b) Fertilizer or composted plant and animal material that contains a substance prohibited by this section;

(c) Sewage sludge, in any form, as a soil amendment;

(d) Synthetic growth regulators;

(e) Synthetic allopathic veterinary drugs, including antibiotics and parasiticides;

(f) Synthetic processing substances, aids and ingredients, and food additives and processing aids including sulphates, nitrates and nitrites;

(g) Equipment, packaging materials and storage containers, or bins that contain synthetic fungicide, preservative or fumigant; or

(h) Any pesticide, fungicide, fertilizer, rodenticide, or drug banned by the Department of Agriculture or Food and Drug Administration.

5620.2 The prohibition on "synthetic growth regulators" shall not preclude the use of artificial lighting or lighting equipment.

5620.3 A cultivation center or manufacturer shall obtain written approval from the Board before engaging in the use of butane or other explosive gases to extract or separate resin or tetrahydrocannabinol from cannabis or to produce or process any form of cannabis concentrates or cannabis-infused product.

5620.4 In reviewing a request for the use of butane or other explosive gases, the Board may consult with subject matter experts in the field, the Fire and Emergency Medical Services Department, and the Department of Energy and Environment as to the safety and sufficiency of the cultivation center's proposal.

5620.5 Pesticides may be legally used on medical cannabis by cultivation centers under the following criteria:

(a) Any pesticide used in the cultivation of medical cannabis must be registered with the Department of Energy and Environment (DOEE);

(b) The use of any pesticide used in the cultivation of medical cannabis must comply with the regulations promulgated by the DOEE; and

(c) Any pesticide registered with the DOEE may be used in accordance with its label or labeling directions for the cultivation of medical cannabis in the District of Columbia provided, that for products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act:

(1) All active ingredients of the pesticide product are exempt from the

requirements of a tolerance, as established under 40 CFR Part 180, Subparts D and E;

(2) The pesticide product label allows use on the intended site of application;

(3) The pesticide product label expressly allows use on crops or plants intended for human consumption; and

(4) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency.

Section 5621, TRANSPORT OF MEDICAL CANNABIS, amended to read as follows:

5621 TRANSPORT OF MEDICAL CANNABIS

5621.1 A licensed medical cannabis business shall obtain from the Board a transporter license to transport medical cannabis within the District of Columbia to another licensed medical cannabis business if permitted by law. An original transporter license shall be required for each vehicle being designated by the licensed medical cannabis business or its contracted agent to be authorized to deliver medical cannabis to another licensed medical cannabis business.

5621.2 A licensed medical cannabis business, or its contracted agent, shall not transport medical cannabis within the District of Columbia without an original transporter license. A licensed medical cannabis business shall permit only an employee, director, officer, member, incorporator, or agent registered with the Board or its contracted agent to transport medical cannabis to another licensed medical cannabis business.

5621.3 Upon demand by an ABCA investigator, the registered person in charge of the transportation or its contracted agent shall exhibit to the ABCA investigator an original transporter license.

Section 5622, INVENTORY, is amended to read as follows:

5622 INVENTORY

5622.1 Each licensed medical cannabis business shall be required to develop, implement, and maintain, on its registered premises, a written real-time inventory control plan, which shall:

(a) Establish inventory controls and procedures it will use to conduct inventory reviews and verify the business's cultivated, stored, useable and unusable cannabis and cannabis products that are in its possession; and

(b) Include its procedures for storing cannabis and cannabis products and preventing theft and diversion.

5622.2 Each licensed medical cannabis business shall be responsible for inputting and maintaining in METRC an accurate inventory in real time of all cannabis and cannabis products in the possession of the licensed medical cannabis business. This inventory shall include all cannabis and cannabis products available for cultivation, finished usable cannabis and cannabis products available for sale, immature and mature plants, and unusable cannabis and cannabis products at the registered premises.

5622.3 In entering inventory into METRC, pursuant to § 5615, a licensed medical cannabis business shall include damaged, defective, expired, or adulterated cannabis or cannabis products awaiting disposal, including the name, the quantity, and the reasons for which the licensed medical cannabis business is maintaining the cannabis or cannabis products.

5622.4 In tracking its cannabis and cannabis products inventory, a licensed medical cannabis business shall:

(a) Update cannabis and cannabis product inventories on at least a daily basis;

(b) Conduct a monthly inventory audit of cultivated, stored, useable and unusable cannabis and cannabis products; and

(c) Conduct a comprehensive annual inventory audit at least once a year.

5622.5 The record of an inventory audit conducted pursuant to § 5622.4(b) or (c) shall include, at a minimum, the date of the audit, a summary of the audit findings, and the name, signature, and title of the person(s) who conducted the audit.

5622.6 A licensed medical cannabis business that becomes aware of a reportable loss, discrepancies identified during an audit, diversion, or theft whether or not the cannabis or cannabis products are subsequently recovered, or the responsible parties are identified, shall notify the Board within twenty-four (24) hours.

5622.7 For the purpose of this section, the phrase "unusable cannabis and cannabis products" means the seeds and roots of the cannabis plant, as well as any products derived therefrom.

A new Section 5623, MANUFACTURING RESTRICTIONS AT CULTIVATION CENTERS, is added to read as follows:

5623 MANUFACTURING RESTRICTIONS AT CULTIVATION CENTERS

5623.1 A cultivation center that does not hold a manufacturer's license may distribute and produce medical cannabis in the form of pre-rolls and bulk fresh or dried cannabis flower and other cannabis plant material.

5623.2 A cultivation center that does not possess a manufacturer's license shall not produce concentrates, edibles, infused edibles, lozenges, vaping products, tinctures, topicals, or any other product except those listed in 5623.1.

5623.3 A cultivation center that does not possess a manufacturer's license shall not extract THC, CBD, or other chemicals from cannabis plants.

A new Section 5624, RETAILER DELIVERY ENDORSEMENT, is added to read as follows:

5624 RETAILER DELIVERY ENDORSEMENT

5624.1 A retailer may apply for a retailer delivery endorsement, which shall authorize curbside pickup and off-site delivery of medical cannabis, medical cannabis products, and paraphernalia to qualifying patients and their caregivers.

5624.2 An internet retailer shall not be required to obtain a delivery endorsement to deliver medical cannabis, medical cannabis products, and paraphernalia off-site to qualifying patients and their caregivers.

5624.3 Medical cannabis that cannot be delivered shall be returned to the internet retailer or retailer. A retailer or internet retailer that uses the services of a licensed courier must accept returns during their hours of operation from the licensed courier if the courier determines that the patient's or caregiver's order is undeliverable.

5624.4 The internet retailer's or retailer's delivery driver(s) shall wear an employee badge when making deliveries.

5624.5 The internet retailer or retailer shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards to the internet retailer or retailer for verification prior to delivery, and the internet retailer or retailer shall maintain a copy of both as part of the internet retailer's or retailer's recordkeeping requirements;

5624.6 The qualifying patient or caregiver ordering the medical cannabis and medical cannabis products shall be physically present at the residence or the commercial building in the District where medical cannabis and medical cannabis products can be lawfully delivered. For purposes of this paragraph, "physically present at the residence" includes the residence's porch, driveway, or yard. The phrase does not include any place that is not included within the residence's property line, including the sidewalk or the curb.

5624.7 An internet retailer or retailer may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 7:00 a.m. and 11:00 p.m.

5624.8 The internet retailer or retailer shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical cannabis deliveries and shall maintain the records as part of the internet retailer and retailer's recordkeeping requirements.

5624.9 An internet retailer or retailer delivery driver shall only travel from the internet retailer and retailer to the driver's assigned delivery address(es) and return to the internet retailer and retailer.

5624.10 The internet retailer or retailer shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer and retailer's recordkeeping requirements.

5624.11 The internet retailer or retailer shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

5624.12 An internet retailer or retailer may use the services of a courier.

5624.13 An internet retailer or retailer shall only store medical cannabis at its licensed location unless stored at a courier's licensed premise in accordance with the time restrictions provided by the Act and this title.

A new Section 5625, SAFE-USE TREATMENT FACILITY, is added to read as follows:

5625 SAFE-USE TREATMENT FACILITY

5625.1 The holder of a retailer' license shall be eligible to apply for a Safe-Use Treatment Facility endorsement.

5625.2 An application for a Safe-Use Treatment Facility endorsement shall be filed as a substantial change.

5625.3 An applicant for a Safe-Use Treatment Facility shall provide an architectural map of the premises that identifies:

(a) The area to be covered by the endorsement;

(b) The location of all security cameras;

(c) All access doors and walls of the Safe-Use Treatment Facility;

(d) The location of the ventilation system and pollution or odor control unit;

(e) The smoke-free area for employees to monitor the facility; and

(f) All of the information required by section 7c(e)(2) of the Act (D.C. Official Code § 7-1671.06c(e)(2)).

5625.4 The holder of a Safe-Use Treatment Facility endorsement shall not permit odor, smoke, or by-products from the combustion of cannabis to be detectable by sense of smell in a separate residence or commercial property, whether located on the same lot or a separate lot, if emanating from the interior of the licensed premises.

5625.5 A Safe-Use Treatment Facility shall not offer disc jockeys, live bands and any other form of entertainment as provided by D.C. Official Code § 25-101(19A) and (21A). A Safe-Use Treatment Facility may offer prerecorded and background music, movies, television, radio, and other media that does not qualify as entertainment in accordance with D.C. Official Code § 25-101(19A) and (21A).

5625.6 Security cameras installed in the Safe-Use Treatment Facility shall record all areas where patients are permitted, except for the interior of bathrooms, and shall be operated in accordance with the rules governing security cameras as described in the Act and this title.

5625.7 No qualifying patient shall possess more medical cannabis than permitted by the medical cannabis quantity limit provided by the Act or this chapter.

A new Section 5626, SUMMER GARDEN ENDORSEMENT, is added to read as follows:

5626 SUMMER GARDEN ENDORSEMENT

5626.1 An applicant for or the holder of a retailer's license shall be eligible to apply for a Summer Garden if also issued Safe-Use Treatment Facility endorsement.

5626.2 An application for a Summer Garden endorsement shall be filed with the initial application for licensure or as a substantial change.

5626.3 An applicant for a Summer Garden shall provide an architectural map of the premises that identifies:

(a) The area to be covered by the endorsement;

(b) The location of all security cameras;

(c) All access doors and walls of the Summer Garden; and

(d) All of the information required by section 7c of the Act (D.C. Official Code § 7-1671.06c(e)(2)).

5626.4 The holder of a Summer Garden endorsement shall not permit odor, smoke, or by-products from the combustion of cannabis to be detectable by sense of smell in the

interior of a separate premise with its windows or doors closed.

5626.5 A Summer Garden may offer recorded and background music but shall not offer disc jockeys, live bands or any other form of entertainment or live performance as provided by D.C. Official Code §§ 25-101(19A) and 25-101(21A).

5626.6 Security cameras installed in the Summer Garden area shall record all areas where patients are permitted, except for the interior of bathrooms, and shall be operated in accordance with the rules governing security cameras as described in the Act and this title.

5626.7 No qualifying patient shall possess more medical cannabis than permitted by the medical cannabis quantity limit provided by the Act or this chapter.

A new Section 5627, MANDATORY TRAINING, is added to read as follows:

5627 MANDATORY TRAINING

5627.1 All directors, officers, members, incorporators, agents, employees, and managers shall receive training on the topics required by § 5105 at least once every three (3) years. The licensee shall maintain a written log or record on the licensed premises that must be made available to ABCA or the Board upon request for a period of at least four (4) years showing:

(a) The trainer or presenter;

(b) The date(s) and time(s) of the training;

(c) A list of the directors, officers, members, incorporators, agents, employees, and managers that attended the training; and

(d) The manner in which the training was provided (in-person class, online, etc.).

5627.2 No director, officer, member, incorporator, agent, or employee shall be required to obtain a medical cannabis training certificate from a Board-approved certified medical cannabis training provider in order to comply with § 5627.1. This subsection shall not apply to managers.

5627.3 A director, officer, member, incorporator, agent, or employee shall be initially trained on the topics required by § 5105 within thirty (30) calendar days of being registered with ABCA as either a director, officer, member, incorporator, agent or employee. This subsection shall not apply to managers.

A new Section 5628, MANAGEMENT AGREEMENT, is added to read as follows:

5628.1 A licensee or applicant who enters into a management agreement with a third-party for the management of a medical cannabis business shall provide the Board with a copy of the agreement within thirty (30) calendar days of execution.

5628.2 Notice of cancellation or termination of a management agreement shall be provided in writing to the Board within thirty (30) calendar days of the cancellation or termination.

Chapter 57, PROHIBITED AND RESTRICTED ACTIVITIES, is amended as follows:

Section 5700, SALE AND PURCHASE OF MEDICAL MARIJUANA BY DISPENSARIES, is renamed and amended to read as follows:

5700 SALE, PURCHASE, AND POSSESSION OF MEDICAL CANNABIS

5700.1 A licensed internet retailer or retailer shall not receive or purchase medical cannabis from a source other than a cultivation center or manufacturer licensed in the District of Columbia.

5700.2 It is a violation for the retailer to allow a person to possess, use, or consume any cannabis or cannabis products not sold or distributed by a licensed internet retailer or retailer.

Subsection 5700.3 is repealed.

Section 5703, DELIVERY OF MEDICAL MARIJUANA, is amended as follows:

The heading is amended to read as follows:

5703 DELIVERY OF MEDICAL CANNABIS

Subsection 5703.3 is amended to read as follows:

5703.3 A licensed internet retailer, retailer, or courier shall only be permitted to deliver medical cannabis, medical cannabis products, and paraphernalia to a qualifying patient or caregiver registered in the Program or to a non-resident qualifying patient if the internet retailer, retailer, or courier complies with the following requirements:

(a) The internet retailer, retailer, or courier shall register its delivery vehicles with the Board by completing a Board-issued application form and providing all required information, which shall include each vehicle's license plate number, vehicle identification number (VIN), and its make, model and color;

(b) There shall be no limit on the number of delivery vehicles that an internet retailer, retailer, or courier may register with the Board;

(c) A delivery vehicle shall not be marked with any signage, symbols, images, or advertisement identifying the vehicle as associated with medical cannabis;

(d) A delivery vehicle shall have a functioning global positioning system (GPS) to ensure that the most direct delivery route is followed;

(e) A delivery driver shall be an employee of the internet retailer or retailer or an employee or independent contractor of the courier;

(f) The internet retailer, retailer, or courier shall register the name and medical cannabis employee registration number of each delivery driver with the Board;

(g) Each delivery driver of an internet retailer, retailer, or courier shall have an active District of Columbia medical cannabis employee registration;

(h) Each delivery driver of an internet retailer, retailer, or courier shall have their ABCA issued registration card on their person when making deliveries;

(i) The internet retailer, retailer, or courier shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards, or relevant information contained therein, to the internet retailer, retailer, or courier for verification prior to delivery, and the internet retailer, retailer, or courier shall maintain a copy of both as part of the internet retailer, retailer's or courier's recordkeeping requirements;

(j) Prior to delivery, the internet retailer, retailer, or courier shall:

(1) Verify that the patient, or the patient and caregiver, is actively enrolled in the District's medical cannabis program or is a non-resident qualifying patient, by checking their medical cannabis registration card and comparing it to their records in order to ensure that the information matches;

(2) Verify that the delivery address is a residence or a commercial building address in the District that is not on federal or District government property or public or private school grounds;

(3) Maintain a copy of the Program or out-of-state or U.S. territory registration card and a copy of the valid government-issued identification card;

(4) Verify that the patient's requested amount does not exceed the legal

medical cannabis possession and sale limits, as set by section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)), 22-C DCMR § 301, and 22-C DCMR § 5709; and

(5) Receive and only accept an order by electronic or other means from a qualifying patient or the qualifying patient's caregiver or a non-resident qualifying patient.

(k) The internet retailer, retailer, or courier shall only make deliveries to residential or commercial building addresses located within the District that are not on federal or District government property or public or private school grounds, except as provided in Section 6a(c) of the Act (D.C. Official Code § 7-1671.05a(c)), to qualifying patients and caregivers registered in the District medical cannabis program or to non-resident qualifying patients as set forth in § 5703.2 when the patient or caregiver is physically present;

(l) The patient or caregiver ordering the medical cannabis shall be physically present at the residence or the commercial building in the District where medical cannabis can be lawfully delivered. For purposes of this paragraph, "physically present at the residence" includes the residence's porch, driveway, or yard. The phrase does not include any place that is not included within the residence's property line, including the sidewalk or the curb;

(m) The internet retailer, retailer, or courier may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 7:00 a.m. and 11:00 p.m.;

(n) The internet retailer, retailer, or courier shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical cannabis deliveries and shall maintain the records as part of the internet retailer or retailer's recordkeeping requirements. If, in an enforcement action pursuant to Chapter 10 or Chapter 62 of this subtitle, a patient or caregiver disputes receiving the medical cannabis and the internet retailer or retailer does not have documentation proving the delivery occurred, the Board shall apply a rebuttable presumption that the delivery did not occur;

(o) An internet retailer, retailer, or courier delivery driver shall only travel from the internet retailer, retailer or courier to the driver's assigned delivery address(es) and return to the internet retailer, retailer, or courier;

(p) The internet retailer, retailer, or courier shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer or retailer's recordkeeping requirements; and

(q) The internet retailer, retailer, or courier shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

Subsection 5703.4 is amended to read as follows:

5703.4 A retailer may dispense medical cannabis through curbside pickup or at-the-door pickup to a qualifying patient or caregiver or non-resident qualifying patient only if the retailer holds a retailer delivery endorsement and complies with the following requirements:

(a) The retailer shall only be permitted to dispense medical cannabis through curbside pickup or at-the-door pickup to a qualifying patient or caregiver registered in the Program, or to a patient enrolled in another state's medical cannabis program who is recognized by the Board, as evidenced by a state-issued medical cannabis patient card and with a government-issued identification card. A retailer that dispenses medical cannabis to individuals who possess cards issued by unauthorized entities on the Internet or states that are not yet recognized by the Board shall be subject to disciplinary action up to and including revocation of registration;

(b) The retailer shall implement a mechanism or process for a patient or a District registered caregiver to submit a copy of the patient or registered caregiver's, medical cannabis registration card and the patient or registered caregiver's, government-issued identification card to the retailer for verification prior to dispensing. The retailer shall maintain a copy of both as part of the retailer's recordkeeping requirements;

(c) Prior to dispensing, the retailer shall:

(1) Verify that the patient, or patient and registered caregiver, is actively registered in the District's medical cannabis program, or that the non-resident patient is actively enrolled in another state's medical cannabis program;

(2) Maintain a copy of the medical cannabis program or out of state or U.S. territory registration card and a copy of the government-issued identification card; and

(3) Verify that the patient's requested amount does not exceed the legal medical cannabis possession and sale limits, as set by section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)), 22-C DCMR § 301, and 22-C DCMR § 5709.

(d) The retailer shall implement procedures to ensure that curbside pickup or at-the-door pickup is completed quickly and efficiently; and

(e) The retailer shall implement a mechanism or recordkeeping process for patients to document receipt of curbside pickup or at-the-door pickup and shall maintain the records as part of the retailer's recordkeeping requirements.

5703.5 At the retailer's discretion, the retailer may require electronic payment before scheduling a delivery, curbside pickup, or at-the-door pickup; may limit deliveries, curbside pickup, and or at-the-door pickup to electronic payment only.

5703.6 A cultivation center shall not be permitted to deliver medical cannabis to any premises other than the specific licensed premises of the internet retailer or retailer where the medical cannabis is to be sold for resale to qualifying patients and caregivers.

Section 5706, TIE-IN PURCHASES PROHIBITED, is amended to read as follows:

5706 TIE-IN PURCHASES PROHIBITED

5706.1 A cultivation center or manufacturer shall not require, directly or indirectly, a licensee to purchase any type of medical cannabis, medical cannabis product, paraphernalia, or other commodity in order to purchase any other medical cannabis product.

5706.2 An internet retailer or retailer shall not require, directly or indirectly, a qualifying patient or caregiver to purchase any type of medical cannabis, medical cannabis product, paraphernalia, or other commodity in order to purchase any other medical cannabis product.

Section 5707, MINIMUM AGE AND ENTRY REQUIREMENTS, is amended as follows:

Subsection 5707.8 is amended to read as follows:

5707.8 In the event of an emergency, a licensed medical cannabis business shall be permitted to provide an outside contractor with access to a limited or restricted access area for the sole purpose of making repairs when not open to the public. The licensed medical cannabis business shall be required to log in and out the outside contractor and retain with the log a photocopy of the outside contractor's government issued identification.

Section 5709, MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS, is renamed and amended to read as follows:

5709 MEDICAL CANNABIS SALE, DISTRIBUTION, AND DISPENSING RESTRICTIONS

5709.1 A courier, internet retailer, or retailer shall not provide a qualifying patient or caregiver more than the legal medical cannabis possession limit, as set by Section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)) and 22-C DCMR § 301.

5709.2 The maximum amount of medical cannabis an internet retailer or retailer, whether individually or in combination, may distribute, dispense, or sell to a qualifying patient directly or through their caregiver, in a 30-day period, is:

(a) Eight (8) ounces of dried medical cannabis; or

(b) Two hundred and forty (240) grams of medical cannabis concentrate for a patient 21 years old of age or older, or sixty (60) grams of medical cannabis concentrate for a patient between 18 and 20 years old; or

(c) Medical cannabis products in any form containing a combined total of 600,000 mg of THC.

5709.3 The maximum amount limits set forth in paragraphs (b) and (c) of this subsection shall take effect on October 2, 2023.

5709.4 It shall be an affirmative defense to a violation of 5709.2 that the District's electronic inventory tracking system did not indicate at the time of sale that the patient had reached their 30-day quantity limit at the time the transaction occurred.

5709.5 An internet retailer or retailer shall dispense medical cannabis and distribute paraphernalia only to a qualifying patient or caregiver.

Chapter 59, RECORDS AND REPORTS, is amended as follows:

Section 5900, CULTIVATION CENTER BOOKS AND RECORDS, is renamed and amended to read as follows:

5900 CULTIVATION CENTER AND MANUFACTURER BOOKS AND RECORDS

5900.1 Each licensed cultivation center or manufacturer shall keep and maintain upon the licensed premises true, complete, legible, and current books and records, including the following:

(a) The date of each sale to a licensee;

(b) The name, address, and license number of the licensee;

(c) The quantity of medical cannabis and paraphernalia sold to the licensee;

(d) The price charged, and the amount received for the medical cannabis from

the licensee;

(e) The quantity and form of medical cannabis maintained by the business;

(f) The number of plants being grown at the cultivation center on a daily basis; and

(g) The results of the testing laboratory analysis for five (5) years from the date of the test.

5900.2 These books and records, excluding the requirement in paragraph (g) of this subsection, shall be maintained by the cultivation center or manufacturer for a period of four (4) years.

Section 5901, CULTIVATION CENTER INVOICES, is amended as follows:

The heading is amended to read as follows:

5901 CULTIVATION CENTER AND MANUFACTURER INVOICES

Subsection 5901.1 is amended to read as follows:

5901.1 With each sale of medical cannabis, the cultivation center and manufacturer shall cause to be made in duplicate an invoice of the sale showing the following information:

(a) The date of each sale to a licensee;

(b) The name, address, and license number of the licensee;

(c) The form and quantity of medical cannabis and paraphernalia in each sale;

(d) The price of each item in each sale with the total price; and

(e) A true, accurate, legible, and complete statement of the terms and conditions on which the sale is made.

Section 5902, DISPENSARY BOOKS AND RECORDS, is renamed and amended to read as follows:

5902 COURIER AND RETAILER BOOKS AND RECORDS

5902.1 Each courier, internet retailer, and retailer shall keep and maintain upon the licensed premises, true, complete, and current books and records which include invoices that adequately and fully reflect all purchases and sales of medical cannabis made to and by the licensee.

5902.2 Records shall include and distinctly show the following information:

(a) The quantity, form, and price of medical cannabis and paraphernalia purchased from a licensee;

(b) The date and time of delivery of each purchase from a licensee;

(c) The date and time of each sale to a qualifying patient or caregiver;

(d) The quantity, form, and price of medical cannabis distributed or dispensed to the qualifying patient or caregiver;

(e) The consideration given by the qualifying patient or caregiver for the medical cannabis;

(f) The name, address, and card number of the qualifying patient or caregiver of the medical cannabis;

(g) The name, initials, or employee identification number of the person who dispensed or sold the medical cannabis; and

(h) The quantity of medical cannabis still available for sale at the licensed establishment.

Section 5903, CULTIVATION CENTER REPORTS, is renamed and amended to read as follows:

5903 CULTIVATION CENTER AND MANUFACTURER REPORTS

5903.1 Cultivation center and manufacturer licensees shall, on or before the thirtieth (30th) day of July and January, furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity of medical cannabis or medical cannabis product manufactured during the preceding six (6) months;

(b) The quantity of each medical cannabis or medical cannabis product sold during the preceding six (6) months;

(c) The quantity of paraphernalia manufactured during the preceding six (6) months;

(d) The quantity and price of paraphernalia sold during the preceding six (6) months;

(e) The amount of medical cannabis or medical cannabis products destroyed or disposed of during the preceding six (6) months;

(f) Certification from MPD that medical cannabis that was cultivated or the medical cannabis products were relinquished for destruction or disposal;

(g) The total expenditures for manufacturing medical cannabis or medical cannabis products during the preceding six (6) months;

(h) The total amount of sales of medical cannabis or medical cannabis products during the preceding six (6) months;

(i) The licensee's gross revenue based upon its medical cannabis or medical cannabis product sales during the preceding six (6) months;

(j) The amount of sales tax reported to OTR during the preceding six (6) months;

(k) The quantity of medical cannabis or medical cannabis products still available for sale at the establishment on the date the report is filed with the Board;

(l) The name, address, home telephone number, and date of birth of each current employee; and

(m) An affidavit executed by an individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the submitted report.

Section 5904, DISPENSARY REPORTS, is renamed and amended to read as follows:

5904 COURIER AND RETAILER REPORTS

5904.1 On or before the thirtieth (30th) day of July and January, a courier, internet retailer or retailer licensee shall furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity and price of medical cannabis or medical cannabis products distributed or dispensed to qualifying patients and caregivers during the preceding six (6) months;

(b) The licensee's total expenditures for distributing or dispensing medical cannabis or medical cannabis products during the preceding six (6) months;

(c) The licensee's total amount of receipts for the sale of medical cannabis or medical cannabis products;

(d) The quantity of paraphernalia sold by the licensee during the preceding six (6) months;

(e) The licensee's gross revenue based upon its medical cannabis, medical cannabis products, and paraphernalia sales during the preceding six (6) months;

(f) The amount of sales tax reported by the licensee to OTR during the preceding six (6) months;

(g) The amount of medical cannabis or medical cannabis products that were destroyed or disposed of during the preceding six (6) months;

(h) Certification from MPD that the medical cannabis or medical cannabis products described in paragraph (g) were relinquished for destruction or disposal;

(i) The quantity of medical cannabis or medical cannabis products still available for sale at the licensee on the date the report is filed with the Board;

(j) The name, address, home telephone number, and date of birth of each current employee; and

(k) An affidavit executed by an individual registrant, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the submitted report.

Section 5906, RETENTION AND INSPECTION OF BOOKS AND RECORDS, is amended to read as follows:

5906 RETENTION AND INSPECTION OF BOOKS AND RECORDS

5906.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Board, ABCA's Enforcement Division, or any other District agency that may have jurisdiction over the establishment, including OTR, Department of Licensing and Consumer Protection, the Department of Buildings, and D.C. Fire and Emergency Medical Services Department, during the establishment's approved hours of operation.

5906.2 A licensed medical cannabis business shall keep and maintain all books and records referred to in this chapter on the licensed premises for a period of four (4) years after the latest transaction recorded in those books and records.

Section 5907, REPORTING DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, EMPLOYEE, AND MANAGER CHANGES, is renamed and amended to read as follows:

5907 REPORTING CORPORATE OFFICER, MANAGER, AND OTHER LICENSED STAFF CHANGES

5907.1 A licensed medical cannabis business shall notify the Board within ten (10) days after a registered director, officer, member, incorporator, agent, employee, or manager ceases to work at, volunteer at, manage, or own the operation. The director, officer, member, incorporator, agent, employee, or manager shall surrender their identification card to the Board within ten (10) days of ceasing to work at, manage, own, or otherwise be associated with the operation.

Chapter 60, BOARD APPROVAL PROCEDURES, is repealed.

Chapter 61, MANDATORY REVOCATION AND MANDATORY SUSPENSION, is amended as follows:

Section 6100, MANDATORY REVOCATION OR SUSPENSION OF REGISTRATION, is amended to read as follows:

6100 [RESERVED]

Chapter 62, ENFORCEMENT PROCEEDINGS AND HEARINGS, is amended as follows:

Section 6200, COMPLAINTS AGAINST DISPENSARIES, CULTIVATION CENTERS, AND AFFILIATED EMPLOYEES OR OFFICERS, is amended to read as follows:

6200 [RESERVED]

Section 6201, REVOCATION, SUSPENSION, OR FINES - GENERAL PROVISIONS, is amended as follows:

The heading is amended to read as follows:

6201 REVOCATION AND SUSPENSION – GENERAL PROVISIONS

A new subsection 6201.6 is amended to read as follows:

6201.6 Upon revocation, the remaining medical cannabis stock of the license whose license has been revoked shall be disposed of only with the approval of the Board.

Subsections 6201.7 and 6201.8 are repealed.

Section 6202, NOTICE OF CONTEMPLATED ACTION AND HEARING, is amended

to read as follows:

6202 [RESERVED]

Section 6203, NOTICE OF SUMMARY SUSPENSION OR SUMMARY REVOCATION ACTION AND HEARING, is renamed and amended to read as follows:

6203 SUMMARY SUSPENSION OR REVOCATION

6203.1 If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, or restrict, without a prior hearing, the license to sell, manufacture, distribute, or deliver medical cannabis, medical cannabis products or paraphernalia in the District.

6203.2 The Board, after investigation, may also summarily revoke, suspend, or restrict the license of a licensee when the preponderance of the evidence shows that the establishment has been:

(a) The scene of a criminal assault as defined in Chapter 4 of Title 22 of the D.C. Official Code, or a crime of violence, as defined in D.C. Official Code § 23-1331(4), against a police officer, government inspector or investigator, or other governmental official, who was acting in their official capacity, when such assault occurred by patrons who were within 1,000 feet of the establishment;

(b) In violation of the District of Columbia Controlled Substances Act or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et* seq.); or

(c) The scene of an assault or crime of violence, as defined in D.C. Official Code § 23-1331(4), against a patient or caregiver by the ownership, management, employees, or agents of a licensed medical cannabis business.

6203.3 The notice of summary suspension or revocation shall contain the following:

(a) A statement setting forth the reasons for the action and any proposed action, including a specification of any specific violation complained of;

(b) Reference to any particular section of the Act or this subtitle allegedly violated;

(c) A date of both a show cause status and evidentiary show cause hearing as well as the contact information for the assigned Office of Attorney General attorney, if known;

(d) A statement that the Board may proceed *ex parte* if the registrant does not appear for the show cause hearing.

(e) A statement that operations must cease immediately, with the exception of necessary tending requirements by cultivation centers;

(f) A statement that the licensed medical cannabis business must submit to an immediate inventory of all medical cannabis items on the premises by ABCA investigators;

(g) A statement that the licensed medical cannabis business must surrender all registration cards and permits associated with the licensed medical cannabis business to the Board within twenty-four (24) hours of receiving the summary suspension notice;

(h) A statement setting forth the reasons for the summary action, including a specification of any specific violation complained of;

(i) A statement that the registrant may request an immediate hearing before the Board for the purpose of determining whether the suspension shall continue in accordance with § 6203.5; and that

(j) A statement that a person aggrieved by a final summary action may file an appeal with the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat.1204; D.C. Official Code § 2-501 et seq.).

6203.4 If the Board orders the suspension or revocation of a license, the Board shall post two (2) notices in conspicuous places at or near the main street entrance of the outside of the establishment. The posted notice shall state that the license has been suspended, the period of the suspension, and that the suspension is ordered because of an alleged violation of the Act or of the regulations promulgated under the Act. Any licensee willfully removing, obliterating, or defacing the notice shall be guilty of a violation of this chapter.

6203.5 A licensee may request a hearing within three (3) business days after service of notice of a summary revocation, suspension, fine, or restriction of license. The Board shall hold a hearing within two (2) business days of receipt of a timely request and shall issue a decision within three (3) business days after the hearing.

6203.6 In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, after issuing a decision, the Board may hold additional proceedings to review, amend, or vacate the Board's Order, to ensure compliance with any conditions and to monitor the licensee's operations.

6203.7 A request for a hearing under this chapter shall include the following:

(a) A statement of the facts relevant to the review of the action;

(b) A statement of the arguments that the respondent considers relevant to the review of the action; and

(c) Any other evidence considered relevant.

6203.8 If the registrant fails to request a hearing within the time and in the manner specified in the notice, the summary suspension shall become final and shall continue unless duly reversed by the Board.

6203.9 A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in the DC APA.

6203.10 The decision rendered by the Board following a hearing conducted pursuant to this section shall be the final order in the matter. Either party may seek review of the Board's decision with the District of Columbia Court of Appeals in accordance with the DC APA.

Section 6205, NOTICE TO DISTRICT AGENCIES, is amended to read as follows:

6205 NOTICE TO DISTRICT AGENCIES

6205.1 The Board shall provide written notice to MPD of any decision that results in the suspension or revocation of a license held by licensed medical cannabis business.

Section 6206, NOTICE OF SUSPENSION OR REVOCATION TO PUBLIC, is amended as follows:

Subsection 6206.1 is amended to read as follows:

6206.1 If a license held by a licensed medical cannabis business is revoked or suspended, the Board shall post two (2) notices in conspicuous places at or near the main street entrance of the outside of the establishment.

Section 6207, EXAMINATION OF PREMISES AND BOOKS AND RECORDS, is repealed.

A new Section 6210, CEASE AND DESIST, is added to read as follows:

6210 CEASE AND DESIST

6210.1 The Board, in its discretion, may issue a cease-and-desist order immediately suspending a license, following the process described in § 6210.2, when one (1) of the following has occurred:

(a) The licensee has been issued a notice of summary suspension by the Department of Health;

(b) The licensee's basic business license has expired;

(c) The licensee's certificate of occupancy has been revoked or expired;

(d) The licensee's sales tax certificate has been suspended or revoked by the OTR;

(e) The corporation, limited liability company, partnership, or other entity owning the license is no longer in good standing to operate in the District;

(f) The licensee has failed to pay a Board-ordered fine or a citation by the payment deadline; or

(g) Payment has been made to ABCA with a check returned unpaid.

6210.2 The Board shall give written notice to the licensee of its intent to issue a cease-and-desist order. The licensee shall have fourteen (14) calendar days to respond to the notice. If the Board thereafter determines that one of the circumstances described in § 6210.1 has occurred, and that the licensee's failure to address the issues set forth in § 6210.1 is not for good cause, the Board shall issue the cease-and-desist order.

A new Section 6211, CANCELLATION DUE TO EVICTION, is added to read as follows:

6211 CANCELLATION DUE TO EVICTION

6211.1 If the Board, after an investigation, but before a hearing, has cause to believe that a licensee has been evicted from the premises or has otherwise vacated the premises and an application for safekeeping or transfer to a new location or person has not been submitted, the Board shall issue an order cancelling the license after providing the licensee with written notice of the basis for the cancellation and 30 days to submit:

(a) A written request to the Board to hold a hearing or decision on the papers; and

(b) Evidence disputing the basis for the cancellation.

6211.2 The Board, in its reasonable discretion, may adjudicate the cancellation appeal on the papers without holding a hearing if there is no dispute regarding any material facts.

A new Section 6212, REQUEST FOR HEARING ON CITATION, is added to read as follows:

6212 REQUEST FOR HEARING ON CITATION

6212.1 A licensee may challenge the issuance of a citation issued by an ABCA Investigator by requesting a show cause hearing before the Board either in writing or on a form provided by ABCA. The written request for a show cause hearing must be received by ABCA within thirty (30) days from the date that the citation was issued to the establishment.

A new Section 6213, OFFER-IN-COMPROMISE, is added to read as follows:

6213 OFFER-IN-COMPROMISE

6213.1 The Board may, in its discretion, accept from the licensee and the Office of the Attorney General for the District of Columbia an offer-in-compromise to resolve the charges brought by the District of Columbia against the licensee.

6213.2 An offer-in-compromise may be presented to the Board at the show cause status hearing or show cause hearing.

6213.3 The offer-in-compromise shall be consistent with the range of fines set forth in this title.

6213.4 An offer-in-compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

6213.5 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review and other hearing rights granted by this title, the regulations, and the D.C. Administrative Procedure Act.

Chapter 63, SLIDING SCALE PROGRAM, is renumbered as Chapter 98 and the sections and subsections are renumbered as appropriate.

A new C
hapter 63, PENALTIES, is added to read as follows:

CHAPTER 63 PENALTIES

6300 ABCA CIVIL PENALTY SCHEDULE

6300.1 [Reserved for Civil Penalty Chart]

6300.2 The penalties contained under this section shall become effective after the completion of the Council review described in D.C. Official Code § 7-1671.08(e),

and then five (5) days after publication in the *District of Columbia Register*.

6300.3 None of the descriptions contained in the civil penalty schedule shall be construed to expand, limit, or define any specific violation.

6300.4 Whether violations are classified as primary tier or secondary tier shall be determined with reference to the ABCA civil penalty schedule in effect when the violation was committed.

6301 PRIMARY TIER VIOLATIONS

6301.1 The Board may fine a licensee for a primary tier violation after a show cause hearing as follows:

(a) For the first primary tier violation, the fine shall be $ 1,000-$ 2,000;

(b) For the second primary tier violation within two (2) years, the fine shall be $ 2,000-$ 4,000;

(c) For the third primary tier violation in three (3) years, the fine shall be $ 4,000-$ 6,000;

(d) For the fourth primary tier violation in four (4) years, the license shall be revoked or fined no less than $30,000 and suspended for thirty (30) consecutive days; and

(e) For the fifth primary tier violation in four (4) years, the license shall be revoked.

6302 SECONDARY TIER VIOLATIONS

6302.1 The Board may fine a licensee for a secondary tier violation at a show cause hearing as follows:

(a) For the first secondary tier violation, $250-$500;

(b) For the second secondary tier violation within two (2) years, $500-$750;

(c) For the third secondary tier violation within three (3) years, $750-$1,000; and

(d) A licensee found in violation of a secondary tier violation for the fourth time within four (4) years shall be penalized according to a first primary tier violation ($1,000-2,000). Every subsequent secondary tier offense within five (5) years of the first violation shall be fined according to the schedule for primary tier violations.

6303 CITATIONS

6303.1 ABCA investigators may issue citations for primary tier, secondary tier, and other violations of the Act and this title.

6303.2 If the licensee admits guilt for a violation listed in a citation, the licensee shall only pay the minimum fine for the offense based on the type and level of the offense, as indicated in §§ 6301 and 6302.

6304 WARNINGS

6304.1 An ABCA investigator may issue an administrative written warning before the issuance of a citation for a violation.

6304.2 In not less than ten (10) business days following the issuance of an administrative written warning, an ABCA investigator shall conduct a subsequent inspection of the licensed premises to ensure that the licensee has taken corrective action for the violation found for which the administrative written warning was issued. If corrections to violations that resulted in the issuance of the administrative written warning are not completed at the time of the subsequent inspection, the ABCA investigator shall issue the licensee a citation or refer the matter to the ABC Board if:

(a) Other violations that are not entitled to a warning are observed; or

(b) The licensee already has three or more secondary tier violations.

6304.3 A licensee entitled to a mandatory administrative written warning for a first violation shall not be entitled to a mandatory administrative written warning for a second or subsequent violation of the same offense committed within four (4) years of issuance of the first mandatory administrative written warning.

6305 VIOLATION HISTORY COMPUTATION

6305.1 This section applies to all instances that require a computation of a person's or licensee's violation history.

6305.2 The review period for computing the number of a licensee's prior primary and secondary tier violations commences on the date of violation in the instant case and runs backward for the number of years specified in this section.

6305.3 The computation of violation history shall only include prior adjudicated cases whose dates of adjudication fall within the applicable review period for the instant case.

6305.4 The date of adjudication for computation purposes shall be the date:

(a) The citation was paid;

(b) A final written order finding liability has been issued by the Board;

(c) A staff settlement was paid; or

(d) The date an offer-in compromise was accepted by the Board.

6305.5 The computation shall not include:

(a) Any violation that has not been adjudicated as of the date of the violation in the instant case; or

(b) Any adjudicated case whose date of adjudication falls outside of the review period.

6305.6 A licensee shall be found liable for a second, third, or additional level primary or secondary tier violation, whichever is applicable, if one (1) of the prior violations of the same tier was adjudicated within look back period from the date of violation in the instant case.

6305.7 Each date upon which a violation is committed shall constitute a separate violation.

6305.8 When a violation requires multiple instances, a continuous course of conduct, or other ongoing acts to sustain a charge, the date of the violation shall be the last date on which any act related to the violation occurred.

6305.9 If multiple secondary tier violations are committed on the same date, they will be counted as one (1) violation for purposes of computing a licensee's violation history.

6305.10 If the Board suspends a respondent's license but stays the suspension:

(a) The stay shall commence on the date of adjudication and conclude on the one (1)-year anniversary of that date; and

(b) The stay shall be revoked and the suspension imposed upon adjudication of any subsequent violation within the stay period.

6305.11 Written warnings, either issued by the Board or by citation, are not counted as violations for computation purposes.

6306 COLLECTION OF FINES

6306.1 Any fines collected by the Board shall be paid immediately, unless otherwise ordered by the Board, to the D.C. Treasurer.

Chapter 64, TESTING LABORATORIES, is amended as follows:

Sections 6401 and 6402 are amended to read as follows:

6401 GENERAL PROVISIONS

6401.1 A testing laboratory shall not be owned or operated, in whole or in part, by a director, officer, member, incorporator, agent, or employee of a cultivation center, manufacturer, internet retailer, retailer, or testing laboratory.

6401.2 No owner, member, manager, employee, or agent of a testing laboratory shall have an ownership interest in, or a direct or indirect financial interest in any other licensed medical cannabis business except for one (1) or more testing laboratories.

6401.3 A testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products in the District of Columbia unless the laboratory has been issued a medical cannabis license.

6401.4 Medical cannabis or medical cannabis products shall be sold only after a representative sample has been tested by a registered testing laboratory and the test results have been uploaded to the District of Columbia's electronic tracking system, which verify the medical cannabis sample has received passing results.

6401.5 A testing laboratory shall not cultivate, process, manufacture, distribute, provide, or sell medical cannabis or medical cannabis products in any form.

6401.6 A testing laboratory shall not permit the consumption of medical cannabis or medical cannabis products in any form on the premises.

6401.7 A testing laboratory shall not share a facility with a licensed medical cannabis business but may operate in the same building so long as it has its own separate space.

6401.8 A testing laboratory shall not falsify, change, modify, or otherwise alter in any way the results of quantitative or other analyses performed on samples or the corresponding certificates of analysis.

6401.9 A testing laboratory shall not employ any sampling methods that do not ensure that a random sample is collected for analysis, or that could provide results that are not representative of a batch or lot from which a sample is taken.

6401.10 A testing laboratory shall not prepare samples in such a manner as to provide results that are not representative of a batch or lot from which a sample is taken.

6401.11 A testing laboratory shall not store medical cannabis or medical cannabis products

in quantities greater than that which is necessary to perform required analysis.

6401.12 A testing laboratory shall not transport medical cannabis or medical cannabis products in quantities greater than that which is necessary to perform required analysis.

6401.13 A testing laboratory shall not perform analysis on any medical cannabis or medical cannabis products that has not been obtained from a licensed medical cannabis business.

6401.14 A testing laboratory shall not perform analysis on any medical cannabis or medical cannabis product that has not been identified in the real-time electronic records system.

6401.15 A testing laboratory shall not endorse, advertise, or make claims on behalf of any cultivation center, dispensary, brand or strain of medical cannabis, or brand or type of medical cannabis product.

Section 6402, TESTING LABORATORY REGISTRATION APPLICATION REQUIREMENTS AND SELECTION PROCESS, is renamed and amended to read as follows:

6402 TESTING LABORATORY LICENSE APPLICATION

6402.1 In addition to the requirements contained in the Act and other provisions of this title, an application for a testing laboratory license shall also contain the following:

(a) A laboratory testing plan that demonstrates the applicant's knowledge, experience, training, and applicable certifications in laboratory testing techniques, and ability to provide and ensure quality assurance, quality control, proficiency testing, analytical processes, chain of custody, sample retention, space, recordkeeping, results reporting, and corrective action protocols and a timeline for obtaining accreditation, if applicable;

(b) A notarized written statement from the applicant that he or she has read the Act and this subtitle and has knowledge of the District and federal laws and regulations relating to medical cannabis; and

(c) Information regarding whether the applicant has qualified as a medical cannabis certified business enterprise or social equity applicant or is eligible to qualify as a medical cannabis certified business enterprise or social equity applicant.

Section 6407, STANDARD OPERATING PROCEDURE REQUIREMENTS, is amended as follows:

Section 6407 is renumbered as Section 6501, its subsections renumbered as appropriate, and Section 6407 is repealed.

Section 6409, TESTING REQUIREMENTS AND METHODOLOGIES, is amended as follows:

Section 6409 is renumbered Section 6502, subsections renumbered as appropriate, and Section 6409 is repealed.

Newly numbered Subsection 6502.20 shall be amended as follows:

6502.20 [REPEALED]

Newly renumbered Subsection 6502.21, Table G, is amended by striking the number "10,000" and inserting the number "100,000" in its place.

Section 6410, RESULT REPORTING, is amended as follows:

Section 6410 is renumbered Section 6510, its subsections renumbered as appropriate, and Section 6410 is repealed.

A new Chapter 65, CANNABIS TESTING, is added:

A new Section 6500 is added, which shall read as follows:

6500 MEDICAL CANNABIS TESTING REQUIREMENT

6500.1 Upon the issuance of a testing laboratory license, ABCA shall provide notice in the *District of Columbia Register* that a testing lab has become operational and that the testing requirement is in effect.

6500.2 Once notice of the issuance of a testing lab is issued in the *District of Columbia Register*, no medical cannabis or medical cannabis product shall be sold or distributed to an internet retailer, manufacturer, retailer, qualifying patient or caregiver until it has been tested and determined to be unadulterated as provided by this title.

6500.3 No licensee shall distribute, sell, or transfer adulterated medical cannabis to another licensee or person unless the product is being sent to a testing laboratory for the purposes of testing in compliance with the Act and this subtitle, for the purposes of disposal or destruction, complying with a court order, law enforcement investigation, or order of the Board.

6500.4 Section 6503 through 6600 shall not apply to the testing of medical cannabis samples provided by qualifying patients in accordance with the Act.

6500.5 Section 6503 through 6600 shall not apply to the testing of medical cannabis samples from cultivation centers and manufacturers for the purposes of quality assurance, research, and development in accordance with the Act so long as such samples are not dispensed, distributed, or sold to internet retailers, retailers, or the public.

6501 STANDARD OPERATING PROCEDURE REQUIREMENTS

6501.1 A testing laboratory shall have a written manual of standard operating procedures, with detailed instructions for performing each testing method the testing laboratory uses and the minimum standards for each test. The written manual of standard operating procedures must be available to each employee at the testing laboratory at all times.

6501.2 A testing laboratory shall establish, maintain, implement, and comply with the policies and procedures contained in its manual of standard operating procedures. At a minimum, a facility's standard operating procedures shall include policies and procedures that:

(a) Designate areas in the facility that are compartmentalized based on function, including any areas to which access is restricted, and including areas that segregate samples awaiting analysis from those samples being analyzed or prepared for analysis, to prevent cross-contamination;

(b) Provide best practices for safe, secure, and proper testing of medical cannabis;

(c) Establish training and safety policies and procedures to ensure that any person involved in analytical testing of medical cannabis:

(1) Has been fully trained in the safe operation and maintenance of any and all instrumentation that will be used in the testing of medical cannabis, with supporting documentation of the training;

(2) Has been fully trained in the safe use, handling, and storage of any and all chemicals that will be used in the testing of medical cannabis, in accordance with OSHA protocols, with supporting documentation of the training;

(3) Has direct access to applicable safety data sheets and labels; and

(4) Has been fully trained regarding compliance with the District’s laws and regulations;

(d) Ensure the chain of custody for all medical cannabis will be documented in the inventory tracking system;

(e) Ensure the facility will be maintained with adequate lighting, ventilation, temperature, sanitation, equipment, and security for the testing of medical cannabis, including requiring that the testing laboratory shall:

(1) Keep the facility free of debris, dust, rodents, insects, birds, and animals of any kind, and any other potential contaminants;

(2) Use chemicals, cleaning solutions, and other sanitizing agents generally accepted for laboratory use, and store them in a manner that protects against contamination;

(3) Maintain a cleaning and equipment maintenance log at the facility, including any preventive and routine maintenance plans and corresponding records, and whether the maintenance is performed by laboratory staff or by service contract with third-parties or the original equipment manufacturer;

(4) Routinely calibrate its scales, balances, or other weight and/or mass measuring devices using "National Institute of Standards and Technology" (NIST)-traceable reference weights, at least once each calendar year; and

(5) Standardize all analytical test instrumentation using reference materials traceable to reference material producers accredited to ISO/IEC 17034 "General Requirements for the Competence of Reference Material Producers" or the national metrology institute (NMI), where available;

(f) Address the analysis, storage, sample inventory tracking, and transportation of plant material, medical cannabis extract, and medical cannabis products; and

(g) Address the following:

(1) Sample Collection;

(2) Sample preparation for each matrix that will be tested;

(3) Reagent, solution, and reference standard preparation;

(4) Instrument setup, if applicable;

(5) Standardization of volumetric reagent solutions, if applicable;

(6) Data acquisition;

(7) Calculation of results;

(8) Identification criteria;

(9) Quality control frequency;

(10) Quality control acceptance criteria; and

(11) Corrective action protocol.

6501.3 The Laboratory Director shall approve, sign, and date each standard operating procedure and each revision to any standard operating procedure.

6501.4 A testing laboratory shall establish and maintain procedures to document a clear and unbroken chain of custody at all stages from sampling to destruction, which shall include:

(a) Documenting each person handling the original samples, aliquots, and extracts;

(b) Documenting any transfer of samples, aliquots, and extracts to another testing facility for additional testing or transfer at the request of the cannabis cultivation facility that provided the testing sample;

(c) Maintaining a current list of authorized persons and restricting entry to the cannabis testing facility to those authorized persons;

(d) Securing the cannabis testing facility during non-working hours;

(e) Using a secured area to log in and aliquot samples; and

(f) Documenting the disposal of samples, aliquots, and extracts.

6501.5 A testing laboratory shall establish and maintain sample requirement procedures that include:

(a) Issuing instructions for the minimum sample requirements and storage requirements;

(b) Documenting the condition of the external package and integrity seals utilized to prevent contamination of or tampering with the sample;

(c) Documenting the condition and amount of sample provided at the time the sample is received at the cannabis testing facility;

(d) Securing short-term and long-term storage areas when not in use; and

(e) Ensuring samples are stored appropriately.

6501.6 A testing laboratory shall document the chain of custody of each sample in the Board's medical cannabis inventory tracking system.

6502 TESTING REQUIREMENTS AND METHODOLOGIES

6502.1 Each testing laboratory shall:

(a) Follow the most current version of the "*Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control*" monograph published by the American Herbal Pharmacopoeia;

(b) Follow the most current version of "*Recommendations for Regulators -- Cannabis Operations*" published by the American Herbal Products Association;

(c) Follow most current version of the "*Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals – An Aid to the Interpretation of ISO/IEC 17025:2005 (2015")* published by AOAC International;

(d) Adopt and follow most current version of the minimum good laboratory practices which must, at a minimum, satisfy the "*OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring*" published by the Organization for Economic Co-operation and Development;

(e) Maintain internal standard operating procedures; and

(f) Maintain a quality control and quality assurance program.

6502.2 A testing laboratory shall use, when available, testing methods that have undergone validation by the "Official Methods of Analysis of AOAC International," the Performance Tested Methods Program of the Research Institute of AOAC International, the "Bacteriological Analytical Manual" of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the "Microbiology Laboratory Guidebook" of the Food Safety and Inspection Service of the United States Department of Agriculture or an equivalent third-party validation study approved by the Board.

6502.3 A testing laboratory shall test and analyze a statistically representative sample from each batch of medical marijuana or medical marijuana products for, at minimum:

(a) Moisture content;

(b) Water activity;

(c) Cannabinoid potency, including, at minimum, the levels of the following:

(1) Delta-9-tetrahydrocannabinolic acid (THCA);

(2) Delta-9-tetrahydrocannabinol (THC);

(3) Cannabidiolic acid (CBDA);

(4) Cannabidiol (CBD); and

(5) Cannabinol (CBN);

(d) Foreign matter contamination;

(e) Microbial contamination;

(f) Mycotoxin contamination;

(g) Heavy metal contamination, including, at minimum, arsenic, cadmium, lead, and mercury;

(h) Pesticide and fertilizer residue,

(i) Residual solvents;

(j) Cannabinoid and Terpene Profile;

(k) Product Assessment (for edible products);

(l) Homogeneity (for edible products); and

(m) Any other items requested by or approved by the Board.

6502.4 All samples shall be personally selected and collected by the testing laboratory personnel on site at the cultivation center.

6502.5 The samples personally selected and collected by the testing laboratory shall include, at a minimum:

(a) One (1) testable sample of the final product of flower, from each harvest for every strain of medical marijuana grown by the cultivation center;

(b) One (1) testable sample of the final product of flower stored and packaged

at the dispensary; and

(c) One (1) testable sample of each type of product produced from each batch of medical marijuana, such as but not limited to, the following:

(1) Tincture;

(2) Topical;

(3) Shatter;

(4) Oils;

(5) Edibles;

(6) Wax;

(7) Kief; and

(8) Hash.

6502.6 A testing laboratory shall timely upload into the tracking system the test results for each batch of medical marijuana or medical marijuana product tested.

6502.7 The testing laboratory may retest or reanalyze the sample or a different sample from the same batch by following its standard operating procedures to confirm or refute the original result, upon request by the cultivation center or upon request by the Board at the cultivation center's expense.

6502.8 A testing laboratory shall implement an acceptable method of testing, such as, but not limited to:

(a) Gas Chromatography;

(b) Gas Chromatography Mass Spectrometry;

(c) Immunoassays;

(d) Thin Layer Chromatography;

(e) High Performance Liquid Chromatography; and

(f) Liquid Chromatography Mass Spectroscopy.

6502.9 A testing laboratory using Gas Chromatography shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Document the conditions of the gas chromatograph, including the detector response;

(b) Perform and document preventive maintenance as required by the manufacturer;

(c) Document the performance of new columns before use;

(d) Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

(e) Establish criteria of acceptability for variances between different aliquots and different columns; and

(f) Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

6502.10 A testing laboratory using Gas Chromatography Mass Spectrometry shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Perform and document preventive maintenance as required by the manufacturer;

(b) Document the changes of septa as specified in the standard operating procedure;

(c) Document liners being cleaned or replaced as specified in the standard operating procedure;

(d) Maintain records of mass spectrometer tuning;

(e) Establish written criteria for an acceptable mass spectrometer tune;

(f) Document corrective actions if a mass spectrometer tune is unacceptable;

(g) Monitor analytic analyses to check for contamination and carry-over;

(h) Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and samples for identification of an analyte;

(i) Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

(j) Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

(k) Define the criteria for designating qualitative results as positive;

(l) Ensure that when a library is used to qualitatively match an analyte, the relative retention time and mass spectra from a known standard or control shall be run on the same system before reporting the results; and

(m) Evaluate the performance of the instrument after routine and preventive maintenance (such as clipping or replacing the column or cleaning the source) prior to analyzing subject samples.

6502.11 A testing laboratory using Immunoassays shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Perform and document preventive maintenance as required by the manufacturer;

(b) Validate any changes or modifications to a manufacturer's approved assays or testing methods when the sample being tested is not included in the list of samples approved for assaying or testing by the manufacturer; and

(c) Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which shall be consistent with the manufacturer's instructions.

6502.12 A testing laboratory using Thin Layer Chromatography shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Apply unextracted standards to each thin layer chromatographic plate;

(b) Include in its standard operating procedures the preparation of mixed solvent systems, spray reagents and designation of their lifetimes;

(c) Include in its standard operating procedures the storage of unused thin layer chromatographic plates;

(d) Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

(e) Verify that the spotting technique used precludes the possibility of contamination and carry-over;

(f) Measure all appropriate R_f values for qualitative identification purposes;

(g) Use and record sequential color reactions, when applicable;

(h) Maintain a copy of the developer TLC plates for each bath of samples analyzed; and

(i) Analyze an appropriate matrix blank with each batch of samples analyzed.

6502.13 A testing laboratory using High Performance Liquid Chromatography shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Perform and document preventive maintenance as required by the manufacturer;

(b) Monitor and document the performance of the HPLC instrument each day of testing;

(c) Document the performance of new columns before use;

(d) Create standard operating procedures for acceptability when eluting solvents are recycled;

(e) Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

(f) Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

6502.14 A testing laboratory using Liquid Chromatography Mass Spectroscopy shall perform and maintain records of the following, which shall be readily available to the staff operating the equipment:

(a) Perform and document preventive maintenance as required by the manufacturer;

(b) Maintain records of mass spectrometer tuning;

(c) Document corrective actions if a mass spectrometer tune is unacceptable;

(d) Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

(e) Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

(f) Compare two transitions and retention times between calibrators, controls and samples within each run;

(g) Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

(h) Evaluate the performance of the instrument when changes in source, source conditions, eluent, or to a column are made prior to reporting test results.

6502.15 A testing laboratory shall determine if the following pesticides are within the acceptable limit using the following chart:

Table A. Insecticide Critical Limits in Parts Per Million (PPM)	
Insectide	**Critical Limit**
Acetamiprid	0.2
Abamectin	0.5
Aldicarb	0.4
Bifenazate	0.2
Carbofuran	0.2
Chlorantraniliprole	0.2
Chlorpyrifos	0.2
Cyfluthrin	1.0
DDVP (Dichlorvos)	0.1
Diazinon	0.2
Dimethoate	0.2
Fenpyroximate	0.5
Fipronil	0.4
Flonicamid	1.0
Imidacloprid	0.4
Malathion	0.2
Methiocarb	0.2
Methomyl	0.4
Naled	0.5
Oxamyl	1.0
Permethrin	0.5
Phosmet	0.2
Piperonyl butoxide	1.0

Pyrethrins	1.0
Spinosad	0.2
Spiromesifen	0.2
Spirotetramat	0.2
Thiacloprid	0.2
Thiamethoxam	0.2

6502.16 A testing laboratory shall determine if the following plant growth regulators are within the acceptable limit using the following chart:

Table B. Plant Growth Regulator Critical Limits in Parts Per Million (PPM)	
Plant Growth Regulator	**Critical Limit**
Ancymidol	0.2
Carbaryl	0.2
Daminozide (Alar)	0.1
Ethephon	1.0
Flurprimidol	0.2
Paclobutrazol	0.4

6502.17 A testing laboratory shall determine if the following fungicides are within the acceptable limit using the following chart:

Table C. Fungicide Critical Limits in Parts Per Million (PPM)	
Fungicide	**Critical Limit**
Azoxystrobin	0.2
Bifenthrin	0.2
Boscalid	0.4
Fludioxonil	0.4
Imazalil	0.2
Kresoxim-methyl	0.4
Metalaxyl	0.2
Myclobutanil	0.2
Propiconazole	0.4
Trifloxystrobin	0.2

6502.18 A testing laboratory shall determine if the following acaricides are within the acceptable limit using the following chart:

Table D. Acaricide Critical

Limits in Parts Per Million (PPM)	
Acaricide	**Critical Limit**
Clofentezine	0.2
Etoxazole	0.2

6502.19 A testing laboratory shall determine if the following ovicide is within the acceptable limit using the following chart:

Table E. Ovicide Critical Limits in Parts Per Million (PPM)	
Ovicide	**Critical Limit**
Hexythiazox	1.0

6502.20 [REPEALED].

6502.21 A testing laboratory shall determine if the following microbial impurities are within the acceptable limit using the following chart:

Table G. Microbiological Impurity Critical Limits in Colony Forming Units (CFU/g)	
Microbiological Impurity	**Critical Limit**
E. coli	< 100
Salmonella spp.	0
Total Aerobic Microbial Count	100,000
Total Yeast and Mold Count	100,000

6502.22 A testing laboratory shall determine if the following heavy metals are within the acceptable limit using the following chart:

Table H. Heavy Metal Critical Limits in Parts Per Million (PPM)	
Heavy Metal	**Critical Limit**
Arsenic	0.4
Barium	60.0
Cadmium	0.4
Chromium	0.6

Lead	< 1.0
Mercury	0.2
Selenium	26.0
Silver	1.4

6502.23 A testing laboratory shall determine if the Water Activity (A_w) of a sample is within an acceptable limit. For purposes of this section, the A_w of a sample shall be acceptable if it is below $0.65A_w$.

6502.24 A testing laboratory shall determine if an edible is a potentially hazardous food by using the following charts:

Table I. Interaction of pH and A_w for control of spores in food heat-treated to destroy Vegetative cells and subsequently packaged

A_w values	pH values		
	4.6 or less	> 4.6 – 5.6	> 5.6
≤0.92	Non-PHF*/non-TCS food**	Non-PHF/non-TCS food	Non-PHF/non-TCS food
> 0.92 - .95	Non-PHF/non-TCS food	Non-PHF/non-TCS food	PA***
> 0.95	Non-PHF/non-TCS food	PA	PA

* PHF means Potentially Hazardous Food
** TCS Food means Time/Temperature Control for Safety Food
*** PA means Product Assessment required

Table J. Interaction of pH and A_w for control of vegetative cells and spores in food not heat-treated but not packaged

A_w values	pH values			
	< 4.2	4.2 – 4.6	> 4.6 – 5.0 -	> 5.0
< 0.88	non-PHF*/non-TCS food**	non-PHF/ non-TCS food	non-PHF/ non- TCS food	non-PHF/ non –TCS food

0.88 – 0.90	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA***
> 0.90 – 0.92	non-PHF/non-TCS food	non-PHF/ non-TCS food	PA	PA
> 0.92	non-PHF/non-TCS food	PA	PA	PA
* PHF means Potentially Hazardous Food ** TCS Food means Time/Temperature Control for Safety Food *** PA means Product Assessment required				

New Sections 6503 to 6509 are added, which shall read as follows:

6503 CREATION OF BATCHES

6503.1 A cultivation center or manufacturer shall divide medical cannabis or medical cannabis products into homogenous batches not to exceed 50 pounds, and as directed by a testing laboratory.

6503.2 A cultivation center or manufacturer shall divide medical cannabis and medical cannabis products into homogenous batches as directed by a testing laboratory, and in accordance with the following size limitations:

(a) Medical cannabis or medical cannabis product batches containing concentrated medical cannabis may not exceed 50 pounds (22.7 kilograms); and

(b) Medical cannabis product batches containing medical cannabis extract or products that are infused with medical cannabis or medical cannabis extract may not exceed 70,000 unpackaged retail servings.

6503.3 A cultivation center or manufacturer shall assign a unique batch identifier to the cannabis or cannabis products, and when cannabis is harvested or trimmed,

(a) Medical cannabis flower shall be assigned to a batch containing a single strain from a single harvest date; and

(b) Medical cannabis trim may be assigned to a batch containing multiple strains and from multiple trimming dates.

6503.4 A batch may be divided into multiple containers.

6503.5 If medical cannabis or medical cannabis product yield is in excess of the batch size limitations, the yield must be divided into separate batches in accordance with this section in order to be sampled.

6503.6 All medical cannabis and medical cannabis products in each batch must be uniform throughout except for cannabis leaf trim.

6504 SAMPLE REQUIREMENTS FOR MEDICAL CANNABIS

6504.1 With the exception of pre-rolled medical cannabis, all cannabis and cannabis products must be in final form ready to be packaged upon receipt of passing results for all required tests to be sampled.

6504.2 A cultivation center or manufacturer may not alter the medical cannabis or medical cannabis product batch after sampling has occurred.

6504.3 The testing laboratory or their agent shall sample the amount of cannabis and cannabis products in increments in accordance with the tables below:

Cannabis Flower and Trim

Batch Size Range (lbs)	Batch Size Range (kg)	Minimum Sample Amount (g)	Sample Increments Representing Total Minimum Sample Amount
0-1.00	0 - 0.453592	2.50	5
1.01-10.00	0.4581283 - 4.53592	4.00	8
10.01-20.00	4.5404596 - 9.07185	7.50	15
20.01-40.00	9.0763833 - 18.1437	11.0	22

40.01-50.00	18.148231 - 22.6796	16.50	33

6504.4 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for medical cannabis batch size range as specified in the table above, the testing laboratory or their agent must use sample increments of 0.5 grams.

Cannabis Products - Concentrated Cannabis

Batch Size Range (lbs)	Batch Size Range (kg)	Minimum Sample Amount (g)	Sample Increments Representing Total Minimum Sample Amount
0-1.00	0 - 0.453592	1.25	5
1.01-2.00	0.4581283 - 0.907185	2.00	8
2.01-5.00	0.9117207 - 2.26796	3.75	15
5.01-15.00	2.272498 - 6.80389	5.50	22
15.01-50.00	6.8084215 - 22.6796	8.25	33

6504.5 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for the batch size range of medical cannabis or medical cannabis product containing concentrated medical cannabis, as specified in the

table above, the testing laboratory or their agent must use sample increments of 0.25 grams.

Cannabis Products - Cannabis Infused Products

Batch Size Range (Unpackaged Servings)	Minimum Sample Amount (Unpackaged Servings)	Minimum Number of units for Sampling a 5-Serving Unit	Minimum Number of units for Sampling a 10-Serving Unit	Minimum Number of units for Sampling a 20-Serving Unit	Minimum Number of units for Sampling a 100-Serving Unit
0-100	5	2	2	2	2
100-1,000	8	2	2	2	2
1,000-5,000	15	3	2	2	2
5,000-10,000	22	5	3	2	2
10,000-50,000	33	7	4	2	2
50,000-70,000	43	9	5	3	3

6504.6 A serving unit is a single quantity of all pre-packaged total servings for one product package of medical cannabis infused product intended for sale.

6504.7 The cultivation center or manufacturer must determine the size of a serving for each medical cannabis infused product, and the number of servings in the medical cannabis or medical cannabis product batch. If the minimum required number of sample servings does not align with the anticipated final form of the product, the testing laboratory or their agent must increase sample increments to ensure products

are sampled in final form.

6504.8 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for the batch size range of medical cannabis or medical cannabis product containing infused medical cannabis, as specified in the table above, the testing laboratory or their agent must use sample increments of one serving.

6505 PACKAGING OF SAMPLES FOR TESTING

6505.1 All samples of cannabis or cannabis products must be transferred to a testing facility in sealed, child-resistant, and tamper-evident containers that are supplied by a testing facility or that meet criteria specified by a testing facility.

6506 TESTING FOR RESIDUAL SOLVENTS

6506.1 Cultivation centers and manufacturers shall test all products for residual solvents and processing chemicals in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6506.2 The testing laboratory shall analyze at minimum 0.25 grams of the representative sample of cannabis product or pre-rolls to determine whether residual solvents or processing chemicals are present.

6506.3 The testing laboratory shall report the result of the residual solvents and processing chemicals testing in unit micrograms per gram (µg/g) in the testing results and indicate "pass" or "fail" in the result report.

6506.4 The sample shall be deemed to have passed the residual solvents and processing chemicals testing if the presence of any residual solvent or processing chemical listed in the following tables in Category I and Category II does not exceed the indicated critical limit, except that:

(1) The critical limit for ethanol does not apply to cannabis products that are tinctures; and

(2) The critical limit for ethanol or isopropyl alcohol does not apply to cannabis products that are topical cannabis products.

Category I Residual Solvent or Processing Chemical	*CAS No.*	*Cannabis Product or Pre-Roll Critical Limit (µg/g)*
1. 1,2-Dichloroethane	107-06-2	1.0

Benzene	71-43-2	1.0
Chloroform	67-66-3	1.0
Ethylene oxide	75-21-8	1.0
Methylene chloride	75-09-2	1.0
Trichloroethylene	79-01-6	1.0

Category II Residual Solvent or Processing Chemical	***CAS No.***	***Cannabis Product or Pre-roll Action Level (µg/g)***
2. Acetone	67-64-1	5000
Acetonitrile	75-05-8	410
Butane	106-97-8	5000
Ethanol	64-17-5	5000
Ethyl acetate	141-78-6	5000
Ethyl ether	60-29-7	5000
Heptane	142-82-5	5000

Hexane	110-54-3	290
Isopropyl alcohol	67-63-0	5000
Methanol	67-56-1	3000
Pentane	109-66-0	5000
Propane	74-98-6	5000
Toluene	108-88-3	890
Total xylenes (ortho-, meta-, para-)	1330-20-7	2170

6506.5 If the sample fails residual solvents and processing chemicals testing, the batch from which the sample was collected fails residual solvents and processing chemicals testing and shall be deemed adulterated.

6507 TESTING FOR MYCOTOXIN

6507.1 Cultivation centers and manufacturers shall test all products for mycotoxin in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6507.2 The testing laboratory shall analyze at minimum 0.5 grams of the representative sample of medical cannabis and medical cannabis products to determine whether mycotoxins are present.

6507.3 The testing laboratory shall report the result of the mycotoxins in unit micrograms per gram (µg/g) in the testing results and indicate "pass" or "fail" in the result report.

6507.4 The sample shall be deemed to have passed mycotoxin testing if both the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed 20 µg/kg of substance; and

(b) Ochratoxin A does not exceed 20 µg/kg of substance.

6507.5 If the sample fails mycotoxin testing, the batch from which the sample was collected fails mycotoxin testing and shall be deemed adulterated.

6508 TESTING FOR FOREIGN MATERIAL

6508.1 Cultivation centers and manufacturers shall test all products for mold, mildew, pests, and other foreign materials in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6508.2 The testing laboratory shall analyze the representative sample of medical cannabis and medical cannabis products to determine whether mold, mildew, pests and other foreign material is present.

6508.3 The licensed laboratory shall report the result of the foreign material test by indicating "pass" or "fail" in the result report.

6508.4 The testing laboratory shall perform foreign material testing required by this section on the total representative sample prior to sample homogenization.

6508.5 When the testing laboratory performs foreign material testing, the laboratory shall, at minimum, do all of the following:

(a) Examine both the exterior and interior of the dried flower sample, and

(b) Examine the exterior of the cannabis product sample.

6508.6 The sample shall be deemed to have passed the foreign material testing if the presence of foreign material does not exceed:

(a) 1/4 of the total sample area covered by sand, soil, cinders, or dirt;

(b) 1/4 of the total sample area covered by mold or mildew;

(c) 1 insect fragment, 1 hair, or 1 count mammalian excreta per 3.0 grams; or

(d) 1/4 of the total sample area covered by an imbedded foreign material.

6508.7 If the sample fails foreign material testing, the batch from which the sample was collected fails foreign material testing and shall be deemed adulterated.

6509 TESTING FOR FERTILIZER AND NUTRIENTS

6509.1 Cultivation centers and manufacturers shall test all products for the presence and concentration of fertilizer and nutrients in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6509.2 A leaf tissue sample or other test designed to elicit the presence and concentration of the following nutrients in the sampled medical cannabis or medical cannabis product:

(a) Nitrogen (N);

(b) Phosphorus (P);

(c) Potassium (K);

(d) Calcium (Ca);

(e) Magnesium (Mg);

(f) Sulfur (S);

(g) Boron (B);

(h) Copper (Cu);

(i) Iron (Fe);

(j) Manganese (Mn);

(k) Zinc (Zn);

(l) Molybdenum (Mo);

(m) Sodium (Na); and

(n) Chloride (Cl).

6509.3 The cultivation center and manufacturer shall be required to disclose to the testing laboratory all fertilizers and nutrients used during the growing or production of the medical cannabis or medical cannabis product being tested.

6509.4 The testing laboratory shall further test for the presence of all fertilizers and nutrients disclosed by the cultivation center and manufacturer in accordance with the testing labs standard operating procedures.

6510 RESULT REPORTING

6510.1 A testing laboratory shall issue results for each sample tested which shall address the following:

(a) Whether the chemical profile of the medical cannabis sample conforms to the accepted variety for the following compounds:

(1) Delta-9-tetrahydrocannabinol (THC);

(2) Delta-9-tetrahydrocannabinolic acid (THCA);

(3) Cannabidiol (CBD);

(4) Cannabidiolic acid (CBDA);

(5) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopeia (AHP);

(6) Cannabigerol (CBG); and

(7) Cannabinol (CBN);

(b) That the presence of the following contaminants do not exceed the levels as provided in § 6409 of this subtitle;

(1) Heavy metals; and

(2) Pesticide residue;

(c) The presence of microbial impurities, including but not limited to:

(1) The total aerobic microbial count (TAMC);

(2) The total combined yeast and molds count (TYMC);

(3) Pseudomonas aeruginosa (P. aeruginosa);

(4) Aspergillus spp;

(5) Staphylococcus aureus (S. aureus);

(6) Aflatoxin B_1, B_2, G_1 and G_2; and

(7) Ochratoxin A;

(d) Whether the batch is within specification for the characteristics of:

(1) Odor;

(2) Appearance;

(3) Fineness; and

(4) Moisture content.

6510.2 The testing laboratory shall enter results into the Board's electronic tracking system within twenty-four (24) hours from the date of the test.

6510.3 The level of contaminants in medical cannabis and medical cannabis products shall not exceed the standards provided in this subtitle, and if any of the standards are exceeded, the cultivation center shall not sell or otherwise transfer any portion of the batch of medical cannabis or medical cannabis products to a dispensary.

6510.4 In the event the testing laboratory results determine that the sample does not meet the standards required in this subtitle, the cultivation center may seek approval from the Board to reprocess the batch and/or harvest. If written approval is granted by the Board, the cultivation center may:

(a) Reprocess the batch and/or harvest according to their SOPs; and

(b) Have the reprocessed product tested by the same testing laboratory.

6510.5 Upon receiving notification in the tracking system that the batch failed to pass testing, a cultivation center shall immediately quarantine the non-conforming batch until any reprocessing and testing is performed; or until the batch is destroyed by MPD.

6510.6 For purposes of this section, quarantine means that the batch shall be separated from all other inventory and the quarantine status shall be indicated in the tracking system. The quarantine shall be lifted only by the Board in writing, and only upon receipt of test results in the inventory tracking system documenting that the batch conforms to the required testing standards.

6510.7 The testing laboratory shall notify the Board of results that do not meet the standards and specifications set forth in this subtitle within twenty-four (24) hours of completion of analysis.

6510.8 A cultivation center shall release a batch and/or harvest for sale only if the results from the laboratory testing facility have determined that the sample has met the standards and specifications set forth in this subtitle.

A new Chapter 66, ADULTERATED CANNABIS, is added:

A new Section 6600 is added, which shall read as follows:

6600 PROHIBITION ON DISTRIBUTING ADULTERATED PRODUCTS

6600.1 Medical cannabis and medical cannabis products that exceed, fail, or violate any of the testing standards, testing limits, or testing levels provided by the Act or this chapter shall be deemed adulterated and unfit for use or consumption.

6600.2 If a sample taken from a batch exceeds, fails, or violates any of the testing standards, testing limits, or testing levels set by this chapter, the batch from which the sample was collected shall also be deemed adulterated.

6600.3 A cultivation center or manufacturer shall not sell, distribute, or otherwise transfer any portion of the batch of medical cannabis or medical cannabis products that qualify as adulterated and unfit for use or consumption in accordance with this section to an internet retailer, manufacturer, or retailer.

6600.4 A internet retailer or retailer shall not sell, distribute, or otherwise transfer any portion of the batch of medical cannabis or medical cannabis products deemed adulterated and unfit for consumption in accordance with this section to any person.

A new Chapter 67, COURIERS, is added:

A new Section 6700, COURIERS, is added to read as follows:

6700 COURIERS

6700.1 A courier shall not obtain medical cannabis or medical cannabis product except when:

(a) Fulfilling an order submitted by a qualifying patient or caregiver, on behalf of a licensed internet retailer or retailer; or

(b) Obtaining medical cannabis in their personal capacity, in a manner consistent with the Act and this subtitle, for their own personal use and consumption.

6700.2 A courier may store and prepare medical cannabis or medical cannabis product obtained from a licensed internet retailer or retailer for delivery at its licensed location but shall not hold the product for more than 24 hours.

6700.3 Medical cannabis and medical cannabis products that cannot be delivered shall be returned to the internet retailer or retailer. An internet retailer or retailer that uses

the services of a courier must accept returns by the courier when in operation.

6700.4 A courier may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 9:00 a.m. and 9:00 p.m.

6700.5 A courier delivery driver shall only travel from the internet retailer and retailer to the driver's assigned delivery address(es) and return to the internet retailer, retailer, or courier.

6700.6 The courier shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer and retailer's recordkeeping requirements.

6700.7 The courier shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

A new Chapter 96, MORATORIUMS, is added:

A new Section 9600, ESTABLISHMENT OF MORATORIUM is added to read as follows:

9600 ESTABLISHMENT OF MORATORIUM

9600.1 If the Board reasonably determines that it is in the public interest to do so based on the standards set forth in the Act, the Board may, by rule:

(a) Limit the number of medical cannabis business licenses of any class to be issued; or

(b) Declare a moratorium on the issuance of licenses of any class in any ward, single-member district, or ANC.

9600.2 An ANC may request the Board to issue regulations establishing a moratorium.

9600.3 A moratorium issued by the Board in accordance with this section shall have a prospective effect and shall not apply to existing licenses.

9600.4 A moratorium shall be effective for five (5) years from the date of final rulemaking, or for a lesser period as determined by the Board.

9600.5 If the Board acts on a moratorium request, a moratorium request for the same area, or an area covering substantially the same area, shall not be considered for two (2) years from the date of the Board's action.

A new Section 9601, MORATORIUM PROCEDURES, is added to read as follows:

9601 MORATORIUM PROCEDURES

9601.1 The moratorium request shall be made to the Board in writing, providing:

(a) The identity of the ANC;

(b) The resolution containing the official ANC vote and statement approving of the moratorium request filed with the Board;

(c) The area of the District to be covered by the moratorium;

(d) The class or classes of licenses to be covered by the moratorium;

(e) A detailed statement of the reasons that the moratorium is appropriate under at least two (2) of the appropriateness standards set forth in the Act and this chapter; and

(f) A statement identifying whether the moratorium shall be either a ward, ANC, or single-member district.

9601.2 A moratorium may be sought for a single class of license or for any combination of the classes of licenses except for those licenses exempted by § 9600.6.

9601.3 No moratorium request to limit the number of licenses to be issued, the number of licenses issued for any single class, or the issuance of amended licenses for any single class that constitute a substantial change shall be considered by the Board unless all the requirements of subsection § 9601.1 have been met and the following conditions are satisfied:

(a) If the requested moratorium area is a single-member district, there shall exist in the area at least three (3) licensed establishments of the same class or six (6) licensed establishments of any class or combination of classes;

(b) If the requested moratorium area is an ANC, there shall exist in the area at least six (6) establishments of the same class or twelve (12) establishments of any class or combination of classes; or

(c) If the requested moratorium area is the Ward, there shall exist in the area at least nine (9) establishments of the same class or eighteen (18) establishments of any class or combination of classes.

A new Section 9602, MORATORIUM NOTICE, is added to read as follows:

9602 MORATORIUM NOTICE

9602.1 If a moratorium request meets all the requirements set forth in this chapter, the Board shall provide notice to the public according to the same procedures as

required by § 5425.

A new Section 9603, MORATORIUM HEARING, is added to read as follows:

9603 MORATORIUM HEARING

9603.1 The Board shall hold a public hearing to review a proposed moratorium. The public hearing shall be a rulemaking hearing under section 6 of the DC APA and not in the nature of a contested case under section 10 of the DC APA.

9603.2 At the public hearing, any interested person may appear to give oral or written testimony in support of, or in opposition to, the moratorium request.

9603.3 In addition to receiving testimony from the public, the Board shall request formal comments from the following persons or agencies:

(1) The Councilmembers within whose wards the requested moratorium area is located;

(2) The ANCs within whose boundaries the requested moratorium area is located and any other ANC abutting the proposed moratorium area;

(3) The Assistant City Administrator for Economic Development, or their designee;

(4) The Office of Planning, or its successor agency; and

(5) The District Commander of the Metropolitan Police Department in which the requested moratorium zone is located.

9603.4 In deciding on a moratorium request, the Board shall consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least two (2) of the appropriateness standards set forth in the Act and this title.

9603.5 The Board may grant the moratorium request:

(1) In whole or in part;

(2) By enlarging or decreasing the moratorium area; or

(3) By limiting the moratorium to no more than one class of license.

9603.6 The Board may deny the moratorium request in its entirety.

9603.7 The decision of the Board shall be final and shall be issued in writing, including

each member's vote.

A new Chapter 97, HEARING PROCEDURES, is added to read as follows:

A new Section 9700, HEARING PROCEDURES - APPLICABILITY, is added to read as follows:

9700 HEARING PROCEDURES - APPLICABILITY

9700.1 This chapter shall apply to all hearings held before the Board, including:

(a) Roll call hearings or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(c) Fact finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and

(d) Show cause hearings, summary suspension hearings, or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.

9700.2 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.

9700.3 The following hearings held before the Board shall be conducted in the same manner as hearings conducted pursuant to D.C. Official Code § 2-509:

(a) Protest hearings;

(b) Show cause hearings;

(c) Summary suspension or summary revocation hearings;

(d) Cease and desist hearings;

(e) Contested fact finding hearings in which the Board may suspend or revoke one's license or issue an order or interpretation that may impact the rights of a licensee or applicant; and

(f) Qualifications hearings.

9700.4 The following hearings held before the Board shall be deemed discretionary hearings:

(a) Uncontested fact-finding hearings, including the request to extend a license safekeeping; and

(b) Rulemaking hearings.

9700.5 The provisions of this chapter are intended to be consistent with the DC APA (D.C. Official Code § 2-501 *et seq.*). If there is any conflict between this chapter and the DC APA, the DC APA shall govern.

9700.6 To the extent that there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

A new Section 9701, CONTINUANCES, is added to read as follows:

9701 CONTINUANCES

9701.1 A hearing may be continued for good cause.

9701.2 A written motion for a continuance shall be filed with the Board at least six (6) calendar days before the scheduled hearing date and served upon all parties at least six (6) calendar days before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for continuance or demonstrate that an emergency exists.

9701.3 A continuance shall not waive the requirements governing the time in which to file objections, petitions, or other pleadings.

9701.4 The Board may, on motion of any party or on its own motion, continue a hearing to permit an ANC to vote on a material issue in the hearing, upon a determination that the interests of justice will be served by the granting of the continuance to any party, or for administrative convenience.

9701.5 The Board may waive the provisions of this section if all parties agree to a continuance, to prevent hardship, in the interest of justice, or for administrative convenience.

9701.6 An attorney who knows or should know of a scheduling conflict shall immediately, but no later than two (2) days before the scheduled hearing, file a motion for continuance with the Board, with copies submitted to the opposing party or parties. A scheduling conflict with another tribunal may be considered good cause for continuing the proceeding.

A new Section 9702, WITNESSES, is added to read as follows:

9702 WITNESSES

9702.1 A party shall have the right to call and examine witnesses.

9702.2 Except as provided in § 9702.3, at any proceeding before the Board in a contested case, the Board may hear as witnesses all persons residing within and outside the neighborhood who desire to be heard.

9702.3 The Board may exclude any irrelevant or unduly repetitious evidence or testimony.

A new Section 9703, RULE ON WITNESSES, is added to read as follows:

9703 RULE ON WITNESSES

9703.1 At the request of a party, or on its own motion, the Board shall order witnesses excluded so that they will not hear the testimony of other witnesses.

9703.2 The following persons shall not be excluded from hearings before the Board:

(a) The applicant or the licensee;

(b) The designated representative for a party to a proceeding; or

(c) Any person whose presence is shown by a party to be essential to the presentation of their case.

A new Section 9704, EXAMINATION OF WITNESSES, is added to read as follows:

9704 EXAMINATION OF WITNESSES

9704.1 In any proceeding before the Board, each party shall have the right to present in person or by counsel or designated representative, the party's case or defense, including oral and documentary evidence, to submit rebuttal evidence, and to cross-examine witnesses, unless the matter at issue has been dismissed by the Board.

9704.2 In a protest hearing in which there is more than one (1) protest, and the Board has required the protestants to designate one (1) person to conduct the protestant's case, the designated individual shall present the protestant's case, give the opening and closing statements, and examine and cross-examine witnesses on behalf of the protestants.

9704.3 Any member of the Board may question any witness at any time during or after examination or cross-examination, subject to objection by a party.

9704.4 Any oral or documentary evidence may be received, but the Board shall exclude

irrelevant, immaterial, or unduly repetitious evidence.

9704.5 The Board may impose a time limitation on oral arguments and witness testimony as it deems appropriate.

9704.6 The Board shall afford all parties the opportunity to present oral argument unless limited in accordance with § 9704.2.

A new Section 9705, PARTIES, INTERVENTION, AND RIGHT TO BE HEARD, is added to read as follows:

9705 PARTIES, INTERVENTION, AND RIGHT TO BE HEARD

9705.1 The parties to a show cause hearing shall be the following:

(a) The respondent, licensee, permittee, or applicant; and

(b) The District of Columbia.

9705.2 The parties to a protest hearing shall be the applicant and the protestants and their designated representatives, if any.

9705.3 The parties to a fact-finding hearing shall be the licensee, permittee, or applicant for a license, and such other persons whose appearance the Board deems necessary and who are designated by the Board as parties.

9705.4 The Board may, in its discretion, permit interested persons other than parties, as defined in this chapter, to intervene in a proceeding for such general or limited purpose as the Board may specify.

9705.5 A person permitted to intervene under this section shall comply with all conditions fixed by the Board and shall not be considered a party to the proceedings.

A new Section 9706, COMPUTATION OF TIME FOR FILINGS, is added to read as follows:

9706 COMPUTATION OF TIME FOR FILINGS

9706.1 Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period after the service of notice upon the party, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.

9706.2 Except as otherwise provided by law, any time period prescribed by this chapter may, for good cause shown, be extended by the Board with notice to all parties.

9706.3 For purposes of computing time that is stated in days or a longer unit of time,

exclude the day of the event that triggers the computation of time.

9706.4 For purposes of computing time that is stated in days or a longer unit of time, every day, including intermediate Saturdays, Sundays and legal holidays is counted. Count the last day of the period, but if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

9706.5 For purposes of computing time that is stated in hours, begin counting every hour immediately at the conclusion of the event that triggers the period, including hours during intermediate Saturdays, Sundays and legal holidays. If the time period would end on a Saturday, Sunday, or legal holiday, the time period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

9706.6 Unless a different time is set by a statute, regulation or Board order, the last day of a specified time period is at midnight for electronic filing, and at the close of business on the last day for filing by any other means.

A new Section 9707, SERVICE OF PAPERS, is added to read as follows:

9707 SERVICE OF PAPERS

9707.1 Any papers filed with the Board or on opposing parties in a contested case shall be served by personal delivery, first class U.S. mail, registered or certified mail, or by electronic mail. Proof of service shall be shown as required by the regulations.

9707.2 Any papers required to be served upon a party may be served upon the party or the party's designated representative.

9707.3 When a party has appeared through a representative, who has filed a written notice of appearance service shall be made upon the representative of record.

9707.4 Service upon a party or the party's designated representative may be made in the following manner:

(a) By personal delivery;

(b) By use of a process server;

(c) By registered or certified mail;

(d) By electronic mail; or

(e) As otherwise authorized by law.

9707.5 Service upon a party shall be completed upon any of the following acts:

(a) Handing the paper to the person to be served;

(b) Leaving the paper at the licensed premises with the owner, manager, or other employee of the establishment;

(c) Leaving the paper at the party's usual place of residence with some individual of suitable age and discretion residing therein;

(d) Deposit of the paper in the U.S. Mail, by registered or certified mail, properly stamped and addressed;

(e) By electronic mail at the e-mail address on file with ABCA;

(f) Deposit of the paper in the U.S. Mail, by first class mail, properly stamped and addressed, by an attorney of record; or

(g) By an action in conformity with an order of the Board in any proceeding.

9707.6 Proof of service shall state the name and address of the person served, the manner of service, and the date of service.

9707.7 Proof of service shall be shown by one of the following:

(a) Written acknowledgement of the person served or that person's representative;

(b) The certificate of the person making the service;

(c) A return receipt, if served by registered or certified mail; or

9707.8 Service shall also be deemed proper upon a showing that the party actually received delivery of the notice or paper, irrespective of the delivery method.

A new Section 9708, APPEARANCE AND REPRESENTATION, is added to read as follows:

9708 APPEARANCE AND REPRESENTATION

9708.1 An individual may represent himself or herself in any proceeding before the Board.

9708.2 An attorney may represent any party before the Board by submitting a Notice of Appearance or completing ABCA's Attorney/Representative Designation Form to the Board.

9708.3 In addition to this chapter, the District of Columbia Rules of Professional Conduct shall govern the conduct of all attorneys appearing before the Board.

9708.4 An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other legal entity before the Board. Parties appearing before the Board pursuant to this section may be required to demonstrate that authority.

9708.5 Any party appearing before the Board in any proceeding may bring an interpreter of their choice.

9708.6 If it appears to the Board that the facts or issues in a matter before it are so intricate or involved that, in the interests of justice, of conserving time, or of facilitating preparation of an adequate record, a party ought to be represented by an attorney, the Board may urge the party to obtain counsel and shall allow the party a reasonable time, not to exceed fourteen (14) calendar days, to do so, as long as the rights of the other parties to the hearing are not substantially and adversely affected.

9708.7 Any person authorized to appear pursuant to this section may sign any paper required or permitted by the Act, this chapter, or any other statute or regulation to be filed with the Board.

A new Section 9709, NOTICE OF APPEARANCE, is added to read as follows:

9709 NOTICE OF APPEARANCE

9709.1 A non-lawyer representative shall submit a signed statement containing that person's name, address, e-mail address, telephone number, and the nature of the representation, or ABCA's Attorney/Representative Designation Form prior to appearing before the Board.

9709.2 The written statement or the Attorney/Representative Designation Form required by this chapter shall be made a part of the Board's record of the proceeding and shall be served on all parties to the proceeding.

9709.3 Any attorney appearing as counsel in any proceeding shall submit a Notice of Appearance containing their name, e-mail address, office address, office telephone number, D.C. Bar number, and nature of the representation or ABCA's Attorney/Representative Designation Form to the Board.

9709.4 In the case of law students who appear before the Board under the direction of an accredited law school clinical program, the supervising attorney shall register with the Board.

A new Section 9710, SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS, is added to read as follows:

9710 SCHEDULING AND CONDUCT OF HEARINGS: GENERAL

PROVISIONS

9710.1 The Board shall not schedule any hearing until the applicant has submitted, in writing to the Board, all information and documents required by the Act and the regulations.

9710.2 Before a person may be heard to object to approval of an application, the person shall have notified the Board and the applicant or licensee, by any of the means listed in § 5433, of their intent to object, and of the grounds for the objection, prior to the end of the protest period.

9710.3 Decorum and good order shall be maintained at all times during hearings, and the Board may exclude or order the removal from the hearing room of any person who refuses to comply with a reasonable order of the Board.

9710.4 The Chairperson of the Board shall preside over all proceedings conducted by the Board under the authority of the Act and this chapter.

9710.5 The Chairperson of the Board shall conduct all proceedings in accordance with the provisions of this chapter, the Act, and the District of Columbia Administrative Procedures Act.

9710.6 The Chairperson of the Board shall have the authority to:

(a) Open and close a meeting or hearing;

(b) Administer oaths and affirmations;

(c) Regulate the course of the hearing and the conduct of the parties and their representative; and

(d) Take any other action in accordance with the above provisions in furtherance of a fair and orderly hearing.

9710.7 In the event the Chairperson is unable or unavailable to preside over a hearing or meeting, the Chairperson may designate a member of the Board to act as the presiding officer in the Chairperson's absence.

A new Section 9711, EVIDENCE: GENERAL RULES, is added to read as follows:

9711 EVIDENCE: GENERAL RULES

9711.1 Any party objecting to the admission of evidence shall state the grounds relied upon for the objection.

9711.2 Formal exceptions to the rulings of the Board made during the course of a hearing

shall not be required.

9711.3 The parties may, by stipulation in writing filed with the Board, or in the record at a hearing, agree upon any facts relevant to a proceeding, or upon the substance of the testimony which would be given by a witness.

9711.4 The Board, in its discretion, may require additional evidence on any matter covered by stipulation.

A new Section 9712, BURDEN OF PROOF, is added to read as follows:

9712 BURDEN OF PROOF

9712.1 In all protest hearings before the Board, the applicant shall have the burden of proof to show by substantial evidence in the record that the licensing action meets the appropriate standards in accordance with this title.

9712.2 In all show cause proceedings before the Board, the District of Columbia shall have the burden of proof to show by substantial evidence in the record that the respondent has committed a violation of the Act or this chapter.

A new Section 9713, OPENING AND CLOSING STATEMENTS, is added to read as follows:

9713 OPENING AND CLOSING STATEMENTS

9713.1 In all protest hearings before the Board, the applicant shall open and close the case insofar as presentation of evidence and argument are concerned.

9713.2 In all show cause proceedings before the Board, the District of Columbia shall open and close the case insofar as presentation of evidence and argument are concerned.

A new Section 9714, OFFERS OF PROOF, is added to read as follows:

9714 OFFERS OF PROOF

9714.1 Any offer of proof made in connection with an objection to any ruling of the Board which rejects or excludes proffered oral testimony shall consist of a statement for the record of the substance of the evidence which the party contends would be established by the testimony.

9714.2 If the excluded evidence is documentary, a copy of the written evidence shall be marked for identification and shall constitute the offer of proof.

9714.3 The document shall be retained by the Board as part of the record for purposes of an appeal.

A new Section 9715, DOCUMENTARY EVIDENCE, is added to read as follows:

9715 DOCUMENTARY EVIDENCE

9715.1 Documentary evidence offered at any hearing before the Board shall, if received by the Board, be retained by the Board.

9715.2 Any party who intends to offer documentary evidence at a hearing shall, seven (7) calendar days prior to the hearing, disclose the evidence to the opposing party. Absent good cause, failure to disclose documentary evidence seven (7) calendar days prior to the hearing may result in the Board excluding the evidence.

9715.3 The Board may, in its discretion, permit the withdrawal of original documents received into evidence and the substitution of certified copies in lieu of the originals.

9715.4 When relevant and material matters offered into evidence are contained in a book or other document which also contains other matters not material or relevant, the person offering the evidence shall plainly designate the matters offered, and the immaterial and irrelevant parts shall be excluded and segregated insofar as practicable.

9715.5 All exhibits that a party intends to introduce at a hearing must be identified on and attached to an exhibit form. Parties shall include the exhibit form, including copies of the exhibits, with the Protest Information Form.

9715.6 Exhibits reasonably anticipated to be used for impeachment need not be included on or attached to the exhibit form.

9715.7 If a document is readily available to the general public, a party need only provide a complete citation to the source of the document and how the document may be accessed.

9715.8 The Board may exclude at the hearing any exhibit(s) not disclosed on the exhibit form if the Board finds that the opposing party has been prejudiced by the failure to disclose or if there has been a knowing failure to disclose.

9715.9 The Board shall have the discretion to receive documentary evidence from the parties not already listed or attached to the exhibit form upon a finding of good cause.

9715.10 The investigative report and attachments shall be part of the Board's record, and it shall not be necessary for the parties to formally move for admission of the investigative report or portions of it into the evidentiary record.

9715.11 The exhibit form and any attachments shall be served on all parties and the Board's Office of General Counsel seven (7) days prior to the hearing.

9715.12 If a PowerPoint presentation or similar presentation is used by the parties, a paper copy of the exhibit shall be filed with the Board.

A new Section 9716, RECORDS IN PROCEEDINGS, is added to read as follows:

9716 RECORDS IN PROCEEDINGS

9716.1 When any part of the record in any other proceeding before the Board, a criminal or civil action, or a proceeding before any administrative agency is offered in evidence, a certified true copy of that part of that record shall be presented to the Board as an exhibit, except in the following instances:

(a) It is described in a manner which makes it readily identifiable, and the offeror agrees to supply copies at a later time as required by the Board;

(b) There is a stipulation on the record that it may be incorporated by reference and the Board directs the incorporation; or

(c) It is described in a manner which makes it readily identifiable in the files of the Board.

A new Section 9717, MOTIONS, is added to read as follows:

9717 MOTIONS

9717.1 Any party to a protest may seek relief from the Board against an opposing party by filing a motion with the Board. Unless otherwise specified, motions shall conform to the following requirements:

(a) Be in writing;

(b) Served upon the other parties to the protest by electronic mail or the first-class U.S. Postal Service; and

(c) Filed with the Board.

9717.2 Any party may file a response in opposition to a motion within seven (7) calendar days after service of the motion. In the case of motions for continuances which have been filed by a party on the sixth (6th) calendar day before a scheduled hearing, responses shall either be made in writing and served by personal delivery on all parties prior to the hearing or shall be made orally on the date of the hearing.

9717.3 A response to a motion shall not include a motion for other affirmative relief against

the moving party.

9717.4 If a party filing an opposition submits a motion for other affirmative relief, it shall be done by separate pleading.

9717.5 A reply may be filed within three (3) calendar days after service of a response in opposition to a motion, but the reply shall not re-argue propositions presented in the motion, nor present matters which are not strictly in reply to the opposition.

9717.6 A request for reinstatement of the license application or the protest must be filed with the Board within ten (10) days after receipt of the order after dismissal for failure to appear. In reviewing the request for reinstatement of the license application or the protest, the Board shall consider whether, in the discretion of the Board, the party has shown good cause for their failure to appear in accordance with § 5432.5.

9717.7 No further pleading shall be filed except by leave of the Board.

A new Section 9718, POST-HEARING SUBMISSIONS, is added to read as follows:

9718 POST-HEARING SUBMISSIONS

9718.1 No document or other information shall be accepted for the record after the close of a hearing except as follows:

(a) Unless accompanied by a Motion to Re-open the Record demonstrating good cause and the lack of prejudice to any party;

(b) Until all parties are afforded due notice and an opportunity to rebut the information; or

(c) Upon official notice of a material fact not appearing in the evidence in the record in accordance with section 10(b) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1207; D.C. Official Code § 2-509(b)).

9718.2 The Board shall afford parties an opportunity to file Proposed Findings of Fact and Conclusions of Law within thirty (30) calendar days after receipt of the transcript from the hearing. The Board may, in its discretion, grant an extension to file Proposed Findings of Fact and Conclusions of Law for good cause. An extension granted by the Board shall not exceed twenty (20) calendar days after the initial deadline.

9718.3 A copy of the Proposed Findings of Fact and Conclusions of Law shall be served on each party.

9718.4 Proposed Findings of Fact and Conclusions of Law shall be limited to the record and shall not include new legal issues that were not raised during the hearing.

A new Section 9719, DECISIONS OF THE BOARD, is added to read as follows:

9719 DECISIONS OF THE BOARD

9719.1 Unless otherwise required, within ninety (90) calendar days after the close of the record, the Board shall render its written decision accompanied by Findings of Fact and Conclusions of Law.

9719.2 Findings of Fact and Conclusions of Law shall consist of a concise statement of the Board's conclusions on each contested issue of fact and shall be based solely upon evidence contained in the record and facts of which the Board properly took judicial notice.

9719.3 Findings of Fact and Conclusions of Law shall be supported by and in accordance with reliable, probative, and substantial evidence.

9719.4 All written decisions of the Board shall be available for public inspection and copying at a reasonable cost.

A new Section 9720, RECONSIDERATION, REHEARING, REARGUMENT, AND STAY, is added to read as follows:

9720 RECONSIDERATION, REHEARING, REARGUMENT, AND STAY

9720.1 A motion for reconsideration, rehearing, reargument, or stay of a decision or order of the Board shall be filed with the Board, and a copy shall be served on each party and intervenor.

9720.2 A motion for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought.

9720.3 If a motion is based in whole or in part on a new matter, that new matter shall be set forth in the motion stating that the petition could not by due diligence have known or discovered the new matter prior to the date the case was presented to the Board for a decision.

9720.4 The Board may, in its discretion, permit or require oral argument upon a motion filed under this section.

A new Section 9721, EX PARTE COMMUNICATIONS, is added to read as follows:

9721 EX PARTE COMMUNICATIONS

9721.1 If a proceeding is a contested case within the meaning of the DC APA (D.C. Official Code § 2-502(8)), the following restrictions shall apply:

(a) A person shall not make or knowingly cause to be made to a member of the Board an ex parte communication relevant to the merits of the proceeding; and

(b) No member of the Board shall make or cause to be made to any interested persons outside the Board an ex parte communication relevant to the merits of the proceeding.

9721.2 The prohibitions set forth in this section shall apply upon the filing of a protest against an application for an original, transfer, substantial change or renewal license, or upon the issuance of notice to appear for a show cause hearing.

9721.3 For purpose of this section, "ex parte communication" does not include an inquiry regarding the Board's procedure or practice, or a request for a status report on a matter, proceeding, or notice of a meeting or hearing.

A new Section 9722, TRANSCRIPTS OF HEARINGS, is added to read as follows:

9722 TRANSCRIPTS OF HEARINGS

9722.1 Hearings shall be recorded and transcribed under the direction of the Board.

9722.2 Changes in the official transcript may be made only in cases of material error.

9722.3 A motion to correct the transcript shall be filed with the Board within ten (10) calendar days of the date the transcript is available to the movant. Copies of the motion shall be served on all parties.

9722.4 If no objections to the motion are filed within five (5) days after service of the motion, the Board may correct the transcript.

9722.5 The Board shall have final authority to dispose of all motions for correction of the record.

A new Section 9723, POST HEARING MOTIONS, is added to read as follows:

9723 POST HEARING MOTIONS

9723.1 A petition for reconsideration, rehearing, reargument, or stay of a decision or order of the Board may be filed by a party within ten (10) days after the date of receipt of the Board's final order.

9723.2 The filing of a post hearing motion shall not stay the final order unless the stay is

specifically ordered by the Board.

9723.3 A stay of a decision shall be granted only upon good cause, which shall consist of unusual or exceptional circumstances.

A new Section 9724, WAIVER, is added to read as follows:

9724 WAIVER

9724.1 The Board may, for good cause shown and in the interests of justice or to prevent hardship, waive any of the provisions contained in this chapter in any proceeding after duly advising the parties of its intention to do so.

A new Chapter 98, SLIDING SCALE PROGRAM, is added:

Renumbered Section 9800, SLIDING SCALE PROGRAM, is amended to read as follows:

9800 SLIDING SCALE PROGRAM

9800.1 An internet retailer or retailer shall make available discounted cannabis on a sliding scale to qualifying patients determined eligible pursuant to § 1300.4 of this title. The term "make available" in this section means that a licensee violates this section if a qualified patient eligible for discounted medical cannabis requests the discount and is denied by the licensee.

9800.2 A qualifying patient who establishes their qualifications under § 1300.4 of this subtitle, shall be entitled to purchase medical cannabis directly, or through a caregiver, on a sliding scale from an internet retailer or retailer in the District of Columbia.

9800.3 An internet retailer or retailer shall sell medical cannabis to a qualifying patient, who is registered to purchase medical cannabis on a sliding scale, and possesses a registration card denoting such, at a discount of not less than twenty (20%) of its regular retail price.

9800.4 It shall be an affirmative defense to a violation of § 9800.1 that the sale or dispensing of medical cannabis or medical cannabis products to the qualified patient denied a sliding scale discount would be in violation of the law (e.g., intoxicated, failed to present adequate identification).

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, is amended as follows:

In Subsection 9900.1 the definition for Pesticide is deleted.

Subsection 9900.1 is amended by adding the following definitions in alphabetical order:

Adulterated – Describes medical cannabis or a medical cannabis product that exceeds, fails, or violates any of the testing standards, testing limits, or testing levels of various substances set by the Act or this title.

Applicant – means, as the context requires, the individual applicant, each member of an applicant partnership or limited liability company, or each of the principal officers, directors, and shareholders of an applicant corporation, or, if other than an individual, the applicant entity.

DC APA – means the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1207; D.C. Official Code § 2-501 *et seq*.).

Gun offense – means

(a) A conviction for the sale, purchase, transfer, receipt, acquisition, possession, use, manufacture, carrying, transportation, registration, or licensing of a firearm under Chapter 45 of Title 22, or an attempt or conspiracy to commit any of the foregoing offenses;

(b) A conviction for violating D.C. Official Code § 7-2502.01, § 7-2504.01, § 7-2505.01, § 7-2506.01, or § 7-2509.06, or an attempt or conspiracy to commit any of those offenses;

(c) A conviction for a firearms-related violation of the provisions in D.C. Official Code § 22-402 (assault with a dangerous weapon), § 22-2603.02 (unlawful possession of contraband), or § 22-2803(b) (carjacking); or

(d) Violations in other jurisdictions of any offense with an element that involves the violations listed in subparagraphs (a) – (c) of this paragraph.

Fraud – means a conviction for violation of sections 121 through 127h of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Official Code § 22-3221 – 22-3227.08) or any conviction in another jurisdiction with an element that involves these violations.

Locality - means the area within 600 feet of an establishment.

Management agreement - means an operational agreement between the licensee and a third-party allowing the third party to manage the establishment on behalf of the licensee for a fee.

Medical Cannabis Business – a licensed courier, cultivation center, internet retailer, manufacturer, retailer, testing laboratory, or any other business operating pursuant to a license authorized by the Act and this title. This term does not refer to personal licenses such as those for qualified patients, caregivers, authorized practitioners, managers, employees, and agents.

METRC – means the electronic track and trace platform provided by the Marijuana Enforcement Tracking Reporting Compliance (METRC) company.

Non-Resident Cardholder – a non-resident of the District of Columbia that is deemed a qualified patient once issued a medical cannabis patient card from ABCA so long as the card is valid and unexpired. This term does not include a nonresident qualifying patient who is registered in another jurisdiction's medical cannabis program.

Overconcentration - means the existence of multiple licensed establishments in a single locality, section, or portion of the District of Columbia that adversely impacts that locality, section, or portion of the District of Columbia, taking into account the appropriateness standards.

Portion - means the area within 1,800 feet of an establishment.

Real-time electronic records system – means the electronic database designated by ABCA for use by the medical cannabis industry to track in real-time the planting, harvesting, processing, distribution, and sale of cannabis. The electronic database designated by ABCA is METRC.

Section - means the area within 1,200 feet of an establishment unless the context indicates that the term "section" was not used to refer to a physical area.

In Subsection 9900.1 the following definitions are amended to read as follows:

ABCA – Alcoholic Beverage and Cannabis Administration

Board – Alcoholic Beverage and Cannabis Board

Director -- means the Director of the Alcoholic Beverage and Cannabis Administration or their designee or designees.

Drug-related offense – means any offense that involves the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer cannabis or any substance the possession of which is prohibited by the Controlled Substances Act, Title 21 of the United States Code (Controlled Substance Act), or any equivalent state or foreign government law creating criminal penalties for the sale, distribution, possession, or use of illegal drugs or narcotics.

Medical Cannabis - means cannabis cultivated, manufactured, possessed, distributed, dispensed, obtained, or administered in accordance with the Act and this title and all types of products containing medical cannabis such as infused beverages, concentrates, dried leaf, edibles, kief, oils, tinctures, and pre-rolls.

Qualifying patient - a resident of the District who has a qualifying medical or dental condition or is undergoing a qualifying medical or dental treatment, a non-resident cardholder**,** or a

patient enrolled in another jurisdiction's medical cannabis program; provided, that a patient from another jurisdiction shall not be a qualifying patient if the Board determines that there is a shortage of medical cannabis or the real-time electronic records system referenced in the Act is inactive.

Tamper Evident – means a container or packaging having an indicator or barrier to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred. If a breached or missing indicator or barrier would not, in and of itself, provide consumers with such evidence, the packaging may still qualify as tamper-evident if, in conjunction with such device, a printed statement is prominently displayed on the product label to alert the consumer of the original presence of the indicator or barrier.

Tamper Proof – means a container or packaging that, once sealed, clearly shows whether it has been opened.

In Subsection 9900.1, the definition for Dispensary, Medical Marijuana, Panel, and Pesticide are deleted.

DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF FINAL RULEMAKING

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in Section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09), hereby gives notice of the adoption of the following amendment to Chapter 51 (Board of Ethics and Government Accountability) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The amendment to Title 3 DCMR requires that the Director of Open Government present a report of the activities of that position at each regularly scheduled meeting of the Board of Ethics and Government Accountability.

No comments have been received in response to the proposed rulemaking published in the *District of Columbia Register* on December 26, 2025, at 72 DCR 014237. The Board adopted the rule as final on February 5, 2026. The rule shall become effective on publication of this Notice of Final Rulemaking in the *District of Columbia Register*.

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

Chapter 51, BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY, is amended as follows:

Section 5102, BOARD MEETINGS, is amended as follows:

Subsection 5102.12 is amended to read as follows:

5102.12 The Director of Government Ethics shall present a report of the activities of that position at each regularly scheduled meeting. The Director of Open Government shall present a report of the activities of that position at each regularly scheduled meeting.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING[1]
Z.C. CASE NO. 23-26
Office of Planning
(Text Amendments to Subtitle G §§ 203 and 208 to Create a Building Height Transition Setback and a Side Yard in the MU-10 Zone on Square 175)
February 13, 2025

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.)), hereby gives notice of its adoption of the amendments to Subtitle G §§ 203 and 208 of the Zoning Regulations at the end of this notice.

SETDOWN

On November 20, 2023, the Office of Planning (OP) filed a petition (OP Setdown Report) recommending that the Commission set down text amendments to correspond to Z.C. Case No. 23-02, a map amendment case pending before the Commission to rezone Lots 826 (1617 U Street, N.W.) and 827 (1620 V Street, N.W.) in Square 175 (Property) from the MU-4 zone to the MU-10 zone. The text amendments, as originally proposed, would have done the following:

- Require a building height transition setback in the MU-10 zone on the northern side of Square 175, measured both:
  - From the lot line on V Street, N.W.; and
  - From the lot line on the south side of the public alley that abuts the rear of Lots 24 through 29; and
- Require a twelve-foot (12-ft.) side yard in the MU-10 zone from any lot line adjoining an RA-zone along U Street, N.W. in Square 175.

(Exhibit [Ex.] 2.)

The OP Setdown Report concluded that the proposed text amendments would not be inconsistent with the Comprehensive Plan as a whole, including when viewed through a racial equity lens; would further Land Use, Housing, and Mid-City Area Element Comprehensive Plan policies that support the creation of new housing and affordable housing on underutilized sites; and would respond to public concern that the maximum height allowed under the MU-10 zone could negatively impact surrounding lower density residential uses if an appropriate height transition was not provided (Ex. 2). OP noted that a full Comprehensive Plan consistency analysis, including a racial equity analysis as required by the Commission's Racial Equity Tool, was provided in its hearing report for Z.C. Case No. 23-02. At its November 30, 2023 public meeting, the Commission voted to set down the proposed text amendments for a public hearing as a rulemaking case.

NOTICE

Pursuant to Subtitle Z § 502, the Office of Zoning (OZ) sent notice of the March 21, 2024 public hearing, on January 4, 2024, and published notice of the public hearing in the May 3, 2024 *District*

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 23-26.

of Columbia Register (71 DCR 005086 *et seq*.) as well as on the calendar on OZ's website (Ex. 3-5). The Commission subsequently approved two OP requests to postpone the public hearing, first to May 13, 2024, and then to December 5, 2024, for which OZ published notices of rescheduled public hearings in the *District of Columbia Register* (Ex. 7-13).

OP requested postponements to the public hearing for this case because it ultimately amended its application in Z.C. Case No. 23-02 to reduce the size of the map amendment from the MU-4 zone to the MU-10 zone such that it would not affect V Street, and the existing MU-4 zoning would be maintained along V Street. Specifically, the MU-10 zone would be pulled back eighty feet (80 ft.) parallel to V Street and eighty feet (80 ft.) parallel to 17th Street from V Street, south to the center line of Seaton Street to maintain the MU-4 zoning along V and 17th Street frontages and provide a transition of densities. OP proposed reducing the size of the map amendment in Z.C. Case No. 23-02 to address concerns from the public about the proposed MU-10 zone and the potential impact a future building may have on existing residential uses to the north and directly adjacent to the east of the Property.

OP Hearing Report

On November 27, 2024, OP submitted a hearing report (OP Hearing Report) that recommended approval of revised text amendments no longer including a building height transition setback along V Street. Specifically, the revised text amendments would:

- Amend Subtitle G § 203 to add a new height regulation for the MU-10 zone on Square 175 to limit the maximum permitted building height, not including a penthouse or rooftop structure, to sixty feet (60 ft.) for the first forty feet (40 ft.) of horizontal depth measure from the lot line on the south side of the public alley that abuts the rear of Lots 24 through 29; and
- Amend Subtitle G § 208 to add a new side yard regulation for the MU-10 zone on Square 175 to require that a twelve-foot (12 ft.) side yard be provided from any lot line adjoining an RA zone for the first one hundred forty-five feet (145 ft.) of horizontal depth as measured from the U Street, N.W. lot line.

(Ex. 15.)

The OP Hearing Report continued to conclude that the proposed text amendments, as revised, would not be inconsistent with the Comprehensive Plan as a whole, including when viewed through a racial equity lens, largely reiterating conclusions of the OP Setdown Report.

Community Outreach and Engagement. The OP Hearing Report noted that because of the reduced size of the MU-10 rezoning in Z.C. Case No. 23-02, OP presented an alternate text amendment proposal, requiring only a 12-foot side yard and no building height transition setbacks, to the ANC 1B Economic Development subcommittee (Ex. 14), and discussed it with neighbors on the south side of V Street. However, after discussions with both, OP recommended keeping the building height transition setback measured from the property line on the south side of the public alley separating the Property from the rear of lots 24 through 29 due to concerns about no height setback on the south side of the V Street alley (Ex. 15). The OP Hearing Report included renderings to illustrate both the revised map amendment and the revised building height transition setback

requirements; OP also provided shadow studies to illustrate the shadow impacts of the revised proposals at different times of year (Ex. 15, 22).

PUBLIC COMMENTS

Prior to the December 5, 2024 public hearing, the Commission received four letters in opposition to the proposal arguing that this case is essentially a map amendment to create a new zone and should have been filed by OP as a petition to create a new zone and set down by the Commission as a contested case to allow for party rights instead of as a rulemaking case (Ex. 17, 19, 20[2], 21). The Commission also received one letter in support arguing that the proposal will allow for mixed-use development at a public site that responds to neighbors' concerns about transitions and separation with lower height residential uses adjacent to the site (Ex. 18).

ANC 1B

Prior to the December 5, 2024 public hearing, ANC 1B filed a resolution on December 3rd stating that at its properly noticed public meeting on November 7, 2024, with a quorum present, the ANC voted 6-3-0 to support the proposed text amendments as they appeared in the case log on November 7, 2024, and as described in the OP Setdown Report, including the building height transition setback measured from the lot line on V Street (Ex. 16). The ANC also requested that, at the public hearing, OP provide aerial and street level illustrations including vertical elevation drawings of the side yard and setbacks from the Rochelle Apartments and V Street rowhouses; and OP confirm targeted engagement with owners and residents of the V Street and 16th Street rowhouses (Ex. 16).

PUBLIC HEARING

As a preliminary matter at the December 5, 2024 public hearing, the Commission addressed the opposition arguments that this case is essentially a map amendment to create a new zone and should have been filed as a petition to create a new zone and set down as a contested case. The Commission stated that it considered the case as filed by OP (i.e., a text amendment) at its November 30, 2023 public meeting, and set it down as a rulemaking case; and the Commission voted by consensus on December 5, 2024 to proceed with hearing the case as a rulemaking.[3]

At the public hearing, OP presented the text amendments, as revised, and its shadow study. In response to ANC 1B, OP explained that it could not provide the illustrative renderings requested and that the shadow studies were the best it could provide. OP also discussed its community outreach and engagement efforts, including meeting with the ANC 1B Economic Development subcommittee and its efforts to target single family homes on V and 17th Streets through hand delivered notice, office hours, and group meetings.

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[2] Ex. 20 includes appendices that are specific to the issues raised in Z.C. Case 23-02. For this reason, the arguments raised in the appendices are not addressed in this Notice of Final Rulemaking for Z.C. Case No. 23-26.

[3] The Commission notes that this is clearly a text amendment case because it involves amendments to the text of the Zoning Regulations, which are defined as rulemaking cases under the Zoning Regulations. (Subtitle Z § 201.5(a).) Further, at its public meeting on November 30, 2023, the Commission acted within its discretion, under Subtitle Z § 201.9, and set down this case as a rulemaking case. Moreover, there is nothing in the Zoning Regulations that compels the Commission to convert this case to a petition to create a new zone and set it down as a contested case. (Subtitle Z §§ 201.5, 201.9.) Notwithstanding the opposition's arguments, the Commission has authority, under the Zoning Act, to amend the Zoning Regulations.

One organization testified in support of the proposal. In addition, three opponents testified citing concern about lack of transparency in the process to increase Comprehensive Plan Future Land Use Map density for this Property; insufficient community outreach regarding the text amendments; future development on the Property with Inclusionary Zoning that is not affordable; and veracity of OP's shadow studies because they lack authorship.

The Commission considered the concerns raised and found OP's responses and the shadow studies provided sufficient. The Commission stated that voting to approve the text amendments, as revised, would advance the interest expressed in Z.C. Case No. 23-02 to establish setbacks while voting no would allow matter-of-right construction on the site without additional setbacks. The Commission also noted that because the site is DC government owned, it will be subject to affordable housing requirements that exceed Inclusionary Zoning.

PROPOSED ACTION

At the conclusion of the December 5, 2024 public hearing, the Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition, as revised by OP in its Hearing Report; and
- Authorize the publication of a Notice of Proposed Rulemaking.

VOTE (December 5, 2024): 5-0-0 (Joseph S. Imamura, Anthony J. Hood, Robert E. Miller, Tammy Stidham, and Gwen Wright to **APPROVE**)

National Capital Planning Commission (NCPC)

The Commission referred the proposed text amendments to the NCPC on December 6, 2024 for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.); Ex. 24).

NCPC filed a report on January 16, 2025 stating that the proposed text amendments are not inconsistent with the federal elements of the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interests (Ex. 27).

OZ published a Notice of Proposed Rulemaking in the December 20, 2024 *District of Columbia Register* (71 DCR 015882 *et seq.*) (Ex. 26, 26A).

No comments were filed to the case record in response to the Notice of Proposed Rulemaking.

FINAL ACTION

At its February 13, 2025 public meeting, there were no comments in response to the Notice of Proposed Rulemaking for the Commission to consider. Thus, the Commission reiterated its comments and conclusions from proposed action.

Authority and Evaluation Standard

Pursuant to the authority granted by the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may amend the Zoning Regulations consistent with the standards of Subtitle X § 1300.2.

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

"Great Weight" to the Recommendations of OP

The Commission must give "great weight" to the recommendations of the Office of Planning (OP) pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. ((D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 504.6 (*Metropole Condo. Ass'n v. D.C. Bd. Of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

At proposed action on December 5, 2024, the Commission found persuasive, and concurred with OP's analyses in its Setdown and Hearing Reports, and its recommendation that the Commission take proposed action to adopt the amendments, as revised in the OP Hearing Report. At proposed the Commission acknowledged the opposition arguments raised both in submissions to the case record and in the hearing testimony. Ultimately, the Commission was persuaded that the proposed building height transition setback measured from the property line on the south side of the public alley separating the Property from the rear of lots 24 through 29 coupled with a 12 foot side yard requirement were appropriate, given that the map amendment to the MU-10 zone in Z.C. Case No. 23-02 was reduced in size not to affect V Street.

The Commission agrees with the OP Hearing Report that the amendments, as revised, would not be inconsistent with the Comprehensive Plan, as a whole, including when viewed through a racial equity lens, and would advance policies of the Land Use, Housing, and Mid-City Area Elements that support new housing and affordable housing development as well as Comprehensive Plan policies that encourage development with height and transition setbacks to preserve lower density residential neighborhoods. The Commission also finds that OP conducted adequate community outreach and engagement with immediate surrounding rowhouse neighbors.

"Great Weight" to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 505.1. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment,* 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

As noted above, ANC 1B voted in support of the originally proposed text amendments, inclusive of the building height transition setback measured from the lot line on V Street, which was removed from the amendments by OP after it reduced the size of the map amendment to the MU-10 zone in Z.C. Case No. 23-02 to retain the existing MU-4 along V Street. (Ex. 16.) The Commission agrees with OP's revision removing the building height transition setback along V Street and keeping it on the south side of the V Street public alley. The Commission does not see a need for a building height transition setback along V Street where MU-4 zoning will be maintained. The Commission believes the text amendments, as revised, will provide the appropriate building height and setback transitions for the surrounding lower density residential uses. For the reasons discussed above, the Commission finds OP's shadow studies and its targeted community outreach adequate.

At its February 13, 2025 public meeting, the Zoning Commission voted to take **FINAL ACTION** to:

- Adopt the Petition as published in the Notice of Proposed Rulemaking; and
- Authorize the publication of a Notice of Final Rulemaking.

VOTE (February 13, 2025): 4-0-1 (Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, and Gwen Wright to **APPROVE**; Tammy Stidham, not present, not voting)

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

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-26 shall become final and effective upon publication in the *District of Columbia Register*; that is, on February 20, 2025.

Text Amendments

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

I. Amendment to Subtitle G, MIXED USE (MU) ZONES

Section 203, HEIGHT, of Chapter 2, DEVELOPMENT STANDARDS FOR MIXED-USE (MU) ZONES – MU-1 THROUGH MU-15, of Subtitle G, MIXED USE (MU) ZONES, is amended by amending § 203.2, adding a new § 203.3, and renumbering §§ 203.3 through 203.5 to §§ 203.4 through 203.6 to read as follows:

203.2 The maximum permitted height of buildings or structures and number of stories, except as provided in Subtitle G §§ 203.3 through 203.6, …

203.3 In the MU-10 zone on Square 175, the maximum permitted building height, not including a penthouse or rooftop structure, shall be limited to sixty feet (60 ft.) for the first forty feet (40 ft.) of horizontal depth, measured from the lot line on the south side of the public alley that abuts the rear of Lots 24, 25, 26, 27, 28, and 29.

203.4 ...

203.5 ...

203.6 ...

Section 208, SIDE YARD, of Chapter 2, DEVELOPMENT STANDARDS FOR MIXED-USE (MU) ZONES – MU-1 THROUGH MU-15, of Subtitle G, MIXED USE (MU) ZONES, is amended by adding a new § 208.4 and renumbering §§ 208.4-208.6 to §§ 208.5-208.7 to read as follows:

208.4 Notwithstanding Subtitle G §§ 208.2 and 208.3, in the MU-10 zone on Square 175, a side yard shall be provided for a building or structure for a minimum width of twelve feet (12 ft.) from any lot line adjoining an RA zone for the first one hundred forty-five feet (145 ft.) of horizontal depth as measured from the lot line on U Street, N.W.

208.5 ...

208.6 ...

208.7 ...

DEPARTMENT OF HUMAN SERVICES

NOTICE OF FIFTH EMERGENCY RULEMAKING

The 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, gives notice of the 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 purpose of these rules is to amend the existing rules governing the District's Family Re-Housing and Stabilization Program (FRSP), contained in Chapter 78 of Title 29 of the DCMR. 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 recent legislative amendments to the HSRA. This emergency rulemaking is necessary to maintain legal authority for FRSP until final rules are approved by the Council pursuant to Section 31 of the HSRA (D.C. Official Code § 4-756.02).

The Director of the Department 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 03298. 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. A Notice of Third Emergency and Second Proposed Rulemaking was published in the *District of Columbia Register* on March 7, 2025, at 72 DCR 02386, in response to which the Department received no public comments. A Notice of Fourth Emergency and Third Proposed Rulemaking was published in the *District of Columbia Register* on October 31, 2025, at 72 DCR 012193, in response to which the Department received no public comments.

These fifth emergency rules were adopted by the Director of the Department on February 11, 2026, 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.

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 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.

7801.8 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.

7801.9 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.

7801.10 If an applicant has not obtained and provided to the Eligibility Provider the required information for eligibility determination under this section within thirty (30) calendar days of the date of application, 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.

7801.11 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 shall be 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;

(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; and

(g) The applicant can demonstrate that, within the thirty (30) days prior to the Program application date, they are employed, participating in an education program, seeking employment, or received unemployment insurance benefits in one of the following ways:

(1) The applicant is subject to and complying with a work requirement under Title IV of the Social Security Act;

(2) The applicant receives an earned income, demonstrated by paystubs or bank statements, for at least twenty (20) hours per week or three hundred and fifty dollars ($350) per week;

(3) The applicant is enrolled in a full-time educational program with an anticipated end date in less than twelve (12) months;

(4) The applicant receives an earned income and participates in an educational program for at least twenty (20) hours combined per week; or

(5) The applicant receives unemployment insurance benefits.

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) Willingness to take steps that could reasonably lead to increased income in the household; and

(c) 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 the District of Columbia Housing Authority (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(a)(2) and 12(11) 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 adult 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. § 5205.

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 of 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, and move-in 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 this section; 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 if the participant requests and is approved for case management services as described in Section 7810.

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 General Educational Development (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 requests 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, and that lack of engagement violates the Service Provider's Program Rules, the Service Provider may cite this as a Program Rules violation.

7810 REQUESTING CASE MANAGEMENT SERVICES

7810.1 No FRSP participant is entitled to receive case management services. An FRSP applicant may request to receive case management services when they submit their FRSP application. The FRSP applicant must indicate their request to receive case management services on the FRSP application form described in § 7801.1. If the applicant orally requests case management during the FRSP application process, the Referring Provider must record the request to receive case management services on the application form.

7810.2 An FRSP participant who has not requested to receive case management services will not receive the case management services described in § 7809.

7810.3 DHS cannot evaluate an FRSP participant's good-faith efforts toward the achievement of goals set forth in an individualized plan if the participant did not request, or opts out of, case management services. Accordingly, an FRSP participant who has not requested case management services, or who has opted out of case management services, will not be eligible for an extension of the twelve (12)-month FRSP assistance period.

7810.4 An FRSP participant who has not requested to receive, or has opted out of, case management services may request emergency inspections, reasonable accommodations, and relocations by contacting their Service Provider.

7810.5 An FRSP participant who has requested and been approved to receive case management services must continue to engage with their case manager as required under this chapter and as described in their Service Provider's Program Rules. A participant's failure to meet case management engagement requirements may lead to termination of the participant's FRSP assistance, including rental assistance, under Section 22(a)(2)(G) of the Act (D.C. Official Code § 4-754.36(a)(2)(G)).

7810.6 An FRSP participant who does not request to receive, or opts out of, case management services must continue to comply with TANF requirements, if applicable, as described in § 7809.9.

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 § 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 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 § 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) Subject to § 7824.6 and 7824.7, 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 22a-1(a) and 22b(a) of the Act (D.C. Official Code §§ 4-754.36a-1(a) and 4-754.36b(a)), a Service Provider shall 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 based on re-determination of eligibility pursuant to § 7821 shall have the right to the continuation of FRSP services pending a final decision from the fair hearing proceedings.

7824.6 In accordance with Section 22a-1(c) of the Act (D.C. Official Code § 4-754.36a-1(c)), a participant who appeals a notice of program exit based on reaching the end of their FRSP assistance period will not receive continuation of services during the appeal process if the participant received the notice on or after the effective date of the Fiscal Year 2026 Budget Support Emergency Act of 2025 (September 3, 2025).

7824.7 In accordance with Section 22a-1(d) of the Act (D.C. Official Code § 4-754.36a-1(d)), a participant who received a notice of program exit before the effective date of the Fiscal Year 2026 Budget Support Emergency Act of 2025 (September 3, 2025), where the exit was based on reaching the end of their FRSP assistance period, shall be exited from FRSP when the client's time in the program reaches twenty-four (24) months or on September 30, 2025, whichever date is later, regardless of the pendency of an administrative review, fair hearing, or other appeal and notwithstanding any statutory provision requiring the continuation of services that existed on or before the date the client received the notice of program exit.

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.

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of For-Hire Vehicles ("Department" or "DFHV"), pursuant to the authority set forth in Section 8(c)(7) and (19), and 27j-7(d) and Section 20l(b)(11) of the Department of For-Hire Vehicles Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07(c)(7) and (19), 50-301.29g(d), and 50-301.31(b)(11)), hereby gives notice of his adoption, on an emergency basis, of the following amendments to Chapter 7 (Enforcement), Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-Op), Chapter 19 (Private Vehicles-For-Hire), and Chapter 20 (Fines and Civil Penalties) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations ("DCMR"). The Director also hereby gives notice of his intent to take action to adopt these rules as final in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register*.

The Department is responsible for promulgating and enforcing rules regulating the for-hire vehicle industry. This emergency and proposed rulemaking makes the following four main amendments to the existing rules:

- This rulemaking amends Chapter 7 to update references to the Department.
- This rulemaking amends Chapter 16 to update the percentage of gross receipts transmitted by a digital dispatch service (DDS) to the District, from 1% to 6%, consistent with the D.C. Official Code.
- This rulemaking amends Chapter 19 to clarify prohibitions related to registration requirements for operators providing private vehicle-for-hire service.
- This rulemaking amends Chapter 20 to make conforming changes and correct typographical and cross-referencing issues in the schedules of fines for civil infractions.

Emergency rulemakings may be issued by an agency when the rules are necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.5(d). Specifically, this emergency and proposed rulemaking updates references to the Department related to its authority to issue cease and desist orders. DFHV has encountered enforcement challenges with companies offering for-hire services without required approvals, which poses a risk to the safety of both riders and the general public. This clarification ensures the Department can act immediately to protect public safety. Further, this emergency rulemaking makes changes necessary to clarify the Department's authority to enforce fines and penalties authorized under Title 31. The Office of Administrative Hearings has recently held that certain infractions are deficient and unenforceable due to typographical and referencing errors in Title 31. These amendments correct those errors for the provisions to be enforced as intended. Adopting these amendments through an emergency rulemaking will allow the Department to resume enforcement of the range of affected provisions, which is necessary to preserve both public safety and public welfare.

This emergency rulemaking was adopted by the Director of the Department on February 10, 2026, took effect immediately, and will remain in effect for one hundred twenty (120) days after the date of its adoption (expiring June 10, 2026), unless earlier superseded, amended, or repealed.

Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

Chapter 7, ENFORCEMENT, is amended as follows:

Section 705, CEASE AND DESIST ORDERS, is amended as follows:

Subsection 705.1 is amended by striking the word "Office" **both times it appears and inserting the word** "Department" **in its place.**

Subsection 705.2 is amended by striking the word "Office" **and inserting the word** "Department" **in its place.**

Subsection 705.4 is amended by striking the phrase "the Commission, hearing examiner of the Office, or OAH, as designated by the Office" **and inserting the phrase** "the Department or OAH, as designated by the Department" **in its place.**

Subsection 705.8 is amended by striking the phrase "Commission or Office" **and inserting the word** "Department" **in its place.**

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, is amended as follows:

Section 1604, DIGITAL DISPATCH SERVICES -- OPERATING REQUIREMENTS, is amended as follows:

Subparagraph 1604.7(b) is amended by striking the phrase "one (1) percent**" and inserting the phrase "**six percent (6%)**" in its place.**

Chapter 19, PRIVATE VEHICLES-FOR-HIRE, is amended as follows:

Section 1906, PROHIBITIONS, is amended as follows:

Subsections 1906.3 and 1906.4 are amended to read as follows:

1906.3 A private sedan operator shall not provide service unless the operator is registered with a private sedan business, such private sedan business is registered under this chapter, and the private sedan operator is providing service through such private sedan business.

1906.4 A private sedan operator shall not accept trips through the app of a DDS associated or affiliated with any private sedan business unless the operator is registered with the private sedan business, the DDS is registered under Chapter 16, the private sedan business is registered under this chapter, and the operator is not suspended by such private sedan business. An operator suspended by a registered private sedan business shall be deemed to be not registered with that business.

Chapter 20, FINES AND CIVIL PENALTIES, is amended as follows:

Section 2000, FINES AND CIVIL PENALTIES, is amended as follows:

Schedule 1 is amended by striking the phrase "one percent (1%)**" and inserting the phrase "**six percent (6%)**" in its place.**

Schedule 1 is amended by striking the phrase "(§ 1906.4)**" and inserting the phrase "**(§ 1903.22) **in its place.**

Schedule 3 is amended by striking the phrase "Logging into a private vehicle for hire app if known that the app is not lawfully in operation (§ 1906.4)**" and inserting the phrase "**Providing private vehicle-for-hire service or accepting trips through the app of a DDS when the DDS, private sedan business, or operator is not registered (§§ 1904.1, 1906.3, 1906.4)**" in its place.**

Schedule 3 is amended by striking the phrase "to haul/discrimination**" and inserting the phrase "**Refusal to haul/discrimination**" in its place.**

Schedule 4 is amended by striking the phrase "Display trade address while providing service (§ 610.1)" **and inserting the phrase** "Display trade dress while providing service (§ 1904.1)"

All persons desiring to comment on the subject matter of this emergency and proposed rulemaking should submit written comments by email to dfhv.publiccomments@dc.gov or by mail to the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020, no later than thirty (30) days after the publication of this notice in the *District of Columbia Register*. Copies of this rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Department of For-Hire Vehicles at the address above.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2026-023
February 12, 2026

SUBJECT: Reappointments and Appointment — District of Columbia Retirement Board

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 121 of the District of Columbia Retirement Reform Act, approved November 17, 1979, 93 Stat. 869, Pub. L. 96-122, D.C. Official Code § 1-711, it is hereby **ORDERED** that:

1. **JOSEPH CLARK** is reappointed as a public member of the District of Columbia Retirement Board (the "Board"), for a term to end January 27, 2030.

2. **TRACY HARRIS** is reappointed as a public member of the Board, for a term to end January 27, 2027.

3. **CHESTER MCPHERSON** is appointed as a public member of the Board, filling a vacant seat formerly held by Jan Adams, for the remainder of an unexpired term to end January 27, 2028.

4. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2026-024
February 18, 2026

SUBJECT: Appointments — Historic Preservation Review Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to Mayor's Order 83-119, dated May 6, 1983, and section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979, D.C. Law 2-144, D.C. Official Code § 6-1103, pursuant to the Historic Preservation Review Board Lauren McHale Confirmation Resolution of 2025, effective February 3, 2026, Resolution 26-0310, pursuant to the Historic Preservation Review Board Chris Morrison Confirmation Resolution of 2026, effective February 3, 2026, Resolution 26-0311, pursuant to the Historic Preservation Review Board Timothy Thomas Confirmation Resolution of 2026, effective February 3, 2026, Resolution 26-0309, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **LAUREN MCHALE** is appointed as an architectural historian member of the Historic Preservation Review Board (the "Board"), filling a vacant seat formerly held by Gretchen Pfaehler, for the remainder of an unexpired term to end July 21, 2027.

2. **CHRIS MORRISON** is appointed as an architect member of the Board, replacing Patrick Williams, for the remainder of an unexpired term to end July 21, 2028.

3. **TIMOTHY THOMAS** is appointed as a public member of the Historic Preservation Review Board, replacing Linda Greene, for the remainder of an unexpired term to end July 21, 2028.

4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 3, 2026.

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 2026-025
February 18, 2026

SUBJECT: Appointments — Board of Dietetics and Nutrition

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 202 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99, D.C. Official Code § 3-1202.02, pursuant to the Board of Dietetics and Nutrition Rachel Gabauer Confirmation Resolution of 2026, effective February 3, 2026, Resolution 26-0327, pursuant to the Board of Dietetics and Nutrition Kayla Smith Confirmation Resolution of 2026, effective February 3, 2026, Resolution 26-0326, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **RACHEL GABAUER** is appointed as a licensed dietitian member of the Board of Dietetics and Nutrition (the "Board"), filling a vacant seat formerly held by Annina Burns, for the remainder of an unexpired term to end March 12, 2027.

2. **KAYLA SMITH** is appointed as a licensed dietitian member of the Board, filling a vacant seat formerly held by Njeri Jarvis, for the remainder of an unexpired term to end March 12, 2028

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 3, 2026.

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 2026-026
February 18, 2026

SUBJECT: Reappointment — Green Finance Authority Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 203 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018, D.C. Law 22-155, D.C. Official Code § 8-173.23, pursuant to the Green Finance Authority Board Edward Hubbard Confirmation Resolution of 2026, effective February 3, 2026, Resolution 26-0328, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **EDWARD HUBBARD** is reappointed as an individual with financial, project management or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure member of the Green Finance Authority Board, for a term to end July 9, 2028.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 3, 2026.

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 2026-027
February 18, 2026

SUBJECT: Appointments — District Waterways 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, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 3 of the Office of District Waterways Management Establishment Act of 2022, effective March 22, 2023, D.C. Law 24-336; D.C. Official Code § 8–191.02, pursuant to the District Waterways Advisory Commission Jorge Galindo Confirmation Resolution of 2025, effective February 9, 2026, Proposed Resolution 26-0449, pursuant to the District Waterways Advisory Commission Diane C. Groomes Confirmation Resolution of 2025, effective February 9, 2026, Proposed Resolution 26-0450, pursuant to the District Waterways Advisory Commission Dr. Thomas Skinner Confirmation Resolution of 2025, effective February 9, 2026, Proposed Resolution 26-0448, pursuant to the District Waterways Advisory Commission Nate Handy Confirmation Resolution of 2025, effective February 9, 2026, Proposed Resolution 26-0451, pursuant to the District Waterways Advisory Commission Trey Sherard Confirmation Resolution of 2025, effective February 9, 2026, Proposed Resolution 26-0447, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. The following individuals are appointed to the District Waterways Advisory Commission (the "Commission"), filling new seats, for initial terms to end April 19, 2026, and for subsequent terms to end April 19, 2030:

    a. **JORGE GALINDO**, as an individual with experience in athletics and recreation member;
    b. **DIANE C. GROOMES**, as an individual with experience in public safety member; and
    c. **DR. THOMAS SKINNER**, as an individual with experience in economic development or tourism member.

2. The following individuals are appointed to the Commission, filling new seats, for terms to end April 19, 2029:

    a. **NATE HANDY**, as an individual with experience in maritime management or policy member; and
    b. **TREY SHERARD,** as an individual with experience in environmental stewardship member.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 9, 2026.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2026-028
February 18, 2026

SUBJECT: Declaration of Public Emergency — Potomac Interceptor Collapse and Impacts

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in the Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11), and pursuant to section 5 of the District of Columbia Public Emergency Act of 1980 ("Public Emergency Act"), effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304, and section 2 of the Natural Disaster Consumer Protection Act of 1992 ("NDCPA"), effective March 20, 1992, D.C. Law 9-80, D.C. Official Code § 28-4102, it is hereby **ORDERED** that:

I. FINDINGS (NATURE OF THE PUBLIC EMERGENCY)

A. Potomac Interceptor Collapse and Impacts

On Monday, January 19, 2026, a section of a 72-inch diameter sewer line collapsed near the Clara Barton Parkway in Montgomery County, Maryland. The sewer line, called the Potomac Interceptor, is managed by the District of Columbia Water and Sewer Authority (DC Water), which functions as a regional utility whose infrastructure and operational impacts extend across the National Capital Region and carries up to 60 million gallons of wastewater daily from Virginia and Maryland to the Blue Plains Advanced Wastewater Treatment Plant in the District.

The sewer line collapse resulted in more than 250 million gallons of untreated sewage flowing into the Potomac River between January 19-24, 2026. A major concern with untreated sewage is the presence of Escherichia coli ("E. coli") bacteria. E. coli, when it reaches certain levels, is dangerous to humans. Sewage also contains other bacteria, including Staphylococcus aureus, the bacteria causing Staph infections, and Methicillin-resistant Staphylococcus aureus ("MRSA"), viruses, pharmaceuticals, microplastics, and harmful chemicals.

B. DC Water Initial Bypass Response

On January 24, 2026, DC Water constructed an initial bypass system that largely contained the escaped wastewater by pumping it into an empty section of the C&O Canal between Locks 10 and 12. The wastewater is then pumped back into the Potomac Interceptor, approximately a half mile downstream from the site of the collapse. Although there has been at least one interruption of the bypass due to blockages, DC Water has substantially contained the sewage and prevented sewage from flowing directly into the Potomac River.

As DC Water continues to make repairs to the Potomac Interceptor, there remains a risk for additional overflows. DC Water estimates that repairing the sewer line collapse will take between four and six weeks, assuming no further impediments to the repair work. All options to speed up this work are being explored.

C. District Government Response

Since January 19, 2026, the District has been monitoring and managing this incident in accordance with the District Emergency Operations Plan. Upon notification from DC Water on Monday, January 19, 2026, the Homeland Security and Emergency Management Agency ("HSEMA") began monitoring the situation in Maryland, confirming the safety of the District's drinking water and coordinating with DC Water to provide necessary support in the repairs. HSEMA has provided regular updates to regional agencies since the break.

On Friday, February 6, 2026, HSEMA transitioned the District to an Incident Management Team model to support DC Water and prepare for ongoing impacts to the community as this incident evolves. This transition is designed to address four key needs in the community from this incident:

1. Conducting water monitoring and testing for the portions of the Potomac and Anacostia Rivers in the District to protect environmental and human health;
2. Providing enhanced guidance to the community for personal, family, and pet safety required for movement and recreation around the Potomac and Anacostia Rivers;
3. Coordinating local, state, and federal information sharing;
4. Evaluating and addressing the economic impacts resulting from water contamination resulting from the sewage in the Potomac River and the diversion efforts.

D. Regional Governments' Coordinated Response

Multiple state and federal agencies are cooperating to oversee the repair operations and protect the environment, including the Maryland Department of Environment ("MDE"), the U.S. Environmental Protection Agency ("EPA"), the District Department of Energy and Environment ("DOEE"), and National Park Service ("NPS"). DOEE and EPA are inspecting the bypass weekly to verify that DC Water is doing everything possible to prevent overflows, contain and mitigate any overflows that occur, as well as plan for comprehensive environmental restoration for impacted areas around the collapse site and the areas around the C & O Canal that have been harmed or fouled in the emergency repair.

E. Ongoing Potomac River Testing and Longer-Term Remediation

Utilizing a contracted environmental firm and certified laboratory, DC Water initiated daily sampling for E. coli, an indicator bacterium, at six (6) locations beginning on January 29, 2026. To assess water quality conditions, sampling locations include the overflow area as well as upstream and downstream sites. DOEE has increased the frequency of E. coli

monitoring from monthly to weekly and is exploring partnerships with the EPA to add more locations and more frequent testing. Early data has shown significant bacteria reductions in the weeks after the bypass was installed on January 24, 2026. DOEE is conducting weekly bacteria monitoring on both the Potomac and Anacostia Rivers.

F. Consequences for the District and the National Capital Region's Environment, Economy, People, Visitors, and Businesses.

As we emerge from historic cold weather and as spring progresses, persons will want to use the Potomac for recreational purposes and need to be able to do so safely. Businesses, clubs, and teams use the Potomac for a range of activities. Fishing downstream is affected if fish and aquatic life are unsafe for consumption, or perceived to be unsafe, and fish and waterborne creatures can be harmed by algal blooms and dead zones consequent to the sewage spill and diversion program. The towpath along the Canal is a popular recreation spot; people let their dogs jump in the water; and it is host to heron, turtles, and a range of other plants and animals. The District economy depends heavily on tourism, and tourists come from around the world to spring events along the Potomac, such as our Cherry Blossom Festival. Long term effects to the water table and plants that depend on it are unknown. Odor mitigation is another necessity. It is critical to the welfare of residents and visitors alike that we address the spill, and the consequences of the diversion in the most organized and expeditious manner possible; that we utilize any federal resources available; and that we have the best testing and communications systems set up so as to provide accurate information to users and potential users of the various waterfronts and water affected.

II. EMERGENCY MEASURES AND REQUIREMENTS

A. The City Administrator, in consultation with the Director of the Homeland Security and Emergency Management Agency ("HSEMA"), is authorized to implement such measures as may be necessary or appropriate to protect persons and property in the District of Columbia from the conditions caused by this incident. Such measures may include actions authorized under section 5(b) of the Public Emergency Act, D.C. Official Code § 7-2304(b), including requesting federal disaster assistance and taking measures under the District Emergency Operations Plan. Such measures may also include, where appropriate, actions to enforce the NDCPA.

B. This Order shall apply to all District Government departments, agencies, and instrumentalities (collectively, "agencies") as necessary or appropriate to implement this Order.

C. Procure supplies and equipment, institute training programs and public information programs, and take all other preparatory steps as we continue to understand the effects of the spill and clean up; and furnish trained and equipped personnel duaring

the public emergency, in coordination with emergency services plans and programs of the federal government and neighboring states, political subdivisions, and water authorities.

D. District Government agency directors may authorize overtime for activities directly related to the District's response to the incident and temporary personnel assignments within agencies as needed to assist in the District's response to the incident.

E. The City Administrator, in coordination with the Deputy Mayor for Public Safety and Justice, the HSEMA Director, and the CFO, is authorized to apply for financial assistance through the Federal Emergency Management Agency, any other federal, private, or nonprofit disaster relief and recovery organizations, and any other federal agencies to recoup expenditures incurred, or obtain funding needed to respond to and address the impacts of the incident.

F. The District shall continue to manage this incident in accordance with the Emergency Operations Plan immediately. With the approval of the City Administrator, District Government agencies may take actions under the District Emergency Operations Plan without regard to established operating procedures relating to the performance of public works, entering into contracts, incurring obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditure of public funds.

G. District Government agency directors are authorized to activate, implement, and coordinate mutual aid agreements between the District of Columbia and federal, state, or local jurisdictions as needed to assist in the District's response to the incident.

H. Request the declaration of a major disaster from the federal government, certify the need for disaster assistance and commit the use of a certain amount of District of Columbia funds to alleviate the damage, loss, hardship, and suffering resulting from a disaster.

III. DURATION OF ORDER

This Order shall remain in effect until fifteen (15) days after its effective date, unless earlier rescinded or superseded.

IV. EFFECTIVE DATE

This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, FEBRUARY 25, 2026
899 NORTH CAPITOL STREET, NE, SUITE 4200 A-B
WASHINGTON, D.C. 20002

Donovan W. Anderson, Chairperson
Members: Silas Grant, Jr., Teri Janine Quinn, Ryan Jones and David Meadows

Protest Hearing (Status) **10:30 AM**

Case # 26-PRO-00012
Caspian Crust, LLC t/a Caspian Crust
1826 Wisconsin Ave NW
License #134033
Retailer DR
ANC 2E
Application for a New License (including sidewalk café with 4 seats)

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00009
Family, LLC t/a MK Lounge & Restaurant
1930 9th Street NW
License #88787
Retailer CT
ANC 1B
Application to Renew the License

Board's Calendar
February 25, 2026

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00130
Posh Bar & Restaurant LLC t/a Posh Lounge
1924 9th Street NW
License #123209
Retailer CT
ANC 1B
Application to Renew the License

Show Cause Hearing (Status) **10:30 AM**

Case # 25-CMP-00082
Parlor Restaurant and Lounge, LLC t/a Flirt Cocktail Bar and Social Club
1015 7th Street NW
License #127493
Retailer CT
ANC 2G
Operating After Hours, Offered Entertainment Outside of the Allowed Hours

Show Cause Hearing (Status) **10:30 AM**

Case # 25-CIT-00071
Swahili Village M Street, LLC t/a Swahili Village the Consulate
1990 M Street NW
License #112799
Retailer CR
ANC 2B
Failed to File Quarterly Statements

Board's Calendar
February 25, 2026

Show Cause Hearing **10:30 AM**

Case # 25-CIT-00501
Mangia & Bevi, LTD, t/a Giovanni's Trattu
1823 Jefferson Place NW
License #126137
Retailer CR
ANC 2B
Failed to File Quarterly Statements

Show Cause Hearing **10:30 AM**

Case # 25-CIT-00115
Quilox, LLC t/a Quilox Restaurant and Lounge
7303 Georgia Ave NW
License #114288
Retailer CR
ANC 4B
Failed to File Quarterly Statements

Show Cause Hearing **10:30 AM**

Case # 25-CMP-00080
Oxus Group, LLC t/a Bonjon Rumi
2444 Wisconsin Ave NW
License #129636
Retailer CR
ANC 3B
Violation of Settlement Agreement, Substantial Change in Operation Without Board Approval

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA AT 1:00 PM

Board's Calendar
February 25, 2026

Show Cause Hearing **1:30 PM**

Case # 25-CMP-00090
Chop Shop DC 1, LLC t/a Chop Shop/Nice N Easy
1122-1124 Congress Street NE
License #124675
Retailer CT
ANC 6C
Substantial Change in Operation Without Board Approval

Protest Hearing **1:30 PM**

Case # 25-PRO-00114
Solo Entertainment, LLC, t/a SOST
1901 9th Street NW
License #126215
Retailer CT
ANC 6A
Application to Renew the License

Protest Hearing **1:30 PM**

Case # 25-PRO-00120
Eat at Crème, LLC t/a The Lobby
1660 33rd Street NW
License #128670
Retailer CT
ANC 2E
Application to Renew the License

Board's Calendar
February 25, 2026

Protest Hearing **1:30 PM**

Case # 26-PRO-00007
District Growers LLC t/a Third-Eye Kru
2653 Connecticut Ave NW
License #134075
Retailer MC
ANC 3C
Application for a New License

All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here: *https://www.youtube.com/@alcoholicbeverageregulatio5683*.

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

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, FEBRUARY 26, 2026
899 NORTH CAPITOL STREET, NE, SUITE 4200 A-B
WASHINGTON, D.C. 20002

Donovan W. Anderson, Chairperson
Members: Silas Grant, Jr., Teri Janine Quinn, Ryan Jones and David Meadows

Fact Finding Hearing **10:30 AM**

Mirage INC,
1278 5th Street NE
License #129298
Retailer MC
ANC 5D
Review Applicants Request for Safekeeping

Fact Finding Hearing **10:30 AM**

Vector4, LLC t/a Kush Embassy
7530 Georgia Ave NW
License #128107
Retailer MC
ANC 4A
Review of Social Equity Application

Board's Calendar
February 26, 2026

Fact Finding Hearing **10:30 AM**

TK 539, LLC, t/a ALOHA
539 8th Street SE
License #129362
Retailer MC
ANC 6B
Review New Application (Medical Cannabis Retailer with Delivery Endorsement)

Fact Finding Hearing **10:30 AM**

Zidooni, LLC t/a Green Cloud Shop
6124 Georgia Ave NW
License #130775
Retailer MC
ANC 4A
Review New Application (Medical Cannabis Retailer with Delivery Endorsement)

BOARD RECESS AT 12:00 PM

Board's Calendar
February 26, 2026

Protest Hearing **1:00 PM**

Case # 25-PRO-00104
Aberash, Inc. t/a Signature Lounge
1727 Connecticut Ave NW
License #117485
Retailer CT
ANC 2B
Application to Renew the License

All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here: *https://www.youtube.com/@alcoholicbeverageregulatio5683*.

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

DEPARTMENT OF BUILDINGS

NOTICE OF CLASS CHANGE DETERMINATION

Office of Strategic Code Enforcement

Address:	**Square:**	**Lot:**
3639 New Hampshire Avenue, NW	2897	0053

The Department of Buildings (DOB) has applied the following classification change for FY2022 2nd half.

Based on the review of our records, the property status has been updated to reflect 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 Mekdelawi Taddese, Deputy Strategic Enforcement Administrator at Mekdelawit.Taddese@dc.gov

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF CLASS CHANGE DETERMINATION

Office of Strategic Code Enforcement

Address:	**Square:**	**Lot:**
3639 New Hampshire Avenue, NW	2897	0053

The Department of Buildings (DOB) has applied the following classification change for FY2023.

Based on the review of our records, the property status has been updated to reflect 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 Mekdelawi Taddese, Deputy Strategic Enforcement Administrator at Mekdelawit.Taddese@dc.gov

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1218 Neal St. NE	4063	0066

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** 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 Mekdelawi Taddese, Deputy Strategic Enforcement Administrator @ mekdelawi.taddese@dc.gov .

Sincerely,

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1218 Neal St. NE	4063	0066

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 **FY2025** 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 Mekdelawi Taddese, Deputy Strategic Enforcement Administrator @ mekdelawi.taddese@dc.gov .

Sincerely,

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1261 Kearny St. NE	3931	0024

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 **FY2025** 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."*

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(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1337 Connecticut Ave. NW	0137	0827

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 **FY2025 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."*

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Sincerely,

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(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1352 Rittenhouse Street NW	2790	0102

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **approved** your request for Hardship Exemption for **FY 2024.** The property will be exempt from the vacant building registration requirements for the following reason: 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) that the Class 3-Vacant property has an approved exemption for this tax period and the exemption is no longer valid at the end of the documented tax period. Please be advised that the approved exemption only provides temporary relief for paying your tax bill at the Class 1/ 2 rate.

DOB reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance Standards (§42-3131.12 or if the supporting documents have been found to not support the approved action. This action will be conducted in accordance with *§42-3131.08 – Notice of denial or revocation of registration.*

If you have questions regarding this decision, please contact Mekdelawi Taddese, Deputy Strategic Enforcement Administrator @ mekdelawi.taddese@dc.gov .

Sincerely,

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
1352 Rittenhouse Street NW	2790	0102

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **approved** your request for Hardship Exemption for **FY 2025 1st Half .** The property will be exempt from the vacant building registration requirements for the following reason: 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."*

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Sincerely,

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Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
2001 11TH Street, NW	0332	0080

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 **FY2025 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.

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Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
3723 2ND Street, SE	6093	0056

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 **FY2021** 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."*

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DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
3723 2ND Street, SE	6093	0056

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 **FY2022** 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."*

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DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
3723 2ND Street, SE	6093	0056

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** 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.*
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DEPARTMENT OF BUILDINGS

SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
3923 Georgia Avenue, NW	3027	0037

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 **FY2025** for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

> *Pursuant to D.C. Code §42-3131§.06a (e), Paragraph 2, "A hardship exemption pursuant to this subsection may be granted for a period not to exceed 2 tax years from the required registration date, subject to annual renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship. The Mayor may withdraw the exemption at any time.*

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DOB will 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.

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DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
3923 Georgia Avenue, NW	3027	0037

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 **FY2026** for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

> *Pursuant to D.C. Code §42-3131§.06a (e), Paragraph 2, "A hardship exemption pursuant to this subsection may be granted for a period not to exceed 2 tax years from the required registration date, subject to annual renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship. The Mayor may withdraw the exemption at any time.*

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(202) 701.5399
Mekdelawi.taddese@dc.gov

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
5719 2nd Street NE	3711	0077

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **approved** your request for Hardship Exemption for **FY2025 1nd half.** The property will be exempt from the vacant building registration requirements for the following reason: 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.*
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CRIMINAL JUSTICE COORDINATING COUNCIL

NOTICE OF PUBLIC MEETING

Prearrest Diversion Task Force Meeting

AGENDA
Thursday, February 26, 2026 | *3:00 pm – 4:00 pm* |
Meeting location: *441 4th St NW, 715N Washington, D.C. 20001*

PURPOSE OF THE PREARREST DIVERSION TASK FORCE

Duties of the Prearrest Diversion Task Force:

1. Reviewing and assessing best practices for prearrest diversion;
2. Making recommendations for prearrest diversion of certain misdemeanor offenses, and certain categories of persons;
3. Making recommendations regarding the programs, facilities, personnel, and funding that are necessary to implement prearrest diversion;
4. Making recommendations for any legislative changes that are necessary to enable prearrest diversion;
5. Implementing prearrest diversion of certain misdemeanor offenses, and categories of persons identified by the Task Force as being appropriate for diversion;
6. Identifying any potential improvements in police training or procedures relating to police interactions with individuals impacted by homelessness, mental or behavioral health issues, or substance abuse; and
7. Identifying individuals who frequently interact with police, are frequent mental health consumers, or have suffered from chronic homelessness, and ensure that those individuals are connected to social services.

PRESENTERS
Meeting Facilitator: Kelly O'Meara, Chairperson, MPD and Adam Schutzman, Policy Analyst, CJCC

Meeting topics	Presenter
Welcome and Introduction 1. Roll Call 2. Approval of Meeting Minutes	**Kelly O'Meara, MPD**
Discussion 1. Resource assessment review a. Identification of existing resources	**CJCC, ALL**

b. Conversation about resource gaps

2. Barriers to implementation discussion **ALL**
   a. Logistical, legal, financial, structural

Agenda is subject to change prior to the meeting.

ATTACHMENTS

Please read the following documents included in the email with this agenda prior to attending the Task Force meeting.

- **January meeting minutes**
- **Resource assessment summary**

Previous Meeting Action Items	**Person/Agency**	**Deadline**
N/A	N/A	N/A

Please note: the Prearrest Diversion Task Force is subject to the open meetings act

D.C. BILINGUAL PUBLIC CHARTER SCHOOL

NOTICE: REQUEST FOR PROPOSALS

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for the Summer of 2026:

- Painting services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on Tuesday, March 10, 2026.** Questions, proposals, and full RFP request should be emailed to bids@dcbilingual.org.

No phone call submission or late responses please. Interviews, samples, and demonstrations will be scheduled at our request after the review of the proposals only.

DC SCHOLARS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Multiple Services

DC Scholars Public Charter School invites all interested and qualified vendors to submit proposals for the following services.

The services will encompass the school year 2026-27.

1. **Related Service Providers and Evaluators for Special Education services**
2. **Payroll Processing Services**
3. **Leadership and Staff Development Services**
4. **Technology Support Services**

To obtain the specifications for each Request for Proposals (RFP), including responsibilities and bidding requirements, contact finance@dcscholars.org on/after Friday, February 20, 2026.

Proposals must be submitted no later than Wednesday, March 11th at 5:00 PM to finance@dcscholars.org. The RFP will remain open until a vendor is selected.

All questions should be written by email. Please put "Multiple Services RFP" in the subject heading. No phone calls regarding this RFP will be accepted.

D.C. STATE BOARD OF EDUCATION

NOTICE OF PUBLIC MEETING

Educator Excellence Committee Meeting

The D.C. State Board of Education's Educator Excellence Committee Meeting will hold a meeting on the following date:

- Thursday, February 26, 2026 at 5:00 P.M.

The meeting will be conducted remotely via Zoom, and members of the public are invited to join the
meeting webinar and observe at: https://dc-gov.zoom.us/j/89334692086.

Below is the agenda for the committee's meeting.

AGENDA:

I. Establishment of a Quorum
II. Next Steps: Special Education Professional Development for All Teachers
III. Committee Work Planning
IV. New Business
V. Adjournment

Please note: This agenda is subject to change.

These meetings are 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.

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in (1) one Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2).

VACANT: 6A06

Petition Circulation Period: **Monday, February 23, 2026, through Monday, March 16, 2026**
Petition Challenge Period: **Thursday, March 19, 2026, through Wednesday, March 25, 2026**

Note: The deadline to file petitions or challenges is **4:45 p.m.** on the date listed above.

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions by email at candidate@dcboe.org or in-person during office hours at the following location:

D.C. Board of Elections
1015 Half Street, SE, Suite 750
Washington, DC 20003

For more information, the public may call **202-727-2525**.

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

WARD	DEM	REP	STG	N-P	OTH	TOTALS
1	44,755	2,055	623	10,158	326	57,917
2	36,639	3,858	342	11,246	329	52,414
3	40,857	4,109	439	11,195	322	56,922
4	48,089	2,167	616	9,782	357	61,011
5	53,549	2,474	779	11,550	473	68,825
6	48,881	5,650	531	12,866	435	68,363
7	48,184	2,077	631	9,705	440	61,037
8	38,169	2,107	550	8,504	404	49,734
TOTALS	**359,123**	**24,497**	**4,511**	**85,006**	**3,086**	**476,223**
Percentage by Party	**75.41%**	**5.14%**	**0.95%**	**17.85%**	**0.65%**	**100.00%**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF JANUARY 31, 2026

COVERING CITY-WIDE TOTALS BY:
WARD, PRECINCT, AND PARTY

1015 HALF STREET, SE SUITE 750
WASHINGTON, DC 20003
(202) 727-2525
http://www.dcboe.org



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
20	861	35	11	182	7	1,096
22	4,273	290	28	943	26	5,560
23	2,993	137	40	680	23	3,873
24	2,821	152	22	629	20	3,644
25	4,218	245	53	994	25	5,535
35	3,584	118	54	766	27	4,549
36	4,019	195	57	876	26	5,173
37	3,952	141	56	1,008	40	5,197
38	2,762	119	39	688	22	3,630
39	3,974	150	61	833	22	5,040
40	3,259	125	68	657	23	4,132
41	3,234	168	61	871	31	4,365
42	1,754	74	29	390	11	2,258
43	1,840	57	28	383	12	2,320
137	1,211	49	16	258	11	1,545
TOTALS	**44,755**	**2,055**	**623**	**10,158**	**326**	**57,917**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
2	463	63	5	207	5	743
3	1,739	252	25	655	21	2,692
4	2,396	331	21	894	31	3,673
5	2,253	445	20	899	31	3,648
6	2,270	501	20	1,192	26	4,009
13	1,376	160	11	421	10	1,978
14	2,862	272	31	824	21	4,010
15	3,132	231	24	785	24	4,196
16	3,736	291	19	903	17	4,966
17	4,711	373	39	1,321	33	6,477
18	4,655	279	39	1,060	35	6,068
21	1,059	41	11	219	12	1,342
129	3,380	427	52	1,259	38	5,156
141	2,607	192	25	607	25	3,456
TOTALS	**36,639**	**3,858**	**342**	**11,246**	**329**	**52,414**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
7	1,429	270	14	532	18	2,263
8	2,882	533	15	995	25	4,450
9	1,028	289	7	418	10	1,752
10	2,013	295	20	705	21	3,054
11	3,392	351	61	1,099	49	4,952
12	656	147	2	264	7	1,076
26	3,212	218	25	791	21	4,267
27	2,457	181	27	567	9	3,241
28	2,547	303	32	740	19	3,641
29	1,792	127	25	527	16	2,487
30	1,522	164	13	397	15	2,111
31	2,601	230	23	584	14	3,452
32	2,943	187	27	679	20	3,856
33	3,001	158	28	650	19	3,856
34	3,657	198	50	935	15	4,855
50	2,240	211	31	543	27	3,052
136	1,272	80	16	290	6	1,664
138	2,213	167	23	479	11	2,893
TOTALS	**40,857**	**4,109**	**439**	**11,195**	**322**	**56,922**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
45	2,224	77	30	413	9	2,753
46	2,831	80	37	512	28	3,488
47	3,203	128	60	670	26	4,087
48	2,766	111	35	601	16	3,529
49	977	44	17	228	7	1,273
51	3,620	366	23	688	17	4,714
52	1,491	99	4	282	7	1,883
53	1,066	59	16	247	8	1,396
54	2,186	81	29	466	24	2,786
55	2,270	75	25	458	14	2,842
56	3,038	122	48	651	28	3,887
57	2,289	93	36	537	21	2,976
58	1,939	65	24	406	23	2,457
59	2,399	86	24	434	12	2,955
60	2,042	152	28	652	32	2,906
61	1,452	74	21	319	15	1,881
62	3,711	142	42	627	9	4,531
63	3,756	154	65	743	22	4,740
64	2,180	65	22	387	20	2,674
65	2,649	94	30	461	19	3,253
TOTALS	**48,089**	**2,167**	**616**	**9,782**	**357**	**61,011**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
19	4,513	211	89	1,030	45	5,888
44	2,382	189	48	624	26	3,269
66	4,343	147	46	805	37	5,378
67	2,726	99	29	487	16	3,357
68	1,868	139	29	376	17	2,429
69	2,056	68	26	374	10	2,534
70	1,392	67	28	292	8	1,787
71	2,273	78	34	463	21	2,869
72	3,993	162	56	836	41	5,088
73	1,769	87	25	322	14	2,217
74	5,213	283	95	1,299	56	6,946
75	4,991	236	57	1,123	39	6,446
76	2,945	159	31	751	37	3,923
77	2,723	138	48	585	29	3,523
78	2,747	125	38	633	23	3,566
79	1,937	88	35	504	16	2,580
135	2,731	120	35	553	20	3,459
139	2,947	78	30	493	18	3,566
TOTALS	**53,549**	**2,474**	**779**	**11,550**	**473**	**68,825**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
1	5,272	461	59	1,567	47	7,406
81	3,292	305	32	722	25	4,376
82	2,701	225	32	620	22	3,600
83	3,481	288	39	786	28	4,622
84	2,002	350	20	498	14	2,884
85	2,659	459	22	699	23	3,862
88	2,035	248	15	478	21	2,797
89	2,654	482	25	702	24	3,887
90	1,598	182	18	447	18	2,263
91	4,243	354	44	1,056	37	5,734
127	4,715	392	69	1,177	36	6,389
128	2,191	174	24	587	12	2,988
130	3,734	1,056	26	1,266	57	6,139
142	2,941	314	52	968	26	4,301
143	354	26	4	56	3	443
144	5,009	334	50	1,237	42	6,672
TOTALS	**48,881**	**5,650**	**531**	**12,866**	**435**	**68,363**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
80	1,816	232	59	449	23	2,579
86	2,928	200	44	683	39	3,894
87	2,622	217	27	600	24	3,490
92	1,323	37	19	224	10	1,613
93	1,467	44	18	279	12	1,820
94	1,810	71	26	384	17	2,308
95	1,661	60	22	374	16	2,133
96	1,754	59	16	323	14	2,166
97	1,296	50	20	273	16	1,655
98	1,987	76	28	413	20	2,524
99	1,271	47	13	302	11	1,644
100	2,086	65	22	405	14	2,592
101	1,404	51	17	265	15	1,752
102	2,218	94	32	393	19	2,756
103	2,793	86	42	530	20	3,471
104	2,909	118	44	594	31	3,696
105	2,223	83	24	503	18	2,851
106	2,472	76	21	489	20	3,078
107	1,054	45	10	218	12	1,339
108	974	26	6	149	6	1,161
109	876	39	6	146	5	1,072
110	3,289	104	36	521	23	3,973
111	2,008	67	34	424	20	2,553
113	2,091	70	21	380	23	2,585
132	1,852	60	24	384	12	2,332
TOTALS	**48,184**	**2,077**	**631**	**9,705**	**440**	**61,037**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
AS OF JANUARY 31, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
112	1,253	33	16	248	9	1,559
114	2,559	124	50	616	35	3,384
115	1,662	54	23	347	14	2,100
116	2,368	93	35	519	20	3,035
117	2,408	83	33	533	28	3,085
118	2,823	95	37	596	29	3,580
119	1,637	86	24	333	22	2,102
120	1,791	69	21	335	16	2,232
121	2,875	101	33	573	20	3,602
122	1,779	73	24	363	14	2,253
123	1,541	146	35	400	23	2,145
124	1,921	67	36	395	16	2,435
125	3,108	114	45	623	43	3,933
126	2,714	131	58	638	21	3,562
131	3,426	666	29	1,162	50	5,333
133	1,370	61	15	253	10	1,709
134	1,555	55	21	309	18	1,958
140	1,379	56	15	261	16	1,727
TOTALS	**38,169**	**2,107**	**550**	**8,504**	**404**	**49,734**

DC BOARD OF ELECTIONS

NOTICE OF PUBLIC MEETING TO ADOPT FORMULATIONS OF SHORT TITLE, SUMMARY STATEMENT, AND LEGISLATIVE FORM FOR INITIATIVE MEASURE NO. 86

Pursuant to D.C. Official Code § 1-1001.16(c)-(d), the Board of Elections hereby gives notice that the Board will adopt ballot language (short title, summary statement, and legislative form or "formulations") for Initiative Measure No. 86 ("the Measure") at its regular Board meeting that will be held on Wednesday, March 4, 2026 at 10:30 a.m. at 1015 Half Street SE, Suite 750, Washington DC 20003. The Board will meet remotely. The Board formulations that were prepared within 20 calendar days of the Board's acceptance of the Measure will be posted on its website (*see* https://www.dcboe.org/ballot-measures/current-measures) at least 48 hours prior to the meeting.

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

Join from PC, Mac, iPad, or Android:
https://us06web.zoom.us/j/84634978663

Phone one-tap:
+16469313860,,84634978663# US
+13017158592,,84634978663# US (Washington DC)

Join via audio:
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 408 638 0968 US (San Jose)
+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
Webinar ID: 846 3497 8663
International numbers available: https://us06web.zoom.us/u/kdMEjIEROz

Pursuant to D.C. Official Code § 1-1001.16(c), the following formulations of Initiative Measure No. 86 were prepared this 3rd day of February, 2026.

INITIATIVE MEASURE

NO. 86

SHORT TITLE

"Prohibiting Force-Feeding of Birds Act of 2026."

SUMMARY STATEMENT

If enacted, this Initiative would:

(a) Prohibit any person from force-feeding a bird for the purpose of enlarging the bird's liver beyond normal size;

(b) Ban the sale or distribution of any product resulting from force-feeding a bird, including foie gras;

(c) Define force-feeding as inserting a tube into the bird's throat to deliver excessive feed;

(d) Provide for enforcement by the Department of Energy and Environment during routine food safety inspections;

(e) Provide for civil penalties.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act maybe cited as the "Prohibiting Force-Feeding of Birds Act".

Sec. 2. Legislative intent.

The people of the District of Columbia hereby find and declare:

(1) That fattened bird liver products are 'luxury' food items produced from the diseased and enlarged liver of a bird, typically a duck or goose, typically produced through systematically force-feeding the animal until their liver becomes diseased and expands up to ten times its natural size;

(2) That the method typically used to force-feed these birds for production of food items is inhumane and involves inserting a foot-long metal or plastic tube into the bird's throat and administering excessive quantities of feed directly into the stomach, resulting in extreme pain and various health issues;

(3) That force-feeding induces liver disease in the birds, which is both painful and often fatal, causing the animals significant injury and illness, including bacterial and fungal infections, malnourishment, and/or lameness;

(4) That veterinary professionals widely regard the typical practice of force-feeding birds for food product production as inhumane;

(5) That the intensive confinement of these birds for food product production exacerbates environmental degradation and climate change through the necessitation of substantial water and energy consumption and polluting our city's air and waterways;

(6) That runoff from fattened bird liver production facilities contains high concentrations of phosphorus and nitrogen, two of the most common forms of water pollution in the United States;

(7) That workers in fattened bird liver production facilities face occupational hazards, including exposure to respiratory irritants and zoonotic diseases, posing risks to worker health and public health; and

(8) That eliminating the production and sale of fattened bird liver products from the marketplace is in our city's interest and authority to reduce animal cruelty, unsustainable environmental practices, and spread of zoonotic, and to uphold the District's values of humane animal treatment, public health, and environmental stewardship.

Sec. 3. Definitions.

For the purposes of this act, the term:

(1) "Bird" means any species of poultry, including ducks, geese, chickens, turkeys, guineas, or squabs.

(2) "Director" means the duly appointed Director of the Department of Energy and Environment ("the Department"), or the lawfully designated subordinate of the Director of the Department acting under the orders of the Director of the Department.

(3) "Fattened bird liver product" means any food product or by-product made from the livers of birds fattened through any method or practice, including foie gras, pâtés, spreads, and processed meat products derived from such livers, regardless of marketing terminology.

(4) "Food service establishment" means any place offering prepared food to be consumed by customers on or off premises, including restaurants, cafeterias, pushcarts, stands, or vehicles.

(5) "Force-feeding" means any process, whether by hand or machine, by which a bird is caused to ingest more food than it would consume voluntarily, including the use of a tube or device inserted into the esophagus.

(6) "Person" means any individual, corporation, partnership, joint venture, trust, government agency, organization, or other entity.

(7) "Retail establishment" means any store, shop, sales outlet, farmers' market, or other place that sells or offers for sale food products to the public.

(8) "Sell" or "sale" means any act of selling, trading, distributing, bartering, or transferring for monetary or nonmonetary consideration, occurring where the recipient takes physical possession of the item.

Sec. 4. Prohibited conduct.

(a) No person shall force-feed a bird, or hire or direct another person to force-feed a bird, for the purpose of enlarging the bird's liver beyond its normal size. This subsection shall not apply to force-feeding directed by a licensed veterinarian solely for therapeutic purposes.

(b) No person, food service establishment, or retail establishment shall sell, offer for sale, distribute, or otherwise provide any fattened bird liver product within the District of Columbia, whether as a standalone item or as an ingredient in any product or dish.

(c) No person shall import, transport, or receive a fattened bird liver product into the District for sale, distribution, or any other commercial purpose, regardless of the jurisdiction where the product was produced or originated.

Sec. 5. Authority of Director.

(a) The Director is hereby authorized to administer and enforce the provisions of this Act. Thereby, the Department:

(1) Is authorized to adopt procedures and forms to implement the provisions of this act;

(2) Shall ensure compliance with the provisions of this act during routine inspections of retail establishments;

(3) Shall also have the authority to issue subpoenas for records related to the purchase, storage, and sale of poultry products;

(4) Shall ensure members of the public are able to submit complaints notifying the Department of possible violations; and

(5) Shall maintain a publicly available online database of violations and penalties issued under this act, updated quarterly.

(b) The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this act.

(c) The Director shall ensure compliance with this act during routine inspections of food service establishments and retail establishments.

Sec. 6. Enforcement and penalties.

(a) Any person or establishment that violates any provision of this act shall be subject to a civil penalty of not less than $1,000 and not more than $5,000 per violation. Each day a violation continues shall constitute a separate violation.

(b) Repeated violations within a 12-month period may result in suspension or revocation of the violator's business license in accordance with applicable District law.

(c) In addition to civil penalties, the District may enforce this act through a civil action, including an action for injunctive relief.

Sec. 7. Severability.

If any provision of this act, or its application to any person or circumstance, is held invalid, the remainder of the act, and the application of its provisions to other persons or circumstances, shall not be affected.

Sec. 8. Applicability.

This act shall apply as of July 1, 2027; except that:

(a) The provisions of this act with any fiscal effect shall apply upon the date of inclusion of the fiscal effect in an approved budget and financial plan, if that date is later than July 1, 2027.

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

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

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

Sec. 9. Effective Date.

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

ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Multiple Services

Elsie Whitlow Stokes Community Freedom PCS invites all interested and qualified vendors to submit proposals for the following services: Legal Services, Tutoring Services, General Contracting, Architecture Services, Real Estate Services, SPED Services, Office/Furniture Supplies, Security Services, Fundraising Services, Outdoor Play Design/Build Services, Behavior/Mental Health Services, Teacher Residency Services, Insurance/Benefit Services, Utility Services, Educational Services

The RFP with bidding requirements and supporting documentation can be obtained by emailing procurement@ewstokes.org. Vendors are requested to provide the following items in response to the proposals: an organizational capability statement, resumes of key personnel, three references, quote, and a detailed scope of work. Please submit all documents as PDF files via email by noon on March 9, 2026. 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
NOTICE OF FUNDING AVAILABILITY

Lead Poisoning Prevention Outreach for Expectant and New Parents

The Department of Energy and Environment (DOEE) seeks an eligible entity, or entities, to provide education and outreach activities focused on lead poisoning prevention to the expectant and new parent community in Washington, D.C.

The amount available for the project is $67,281.

Beginning 02/20/2026, the full text of the Request for Applications (RFA) will be available on DOEE's website. A person may obtain a copy of this RFA by any of the following means:

Download from DOEE's website, www.doee.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2026lpop.grants@dc.gov with "Request copy of RFA-FY26-LHHD-885 in the subject line.

The deadline for application submissions is 03/27/2026. The online application must be time-stamped by 11:59 p.m. on the date the application is due.

Eligibility: All the checked institutions below may apply for these grants:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
☒-Faith-based organizations;
☒-Government agencies;
☒-Universities/educational institutions; and
☐-Private Enterprises.

This RFA is being made available on the date of publication of this Notice to maximize the amount of time available for preparation of applications.

For additional information regarding this RFA, write to: 2026lpop.grants@dc.gov.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

2026 Consolidated Request for Proposals for Affordable Housing Projects

Colleen Green, Director, Department of Housing and Community Development (DHCD), announces a Notice of Funding Availability (NOFA) for affordable housing finance resources that include: 9% Low Income Housing Tax Credits (LIHTCs), District of Columbia LIHTCs (DC LIHTCs), Community Development Block Grant (CDBG) program, the HOME Investment Partnerships (HOME) program, the National Housing Trust Fund (NHTF), the Recovery Housing Trust Fund (RHP), and the Local Rent Supplement Program (LRSP). Also, the DHCD Property Acquisition and Disposition Division (PADD) will have solicitations for offers for vacant sites in the District of Columbia available for acquisition.

DHCD has issued a Consolidated Request for Proposals (RFP) for real estate development projects that produce or preserve affordable housing in the District of Columbia and that require gap financing. The 2026 Consolidated Request for Proposals will be released on **Friday, February 20, 2026** and applications submitted in response to the RFP are due on **Tuesday, March 31, 2026, by 12 noon**.

Application materials, further instructions, application fee information, information about RFP orientation sessions and the Consolidated RFP ("2026 Consolidated Request for Proposals for Affordable Housing Projects") will be available online at www.dhcd.dc.gov.

If you have questions about DHCD's FY 2026 Consolidated RFP, email SpringDHCD2026.RFP@dc.gov.

Muriel Bowser, Mayor of the District of Columbia
Nina Albert, Deputy Mayor for Planning and Economic Development
Colleen Green, Director, Department of Housing and Community Development

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REQUEST FOR PROPOSALS

Site Acquisition Finance Initiative – Bridge Loan Program

The District of Columbia Department of Housing and Community Development (DHCD) announces the Site Acquisition and Finance Initiative Bridge Loan Program ("SAFI Bridge Loan Program"). DHCD has issued a Request for Proposals seeking to partner with organizations who provide real estate financing and technical assistance to affordable housing developers ("Lenders"). The SAFI Bridge Loan Program will leverage DHCD funds with private funds to allow the selected Lender(s) to provide flexible, easily accessible bridge loan funds to organizations committed to creating and preserving affordable housing in the District of Columbia.

DHCD issued the SAFI Bridge Loan Program RFP for participating lenders on **February 20, 2026**, and applications for the SAFI Bridge Loan Program RFP are due on **March 20, 2026**.

Application materials and further instructions about the SAFI Bridge Loan RFP will be available online at www.dhcd.dc.gov. If you have questions about DHCD's SAFI Bridge Loan Program RFP, email SBLR.DHCD@dc.gov.

Muriel Bowser, Mayor of the District of Columbia
Nina Albert, Deputy Mayor for Planning and Economic Development
Colleen Green, Director, Department of Housing and Community Development

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REQUEST FOR QUALIFICATIONS

District Opportunity to Purchase Act - Property Management Services Grant

The D.C. Department of Housing and Community Development (DHCD) – Housing Preservation Unit (HPU) announces a Request for Qualifications (RFQ) to pre-qualify residential property managers and offer a grant to manage properties the District acquires through the District Opportunity to Purchase Act (D.C. Code § 42-3404.31-37)("DOPA"), foreclosure of DHCD liens, transfers for Real Estate Owned (REO) properties from lenders, and negotiated sale.

DHCD will use the RFQ to select three to five organizations to create and retain a pool of managers on call to manage properties. Organizations selected from the pool to manage a property will be offered a small startup grant to cover initial costs and be required to submit an estimated management budget and execute a management agreement. The purpose of the grant and agreement is to stabilize, preserve, and protect the District of Columbia's supply of affordable housing.

The RFQ was released on **Friday, February 20, 2026**, and submissions in response to the RFQ are due no later than 4:00 pm on **Tuesday, March 31, 2026**. A virtual pre-application conference will be held on **Tuesday March 10, 2026,** to address questions from potential respondents.

To register for the pre-application conference or ask questions please send an email to DOPA.DHCD@dc.gov. All questions received prior to the conference will be answered during the conference.

Application materials, further instructions, and information about the RFQ pre-application conference will be available online at dhcd.dc.gov, and the RFQ is located on the DHCD website on DHCD's Solicitations page at dhcd.dc.gov/solicitations.

The entire application and submission process will be online and hard copy submissions will not be accepted.

Muriel Bowser, Mayor of the District of Columbia
Nina Albert, Deputy Mayor for Planning and Economic Development
Colleen Green, Director, Department of Housing and Community Development

THE DISTRICT OF COLUMBIA

DEPARTMENT OF HUMAN SERVICES

NOTICE OF COMMUNITY ADVISORY TEAM MEETING

Aston Community Advisory Team (CAT)

The District of Columbia ("District" or "D.C.") Department of Human Services (DHS) hereby gives notice of the upcoming meetings of the Aston Community Advisory Team (CAT) for the calendar year 2026. The meetings will be held on a quarterly basis via the Microsoft Teams link below on the following **Mondays from 5:00 p.m. – 6:30 p.m.:**

March 9

June 8

September 14

December 14

For more information about the CAT, past CAT meetings, and meeting materials, please visit the website of the Department of Human Services at https://dhs.dc.gov/page/aston.

These public meetings will be held online via Microsoft Teams at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTJkNTUxNTMtOTJhZi00MGU3LWJhNmItZjdiNGZhY2YwOWM4%40thread.v2/0?context=%7b%22Tid%22%3a%228fe449f1-8b94-4fb7-9906-6f939da82d73%22%2c%22Oid%22%3a%2217874027-69b9-468d-9372-e85bcf2c328b%22%7d.

Meeting ID: 215 304 408 79

Passcode: LSUzqJ

Dial in by phone

+1 202-594-9550,,979425181# United States, Washington DC

Find a local number

Phone conference ID: 979 425 181#

Join on a video conferencing device

Tenant key: octo@m.webex.com

Video ID: 113 514 999 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.

For additional information or to make a request for reasonable accommodations, please contact the D.C. Office of the Deputy Mayor for Health and Human Services by phone at (202) 727-7973 or via email at: atdeom.dmhhs@dc.gov.

DISTRICT OF COLUMBIA

DEPARTMENT OF HUMAN SERVICES

NOTICE OF COMMUNITY ADVISORY TEAM MEETING

E Street Community Advisory Team (CAT)

The District of Columbia ("District" or "D.C.") Department of Human Services (DHS) hereby announces that the first meeting of the E Street Community Advisory Team (CAT) will take place on Monday, March 2, 2026 from 6:30-8:00 pm.

This meeting will be held via the Microsoft Teams link below.

Microsoft Teams meeting
Join: https://teams.microsoft.com/meet/28757739831943?p=WA3XqkHEv6DNwF0Yll
Meeting ID: 287 577 398 319 43
Passcode: x5ui257H

Need help? | System reference
Dial in by phone
+1 202-594-9550,,424390190# United States, Washington
Find a local number
Phone conference ID: 424 390 190#
Join on a video conferencing device
Tenant key: octo@m.webex.com
Video ID: 111 444 950 4
More info

For more information about DHS Bridge Housing Programs, please visit the DHS website at https://dhs.dc.gov/page/bridge-housing.

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.

For additional information or to make a request for reasonable accommodations, please contact Sakina Thompson in the Office of the Deputy Mayor for Health & Human Services (DMHHS) at sakina.thompson@dc.gov or 202-674-6187.

IDEA INTEGRATED DESIGN AND ELECTRONIC ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

One (1) New or Like New 30-Passenger School Bus

IDEA Integrated Design and Electronic Academy PCS solicit proposals for the following services:

- One (1) New or Like-New 30-Passenger School Bus

Full RFP available by request. All proposals must be submitted in PDF format and emailed to bids@ideapcs.org no later than 5:00 PM on **Tuesday, March 3rd, 2026**. No phone calls please.

INGENUITY PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Vended-Managed School Meal Services

Ingenuity Prep Public Charter School located in Washington DC invites proposals for Vended-Managed School Meal Services. Submission deadline is 12:00 PM Eastern Time on April 28, 2026. For inquiries, email foodservice@cpa.coop.

LEARN DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSAL

Construction Manager at Risk

LEARN DC Public Charter School, located in Washington DC, is requesting an RFP to procure a fee-based Construction manager at risk to provide pre-construction cost estimation services (the "services") for a new campus for LEARN DC Public Charter School ("LEARN"). The RFP will be distributed to construction specialists with experience in providing cost estimation, general contracting, and construction management services, with a preference for firms with experience building public charter schools. The winning firm will enter into a standard A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor, where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price contract with LEARN DC. Proposals will be evaluated by LEARN's leadership and its representatives.

The full RFP can be found under the "RFP" section at Learncharter.org or requested via email by contacting Level Field Partners at jose@levelfieldpartners.com. Proposals will be accepted until **5:00pm EST on Wednesday, March 4th, 2026**. Submissions should be sent to jose@levelfieldpartners.com.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING

District of Columbia Board of Architecture, Interior Design and Landscape Architecture

The District of Columbia Board of Architecture, Interior Design and Landscape Architecture ("Board") hereby gives notice of its regular meeting, pursuant to the section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board will hold its next meeting on Friday, February 27,2026, at 9:30 a.m.

The Board holds its meetings every month at 9:30 a.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Avis B. Pearson, Board Administrator, at (202) 615-2331 or avis.pearson@dc.gov.

Draft Agenda

1. Attendance
2. Comments from the Public
3. Review of Minutes (1/16/25)
4. Review of Administrative Approval Applications
5. Legislative Update
6. Outreach
   - Washington School for Girls – March 20, 2026
7. Education
8. Sub Committee Update
   - Institute of Justice Recommendations for Interior Designers
9. Old Business
   - NCARB 2026 Regional Summit March 20-21, 2026; Oklahoma City, Oklahoma. The MBE Workshop will be held on 3/19/2026. Ms. Helene Combs will be conducting a Strategic Planning session on March 22nd. Mr. McGhee will attend this session.
10. New Business
10. Review of Correspondence
11. Motion - Executive Session (Closed to the Public) Pursuant D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications, and legal counsel report.
12. Recommendations
13. Adjourn - The next regularly scheduled meeting will occur on April 20, 2026, via Zoom.

Join the meeting:

https://dc-gov.zoom.us/j/81726498758?pwd=ayjCOpcF0Z4BMWF4iCh2DDmfmvXDgZ.1

Webinar ID: 817 264 98758; Passcode: 022726

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

District of Columbia Board of Professional Engineers

NOTICE OF PUBLIC MEETING

The District of Columbia Board of Professional Engineers ("Board") hereby gives notice of its upcoming meeting, pursuant to the section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board will hold its upcoming meeting on Thursday, February 26, 2026, at 11:00 a.m.

The Board holds its meetings on the fourth Thursday of every month (except for April, August, November, and December) at 11:00 a.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Avis B. Pearson, Board Administrator, at (202) 615-2331 or avis.pearson@dc.gov.

Draft Agenda

1. Call to Order – 11:00 a.m.
2. Attendance
3. Comments from the Public
4. Review of Minutes (1/26/26)
5. Administrative Approval Application Review
6. Outreach
7. Legislative/Rulemaking Updates
8. Sub Committee update
9. Education
10. Old Business
11. New Business
12. Review of Correspondence
13. Executive Session - Pursuant D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications, and legal counsel report. – Closed to the Public
14. Recommendations –Technical/Legal Log
15. Adjourn – The next scheduled meeting will occur on March 26, 2026, via Zoom.

To join the meeting:
https://dc-gov.zoom.us/j/88292574344?pwd=on9gN39dhwBoNw708yZGodaZUJy5AV.1
Webinar ID: 882 9257 4344; **Passcode:** 022626

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

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF CANCELLED MEETING

District of Columbia Combat Sports Commission

The District of Columbia Combat Sports Commission cancelled its monthly meeting scheduled for February 11, 2026.

Notice of future meetings will be posted on the Department of Licensing and Consumer Protection's website, https://dlcp.dc.gov/service/dlcp-board-meetings9.

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

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF RESCHEDULED 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 has rescheduled its February meeting from Tuesday, February 10, 2026, to Tuesday, February 19, 2026, 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 am
2. Attendance (Start of Public Session)
3. Comments from the Public
4. Minutes
5. Recommendation – Education Committee Recommendations
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 – The next regularly scheduled meeting will occur on March 10, 2026, via Zoom.

To join the meeting:
https://dc-gov.zoom.us/j/81936909772?pwd=BXMtiwCxEmZEDieusDu9m6WOHWLMkA.1
Meeting ID: 819 3690 9772; 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.

MUNDO VERDE BILINGUAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Solar Panels

Mundo Verde Public Charter School is seeking proposals for the installation of solar panels at 817 Varnum Street NE.

Interested vendors may obtain the full RFP, including bidding requirements and supporting documentation, by contacting Rocio Yoc at ryoc@mundoverdepcs.org.

All proposals must meet the requirements outlined in the RFP. Incomplete submissions or proposals that do not address all the required areas will not be considered.

The deadline for RFP submission is **3:00 p.m. on March 06, 2026.**

MUNDO VERDE BILINGUAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Various Services

Mundo Verde Public Charter School is seeking proposals from qualified and experienced vendors to provide the following services:

1. **Fundraising Support Services**
2. **Return on Investment (ROI) and Impact Evaluation**
3. **English/Spanish interpretation and American Sign Language (ASL)**

Interested vendors may obtain the full RFP, including bidding requirements and supporting documentation, by contacting Rocio Yoc at ryoc@mundoverdepcs.org.

All proposals must meet the requirements outlined in the RFP. Incomplete submissions or proposals that do not address all the required areas will not be considered.

The deadline for RFP submission is **3:00 p.m. on February 27, 2026.**

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 Christopher Costa.

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 Costa's qualifications for reappointment to the District of Columbia Office of Administrative Hearings. ALJ Costa has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of his current six-year term on May 16, 2026.

D.C. Mun. Regs. tit. 6-B, § 3705.21 states:

> 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 Costa'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 must 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 Tanya Campbell
441 4th Street, N.W.
Suite 450N
Washington, D.C. 20001

Comments may be emailed to Tanya Campbell at tanya.campbell@dc.gov.

The members of the Commission are:

The Honorable Robert Rigsby
Chief Administrative Law Judge M. Colleen Currie
Laura E. Hankins, Esq.
Adele El-Khouri, Esq.

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL

NOTICE OF REQUEST FOR PROPOSALS

Contractor to Renovate Classroom, Library & Breakroom

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school located in southeast Washington, DC—seeks a qualified contractor to reconfigure spaces in its building.

The school contemplates a variety of renovations to support students and staff; the current RFP will cover Phase 1 of planned renovations, summarized as follows:

- Library renovations to create additional instructional and resources spaces
- Modernization of the employee break-room and adjacent workroom
- Subdivision of a single classroom to pilot creation of additional small-class instructional spaces

Drawings/specifications by DLR Group/Bowie Gridley Architects will appear in the full RFP.

Full RFP:
The school expects to release the full RFP on/about February 20, 2026. Interested contractors can obtain the full RFP by emailing dschlossman@tmapchs.org or via the link below. Amendments and extensions of the RFP—if any—will be published exclusively on the page linked below (with e-mail notice to bidders who provide email addresses):
https://thurgoodmarshallacademy.org/about/employment-opportunities/

Questions & Information:

- The school expects to host a limited number of on-site meetings for bidders; meetings will be announced in the full RFP, and site access outside of those meetings will take place solely at the school's discretion.
- Address questions, following guidelines in the full RFP, to **David Schlossman,** 202-276-4722, dschlossman@tmapchs.org; the school will (to the degree feasible) circulate answers to questions to known bidders and via its website.
- The school will cover a portion of costs with federal funds as detailed in the full RFP.
- Further information about Thurgood Marshall Academy—including the school's nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission

- Bids/quotations must respond to the full RFP
- Bids/quotations should not exceed **a 24 MB file-size limit per email**
- Email bids/quotations to dschlossman@tmapchs.org
- Review of proposals will begin after **March 12, 2026**

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting by Microsoft Teams on Thursday, March 5, 2026, at 9:30 a.m. The meeting will be held in the boardroom (2nd floor) at 1385 Canal Street, S.E., Washington, D.C. 20003. The Chief Executive Officer and General Manager invite the public to attend the meeting via livestream. Please see the website for remote access information for this meeting. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com that will also contain a link to the livestream.

For additional information, please contact Michelle Rhodd, Board Secretary at (202) 787-2331 or Michelle.Rhodd@dcwater.com.

DRAFT AGENDA

1.	Call to Order	Board Chairman
2.	Roll Call	Board Secretary
3.	Approval of February 4, Meeting Minutes	Board Chairman
4.	Committee Report(s)	Committee Chairperson(s)
5.	Chief Executive Officer's Report	Chief Executive Officer and General Manager
6.	Action Items Joint-Use Non-Joint-Use	Board Chairman
7.	Other Business	Board Chairman
8.	Adjournment	Board Chairman

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

Executive Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Executive Committee will hold a meeting via Microsoft Teams on Tuesday, March 3, 2026, at 2:30 p.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 posted 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. Executive Session	Committee Chairperson
3. 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

Strategic Management Committee

DRAFT AGENDA

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) The Strategic Management Committee will hold a meeting on Tuesday, February 24, 2026, at 11:00 a.m. The meeting will not be held in the Board Room (2nd floor) at 1385 Canal Street, S.E, but will be held via Microsoft Teams. Below is the draft agenda for this meeting. A final agenda will be posted on DC Water's website at www.dcwater.com. Please see the website for remote access information for this meeting.

For additional information, contact Michelle Rhodd, Board Secretary at (202) 787-2331 or Michelle.Rhodd@dcwater.com.

1.	Call to Order	Committee Chairperson
2.	Strategic Management Presentation	Committee Chairperson
3.	Executive Session	Committee Chairperson
4.	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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-34O
Z.C. Case No. 08-34O
CAPITOL CROSSING III, LLC and CAPITOL CROSSING IV, LLC
(Two Year Time Extension of PUD for Property Located @ Square 566, Lots 862 and 864)
January 15, 2026

Pursuant to notice, at its public meeting on January 15, 2026, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application") of CAPITOL CROSSING III, LLC and CAPITOL CROSSING IV, LLC (together, "Applicant") for a two year extension of the validity of Z.C. Order No. 08-34L, as extended by Z.C. Order No. 08-34M, which approved a second-stage Planned Unit Development ("PUD") for the Center Block (hereinafter defined) portion of the Capitol Crossing development project. The Application included a request for a waiver from Subtitle Z § 705.5, which limits a PUD's second extension to only one year. The Application was for the PUD's second extension and was requested for two years.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedure, which are codified in Subtitle Z of the Zoning Regulations of the District of Columbia, Title 11 of the District of Columbia Municipal Regulations ("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. PRIOR PUD APPROVALS AND EXTENSIONS

1. Pursuant to Z.C. Order No. 08-34L, dated October 21, 2021, and effective as of March 25, 2022, the Commission approved a second-stage PUD for the Capitol Crossing Center Block located at Square 566, Lots 862 and 864 (together, "Center Block" or "second-stage PUD"), in accordance with the first-stage PUD approved pursuant to Z.C. Order No. 08-34, dated May 23, 2011, and effective as of July 1, 2011, and the PUD Modification of Significance approved pursuant to Z.C. Order No. 08-34K, dated October 24, 2019, and effective as of October 30, 2020.

2. The second-stage PUD for the Center Block approved development of a residential building on Lot 862 ("Residential Building") and a hotel building on Lot 864 ("Hotel Building"), to be connected through a shared two-story podium ("Podium").

3. Pursuant to Z.C. Order No. 08-34L, Decision No. III(2), the second-stage PUD for the Residential Building and the Podium was valid for a period of two years from the effective date of the second-stage PUD order (i.e., until March 25, 2024), within which time a building permit application was required to be filed and accepted as complete by the D.C. Department of Buildings ("DOB") for the Residential Building and the Podium.

Construction of the Residential Building and the Podium was required to begin no later than three years from the effective date of the second-stage order (i.e., by March 25, 2025).

4. Pursuant to Z.C. Order No. 08-34L, Decision No. III(3), the second-stage PUD for the Hotel Building was valid for a period of two years following issuance of the first certificate of occupancy for the Residential Building or Podium, within which time a building permit application must be filed and accepted as complete by DOB for the Hotel Building. Construction of the Hotel Building must begin no later than three years following the issuance of the first certificate of occupancy for the Residential Building or the Podium.

5. Pursuant to Z.C. Order No. 08-34L, Decision No. III(4), if no certificate of occupancy is issued for the Residential Building or Podium within six years following the effective date of Z.C. Order No. 08-34L, then the approval would expire unless otherwise extended by the Commission.

6. Pursuant to Z.C. Order No. 08-34M, dated November 9, 2023, and effective as of December 29, 2023, the Commission approved a two-year extension of the deadlines established in Z.C. Order No. 08-34L, such that the Applicant must (i) file a building permit application to construct the Residential Building and Podium no later than March 25, 2026; (ii) start construction of the Residential Building and Podium no later than March 25, 2027; and (iii) obtain a certificate of occupancy for the Residential Building or Podium no later than March 25, 2030.

7. The deadline to file a building permit application for the Hotel Building was not modified in Z.C. Order No. 08-34M, such that the second-stage PUD for the Hotel Building is valid for a period of two years following issuance of the first certificate of occupancy for the Residential Building or Podium. Within that time, a building permit application must be filed and accepted as complete by DOB for the Hotel Building. Construction of the Hotel Building must begin no later than three years following the issuance of the first certificate of occupancy for the Residential Building or the Podium.

8. The Application requested the extension based on a variety of conditions, circumstances, and factors beyond the Applicant's reasonable control that rendered the Applicant unable to comply with the applicable time limits. Specifically, the Application requested a two-year extension of the validity of Z.C. Order No. 08-34L, as extended by Z.C. Order No. 08-34M, such that (i) a building permit application to construct the Residential Building and Podium must be filed no later than March 25, 2028; (ii) construction of the Residential Building and Podium must begin no later than March 25, 2029; and (iii) a certificate of occupancy for the Residential Building or Podium must be issued no later than March 25, 2032.

9. The Application did not request an extension of the deadline to file a building permit application for the Hotel Building. The second-stage PUD for the Hotel Building would continue to be valid for a period of two years following issuance of the first certificate of occupancy for the Residential Building or Podium. Within that time, a building permit application must be filed and accepted as complete by DOB for the Hotel Building, and

construction of the Hotel Building must begin no later than three years following the issuance of the first certificate of occupancy for the Residential Building or the Podium.

PARTIES AND NOTICE

10. The parties to the second-stage PUD were Advisory Neighborhood Commissions ("ANCs") 2C and 6C. As of January 1, 2023, and due to the ANC boundary line redistricting, the entire Capitol Crossing PUD is now located entirely within the boundaries of ANC 6E. While certain sections of Subtitle Z of the Zoning Regulations were modified to provide that only the new affected ANC must be served if the affected ANC has changed since the effective date of the final order (*e.g., see* Subtitle Z § 703.10 for modifications without hearing to contested case orders and plans), Subtitle Z § 705 governing time extensions does not include such language. Accordingly, as indicated in the Certificate of Service (Exhibit ["Ex."] 2), the Applicant served the Application on all three of the ANCs (2C, 6C, and 6E), thus providing the required time period in which to respond.

II. THE APPLICATION

11. On November 18, 2025, the Applicant timely filed the Application requesting a two-year extension of the validity of Z.C. Order No. 08-34L, as extended by Z.C. Order No. 08-34M, such that a building permit application for the Residential Building and Podium would have to be filed by March 25, 2028, and construction of the Residential Building and Podium would have to begin by March 25, 2029. The Application also requested a two-year extension of the six-year deadline within which time a certificate of occupancy must be issued for the Residential Building or Podium without the approval expiring, such that the certificate of occupancy must be issued by March 25, 2032.

12. The Application asserted that it met the requirements under Subtitle Z § 705.2 for the proposed time extension because:
    - The extension request was served on all parties and all parties were allowed 30 days to respond;
    - There had been no substantial change in any of the material facts upon which the Commission based its approval in Z.C. Order No. 08-34L; and
    - Good cause justified the Commission in granting the time extension due to a variety of conditions and factors beyond the Applicant's reasonable control. The Application included an affidavit of George W. Cantrell, III, the President of Capitol Crossing Advisors LLC ("Affidavit") (Ex. 2A1-2A4), which described the Applicant's good faith efforts to move forward with development of the Center Block, including the following:
        - Taking actions to advance the overall Capitol Crossing development project overall, including (i) constructing the platform, base infrastructure, and below-grade parking and loading facilities for the entire project; (ii) delivering two new office buildings on the North Block; (iii) delivering the new rectory and annex buildings in the Center Block for the Holy Rosary Church; and (iv) relocating the historic Adas Israel Synagogue from the South Block and coordinating construction of new facilities for the Jewish Historical Society (Ex. 2, 2A1-2A4);

- Working with DDOT on the design, permitting and construction of major new public infrastructure, including (i) the construction and opening of F and G Streets, N.W.; (ii) the construction of roadway subbase and resurfacing on 2nd and 3rd Streets, N.W., and Massachusetts Avenue, N.W.; (iii) the modification of bridges on E Street, N.W., and Massachusetts Avenue, N.W.; and (iv) the construction of a new highway entrance and exit portal. The Affidavit stated that the Applicant also installed new traffic signals, street lights, water and sewer lines, and curb inlets, and relocated a major water main in Massachusetts Avenue, N.W., and that the Applicant spent approximately $200 million in public space infrastructure improvements to date, which benefit the District as a whole (Ex. 2, 2A1-2A4);
- Continuing to progress the Center Block specifically, including (i) working with its design team, OP, and DDOT to confirm compliance with canopy projections and to evaluate traffic, parking, loading, and pedestrian considerations for the residential, hotel, and retail uses within the Center Block; (ii) obtaining DDOT Public Space Committee approval for all improvements in public space surrounding the Center Block and constructing those improvements; (iii) continuing to work with residential Property Management companies, architects, and retail brokerage organizations to program the Center Block; (iv) obtaining approval from DOEE, DC Water, PEPCO, Washington Gas, and Verizon, and installing the associated utility infrastructure required to service the Center Block; (v) preparing and recording a PUD Covenant for the Center Block; and (vi) preparing and recording the required DDOT Covenant for Special Paving and Fixtures in Public Space for the Center Block (Ex. 2, 2A1-2A4);
- The Application and Affidavit also described the Applicant's difficulty in advancing development of the Residential Building and Podium within the required timeframes due to widespread changes in economic and market conditions that were outside of the Applicant's control. The Application and Affidavit described a variety of obstacles associated with the construction of multi-family residential development, including inflation, high interest rates, a weak lending market, high construction costs, and Federal policies that resulted in a strained workforce, insufficient labor, and supply chain shortages. The Application and Affidavit explained how these conditions had specific and material consequences on the Applicant's ability to move forward with development at the Center Block. Such conditions included the following:
  a) Challenges to the construction industry generally, including increased costs and problems associated with ordering, fabricating, and obtaining equipment, supplies, and materials in a timely manner;
  b) Federal policy shifts, including tariff policies, which resulted in market uncertainty, labor shortages, increased prices, and reduced production;
  c) Trade and fiscal policies that fueled financial market volatility, geopolitical uncertainty, and risks associated with ongoing deficit spending, which tempered business and consumer confidence;
  d) The overall unwillingness from project investors and lenders to fund the Center Block due to the above-referenced and prevailing economic conditions in the debt and equity markets throughout the country, including

underperforming real property assets, tightening underwriting standards, and inflation generally;

e) Direct multi-family residential competition in the immediate neighborhood resulting in lower demand at the Applicant's required dates of completion; and

f) The reluctance of retailers, restauranteurs, and grocers to lease space as they wait to see how economic conditions change or improve (Ex. 2, 2A1-2A4);

- The Application and Affidavit stated that due to the above considerations, the Applicant determined that in order to ensure an economically feasible and successful project, the most practical course of action was to temporarily pause advancement of design and construction documents for the Residential Building and Podium within the Center Block; and
- Despite the foregoing, the Application and Affidavit explained that the Applicant is still committed to moving forward with development of the Center Block. The base infrastructure for Capitol Crossing, including all parking and loading facilities, has already been constructed, and the foundation systems for the buildings have been designed and installed. The Application stated that the Applicant continues to explore all possible options to move the Center Block forward and intends to do so as soon as feasible.

13. The Application included a request for a waiver from Subtitle Z § 705.5, which states that an applicant with an approved PUD may request no more than two extensions, with the second request required to be approved for no more than one year. Pursuant to Z.C. Order No. 08-34M, the Commission approved the first PUD extension for the Center Block for a period of two years. Thus, the Applicant requests a waiver from Subtitle Z § 705.5 to allow this second extension request to be approved for two years.

14. Pursuant to Subtitle Z § 101.9, the Commission may, for good cause shown, waive any of the provisions of Subtitle Z of the Zoning Regulations if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Application stated that the only parties to the original second-stage PUD application for the Center Block were ANCs 2C and 6C, and as of January 1, 2023, the overall Capitol Crossing PUD was redistricted to be located entirely within the boundaries of ANC 6E. As shown in the Certificate of Service included as part of the Application (Ex. 2), the Applicant served the Application on all three ANCs, and ANC 6E issued a resolution in support of the two-year extension request. In addition, granting the Applicant's waiver request is not otherwise prohibited by law.

III. RESPONSES TO THE APPLICATION

15. OP submitted a report dated December 22, 2025 ("OP Report"), which recommended approval of the Application (Ex. 6). The OP Report concluded that (i) the Application was properly served on all parties, which were given 30 days to respond; (ii) there had been no substantial changes in any material facts upon which the Commission based its original approval that would undermine its justification; and (iii) the Applicant demonstrated with

substantial evidence the existence of a variety of factors beyond its reasonable control that rendered it unable to comply with the time limits of the underlying order.

16. ANC 6E submitted a report dated November 25, 2025 ("ANC Report"), stating that at its regularly scheduled and properly noticed public meeting on November 20, 2025, with a quorum of Commissioners present, ANC 6E voted 6-0-0 to support the Application (Ex. 4). The ANC Report stated that the requested extension did not entail any changes to the original purposes of the PUD on the Center Block and would allow the Applicant to continue to pursue financing for the project. The ANC Report acknowledged the high construction costs, labor shortages, adverse lending market, and softness in the commercial rental market, which together made it difficult for the Applicant to move forward with development of the Center Block within the current time constraints.

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 demonstrates 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 satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties on November 18, 2025, and that the parties were given 30 days to respond from November 18, 2025.

4. Subtitle § 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 PUD that would undermine the Commission's justification for approving the PUD.

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 of the PUD 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 government 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.

7. The Commission concludes that the Application meets the standards of Subtitle Z § 705.2(c)(1) because the Applicant has been unable to obtain sufficient project financing, despite its good faith efforts, in order to file a building permit application for development of the Residential Building and Podium in the Center Block, due to changes in economic and market conditions beyond the Applicant's reasonable control, as set forth in Finding of Fact No. 12.

8. The Commission grants a waiver from Subtitle Z § 705.5, pursuant to Subtitle Z § 101.9, to approve the Application for a two-year time extension. The Commission finds that the rights to the underlying parties are not prejudiced because they each had an opportunity to review and respond to the Application. In addition, granting a waiver to allow a two-year extension is not otherwise prohibited by law. Therefore, the Commission finds that granting a waiver from Subtitle Z § 705.5, pursuant to Subtitle Z § 101.9, is appropriate in this case (Finding of Fact No. 14).

"GREAT WEIGHT" TO THE RECOMMENDATION 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 (See D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.9 (See *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

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 (See D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment,* 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).

12. ANC 6E submitted a written report dated November 25, 2025, in support of the Application (Ex. 4). The Commission finds the ANC's recommendation in support of the Application persuasive and concurs in that judgment (Finding of Fact No. 16).

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 validity of Z.C. Order No. 08-34L, as extended by Z.C. Order No. 08-34M, with the following requirements:

a. The Applicant shall file a building permit application to construct the Residential Building and Podium no later than **March 25, 2028**;
b. The Applicant shall start construction of the Residential Building and Podium no later than **March 25, 2029**; and
c. The Applicant shall obtain a certificate of occupancy for the Residential Building or Podium no later than **March 25, 2032**.

FINAL ACTION

VOTE (January 15, 2026): 5-0-0 (Anthony J. Hood, Joseph S. Imamura, Robert E. Miller, Tammy Stidham, Gwen Wright to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 08-34O shall become final and effective upon publication in the *District of Columbia Register*, that is on February 20, 2026.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 22-09A
Z.C. Case No. 22-09A
MCF Heritage 1700, LLC
(Two-Year Time Extension of the Approved Consolidated Planned Unit Development and Zoning Map Amendment @ Square 419, Lot 34)
December 18, 2025

Pursuant to notice, at its December 18, 2025, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of MCF Heritage 1700, LLC (the "Applicant") for a two-year time extension of Z.C. Order No. 22-09 (the "Original Order"), which approved a consolidated planned unit development ("PUD") and zoning map amendment for Lot 34, Square 419 (the "Property").

The Commission considered the Application pursuant to the Commission's Rules of Practice and Procedures, 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 INFORMATION

1. Pursuant to the Order, the Commission approved the creation of a new residential community with approximately 317 apartments adjacent to the Shaw-Howard University Metro Station and a block away from the 7th Street, N.W. commercial corridor (the "Approved PUD"). The Approved PUD requires 15% of the residential square footage, including cellar space and penthouse space, will be reserved as IZ units.

2. The Order also approved a Zoning Map Amendment from the RA-4 zone to the MU-8A zone. The Original Order became effective on October 27, 2023.

PARTIES AND NOTICE

3. The parties to the Original Order were ANC 6E, ANC 1B, and ONEDC. The Property is now located within the boundaries of ANC 2G.

4. The Applicant provided evidence that on October 23, 2025, it served the Application on ANC 6E, ANC 1B, ANC 2G, ONEDC, 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."] 3).

II. THE APPLICATION

5. On October 23, 2025, the Applicant filed the Application requesting a two-year time extension of Z.C. Order No. 22-09, prior to the Original Order's deadline of October 27, 2025 (Ex. 1-3). The Applicant noted that the extending of the Original Order's approval, until October 27, 2027, will provide the opportunity to obtain sufficient project financing to file a building permit application for the Approved PUD; and stated that the Application meets the requirements of Subtitle Z § 705.2.

6. The Application stated that there has been no substantial change in any material facts that would undermine the basis for the Commission's approval of the Consolidated PUD and Zoning Map Amendment in Case No. 22-09. The Applicant noted that it was not aware of any new large-scale development proposed in the general area near the Property, and no changes to the Comprehensive Plan or the relevant Small Area Plans have been proposed or approved since the Commission's original approval (Ex. 2).

7. The Application asserted that good cause justifies the Commission's granting the time extension due to the Applicant's inability to obtain sufficient project financing for the Approved PUD because of changes in economic and market conditions beyond the Applicant's reasonable control. The Applicant noted that this request for a two-year time extension reflects the continued difficult development climate that currently exists in the District of Columbia and has existed for the past few years. The significant adverse economic and market conditions the Applicant faces include: high interest rates; elevated construction costs; and limited access to capital (which has been exacerbated by the District's high levels of unpaid rent). The Applicant cited an April 23, 2025, article in the Washington Business Journal which highlighted these difficulties (Ex. 2).

III. RESPONSES TO THE APPLICATION

8. OP submitted a report dated December 8, 2025 ("OP Report"). The OP Report stated that the Application meets the requirements of Subtitle Z § 705.2 and recommended approval of the Application. The OP Report noted that there have been no substantial changes to the Comprehensive Plan since the Approved PUD's approval and the built environment near the Property is the same as it was at the time of approval (Ex. 5).

9. None of the parties to the Original Order participated in this Application. Likewise, ANC 2G did not participate in this Application. All of these parties were given at least 30 days to respond to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the 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 §§ 705.3, 705.5, and 705.6.

2. The Commission concludes that the Applicant timely filed the Application prior to the October 27, 2025, deadline for the expiration of the Consolidated PUD and Zoning Map Amendment approval, which deadline the Application seeks to extend.

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 satisfied the requirement of Subtitle Z § 705.2(a) by demonstrating that it had served all parties to the Order – Order No. 22-09 (as well as ANC 2G) – and that all were given 30 days to respond from the October 23, 2025, date of service.

5. 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.

6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated that no substantial change has occurred to the material facts upon which the Commission had relied in issuing the Order.

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 Applicant demonstrated with substantial evidence that it meets the standards of Subtitle Z § 705.2(c)(1). The Commission agrees that the Applicant has faced significant adverse economic and market conditions, including: high interest rates; elevated construction costs; and limited access to capital (which has been exacerbated by the District's high levels of unpaid rent) and that those issues are outside the Applicant's reasonable control.

9. For the foregoing reasons, the Commission concludes that the Applicant meets the standards for review for a time extension request and finds that good cause exists to grant the Application.

"Great Weight" to the Recommendations of OP

10. The Commission must give "great weight" to the recommendations of OP pursuant to §5(d) of the Office of Zoning Independence Act of 1990, effective September 20. 1990 (D.C.

Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment,* 141 A. 3d 1079, 1087 (D.C. 2016)).

11. The Commission notes OP's recommendation in support of the Application and OP's conclusion that there have been no substantial changes to the Comprehensive Plan since the Approved PUD's approval and the built environment near the Property is the same as it was at the time of approval.

"Great Weight" to the Recommendations of the ANC

12. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC 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).

13. The Commission notes that none of the ANC's that are relevant to this Application (ANCs 6E, 1B and 2G) participated in this case.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia concludes that the Applicant has met the standards of review for a time extension request and demonstrated that good cause exists to grant the Application. Therefore, the Commission **APPROVES** the Application's request for a two-year time extension of the Order to extend the validity period and deadline to file a building permit application to October 27, 2027, and the deadline to commence construction until October 27, 2028.

Final Action

VOTE (December 18, 2025): 4-0-1 (Anthony J. Hood, Robert E. Miller, Gwen Wright, and Joseph S. Imamura to approve*;* Tammy Stidham not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 22-09A shall become final and effective upon publication in the *District of Columbia Register*; that is on February 20, 2026.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION ORDER NO. 22-21B
Z.C. Case No. 22-21B
2229 M Street, N.E. Owner, LLC
(Two-Year Time Extension of the Approved Consolidated Planned Unit Development and Related Zoning Map Amendment @ Square 4465, Lot 40)
December 18, 2025

Pursuant to notice, at its public meeting on December 18, 2025, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of 2229 M Street, N.E. Owner, LLC (the "Applicant")[1] for a two-year time extension of Z.C. Order No. 22-21 (the "Original Order"), which approved a consolidated planned unit development ("PUD") and related zoning map amendment for Lot 40[2] in Square 4465 (the "Property").

The Commission considered the Application pursuant to the Commission's Rules of Practice and Procedures, 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. The Property consists of approximately 15,068 square feet of land area and is improved with a three-and-a-half-story building formerly used as a child development center and a two-story building formerly used as residential housing. The Property is bound by the Arboretum Condominium complex to the west, M Street, N.E. to the north, a federally owned triangular lot to the east, and a public alley to the south (Exhibit ("Ex.") 2).

2. The Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 5D[3] (Ex. 2).

Prior Approvals and the Project

3. The Original Order became effective on November 10, 2023, and was set to expire on November 10, 2025. The Original Order approved construction of a seven-story building with approximately 92 dwelling units (the "Building") and a PUD-related map amendment from RA-2 to RA-4 (Ex. 2B1).

[1] The Applicant recently acquired the subject property from the Original Applicant, 2229 M Street, N.E., LLC, and is therefore acting as applicant for Z.C. Case No. 22-21B.

[2] The Property previously comprised two record lots—Lots 36 and 39—that were subsequently combined to form Lot 40.

[3] The Property is adjacent to ANC 5C and so is an "affected ANC" per Subtitle Z 101.8. ANC 5C did not participate in this case although it was provided all application documentation.

4. The Building will be entirely dedicated as affordable senior housing (the "Project" or "Approved PUD") for seniors aged 55 and older earning between 30-80% of Median Family Income ("MFI"). For the first 40 years of operation, 80% of the units will be affordable for households at or below 60% MFI, and 20% of the units will be affordable for households at or below 80% MFI (Ex. 2).

5. On June 6, 2025, the Applicant's predecessor, 2229 M Street, N.E., LLC (the "Original Applicant")[4] applied for a Modification without Hearing to the Approved PUD to make changes to exterior materials, balconies, entryway landscaping, internal window arrangements, and miscellaneous design refinements of the Project (the "Modification Application"). The Commission approved the Modification Application (the "Approved Modification") as Z.C. Order No. 22-21A, which became final and effective on October 17, 2025 ("Order 22-21A") (Ex. 2).

6. Although the Original Applicant timely filed a building permit application on May 6, 2025 (Permit No. B2505855), within the two-year period provided under the Original Order, that building permit application reflected the design originally approved in the Original Order. The Applicant now intends to re-submit a building permit application based on the Approved Modification. To that end, the Applicant has engaged architectural and consulting services to prepare a set of construction drawings for the permit re-submission (Ex. 2).

7. Despite the best efforts of the Original Applicant and the Applicant, financing was simply not available due to wider market conditions. However, the Applicant is planning to close on Low-Income Housing Tax Credits ("LIHTC") financing in the first quarter of 2026. In addition, the Property was transferred from the Original Applicant to the Applicant during the Original Order's validity term (Ex. 2).

Parties

8. Other than the Original Applicant, the only parties to the Original Order and Order 22-21A were ANC 5D and ANC 5C and, as parties in support, Kara and Justin Rollins and Ryun Lee ("Lee-Rollins")[5] (Ex. 2).

Notice

9. The Applicant served the Application on the Office of Planning ("OP"), the District Department of Transportation, ANC 5D, ANC 5C, and Lee-Rollins on November 10, 2025, as indicated by the Certificate of Service submitted with the Application (Ex. 2, 3).

[4] The Original Applicant sought partners or purchasers for the Project, ultimately finding the Applicant. The Applicant closed on the ownership of the Property on September 22, 2025.

[5] Lee-Rollins requested and were granted party status in opposition in the original application to the Approved PUD. Lee-Rollins changed their party status from opposition to support based on modifications that the Applicant made to the proposed project in response to concerns raised by Lee-Rollins.

II. The Application

10. On November 10, 2025, the Applicant filed this Application with the Commission requesting a two-year time extension to file a building permit application until November 10, 2027 (Ex. 1, 2).

11. Pursuant to Subtitle Z § 705.2, the Applicant asserted that it met the standards of review for the time extension, including:
    a. The Applicant served the Application on all parties to the Application, and all parties were allowed 30 days to respond;
    b. There was no substantial change in 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; and
    c. There was good cause under Subtitle Z § 705.2(c)(1) due to economic and market conditions beyond the Applicant's reasonable control, specifically:
        i. High interest rates, suppressed financing market environment, and significant construction costs, which continue to chill the ability to attract and deploy capital into commercial real estate investment; and
        ii. Recent Federal government actions focused on downsizing the Federal footprint in the Washington, DC area, further straining investment in the local real estate economy.

    (Ex. 2).

12. For the foregoing reasons, the Applicant has been unable to secure financing for the Project and complete drawings to incorporate more stringent sustainability design principles related to Passive House certification (as detailed in Order 22-21A) and file for a building permit that incorporates the Approved Modification by November 10, 2025 (Ex. 2).

13. Despite these significant and fundamental challenges in market conditions that have impeded the Applicant's ability to finalize financing for the Project, the Applicant has continued to devote substantial resources towards moving development of the Property forward, including preparation for building permit application re-submission and plans to close on financing in first quarter 2026, as discussed in paragraphs 6 and 7 above (Ex. 2).

III. Responses to the Application

14. In its report dated December 5, 2025 ("OP Report"), OP recommended approval of the requested two-year time extension concluding that the Application met the requirements of Subtitle Z § 705.2 because: (1) the Application included a Certificate of Service attesting that it was served to parties; (2) there have been no substantial changes in the material facts upon which the Commission based its original approval that would undermine its justification; and (3) the Applicant demonstrated substantial evidence that the tight equity and lending environment, high interest rates, and elevated construction costs have made it difficult for it to secure the necessary financing (Ex. 5).

15. ANC 5D, ANC 5C, and Lee-Rollins did not submit a response or report for this Application despite being given at least 30 days to respond.

CONCLUSIONS OF LAW

1. Pursuant to Subtitle Z § 705.2, the Commission may extend the time period of an order upon determining that such request demonstrates satisfaction of the requirements of Subtitle Z § 705.2 and compliance with 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 satisfied Subtitle Z § 705.2(a) by demonstrating that it had served all parties on November 10, 2025, and that the parties were given at least 30 days to respond.

4. 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 that would undermine the Commission's justification for that approval.

5. The Commission concludes that the Applicant satisfied Subtitle Z § 705.2(b) based on the Application and OP Report, and that there is no substantial change in any of the material facts upon which the Commission based its original approval of the Application that would undermine the Commission's justification for approving the original Application.

6. 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 that the Applicant demonstrated with substantial evidence that it meets the standards of Subtitle Z § 705.2(c)(1). The Project has been negatively impacted by high interest rates, suppressed financing market environment, significant construction costs, and a recent downsizing of the Federal footprint in the Washington, DC area, which all combine to chill and strain the ability to attract and deploy capital into commercial real estate investment, despite the Applicant's diligent efforts.

8. For the foregoing reasons, the Commission concludes that the Applicant meets the standards of review for a time extension request and finds that good cause exists to grant the Application.

"Great Weight" to the Recommendations of OP

9. The Commission must give "great weight" to the recommendations of OP pursuant to § 5(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

10. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"Great Weight" to the Recommendations of the ANC

11. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

12. As noted above, ANC 5D and ANC 5C did not file a response or report for this Application.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia concludes that the Applicant has met the standards of review for a time extension request and demonstrated that good cause exists to grant the Application. Therefore, the Commission **APPROVES** the Applicant's request for a two-year time extension of the Original Order, as modified by Order 22-21A to extend the deadline to file a building permit application until November 10, 2027, and the deadline to commence construction until November 10, 2028.

VOTE (December 18, 2025): 4-0-1 (Gwen Wright, Joseph Imamura, Anthony Hood, and Robert Miller to approve; Tammy Stidham and not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 22-21B shall become final and effective upon publication in the *District of Columbia Register*; that is, on February 20, 2026.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION ORDER NO. 23-02
Z.C. CASE NO. 23-02
Office of Planning
(Map Amendment @ Square 175, Lots 826 and 827
U Street Fire and V Street Police Stations)
September 12, 2024

Pursuant to notice, at public hearings held on June 26 and November 20, 2023; January 8, 18, and 29, 2024; February 12 and 26, 2024; and March 18, 2024, the Zoning Commission for the District of Columbia (the "Commission") considered an application by the Office of Planning ("OP" or the "Applicant") pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning Regulations of 2016, to which all references are made unless otherwise specified) for an amendment to the Zoning Map from the MU-4 zone to the MU-10 zone (the "Map Amendment" or "Application") for portions of the property located at 1617 and 1620 U Street, N.W. (the northeast corner of 17th and U Streets which currently includes the U Street Fire and V Street police stations) (Square 175, Lots 826 and 827[1]) (the "Property").

The Commission determined that the Property is appropriate for Inclusionary Zoning ("IZ") Plus pursuant to Subtitle X § 502.1(b). The Property shall be indicated with an "IZ+" symbol on the Zoning Map. For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the Property's existing zoning of MU-4 is the equivalent of 2.5 FAR.

The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission hereby **APPROVES** the Application.

I. FINDINGS OF FACT

A. PROCEDURAL BACKGROUND

OP Original Setdown Report

1. This case was initiated by OP when it filed a report dated January 18, 2023 (Exhibit ["Ex."] 2, "Original OP Setdown Report") requesting that the Commission setdown for a public hearing its petition to rezone all of Lots 826 and 827 in Square 175 ("Original Map Amendment Area") from the MU-4 zone to the MU-10 zone. OP submitted a correction to the Original OP Setdown Report on January 26, 2023 (Ex. 7). Contents of the OP Original Setdown Report are discussed below in OP Reports section below.

[1] The Applicant originally requested to rezone all of Lots 826 and 827 to MU-10. It later amended its application to limit the requested rezoning to a just a portion of Lots 826 and all of Lot 827. The portion of Lot 826 to be rezoned excludes the portions of Lot 826 within 80 feet of V Street and within 80 feet of V Street to a line 80 ft. parallel to V Street and 80 ft. parallel to 17th Street from V Street, south to the center line of Seaton Street.

The Zoning Commission amended the racial equity tool to require a discussion of community outreach and engagement and disaggregated race and ethnicity data

2. The District's Comprehensive Plan (also referred to throughout this document as "Comp. Plan" or "CP") was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis tool (RE1) in response to the new legislation. On February 3, 2023, the Commission released a revised racial equity analysis tool (RE2) that raised their expectations for submissions from applicants regarding community outreach and engagement. The RE2 provided sample discussion questions with prompts, asking questions such as, what community would be impacted by the zoning action, what specific factors define the community, and what are past and present racial discriminations to the community and are they addressed in the application. The revised tool also requested the Office of Planning (OP) to include disaggregated race and ethnicity data in their reports, to be used as part of their evaluation on whether proposed zoning actions are inconsistent with the Comp Plan when viewed through a racial equity lens and whether they advance the District's racial equity goals.

The Zoning Commission's February 23, 2023 public meeting, decision to set down the petition as a rulemaking, and initial rulemaking notice

3. At the Commission's February 23, 2023 public meeting, OP presented the OP Original Setdown Report to the Commission. In its presentation, OP stated that it was bring the case as "Comprehensive Plan related zoning consistency map amendment" case. The Commission decided to set the case down for a rulemaking hearing pursuant to 11-Z DCMR § 201.7(a).[2] In doing so, the Commission noted that OP was the Petitioner, and sought the map amendment to make the zoning designation consistent with updated density and use guidance included in amendments to the Comprehensive Plan made in 2021, and policies in the Mid-City Element of the Comprehensive Plan that call for development of the site with sufficient height and density to support affordable housing and the redevelopment of public facilities there. The Property was comprised of more than one lot. The Commission therefore believed it was appropriate to hear and decide the case as a rulemaking (2/23/23 Meeting Transcript ["Tr."] at 12-22).

4. Pursuant to 11-Z DCMR § 500.9, the Commission's review at setdown was limited to considering the petition, recommendations from OP, and ANC Setdown Form(s). In this case, the OP Original Setdown Report served as the Petition and OP recommendation. There were no ANC Setdown Forms submitted. There were approximately 30 written comments in support or opposition submitted to the record. These letters were not considered by the Commission at setdown, but were considered later at the hearing stage.

[2] 11-Z DCMR § 201.7(a) provided the following with respect to rulemaking cases:
Map amendments in rulemaking cases may be initiated by:
(a) Public agencies to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties, unless determined otherwise by the Commission pursuant to Subtitle Z § 201.9; …

5. The Office of Zoning ("OZ") provided notice of a June 23, 2023 rulemaking hearing that met the requirements of 11-Z DCMR § 502.1[3]. OZ provided notice in the *District of Columbia Register* on April 5, 2023, posted a copy on the public hearing on the OZ website, and provided a copy of the notice of public hearing to the appropriate ANCs (Ex. 41, 42).

6. Officials of the Deputy Mayor for Planning and Economic Development provided an affidavit showing that it complied with the notice requirements of 11-Z DCMR § 502.3 by posting notice of the hearing on the Property (Ex. 111).

7. The attestation of notice from OZ stated that it provided additional notice beyond what was required for a rulemaking hearing by 11-Z DCMR § 502 by providing notice to OP, the Deputy Mayor for Planning and Economic Development, Councilmembers Brianne Nadeau and Brooke Pinto, the Office of ANC's, DDOT, Department of Buildings, OZ's Legal Division, DOEE, and At-Large Councilmembers. The attestation form also stated that notice was provided to property owners within 200 feet, in accordance with "the attached list provided by Applicant." Notice to "200 Footers" was not required for rulemaking cases by 11-Z DCMR § 502 at the time. This additional notice is authorized by 11-Z DCMR § 502.7 (Ex. 42).

June 26, 2023 initial hearing date, consideration of submissions to the record related to adequacy of notice and decision to hear and decide the case as a rulemaking, and decision to re-notice and hear the case as a contested case

8. The Commission convened the hearing on June 26, 2023. At the outset, it considered several issues as preliminary matters:
   a. Whether the case was appropriately setdown as a rulemaking case;
   b. Whether it would be more appropriate to consider the case in some other form given the evidence that there was understandable apprehension about the redevelopment of the site and the related issue of whether there had been sufficient community outreach; and
   c. Whether there was sufficient written notice to residents within 200 feet of the Property.

9. The issue of whether the case was properly setdown as a rulemaking was raised by a group calling itself the "Coalition for Affordable Housing Not Luxury Housing!" ("Coalition") in a submission dated June 22, 2023 (Ex. 68). The Coalition submission argued in relevant part that the Commission should have set down the case as a contested case pursuant to 11-Z DCMR § 201.2(e)[4] because the case involves two contiguous lots that are owned by the

[3] At the time of setdown, 11-Z DCMR § 502.1 required the following notice in rulemaking cases:
Notice of a rulemaking case hearing shall be given by the Director at least forty (40) days in advance of the public hearing by:
(a) Publishing the notice of public hearing in the D.C. Register;
(b) Posting a copy of the notice of the public hearing on the Office of Zoning's website; and
(c) Providing a copy of the notice of the public hearing to the appropriate ANC(s).

[4] 11-Z DCMR § 201.2(e) provides in relevant part:
Contested cases are adjudicatory in nature, ... Contested cases include:
(e) Map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley;

District of Columbia government, and the Petitioner is an agency of the District of Columbia government. The two related issues of whether there was sufficient outreach and notice were raised in two submissions. The first was an email signed by several individuals who stated that they were neighbors who reside within 200 feet of the Property but did not receive written notice of the hearing (Ex. 67). The Coalition also raised this issue in its submission (Ex. 68). In addition, there were many written comments that expressed concern about the potential relocation of the existing police and fire stations on the Property, and a belief that they would be replaced with luxury housing.

10. The Commission considered these issues at its June 26, 2023 hearing:
    a. With respect to whether the case was appropriately setdown as a rulemaking case, the Commission stated that it was within its discretion to decide whether to set it down as a rulemaking pursuant to 11-Z DCMR § 201.7(a) because the Petition was for a map amendment initiated by the Office of Planning, to rezone multiple properties, and was intended to bring the zoning into consistency with the Comprehensive Plan, notably the Future Land Use Map of the Comprehensive Plan which had been recently amended by the Council to increase the intensity of development on the Property. The Commission further acknowledged that it also had the discretion to set it down as a contested case under 11-Z DCMR § 201.2. (6/26/23 Hearing Tr. at 7-27);
    b. The Commission considered the comments stating concerns about the potential relocation of the police and fire stations, and the related concern that they would be replaced with luxury housing. The Commission expressed its own concern that the Petitioner had conducted insufficient community outreach to assuage what are reasonable concerns of the community, and that other zoning tools, such as a PUD, were available to the Applicant that would give the community greater certainty that the public safety uses would be retained, and that appropriate safeguards would be incorporated into the redevelopment to protect adjacent properties, such as setbacks and public spaces. The Commission stated that it wanted the Petitioner to do additional community outreach and consider other zoning tools (*Id*).; and
    c. The Commission did not directly address whether additional notice to 200 Footers was required, but instead stated that the Petitioner should do additional community outreach. (*Id*).

11. The Commission voted to reconsider its decision to set the case down as a rulemaking, and then voted to re-set the case down as a contested case instead. The Commission further ordered that the Petitioner should follow all of the procedural rules that apply to contested cases, including the notice rules, which would require it to re-notice and advertise the new public hearing date, and that the case would be heard as a contested case (6/26/23 Tr. at 25-27).

November 20, 2023 hearing date, consideration of motion to dismiss related to adequacy of publication of the 2021 Comprehensive Plan amendments, motion to continue case because of error in the public hearing notice, and preliminary consideration of party status applications

12. The Commission convened another hearing on November 20, 2023. It considered several issues as preliminary matters:
    a. Dupont Circle Citizen's Association ("DCCA") Motion to dismiss the case or in the alternative indefinitely postpone the case because the 2021 Comprehensive Plan amendments were not published in the D.C. Municipal Regulations (Ex. 459);
    b. Letter from DCCA (Ex. 382) and motion on behalf of 4 of the 5 party status applicants requesting continuance because of defects in public hearing notice (Ex. 389A); and
    c. Five requests for party status.

13. The Commission considered and decided these issues at the hearing as follows:
    a. First, the Commission opened the hearing and considered the DCCA's motion to dismiss the case or in the alternative indefinitely postpone the case because the 2021 Comprehensive Plan amendments were not published in the D.C. Municipal Regulations (Ex. 459). The Commission began by acknowledging that the 2021 CP amendments were not published in the *District of Columbia Register*, and instead the publication occurred on OP's web site and in a bound copy, pursuant to D.C. Official Code § 1-306.05(d), and that in addition the Office of Documents will eventually publish the amended and consolidated DCMR, but has not yet done so. The Commission further stated that this alternative publication scheme was explicitly authorized by the Council when it enacted the 2021 CP amendment legislation, and explicitly partially exempted them from the normal publication requirement. *See* Section 5 of the Comprehensive Plan Amendment Act of 2021 and D.C. Official Code §1-306.05(d).[5] The alternative publication authorized by the legislation was completed, and the 2021 Amendments can be found on the Office of Planning website. Accordingly, the Commission denied the motion (11/20/23 Tr. at 6-7);
    b. Second, the Commission considered the DCCA's letter (Ex. 382) and motion on behalf of 4 of the 5 party status applicants requesting continuance because of defects in public hearing notice (Ex. 389A). The Commission acknowledged the public hearing notice was defective because it lists the information for becoming a witness in a rulemaking case, which this is not. It omits the information for becoming a party in a contested case, which is what this is (Ex. 316). Accordingly, the Commission granted the motion, and directed staff to issue new hearing notice for contested case hearing to be held January 8th and if needed January 18th (11/20/23 Tr. at 7-9).

[5] § 1-306.05. Publication of the Comprehensive Plan.
…
(d) Within 90 days of August 21, 2021, the Mayor shall publish the Comprehensive Plan, as amended, in its entirety. The Comprehensive Plan shall be consolidated by the District of Columbia Office of Documents into a single new or replacement title of the District of Columbia Municipal Regulations to be designated by the District of Columbia Office of Documents.
The Comprehensive Plan shall be published in the format furnished by the Mayor and need not conform to the Office of Documents' publication standards.

c. Third, the Commission asked the attorney for the DCCA whether he was also serving as attorney for the other prospective parties who joined the motion for continuance. He responded that he was not. The Commission requested that the prospective parties attempt to coordinate their efforts to the extent they are willing to do so, particularly their hearing presentations, to prevent duplicative and repetitive questions and testimony. The Commission further requested that the parties designate a single person to perform cross-examination (11/20/23 Tr. at 9-16).

December 14, 2023 meeting, consideration of four advance party status requests, party status granted to four parties

14. At its December 14, 2023 public meeting, the Commission granted advanced party status requests from Homeowners within 200 Feet of Lots 826 & 827 (Ex. 346, 346A), Randall Jones (Ex. 352), Black Neighbors of 1617 U Street NW (Ex. 355), and DCCA (Ex. 353). Before doing so, it granted waiver requests to allow consideration of the advanced party status requests after the deadline to request advanced party status had passed (Ex. 501, 501B, 504, 507; 12/14/23 Tr. at 6-13).

January 8, 2024 hearing, fifth party status request granted, motion for continuance denied

15. At its January 8, 204 public hearing, the Commission granted the party status request of the Rochelle Apartments (Ex. 344, 344A).

16. The Commission considered the joint motion for a continuance submitted by DCCA, Homeowners within 200 Feet of Lots 826 and 827, and Randall Jones, (Ex. 519, 520), and the second joint motion for a continuance submitted by DCCA, Homeowners within 200 Feet of Lots 826 and 827, and Randall Jones (Ex. 522, 523). Both motions stated that they were requesting a continuance of the hearing because of errors with the hearing notice and placarding for the continued January 8, 2024 hearing. The Commission denied the motions because the hearing was scheduled, advertised and noticed for November 20, 2023. The Commission began the hearing on that date, then continued it, and announced the continued hearing date of January 8, 2024 (11/20/23 Tr. at 9-16). The Commission further ordered that the staff issue additional notice to correct the errors in the prior notice relating to becoming a witness and applying for party status. Accordingly, no further notice was required because the Commission publicly announced the time and place of the resumed hearing (11-Z DCMR § 103.12).[6] Out of an abundance of caution, the Commission stated a further reason for denying the motion was that there had been extensive prior notice of the case in the community, the attendance at the hearing of so many interested community members, and because the nature of the rezoning was clear. The Commission therefore waived any technical notice defects and proceeded with the hearing pursuant to 11-Z DCMR § 402.12.[7] (January 8, 2024 Tr. at 12-16).

[6] 11-Z DCMR § 103.12 ("If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For the purposes of this section, the form of the public announcement shall be on the website of the Office of Zoning and may include a sign placed at the entrance to the Commission's hearing room.").

[7] 11-Z DCMR § 402.12 ("A technical defect in the notice of public hearing that is minor in nature shall not deprive the Commission of jurisdiction over the case. If a defect in the notice is alleged and proven, the Commission may

17. The Commission also addressed written submissions by counsel for DCCA alleging that there were potential witnesses who wished to testify at the hearing but could not do so because of technical or other difficulties. In another submission, he requested that the hearing be rescheduled because the Commission was also considering a related amendment to the Zoning Text to create setbacks that apply to the same property that is the subject of this case (Ex. 531, 534, 535). The Commission responded by stating that many had been able to sign up to testify, providing evidence that there were no technical issues, that it nonetheless would allow them to testify and had created an overflow date for that purpose (January 8 Tr. at 15-16). The Commission found no reason to reschedule the hearing because of a related case that would be heard at a later date.

18. The Commission then began hearing testimony at the January 8th hearing.

January 18, 2024 hearing and motion to allow closing statement by parties in opposition

19. At the January 18, 2024 public hearing, DCCA made an oral motion requesting that it be allowed to present a closing statement. The Commission denied the motion, because the Zoning Regulations do not authorize a closing statement from opposition parties, only the Applicant is entitled to a closing statement (11-Z DCMR § 408.9[8]; January 18, 2024 Tr. at 4-6).

January 29, 2024 hearing and motion to dismiss

20. At its January 29, 2024 continuation hearing, the Commission considered the motion to dismiss filed by DCCA, Black Neighbors of 1617 U Street NW, Homeowners within 200 Feet of Lots 826 and 827 and Randall Jones (Ex. 603A). The basis for the motion was an alleged lack of community engagement and failure of the Applicant to use the racial equity tool. The Commission acknowledged that the community outreach performed was inadequate, but denied the motion because it felt it was premature to dismiss the case on this basis. The Commission decided to allow community input through this proceeding

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determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations: (a) The nature and extent of the actual notice received by the parties and the public from all sources; (b) Attendance, or lack thereof, at the public hearing; and (c) The nature and extent of the construction and/or use involved in the application.").

[8] The order of procedure for presenting evidence at the hearing shall be as follows:
(a) Call to order and opening statement by the presiding officer;
(b) Consideration of preliminary matters, including, but not limited to, party status requests, motions, and qualifying expert witnesses;
(c) Applicant's case;
(d) Reports or statements by the Office of Planning (OP) and other government agency representatives, if any;
(e) Affected ANC(s);
(f) Parties in support of the application;
(g) Individuals and organization representatives in support of the application;
(h) Parties in opposition to the application;
(i) Individuals and organization representatives in opposition to the application;
(j) Individuals and organization representatives who are undeclared with respect to the application;
(k) Rebuttal by applicant; and
(l) Closing statement by applicant.

and expected OP and DMPED to continue their community outreach, therefore dismissing at this point is inappropriate because the community engagement was ongoing, and there is community support that should be considered (January 29, 2024 Tr. at 3-7).

February 12, 2024 hearing and motion for postponement

21. At its February 12, 2024 continuation hearing, the Commission considered the motion from Freedom Baptist Church to postpone the hearing and/or reject the application (Ex. 619). The Commission denied the motion because under the Commission's rules, only parties may file motions, and Freedom Baptist Church was not a party (February 12, 2024 Tr. at 4-5).

February 26, 2024 hearing, and motions for continuance

22. At its February 26, 2024 continuation hearing, the Commission considered the motion from Homeowners within 200 Feet of Lots 826 and 827, Black Neighbors of 1617 U Street NW, and the DCCA requesting a postponement or dismiss the case (Ex. 664). The basis for the motion was an alleged lack of community engagement and failure of the Applicant to use the racial equity tool. The Commission responded that this was a very similar motion to the one it dismissed at the January 29, 2024 hearing. The Commission acknowledged that the community outreach performed was weak, but denied the motion because it felt it was premature to dismiss on this basis. The Commission decided to allow community input through this proceeding, and had required the Applicant to perform additional notice and outreach, therefore dismissing at this point is inappropriate because the community engagement was ongoing, and because there is community support that should also be considered by the Commission before it made a decision (February 26, 2024 Tr. at 4-7).

23. The Commission also considered the motion submitted by counsel for the DCCA for a continuance to allow him to present the DCCA's testimony in opposition because of health-related concerns that prevented him from appearing at the February 26, 2024 hearing (Ex. 664A). The Commission decided to hold the request in abeyance to see whether the public testimony would conclude this evening. The motion was ultimately moot because there was so much public testimony at the hearing that the Commission did not begin testimony from parties in opposition at this hearing (February 26, 2024 Tr. at 7-10, 193).

March 18, 2024 hearing, testimony from parties in opposition

24. At its May 18, 2024 hearing, the Commission heard testimony from parties in opposition. The substance of that testimony is discussed below.

25. At the conclusion of the hearing, the Commission closed the record except for the following: At the end of the hearing, the Commission closed the record except for:
    a. Closing statements (from all the parties);
    b. Draft findings of fact and conclusions of law (from all parties); and
    c. A supplemental report from OP (and responses thereto by the parties) on the following:
        (1) If there is a less intensive zone (such as MU-8) that would be appropriate and also consistent with the Comprehensive Plan, and what potential amount of housing would be lost if the less intensive zone was adopted;

(2) Whether split-zoning the site with a less intensive zone for the northern portion of the site along V Street would be appropriate;
(3) Why this proposal is not spot zoning; and
(4) How this proposed amendment will not contribute to indirect displacement.

May 9, 2024 public meeting, consideration of motions related to OP Supplemental Report

26. At its May 9, 2024 public meeting, the Commission considered several motions from opposition parties related to responding to the OP Supplemental Report, submitting draft orders, and holding an additional hearing on the report. The Commission granted the motion to allow more time for parties to submit draft orders (Ex. 702-703A; May 9, Tr. at 21-23). The Commission denied the motion to file written responses to the OP Report (Ex. 705, 705A; May 9, Tr. at 21-23). The Commission granted the motion for an additional hearing (Ex. 701, 701A, 714, 714A, 715; May 9, Tr. at 40-46). The rulings to grant the motion for written responses to the OP Report and grant the motion for an additional hearing became moot after the OP filed a motion to re-open the record and revise its application, as discussed further below.

May 30, 2024 public meeting, and OP's motion to re-open the record to revise the application

27. At its May 30, 2025 meeting, the Commission considered a motion filed by OP to reopen the record to revise the application, pursuant to 11-Z DCMR § 602.6. The revised application did not introduce a new zone, rather it reduces the area initially proposed to be rezoned by pulling back the proposed MU-10 zone back 80 feet parallel to V Street and 80 feet parallel to 17th Street from V Street south to the center line of Seaton Street (Ex. 715, 719). The Commission also considered the opposition to the motion filed Black Neighbors of 1617 U Street (Ex. 716), and the joint opposition filed by DCCA, Black Neighbors of 1617 U Street, and Homeowners within 200 feet (Ex. 717). The oppositions alleged there was a lack of community outreach on the part of OP, no good cause or lack of prejudice to other parties, a failure to include the correct motion form, that OP failed to serve Rochelle Apartments, which was a party, and a claim that if this were a complaint in Superior Court, amending the complaint would require additional service requirements. The Commission decided to grant the motion because it believed that the reduction in the size of the map amendment was in response to the community feedback received at the hearings in the case (stating that the community believed that the more intense MU-10 zoning along V Street was in conflict with Comprehensive Plan policies), and that therefore there was good cause for the granting the motion. The Commission further stated that this would not prejudice the other parties because the request was made in response to community feedback made at the hearings. The Commission also believes that the decision to retain the existing zoning for the portion of the site that was removed from the rezoning area did not require further hearing, because the Commission is not required to hold a hearing if it is not changing the zoning. With respect to the service and issues with the motion form, the Commission noted that the Rochelle Apartments was properly served but that the service certificate incorrectly failed to list the Rochelle Apartments and OP submitted a corrected service certificate and at the same time submitted the correct motion form (May 30 Tr. at 8-11). The Commission then rescinded its decision to hold a limited scope hearing (May 30, Tr. at 11-12). Last, the Commission decided that it wanted additional briefing from OP and the opposition

parties before it decided whether to hold an additional hearing on the case (May 30, Tr. at 12-18).

July 11, 2024 public meeting, consideration of supplemental materials requested by the Commission and motions to re-open record and hold additional hearings, and proposed action

28. At its July 11, 2024 public meeting, the Commission considered the supplemental briefing from the parties. This included the OP Supplemental Report (Ex. 720), the Black Neighbors of 1617 U. St's. Response to OP Report (Ex. 721, Addendum Ex. 721A), the Rochelle Tenants Response to OP Report (Cover letter Ex. 722, Response Ex. 722A, Response to Racial Equity Tool Ex. 722B), the Homeowners within 200 feet of Lots 826 and 827 ("Homeowners") Response to OP Report (Response Ex. 723, Addendum Ex. 723A), the Joint Motion (of DCCA and Homeowners to Reopen the Record) (Ex. 724, Form 150 Ex. 724A), ANC 1B Resolution (Ex. 725), and a Motion from Black Neighbors requesting a "limited scope hearing" (Ex. 726A (substantive motion), 726B (OP submissions), 726C (supporting emails)):

a. In response, the Commission decided not to consider or hold further hearings to consider additional zones besides the MU-10 zone requested in the modified application. It did so because rezoning to MU-8 instead of MU-10 would cause a significant loss of potential housing and affordable housing that could be developed on the Site, and therefore would not advance the many relevant policies of the Comprehensive Plan which call for additional housing and affordable housing production, which are discussed in greater detail below. Further it was very clear what the differences between the zones are in terms of potential zoning envelope, and therefore additional housing and affordable housing, so there was no need for further elaboration or hearings to consider the issue (July 11, Tr. at 16-19);

b. The Commission further decided that it would not hold a further hearing to consider OP's request to reduce the size of the requested MU-10 map amendment area. It did because the Commission had already held extensive hearings to consider whether the MU-10 was appropriate for the entire Site, and that the reduced boundary of the rezoning was in direct response to the testimony and feedback received at the hearings. The MU-4 is the existing zoning on the Site and further hearings are not required to decide to retain the existing zoning (July 11, Tr. at 19-36).

The Commission stated it believed the proposed MU-10 zone is the right zone to meet all the Comprehensive Plan's unique demands of the site, which include: ambitious affordable housing goals, retaining and upgrading the existing public safety uses on the site; and neighborhood serving retail along U Street. In addition, MU-10 zoning requires future development to include a publicly accessible plaza or open space, which is appropriate for this important civic site.

The Commission stated that it appreciated that OP had reduced the size of the new MU-10 zoning from what was originally proposed. OP made this change in response to testimony at the hearings from concerned neighbors, and to address potential CP inconsistencies raised by the original proposal. A portion of the original proposed site along V Street is designated as a Neighborhood Conservation Area on the CP's Generalized Policy Map, and is directly adjacent to two story rowhomes that are part of a historic district. By removing this area from the

proposal, the rezoning maintains the zoning status quo along the V Street and much of the 17th Street frontage to provide appropriate transition of density to respect neighborhood character and the historic district. Therefore, the change addresses the potential inconsistencies with several potential Comprehensive Plan inconsistencies for this portion of the original site.

The Commission also stated that it expects that the eventual Project built on the Site will be subject to additional public input as District works its way through the redevelopment and RFP processes and that it expects that this will result in additional opportunities to address the issues raised at the hearings, which are beyond the scope of this map amendment case (July 11, Tr. at 35-38).

The Commission was not persuaded by the arguments made by the opponents that additional cross-examination of OP was necessary, and that OP had conducted insufficient community outreach about the revised proposal. The opponents had ample opportunities to cross-examine OP on the appropriateness of the MU-10 zone on the site, and there has been adequate community outreach and input. IN addition, the Commission required this case to be heard as a contested case to allow for cross examination. The Commission then held five hearings and permitted extensive and far-ranging cross-examination concerning the appropriateness of the MU-10 zone over the course of multiple hours. The only change to the application after those hearings was to reduce the size of the area to be rezoned to MU-10, retaining the existing MU-4 zoning for the remainder of the site. Several witnesses for the opponents testified in favor of retaining the existing MU-4 zoning along V Street. The Commission is not required to even hold a hearing, let alone require cross-examination, to decide to retain the existing zoning. The Commission therefore concluded that additional cross-examination was not necessary (July 11, Tr. at 35-38); and

c. The Commission took proposed action to approve the modified application (July 11, Tr. at 39-42).

September 12, 2024 public meeting and final action

29. At its September 12, 2024 public meeting, the Commission considered the report from the National Capital Planning Commission concluding that the proposed amendment would not be inconsistent with the federal elements of the Comprehensive Plan or any identified federal interest (Ex. 728). The Commission then took final action to approve the Application (September 12, 2024 Tr. at 7-20).

B. PARTIES

30. By rule, Advisory Neighborhood Commissions ("ANC") 1B and 2B were automatic parties to the Application because they are affected ANCs. ANC 1B is an automatic party because the Site is within ANC 1B's boundaries. ANC 2B is an automatic party because its boundary begins on U Street, which directly abuts the Site (Subtitle Z § 403.5).

30. ANC 1C also submitted a report (Ex. 48, 49). ANC 1C's boundary begins several blocks from the Site, and therefore ANC 1C was not an affected ANC and not given automatic party status (Subtitle Z § 403.5).

31. As discussed above, the Commission granted party status to Homeowners within 200 Feet of Lots 826 & 827, Randall Jones, Black Neighbors of 1617 U Street NW, DCCA, and the Rochelle Apartments.

C. NOTICE

Notice of Filing

31. On January 18, 2023, OP filed a petition to amend the Zoning Map to rezone Square 175, Lots 826 and 827 from the MU-4 zone to the MU-10 zone and that IZ Plus apply (Ex. 1). Submitted with the Petition was the Original OP Setdown Report (Ex. 2).

32. On January 23, 2023, the Office of Zoning ("OZ") sent notice of the Application's filing to:
- Petitioner;
- ANCs 1B and 2B;
- ANC Single Member District ("SMD") 1B07;
- Office of ANCs;
- OP;
- District Department of Transportation ("DDOT");
- At-Large Councilmembers and the Chair of the Council;
- Wards 1 and 2 Councilmembers;
- Department of Consumer and Regulatory Affairs ("DCRA") General Counsel; and
- OZ Legal Division ("OZLD") (Ex. 3-4, 6).

33. OZ published notice of the filing of the Application in the February 3, 2023, *District of Columbia Register* (70 DCR 1861) (Ex. 5).

34. This was an unusual case because, as discussed above, the Commission initially set down and advertised the case as a rulemaking case. The Commission then decided to reset it down and re-advertise it as a contested case. Then ordered it advertised again to correct errors in the second notice.

Public hearing notice as rulemaking case

35. On April 6, 2023, OZ sent notice of the June 26, 2023 rulemaking public hearing to:
- OP;
- The Deputy Mayor for Planning and Economic Development ("DMPED");
- ANCs 1B and 2B:
- ANC SMDs 1B05, 1B07, and 2B08;
- Councilmembers Brianne K, Nadeau and Brooke Pinto
- Office of the ANCs;
- DDOT;
- At-Large Councilmembers and the Chair of the Council;
- DOEE;

- DOB General Counsel;
- OZLD; and
- Property owners within 200 feet of the Property[9] (Ex. 42).

36. OZ published notice of the public hearing in the April 14, 2023, *District of Columbia Register* (70 DCR 4377) (Ex. 40, 41).

37. The Applicant submitted evidence that the Applicant had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 50, 111).

38. [intentionally left blank]

39. OZ published notice of the public hearing in the April 14, 2023, *District of Columbia Register* (70 DCR 4377) (Ex. 40, 41).

Contested case public hearing notice

40. On August 21, 2023, OZ sent notice of the November 20, 2023 contested case public hearing to:
    - OP;
    - DMPED;
    - ANCs 1B and 2B:
    - ANC SMDs 1B05, 1B07, and 2B08;
    - Councilmembers Brianne K, Nadeau and Brooke Pinto
    - Office of the ANCs;
    - DDOT;
    - At-Large Councilmembers and the Chair of the Council;
    - DOEE;
    - DOB General Counsel;
    - OZLD; and
    - Property owners within 200 feet of the Property (Ex. 316, 320).

41. OZ published notice of the public hearing in the August 25, 2023, *District of Columbia Register* (70 DCR 11289) (Ex. 315).

42. The Applicant submitted evidence that the Applicant had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 335, 392).

43. At its November 20, 2023 public meeting, the Commission ordered publication of a corrected notice of the public hearing because the Public Hearing Notice did not include the correct language regarding participation as witness and how to apply for party status. Because of the extensive previous notice of this case, and pursuant to 11-Z DCMR

[9] The Commission finds that the list of 200 Footers was incomplete.

§ 103.12, the Commission decided not to require that the revised public hearing notice be posted on the property.

44. On November 21, 2023, OZ sent notice of the January 8, 2024 contested case public hearing to:
- OP;
- DMPED;
- ANCs 1B and 2B:
- ANC SMDs 1B05, 1B07, and 2B08;
- Councilmembers Brianne K, Nadeau and Brooke Pinto
- Office of the ANC;
- DDOT;
- At-Large Councilmembers and the Chair of the Council;
- DOEE;
- DOB General Counsel;
- OZLD; and
- Property owners within 200 feet of the Property (Ex. 498).

45. OZ published notice of the rescheduled January 8, 2024 public hearing in the December 1, 2023, District of Columbia Register (70 DCR 15524) (Ex. 496, 496A).

D. APPLICANT'S CASE

46. This case had an unusually complicated procedural history. As a result, the Applicant's case was made in reports submitted and presented at several meetings and hearings. Despite these procedural issues and complications, the substance of the reports and OP's case and arguments in favor of the Application remained the same: the Commission should rezone the property from MU-4 to MU-10 to be consistent with the policy guidance in the Comprehensive Plan. The policy guidance presented in the reports remained consistent from beginning to end. Additional reports added information and responded to questions or comments made at the hearings and requests from the Commission for additional information and/or procedural issues as follows:
- The Case was initiated by OP by filing a report that served as a petition. This report includes the OP's justification for the request, and cites the many Comprehensive Plan policies that support the request. This report is quoted extensively below because the reasons and justifications for the Commission's ultimate approval of the case based on the Comprehensive Plan are included in this original report (Ex. 2);
- OP then submitted a brief report that listed corrections to its petition (Ex. 7);
- OP filed a PowerPoint presentation that distilled and summarized the main points made in the Petition (Ex. 39);
- OP presented its Petition, the corrections and the PowerPoint presentation to the Commission at its February 23, 2003 public meeting, and based on the reports and OP's testimony, the Commission decided the request was worthy of a public hearing and that it would be heard as a rulemaking case;

- OP then submitted its hearing report. This report expanded upon the reasons for the OP request, including an expanded and more detailed analysis of its consistency with the Comprehensive Plan. It is also quoted extensively below (Ex. 58);
- OP submitted its first supplemental report (Ex. 167). This report recommended that the case should be heard as a contested case instead of as a rulemaking case;
- OP provided a second supplement to its hearing report (Ex. 358). This second supplement recommended that the Commission delay taking final action until OP brings forward a separate text amendment case to establish a building height transition setback requirement;
- OP submitted a copy of its hearing presentation (Ex. 568);
- OP testified in support of the Application at the January 8, 2024 hearing. OP was extensively cross-examined separately by all parties. The cross-examination of OP continued on January 18, 2024;
- At the close of the hearings, OP submitted a written closing statement per the Commission's request (Ex. 696);
- At the close of the Commission also requested that OP respond to several questions. OP submitted its responses in a third supplemental report (Ex. 700);
- OP then requested that it be allowed to revise the application to reduce the area proposed to be rezoned to MU-10 (Ex. 715, 718);
- At the request of the Commission, OP submitted a supplemental report on the revised Application Boundary dated June 13, 2024 (Ex. 720). This report provided a Comprehensive Plan analysis on the revised zone boundary.

THE PETITION

47. OP submitted a report, dated January 18, 2023 (the Petition or OP Setdown Report), recommending the Commission set down for a public hearing the Applicant's Map Amendment and concluded that the Map Amendment would be appropriate for IZ Plus and would not be inconsistent with the CP. The OP Setdown Report stated the following (Ex. 2):

> **I. RECOMMENDATION AND SUMMARY**
>
> The Office of Planning (OP) submits this map amendment petition and requests its setdown on behalf of the Deputy Mayor for Economic Development and Planning (DMPED) to rezone Square 0175, Lots 826 and 827 from the MU-4 zone to the MU-10 Zone, and that IZ Plus apply.
>
> The site is located at the northeast corner of 17th and U Streets, NW and is owned by the District government. It is occupied by, and will continue to be occupied by, the Metropolitan Police Department (MPD) Third District Police headquarters and by Fire and Emergency Services (FEMS) Engine Company 9 and its related uses. The map amendment is intended to implement the following 2021 revisions to the Comprehensive Plan that address the future of the site.
>
> - Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site's land use designation from Local Public Facilities to a mix of

Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The current MU-4 zoning on the site is not consistent with the new FLUM designation.

- The Mid-City Element's Policy MC-2.3.7, Use of Public Sites, which identifies the site as one that "should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities…" The site now has no housing, and the public facilities require upgrades and expansion. Any disposition/development agreement would provide for retaining the public functions, with upgrades, and would require affordable housing subject to the affordability requirements in District Law 10-801. These exceed those of IZ Plus.

The map amendment would enable the provision of more market rate housing and affordable housing, which would help mitigate rising housing costs that affect households of color disproportionately. It would enable the retention of District public service jobs for which persons of color are actively recruited.

The map amendment would also be consistent with the Generalized Policy Map's classification of the site as part of both a Main Street Mixed-Use Corridor and a Neighborhood Conservation Area.

II. APPLICATION-IN-BRIEF

…

Applicant:	DC Office of Planning on behalf of the Deputy Mayor for Economic Development and Planning
Address:	1617 U Street, NW and 1620 V Street, NW
Legal Description:	Square 0175, Lot 826 and Lot 827
Proposed Map Amendment:	From the MU-4 Zone to the MU-10 Zone with IZ Plus
Ward and ANC:	Ward 1/ANC 1B in 2023; ANC 1C in 2022
Property Size:	81,981 square feet[1] (1.88 acres) . (Does not include public alley between Lots 826 and 827).
Future Land Use Map Designation:	Mixed Use: Local Public Facilities/ High Density Residential / Moderate Density Commercial
Generalized Policy Map Designation:	Main Street Mixed-Use Corridor (southern half fronting U Street) / Neighborhood Conservation Area (northern half, fronting V Street)

The following table outlines the major differences between the existing and proposed zones.

Zone	Density	Height[1]	Lot Occupancy
Existing MU-4	2.5 3.0 (IZ) Maximum 1.5 non-residential	50 ft.	60% 75% (IZ)
Proposed MU-10	6.0 7.2 (IZ) Maximum 3.0 non-residential	90 ft. 100 ft. (IZ)	75% 80% (IZ)

Because the property is District-owned any future lease, disposition or RFP would include ANC and neighborhood participation in the process and in the design of future construction on the site. Depending on the ultimate development plan, the MU-10 zone's density and height maximums could permit construction of newer MPD and FEMS facilities, over 200 affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets. There are eight 8-story buildings and two 10-story buildings within two blocks of the map amendment site.

III. SITE AND AREA DESCRIPTION

The property proposed for re-zoning occupies approximately 2/3 of Square 175, which is bounded by U, V, 16th and 17th Streets, NW. The site is bounded by: North, V Street and, across a public alley, six 2-story rowhouses; West, 17th Street; South, U Street; and East, a public alley. Lot 827[10] comprises ~2/3 of the site, with frontage on U, V and 17th streets. Lot 826, with frontage only on U Street, comprises the remaining ~ 1/3 of the site. Together the lots are occupied by two District government facilities which have shared the site since the 1960's.



Lot 827 slopes approximately 5 feet downward from north to south. It is occupied by the two-story Metropolitan Police Department's (MPD) Third District Station, with frontage on V Street and 17th Street. The station's pedestrian entrance is on V Street, and it is connected to a two-level parking garage with frontage on V Street

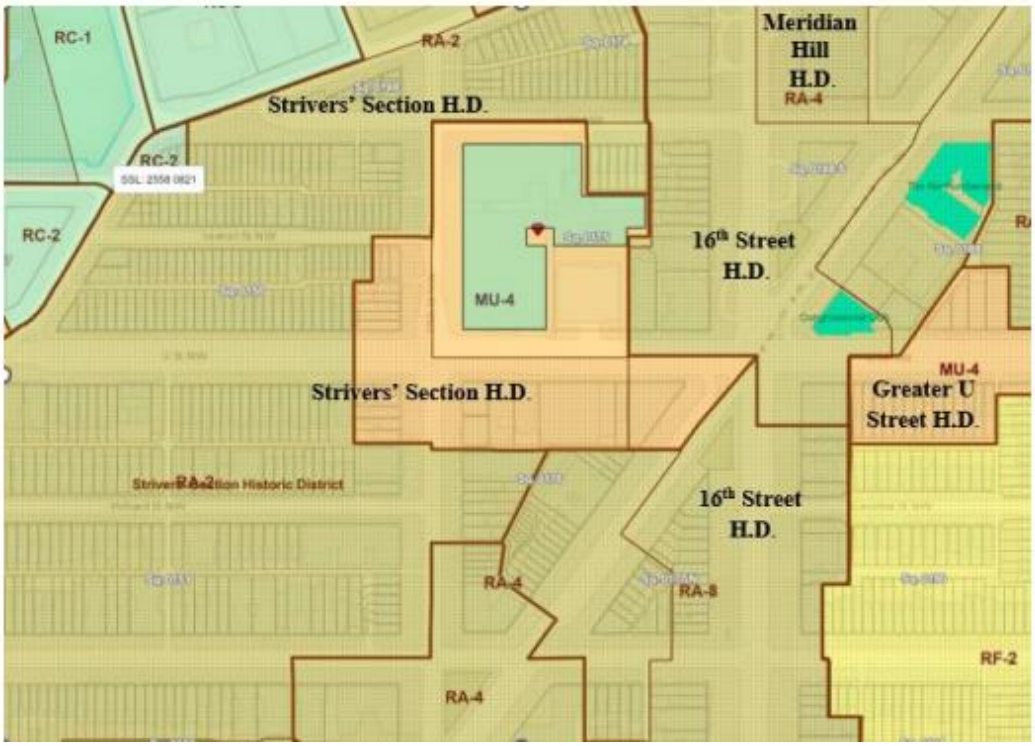
[10] The OP Setdown Report incorrectly reversed Lots 826 and 827 in this paragraph. OP noted the error in a correction notice it submitted January 26, 2023 (Ex. 7). The paragraph above shows the corrected lots.

and U Street. The garage is used predominantly by MPD and is accessed from a north-south alley to the east of the garage and to the west of the fire station.

Lot 826 is occupied by the one-story Fire and Emergency Medical Services (FEMS) Engine Company Number 9 and related services. Its vehicular entrances and its pedestrian entrances are from U FEMS also uses a portion of the garage.
…

Proximate to the site's boundaries are:

- North, across V Street, other 2-story rowhouses;
- West, across 17th Street, primarily residential two- and three-story row buildings, but with ground floor retail at the corner of 17and U Streets;
- South, across U Street, a mix of three- and four-story buildings with ground floor retail, and one five story commercial building; and
- East, across the public alley, a combination of 3 and 4 story row houses and five to eight story apartment buildings along 16th Street, and a 4-story apartment building with ground floor retail on U Street.



The Mixed-Use MU-4 zone covers the subject property, the four corners of 17th and U Streets, and U Street as far east as 16th Street. Most of the property surrounding the MU-4 area is zoned RA-4, for moderate density residential rowhouses and apartment buildings. However, because many of the buildings pre-date the 1958 zoning regulations, there are four eight-story, and one nine-story, apartment buildings within a block of the site and an additional five eight-to-ten-story apartment buildings within the next two blocks.

In general, the area is a predominately moderate to high density residential neighborhood, with moderate to medium-density mixed-uses along U Street, east of 17th Street. The site is well-served by transit, with the various 90-series bus lines on U Street, several "S" bus lines on 16th Street (including an express service) and with the U Street/African American Memorial Metro Green Line stop being 4 blocks to the east.

… [W]hile the property is not within an historic district, it is bordered by the Strivers' Section historic district on the north, south and west, and by the 16th Street historic district on the east.

IV. Rationale for the Proposed Map Amendment

The site is currently within the MU-4 zone which is described as a moderate density mixed use zone. As noted, it is no longer consistent with the revised FLUM designation for high density residential, moderate density commercial and local public facilities. (FLUM change 8050).

Section 400.3 of the Zoning Regulations states that the MU-4 zone is intended to

(a) Permit moderate-density mixed-use development;
(b) Provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and
(c) Be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers.

The existing and proposed uses for the site do not comport with these purposes. The FLUM indicates the site should permit mixed use density with a residential component exceeding moderate density. The existing and proposed uses include a substantial portion of local government uses. The Zoning Regulations state that the MU-4 zone is appropriate for low and moderate density residential areas. The site is in a moderate to medium density mixed use area that includes commercial uses and housing types that range from row-houses to moderate and medium density apartment buildings up to 8 and 9 stories tall.

The proposed MU-10 zone, on the other hand, is intended to:

400.9
(a) Permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions;
(b) Be applied to areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or

framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality;
(c) Require a level of public space at the ground level; and
(d) Allow residential and non-residential bulk to be apportioned between two (2) or more lots in the same square.

The MU-10 zone … would permit both the density and the mix of uses the Comprehensive Plan envisions for the site, including public uses at the ground level.

More specifically, OP is recommending the MU-10 zone to:

- Respond to the new FLUM designation; and
- Effectuate Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the site to have enough density and height to:
    1. Accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
    2. Make it economically feasible to construct a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
    3. Not preclude the possibility of providing limited ground floor retail uses along a portion of the site's U Street face.

Rezoning applications consider only consistency with the Comprehensive Plan and do not include a specific development proposal. However, with an appropriately designed site plan it is likely that on the less-than-two-acre site the MU-10 zone's density and height limits could accommodate these vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and limited retail uses without being inconsistent with the Comprehensive Plan[.]

V. DEVELOPMENT CAPACITY OF EXISTING AND PROPOSED ZONES

The following table provides more detail comparing the development standards and uses of the existing MU-4 zone and the proposed MU-10 zone.

	Existing Zone	**Proposed Zone:**
	MU-4	**MU-10**
Permitted Uses:	MU-Use Group E in Subtitle U, Chapter 5.	MU-Use Group G in Subtitle U, Chapter 5.
Height:	50 ft. maximum	90 ft. max 100 ft. max. with IZ
Floor Area Ratio (FAR):	2.5 max. 3.0 max with IZ (1.5 max. non-residential use)	6.0 max. 7.2 max. with IZ (3.0 max. non-residential use)

Penthouse Height:	12 ft. max./1 story 15 ft. total with second story for penthouse mechanical space	20 ft. max./ 1 story 20 ft. total with second story for penthouse mechanical space
Lot Occupancy	60% Place of Worship – 60% 75% IZ	75% 80% IZ
Rear Yard	15 ft. min.	The greater of 12 feet or 2.5" deep per foot of building height. Not required below first residential level.
Side Yard:	None required. If provided, the greater of 5 feet or 2" wide per foot of building height.	Same as MU-4.
Parking - Vehicular	- Local Gov't.: 0.5 space per 1000 SF over the first 2000 SF; -Residential: 1 space per 3 dwelling units over the first 4 units -Retail: 1.33 space per 1,000 SF over 3,000 SF	Same as MU-4
Parking - Bicycle	**Long Term** Local Gov't: 1 per 7,500 SF Residential 1 per 3 apartments Retail: 1 per 10,000 SF **Short-Term** Local Gov't: Greater of 6 or 1 per 40,000 SF Residential 1 per 20 apartments Retail: 1 per 3,500 SF\	Same as MU-4
Loading	Local Govt: 1 loading berth, 1 delivery space for 30,000 to 100,000 GFA Residential: If more than 50 dwelling units, 1 loading berth, 1 delivery space Retail: 1 loading berth, 0 delivery space if 5,000 to 20,000 SF'	Same as MU-4
GAR:	0.3 min.	0.2 min.

…

VI. IZ PLUS AND DC LAW 10-801

11 DCMR Subtitle X § 502 (b) presumes that IZ Plus will apply to a map amendment "that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable" except as provided for in Section 502.2[.]

The property is owned by the District, and any disposition and development of the property will be subject to affordability requirements of District Law 10-801. Under that law, at least 30% of the units would be affordable, since the subject property is within a half-mile of the U Street/African American Civil War Memorial and a quarter mile of a WMATA Priority Network Metrobus Route ("S" Routes on 16th Street). In addition, for rental units, at least 25% would be for very low-income residents, who would pay no more than 30% of their income towards housing costs. The remainder would be for low-income residents who would pay no more than

30% of their income towards housing cost. In the case of homeownership units, 50% would be for residents who pay no more that 30% towards housing and the remaining 50% would be for moderate-income household who would pay no more that 30% of their income towards housing.

IZ Plus requires a higher affordable housing set-requirement than Regular IZ and prescribes a set-aside requirement based on either:

- a sliding-scale that is correlated to the total floor area built, or
- the amount of IZ bonus density built.

The requirements under DC Law 10-801 exceed the requirements of IZ Plus, which requires that 18% to 20% of the residential square footage be reserved for housing affordable to households earning 60% of the MFI for rental units and 80% MFI for ownership units. Nevertheless, out of an abundance of caution, OP recommends the rezoning is appropriate for IZ Plus because:

- The proposed map amendment would allow a higher maximum FAR than the existing zone and IZ Plus is designed to apply to such situations;
- The neighborhood surrounding the site, and Ward 1 in general has existing deficiencies in affordable housing. (See page 15 of this report); and
- Ward 1 had a median rent of $1,803 in 2019, exceeding the District-wide median of $1,603.

VII. COMPREHENSIVE PLAN EVALUATION

Overview

The Comprehensive Plan gives general recommendations, unlike the Zoning Regulations which gives specific requirements and limitations. The plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and that greater density may be possible if developed with Inclusionary Zoning (227.8). For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8).

The Framework Element suggests that that it is appropriate to co-locate non-governmental and governmental uses on a site that includes a Local Public Facilities designation (227.17) and that Area Elements may also provide detail on the specific mix of uses envisioned" (227.21). In this instance the Mid-City Element (Policy MC-2.3.7 Use of Public Sites) specifies that the subject site shall accommodate governmental use, "continue the history of U Street as a Black business corridor" and include additional density to accommodate affordable housing and other uses.

The subject site is designated as being appropriate for a mix of all of these uses, with the residential use (high density) having the greatest emphasis. *"The general*

density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown". The MU-10 zone's 7.2 FAR density maximum and 100-foot height limit could accommodate the vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and the retail uses consistent with U Street traditions and be not inconsistent with the Comprehensive Plan.

A. COMPREHENSIVE PLAN MAPS

The District of Columbia Comprehensive Plan guides the District's development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the *"Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies."* Additionally, *"the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements."*

As demonstrated below, the proposed zoning map amendment would not be inconsistent with the map designations or the Citywide and Area Elements.

1. Generalized Future Land Use Map (FLUM)

The District of Columbia Comprehensive Plan (the "Comprehensive Plan") guides the District's development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The site is designated as High Density Residential, Moderate Density Commercial, and Local Public Facilities on the Future Land Use Map of the Comprehensive Plan.

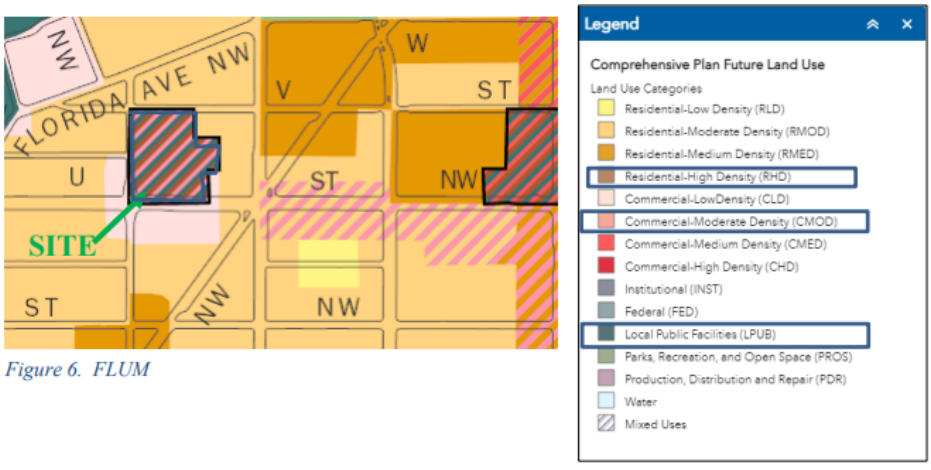


Figure 6. FLUM

The Comprehensive Plan designates a portion of the site fronting U Street as Mixed Use.

The Mixed-Use Category in the Future Land Use Map …
...indicates areas where the mixing of two or more land uses is especially encouraged. The particular combination of uses desired in a given area is depicted in striped patterns, with stripe colors corresponding to the categories defined on the previous pages. A Mixed Use Future Land Use Map designation should not be confused with the Mixed Use (MU) zoning districts, although they frequently apply to the same area or parcel of land. The Mixed Use Category generally applies in the following circumstances:
a. Established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground-floor retail or office uses;
b. Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground-floor retail or office uses and upper story housing;
c. Large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared; and
d. Development that includes residential uses, particularly affordable housing, and residentially compatible industrial uses, typically achieved through a Planned Unit Development or in a zone district that allows such a mix of uses. 227.20

The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground-floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix (in this case, Moderate Density Residential/Low Density Commercial). The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. 227.21

It should also be acknowledged that because of the scale of the Future Land Use Map and the fine-grained pattern of land use in older parts of the city, many of the areas shown purely as "Commercial" may also contain other uses, including housing. Likewise, some of the areas shown as purely "Residential" contain existing incidental commercial uses such as corner stores or gas stations, or established institutional uses, such as places of worship. The "Mixed Use" designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future. 227.22

A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. All zone districts formerly identified as commercial, SP, CR and Waterfront were renamed as MU zone districts in 2016,

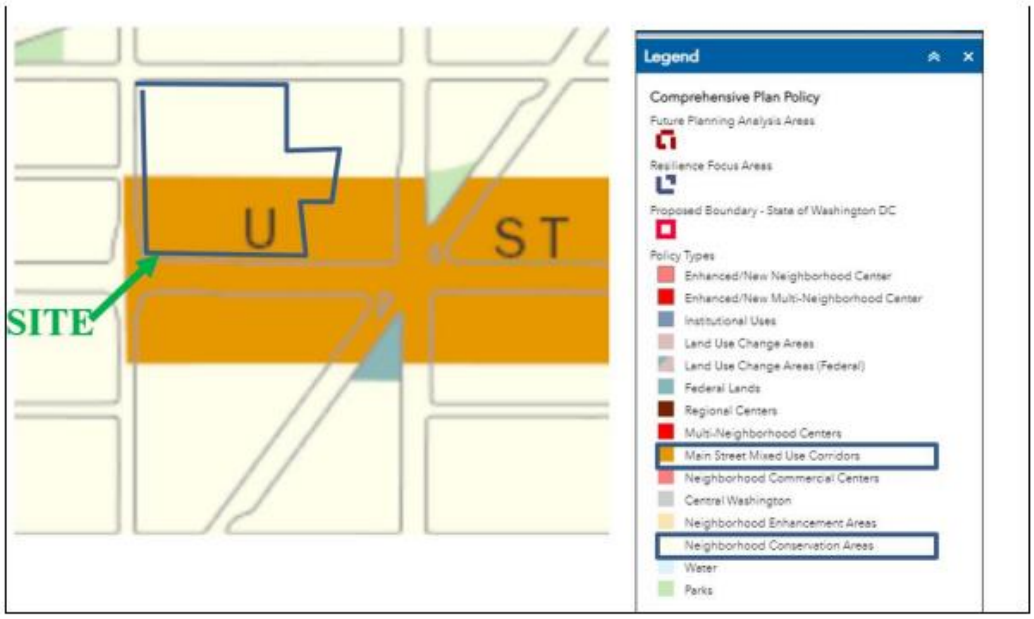
and are considered to be mixed use. Residential uses are permitted in all of the MU zones, however, so many Mixed Use areas may have MU zoning. 227.23

The existing MU-4 zoning permits a maximum overall density of 3.0 FAR (with IZ) and a building height of 50 feet. These limits would make it difficult to rebuild and expand the existing MPD and FEMS facilities and parking garage and construct a substantial amount of housing and affordable housing above – let alone providing any space for potential retail along U Street. The greater flexibility provided by the MU-10 zone is therefore appropriate given the 2021 FLUM designation, the emphasis the Comprehensive Plan places on developing affordable housing on District-owned land, and the development program anticipated for the site.

2. <u>Generalized Policy Map</u>

The Generalized Policy Map indicates that the southern half of the property, along U as being within the U Street Main Street Mixed Use Corridor. The northern half, along V Street, is designated as a neighborhood conservation area.

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



Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5

Existing development on the site does not enhance the U Street Main Street Mixed-Use Corridor. The U Street frontage has only the blank side of a parking garage and the open bays of the FEMS station. There is no possibility for the pedestrian-oriented uses cited for such a corridor in the Comprehensive Plan. The MU-10 zone would permit enough height and density for a development that could accommodate the needs of MPD and FEMS while freeing up some U Street frontage for retail or other neighborhood-serving uses. The height and density permitted by the recommended zone would also enable future development to be responsive to the surrounding neighborhood character.

B. COMPREHENSIVE PLAN WRITTEN ELEMENTS

1. Comprehensive Plan Analysis Through a Racial Equity Lens[11]

[11] The Comp Plan was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis

Equity is emphasized throughout the Comprehensive Plan, particularly in the context of zoning, where the provision of affordable housing, avoiding displacement of existing residents, and creating access to opportunity is a priority. The Commission's racial equity tool serves as a guide in analyzing the Comprehensive Plan and considering potential impacts of the proposal. The tool starts by asking *"What is the expected goal of the zoning action?"* and then *"What are the anticipated positive and negative impacts and/or outcomes of the zoning action?*". The zoning action requested by this application is for the approval of a zoning map change from the MU-4 zone to the MU-10 zone.

Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan. The rezoning would allow the DC Government to better use a property that the Comprehensive Plan has indicated is appropriate not only for governmental uses, but also for high-density residential use and moderate density neighborhood-serving retail and/or service uses. Because it is a District property, the residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation has the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Planning Area.

Housing

One of the key ways the Comprehensive Plan seeks to address equity is by supporting additional housing development, particularly on underutilized sites near transit, such as the subject site, which is ~1/2 mile from the U Street/African American Civil War Memorial Metro station. The Comprehensive Plan defines affordable housing as housing available to households earning 80 percent or less of the median family income ("MFI") (§ 304.3).

The Comp Plan notes that without increased housing the imbalance between supply and demand will drive up housing prices in a way that creates challenges for many residents, particularly low-income residents. The rising cost of housing in the District limits the ability to fill housing needs for the full range of household types and income levels. Only a small amount of the District's total land area (28.1 percent) is dedicated to residential use (10-A DCMR § 205.3). The scarcity of land increases the cost of building new housing, limits the availability of housing, and

tool (RE1) in response to the new legislation. It did not include a requirement that OP address its community outreach or provide an analysis of disaggregated racial equity data. As discussed further below, the Commission later issued a second racial equity tool after OP submitted the OP Setdown Report which imposed heightened requirements.

intensifies housing cost burdens, particularly for lower- and middle-income households.

The District's Upward Mobility Action Plan (June 2022) 3 noted the following:

- *"Residents with lower incomes have not benefited as much from the District's economic growth as residents with higher incomes. This challenge exists because most residents with lower incomes do not have college degrees, which are required for many of the District's highly paid jobs. As a consequence, residents with lower incomes have difficulty finding housing they can afford because of the growing number of residents with high incomes are paying a premium for housing near jobs, transit, shops, restaurants, education, healthcare, and entertainment venues" (Why Upward Mobility is Important - Page 4 Item (1))*
- *"In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing."*
- *In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing.*
- *Among households that are housing cost burdened, severely cost burdened households spend 50% of their income or more to secure their housing. According to the 5-year ACS, 17% of households in the District were severely housing cost burdened in 2020. Most severely cost burdened households cannot balance their budgets by cutting out luxuries and seeking discounts. (Why Upward Mobility is Important, Page 5)*

In general, the addition of housing units in an area should help to reduce the burden for lower-income households, and the increasing demand from a growing population should lead to an increase in the availability of goods and services. Governmental regulations and programs such as Inclusionary Zoning and publicly assisted financing for the construction of housing targeted to lower income households can help to mitigate these upward pressures Housing-Related Characteristics of the Site's Nearby Area The population of the Mid-City ("Planning Area"), where the subject property is located, is 7.5 percent Black, compared to 35.7 percent District-wide. The Hispanic/Latinx origin population is 19.1 percent, compared to 11.1% District-wide (2020). The median household income is $122,103 in the Planning Area, while the District-wide median is $90,842. The median home value in the Planning Area is $758,021 (2020). The Comprehensive Plan states that "residents of color are a majority of lower-income households in the District and, therefore, face a disproportionate share of the problems caused by housing insecurity and displacement" (10-A DCMR § 206.4).

The State Data Center notes that the Planning Area consists of 4.2 percent of the total housing units in the District. The 2019 Housing Equity Report identified the Planning Area as having an affordable housing production goal of 1010 units by 2025. At the time the report was written, the Planning Area had 690 units in the affordable housing pipeline and was not on track to meet the 2025 total housing production goal of 7,960 housing units.
…

The affordability, stability, and location of housing shapes the physical, emotional, and mental wellbeing of both young and older District residents. (Why Equitable Housing Matters , pg. 1323, 24, 25)) When high-opportunity neighborhoods lack affordable housing or when areas with affordable housing lack neighborhood services and amenities, low-income residents are excluded from important social and economic opportunities of those healthy neighborhoods. Perhaps most importantly, when low-income residents can move or afford to live in high-opportunity neighborhoods, they thrive. The potential affordable units that the proposed map amendment would make possible on the site would be more likely to serve non-white residents of the District than other racial groups.

The Comprehensive Plan defines affordable housing as housing available to households earning 80 percent or less of the median family income ("MFI") (§ 304.3). As of 2018, the Planning Area included 13 percent of the District's total number of affordable housing units. According to the Income Limits by Percent of Median Family Income provided by DHCD, shown in Table 4:
…

A moderate-income family of 4 at 80% MFI falls within a much lower household income ($97,050) category than the planning area ($122,103). Households that pay more than 30% of income on housing are burdened, and more than 50% of income are severely burdened. The housing that would be enabled by the increased FAR under the proposed zone has the potential of increasing the total supply of housing units in the Planning Area, which could help alleviate the pressure on housing costs overall.

Because the site is District-owned, District law requires that any residential development on the site provide for a higher percentage of affordable housing at lower household income limits than would be required under IZ or IZ Plus.

Displacement
The proposed amendment would not result in physical displacement of residents as the site does not currently include a residential use. The density gained in increased residential use on the site would provide an opportunity for additional housing and affordable housing opportunities in the area.

Participation in Decision-Making

The Comprehensive Plan update recognizes that advancing equity requires a multifaceted policy approach. While the Comprehensive Plan update addresses equity in narrower terms, such as "equitable development," it recognizes that many areas of policy must be brought to bear on the challenge:

Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant. Equitable development holistically considers land-use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, health care, technology, workforce development, and employment opportunities. As the District grows and changes, it must do so in a way that encourages choice, not displacement, and builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes and share in the benefits of the growth, while not unduly bearing its negative impacts. 213.7

A development project has not been designed for the property. However, the Deputy Mayor for Planning and Economic Development (DMPED) has indicated that if the District facilitated the redevelopment of the property it would likely seek to do so with a mix of local public facilities such as a new police station and/or firehouse, housing and, possibly retail uses appropriate to the site per the Comprehensive Plan context.

DMPED has already started consultations with ANC 1C and community about the future of the property. At a July 14, 2022 Public Surplus Hearing for 1617 V Street, and in the 10 days afterwards, 72 individuals and the Dupont Circle Citizens Association provided verbal or written comments about whether the site should be surplused or retained; noted community needs; suggested possible uses and an appropriate building scale and design; and considered potential impacts to the neighborhood. The District government will continue to seek input from the ANC and the neighborhood throughout any process concerning the site's possible rezoning, disposition or development.

Transportation

Any development enabled by the proposed map amendment would have extensive access to transit, being four to five blocks from the Metro and being served by the multiple Metrobus routes along the U Street and 16th Street corridors. Capital Bikeshare stations and bike connections along U Street would provide alternative modes for travel in the city, as well as the network of sidewalks for pedestrians. The site has a walkscore of 100.

Discussion of traffic circulation and the supply and management of parking would be considered during an RFP process.

Employment

Any new development on the site would include MPD, FEMS and residential uses, which would retain or create additional local government jobs, as well as jobs in residential maintenance and management. The site is also walkable or transit-accessible to other employment options. A study of the District's labor market in 2020 shows that Ward 1's unemployment rate is the third lowest of the District's wards.

…

Education/Health/Wellness

Any proposed residential use on the site would have easy access to several public facilities and gathering places in the neighborhood. The site is near the Marie Reed Learning Center, the OysterAdams Bilingual School, Ross Elementary School, Garrison Elementary Schools, Meridian Charter School, and Cardoza (High School) Education Campus. It is also in proximity to urgent care clinics on and around U Street. Overall, future residents and employees would have access to a variety of public and private resources in the neighborhood that would contribute to the quality of life.

Environmental

Any development on the property would be required to demonstrate compliance with the Green Building Act, meet current DOEE standards, and provide stormwater management to current requirements. Through working with DOEE, and the DC Green Bank, properties would be encouraged to be energy efficient and resilient. The DC Green Bank is an innovative policy tool that will use public purpose funding to attract private investment. The goal is to expand renewable energy, lower energy costs, reduce greenhouse gas emissions, create green jobs, and enhance resilience

Access to Amenities

The site is in an amenity-rich neighborhood that includes schools, public recreation facilities, private gyms, theaters for plays and movies, and music venues and accessible neighborhood parks and open spaces including Meridian Hill / Malcom X Park.

Overall, the proposed map amendment would be not inconsistent with the Comprehensive Plan. The rezoning would allow the retention of local services protecting life and property. Housing and affordable housing opportunities would be included in this property which is close to transit and has easy connections to other parts of the city for work, service and recreation. Development of the site would therefore support enhanced transit use. This proposed map amendment would support equitable development while contributing to the increase in the neighborhood serving uses and affordable housing within the Planning Area. …

2. Comprehensive Plan Written Elements

The proposed map amendment is not inconsistent with major policies from various elements of the Comprehensive Plan, including the Land Use; Transportation; Housing; Urban Design; Historic Preservation; Economic Development and the Mid-City Area Element. It would particularly further the Framework Section's policy on Local Public Facilities. A compilation of relevant policies can be found in Appendix A.

A. Citywide Elements

Framework

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

The proposed zone would provide enough density and height to permit the co-location of market rate and affordable housing with upgraded MPD and FEMS facilities and their associated parking.

Land Use

The proposed map amendment would further the land use elements with a zone consistent with the use mix and density that 2021 FLUM Amendment 8050 indicated is appropriate. A future project would provide new facilities for MPD and FEMS and would likely include a substantial number of residential units at the deeper affordability levels mandated by District Law 10-80. The site is accessible to Metrorail and Metrobus. The property is in an amenity-rich area, having access to schools, shopping, employment, recreation facilities, and a library within the northwest quadrant.

Transportation

The increased density would enable the provision of a larger garage on the site, which should reduce the number of government and employee vehicles now parking on adjacent streets and landscaped public parking strips. Any future development would be required to undertake a Transportation Management Plan that would examine transportation concerns in the surrounding area. It would also require an increase in the number of secure indoor bicycle parking spaces.

Housing

Redevelopment and infill opportunities along corridors and near transit stations will be an important component of reinvigorating and enhancing our neighborhoods. Development on such sites must be designed to respect the integrity

of stable neighborhoods and the broader community context, and encourage housing and amenities for low-income households, who rely more on transit. Adequate infrastructure capacity should be ensured as growth occurs. 219.7

As referenced prior, the IZ units required by a District offering IZ or I, or by either Z Plus would increase the total supply of housing units in the Planning Area and would help alleviate the pressure on housing costs near/at transit accessible sites. New housing in a transit-rich area, blocks from a Metro station and along a transit corridor is an ideal scenario in furthering the District's housing goals in the Planning Area, as desired in the Housing Equity Report and highlighted earlier in this report.

Environment

The District's ownership of the site would lead to any future development's furthering environmental goals by requiring at least a LEED Gold (v.4) standard, including solar panels, green roof elements and stormwater management.

Historic Preservation and Urban Design

The District of Columbia contains many buildings and sites that contribute to its identity. Protecting historic resources through preservation laws and other programs is essential to retain the heritage that defines and distinguishes the city. Special efforts should be made to conserve row houses as the defining element of many District neighborhoods, and to restore neighborhood "main streets" through sensitive renovation and updating. The District's music, art, narratives, institutions, and other cultural assets are also integral to create a community's identity and sense of place. Efforts should also be made to support, enhance, and protect these cultural assets. 220.6

The property is not within a historic district and does not include any historic structures. However, the Strivers Row Historic District is to the north and west and just south of U Street. The 16th Street Historic District is to the east.

Economic Development

The replacement and possible expansion of the MPD and FEMS facilities would bring heightened public safety presence to the area. This would help to anchor existing development and promote quality future development that, together with the additional residents projected for the site, would result in a mixed-use development creating more vibrancy to the north side of this portion of the U Street corridor.

B. Mid-City Area Element

The Mid-City Planning Area is culturally diverse and in particular has re-emerged as a dining, retail, residential, entertainment, and cultural destination in the District. The 14th Street NW and U Street NW corridors experienced remarkable change

over the last decade. Revitalization has increased the need to improve mobility, manage traffic and parking, and assist small businesses. 10-A DCMR § 2000.9.

The proposed map amendment would further the policies of the Mid-City Area Element, particularly the following:

Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11

This policy would be foundational to any future development solicitation the District would issue for this site.

3. Summary of Planning Context Analysis

The map amendment would not be inconsistent with the Comprehensive Plan. The policies cited in Appendix I and as discussed in the Citywide and Area Elements sections, work together to support the proposed density and height to permit more mixed-uses and housing in a transit-accessible area with public facilities and amenities supporting of future residents' well-being. The future development that would be better enabled by the proposed zone would help the District towards attaining its affordable housing pipeline goals including 12,000 affordable units by 2025 as identified in the Housing Equity Report and the Upward Mobility DC data, which could help the Planning Area exceed its minimum goal of six percent of affordable units by 2025.

…

APPENDIX A – Comprehensive Plan Citywide Written Elements

Land Use

As the Land Use Element guides the direction of future growth, it also affects future access to housing, education, jobs, services, amenities, and transportation and impacts the health and safety of residents. Growth can and must occur in a way that expands access to affordable housing, education, transportation, employment, and services for communities of color, low-income households, and vulnerable populations. Achieving equitable development requires attention to both the context and needs of different planning areas and to District-wide equity issues, described throughout the Comprehensive Plan. 304.4

Policy LU-1.4.6: Development Along Corridors
Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District's broader need for housing. 307.14

Action LU-1.4.B: Zoning Around Transit
With public input, develop and use zoning incentives to facilitate new and mixed use development, and particularly the provision of new housing, and new affordable housing in high opportunity areas to address more equitable distribution, 307.20

Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
Recognize the importance of balancing goals to increase the housing supply, including affordable units, and expand neighborhood commerce with parallel goals to preserve historic resources, advance environmental and sustainability goals, and further Fair Housing. The overarching goal to create vibrant neighborhoods in all parts of the District requires an emphasis on conserving units and character in some neighborhoods and revitalization in others, including inclusive and integrated growth and meeting communities and public facility needs. All neighborhoods have a role to play in helping to meet broader Districtwide needs, such as affordable housing, public facilities, and more. 310.10

Policy: LU-2.1.8 Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods
Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

Policy LU-2.1.10: Multi-Family Neighborhoods
Maintain the multi-family residential character of the District's medium- and high-density residential areas. Limit the encroachment of large-scale, incompatible commercial uses into these areas. Make these areas more attractive, pedestrian-friendly, and transit accessible, and explore opportunities

for compatible commercial development which provides jobs for nearby residents. 310.17

Policy LU-2.4.5: Encouraging Nodal Development
Discourage auto-oriented commercial strip development and instead encourage pedestrian-oriented nodes of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them. 313.13

Transportation

Policy T-1.1.4: Transit-Oriented Development
Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. Encourage development projects to build or upgrade the pedestrian and bicycle infrastructure leading to the nearest transit stop to create last-mile connections. Pedestrian movements and safety should be prioritized around transit stations. 403.10

Policy T-1.1.7: Equitable Transportation Access
Transportation within the District shall be accessible and serve all users. Residents, workers, and visitors should have access to safe, affordable and reliable transportation options regardless of age, race, income, geography or physical ability. Transportation should not be a barrier to economic, educational, or health opportunity for District residents. Transportation planning and development should be framed by a racial equity lens, to identify and address historic and current barriers and additional transportation burdens experienced by communities of color. 403.13

Housing

The following citations assume the future development of the site is required to include affordable housing.

The Housing Element describes the importance of housing to neighborhood quality in the District of Columbia and the importance of providing housing opportunities for all segments of the population throughout Washington, DC...500.1

… The overall goal for the District of Columbia is that a minimum of one third of all housing produced should be affordable to lower-income households. The short-term goal is to produce 36,000 residential units, 12,000 of which are affordable, between 2019 and 2025. 501.1

Policy H-1.1.1: Private Sector Support

Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.3

Policy H-1.1.3: Balanced Growth
Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a sufficient supply of land is planned and zoned to enable the District to meet its long-term housing needs, including the need for low- and moderate density single-family homes, as well as the need for higher-density housing. 503.5

Policy H-1.1.4: Mixed-Use Development
Promote moderate to high-density, mixed-use development that includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors and high-capacity surface transit corridors, and around Metrorail stations. 503.6

Policy H-1.1.9: Housing for Families
Encourage and prioritize the development of family-sized units and/or family sized housing options which generally have three or more bedrooms, in areas proximate to transit, employment centers, schools, public facilities, and recreation to ensure that the District's most well-resourced locations remain accessible to families, particularly in areas that received increased residential density as a result of underlying changes to the Future Land Use Map. Family-sized units and/or family-sized housing options include housing typologies that can accommodate households of three or more persons and may include a variety of housing types including townhomes, fourplexes and multi-family buildings. To address the mismatch between meeting the needs of larger households and the financial feasibility of developing family-sized housing, support family-sized housing options through production incentives and requirements that address market rate challenges for private development that may include zoning, subsidies or tax strategies, or direct subsidy and regulatory requirements for publicly owned sites. 503.11

Policy H-1.2.2: Production Targets
Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in Washington, DC from 2018 to 2030, or approximately 20,000 units, should be affordable to persons earning 80 percent or less of the area-wide MFI. In aggregate, the supply of affordable units shall serve low-income households in proportions roughly equivalent to the proportions shown in Figure 5.8: 30 percent at 60 to 80 percent MFI, 30 percent at 30 to 60 percent MFI, and 40 percent at below 30 percent MFI. Set future housing production targets for market rate and affordable housing based on where gaps in supply by income occur and to reflect District goals. These targets shall acknowledge and address racial income disparities, including racially

adjusted MFIs, in the District, use racially disaggregated data, and evaluate actual production of market rate and affordable housing at moderate, low, very-low, and extremely-low income levels. 504.9

Policy H-1.2.3: Affordable and Mixed-Income Housing
Focus investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire District by developing goals and tools for affordable housing and establishing a minimum percent affordable by Planning Area to create housing options in high-cost areas, avoid further concentrations of affordable housing, and meet fair housing requirements. 504.10

Policy H-1.2.4: Housing Affordability on Publicly Owned Sites
Require that 20 to 30 percent of the housing units built on publicly owned sites disposed of for housing, co-located with local public facilities, or sites being transferred from federal to District jurisdiction, are reserved for a range of affordable housing with long-term commitments to maintain affordability, seeking to maximize production of extremely low- and very low-income for rental units, and very low- and low-income households for ownership units and family-sized units. Prioritize the provision of affordable housing in areas of high housing costs. Explore strategies at these redeveloping sites to enable seniors in the surrounding community to have opportunities to age in place, and to provide housing opportunities for residents at risk of displacement in the surrounding community. Consider Universal Design and visitability. 504.12

Policy H-1.2.5: Moderate-Income Housing
In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of those earning moderate incomes with wages insufficient to afford market rate housing in the District. 504.13

Policy H-1.2.9: Advancing Diversity and Equity of Planning Areas
Proactively plan and facilitate affordable housing opportunities and make targeted investments that increase demographic diversity and equity across Washington, DC. Achieve a minimum of 15 percent affordable units within each Planning Area by 2050. Provide protected classes (see H-3.2 Housing Access) with a fair opportunity to live in a choice of homes and neighborhoods, including their current homes and neighborhoods. 504.17

Policy H-1.2.11: Inclusive Mixed-Income Neighborhoods
Support mixed-income housing by encouraging affordable housing in high-cost areas and market rate housing in low-income areas. Identify and implement measures that build in long-term affordability, preferably permanent or for the life of the project, to minimize displacement and achieve a balance of housing opportunities across the District. 504.19

Policy H-1.3.1: Housing for Larger Households
Increase the supply of larger family-sized housing units for both ownership and rental by encouraging new and retaining existing single-family homes, duplexes, row houses, and three-and four-bedroom market rate and affordable apartments across Washington, DC. The effort should focus on both affordability of the units and the unit and building design features that support families, as well as the opportunity to locate near neighborhood amenities, such as parks, transit, schools, and retail. 505.8

Policy H-1.3.2: Tenure Diversity
Encourage the production of both renter- and owner-occupied housing, including housing that is affordable at low-income levels, throughout the District. 505.9

Environmental Protection
The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources.

Policy E-3.2.6: Alternative Sustainable and Innovative Energy Sources
Support the development and application of renewable energy technologies, such as active, passive, and photovoltaic solar energy; fuel cells; and other sustainable sources such as shared solar facilities in neighborhoods and low- or zero-carbon thermal sources, such as geothermal energy or wastewater heat exchange. Such technology should be used to reduce GHGs and imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive solar homes relying on the sun as a primary energy source. 612.8

Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff
Promote an increase in tree planting and vegetated spaces to reduce stormwater runoff and mitigate the urban heat island, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large, paved surfaces. 615.4

Environmental Protection Element
The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the values and functions of Washington, DC's natural resources and ecosystems, and educate the public on ways to secure a sustainable future. 601.1.

48. On January 26, 2023, OP submitted a brief report that listed corrections to its petition. The corrections were that the lot numbers for the two lots were inadvertently transposed in the site description section (Ex. 7).

49. OP appeared at the Commission's February 23, 2023 public meeting and presented the OP Setdown PowerPoint Presentation (Ex. 39). The OP PowerPoint distilled and summarized the main points made in the Petition. OP presented its Petition, the corrections and the PowerPoint presentation to the Commission at its February 23, 2003 public meeting. OP emphasized that the zoning change would implement the policy guidance of Comprehensive Plan Policy MC-2.3.7 Use of Public Sites, which reads in relevant part:

> *Utilize public land at … Engine 9, and MPD 3rd District Headquarters [the Site] … Added density at [the Site] should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities… . New construction should concentrate density towards U Street … .*

Based on the reports and OP's testimony, the Commission decided the request was worthy of a public hearing and that it would be heard as a rulemaking case.

50. On June 16, 2023, OP submitted its hearing report (Ex. 58). The report continued to recommend that the Commission approve the requested map amendment, stating:

> The Office of Planning (OP) **recommends the Zoning Commission approve the proposed map amendment to rezone Square 0157, Lots 826 and 827 from the MU-4 zone to the MU-10 Zone, and that IZ Plus apply**. This map amendment petition was submitted by OP on behalf of the Deputy Mayor for Economic Development and Planning (DMPED) and was set down by the Zoning Commission on January 23, 2023.
>
> The rezoning responds to the new FLUM designation of Local Public Facilities/ High Density Residential /and Moderate Density Commercial; effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites, by enabling the site to have enough density and height to:
>
> - Accommodate new facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
> - Accommodate a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
> - Not preclude the possibility of providing limited ground floor retail uses along a portion of the site's U Street frontage.
> - Increase the possibility of accommodating other public cultural uses on the site.

The report expanded on this recommendation by stating the following:

> **II. SUMMARY**

The site is located at the northeast corner of 17th and U Streets, NW and is owned by the District of Columbia government. It is occupied by the Metropolitan Police Department's (MPD's) Third District Police headquarters and by Fire and Emergency Services (FEMS) Engine Company 9 and its related uses. Both services are likely to remain on the site, but in new facilities, after any redevelopment of the property.

The map amendment is intended to implement the following 2021 revisions to the Comprehensive Plan that address the future of the site.

- Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site's land use designation from Local Public Facilities to a mix of Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The MU-4 zoning now on the site is not consistent with the new FLUM designation.
- The Mid-City Element's Policy MC-2.3.7, Use of Public Sites, which identifies the site as one that "should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities…" The site now has no housing, and the public facilities require upgrades and expansion. Any land disposition/development agreement would likely provide for retaining the public functions, with upgrades, and would require affordable housing subject to the affordability requirements in District Law 10-801. These housing affordability requirements are described in this report and exceed those of IZ Plus.

The proposed map amendment would, in balance, not be inconsistent with the Comprehensive Plan, particularly when viewed through a racial equity lens. In addition to its positive relationship to the FLUM and to Mid-City Element Policy MC 2.3.7, the map amendment would not be inconsistent with the Generalized Policy Map's classification of the site as part of both a Main Street Mixed-Use Corridor and a Neighborhood Conservation Area.

Because the property is District-owned, any future lease, disposition, or RFP would include ANC and neighborhood participation in the process and construction on the site. Depending on the ultimate development plan, the MU-10 zone's density and height maximums could permit construction of newer MPD and FEMS facilities, over 200 affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets.

Enabling the construction of both more market rate housing and affordable housing would help mitigate rising housing costs that affect households of color disproportionately. Retaining MPD and FEMS on the site would enable the retention of District public service jobs for which persons of color are actively recruited.

DMPED has led an active community outreach on the future of this site for more than a year. Prior to the setdown of the present petition the discussions have focused more on desired uses on the site and making DMPED aware of community concerns about design and impacts. Since this petition was set down, the discussions have considered the appropriate zone for the site, including both the opportunities the proposed zone would unlock, and the continued concerns about potential impacts of hypothetical project scenarios.

ANC 1B, in which the site is located, has voted to support the petition, with recommendations for the future development of the site (Exhibit 53). ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development (Exhibit 49). ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. As of June 5, 2023 there were 26 letters in support of the proposed zoning, 6 opposed to the proposal and 1 that transmitted comments.

The District Department of Transportation (DDOT) has filed in support of the map amendment (Exhibit 46). The Deputy Mayor for Planning and Economic Development ("DMPED") has filed a letter of support at Exhibit 47.

51. The OP Hearing Report expanded upon the reasons for the OP request, including an expanded and more detailed analysis of its consistency with the Comprehensive Plan.

52. In the discussion of the Comprehensive Plan's Generalized Policy Map, the OP Hearing Report expanded on the discussion included in the Setdown Report by stating:

> Independent of a specific development proposal for the site, the height and density permitted by the MU-10 zone also requires the provision of a public amenity. The zone requires that 8% of the lot be devoted to a publicly accessible plaza or open space.
> …
>
> The intent of a Neighborhood Conservation Area is not to freeze a neighborhood at a point in time, but to ensure that, as a neighborhood it continues to thrive and is not compromised by incompatible development. The surrounding neighborhood is already a mix of row-houses, walk-up apartments, mid and high-rise apartment buildings, offices, restaurants, art galleries, self-storage warehouses, churches and other cultural facilities – and the existing MPD and FEMS stations.
>
> The MU-10 zone, particularly when an actual development on the site will go through a governmental and public review process for its uses and design, should be compatible with the variety of uses and building types that already exist in the surrounding neighborhood. The greater height and density permitted by the proposed zone should provide for flexibility to vary a future building's massing appropriately without making it infeasible to include the preferred mix of uses on the site and without overwhelming the scale or habitability of nearby residences.

53. The OP Hearing Report also contained an updated section discussing Comprehensive Plan policies that were potentially inconsistent with the Project. It stated in relevant part:

> Managing Growth and Change: Guiding Principles Guiding principle Number 11 in Framework Element Section 220.3 stresses the importance of protecting, maintaining, and improving the residential character of neighborhoods. The concern about scale must also be balanced against Comprehensive Plan Housing policies such as Guiding Principle Number 13 (Section 220.5) that states "The preservation of existing affordable housing and the production of new affordable housing, especially for low-income and workforce households, are essential to avoid a deepening of racial and economic divides in the city and must occur city-wide to achieve fair housing objectives".
>
> As indicated by Mid-City Policy 2.3.7, Use of Public Sites, added density at the subject site "should be used to create a significant amount of new affordable housing" and other public facilities at the site. The same policy anticipates concerns about context by emphasizing that higher densities should be concentrated along U Street and that "design strategies" should be used to visually reduce building height and bulk to provide transitions to adjacent areas.

54. The OP Hearing Report included a greatly expanded discussion of the community outreach performed to conform with the increased expectations of the revised racial equity tool that the Commission had adopted after it submitted its Setdown Report.[12] The OP Hearing Report stated:

> **4. The Proposed Map Amendment in Relation to the Comprehensive Plan, as Viewed Through a Racial Equity Lens**
>
> **A. Overview**
>
> Equity is conveyed throughout the Comprehensive Plan, particularly in the context of zoning, where the provision of affordable housing, avoiding displacement of existing residents, and creating access to opportunity are priorities.
>
> The Comprehensive Plan update recognizes that advancing equity requires a multifaceted approach. While the Comprehensive Plan update addresses equity in

[12] The Comp Plan was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis tool (RE1) in response to the new legislation. On February 3, 2023, the Commission released a revised racial equity analysis tool (RE2) that raised their expectations for submissions from applicants regarding community outreach and engagement. The RE2 provided sample discussion questions with prompts, asking questions such as, what community would be impacted by the zoning action, what specific factors define the community, and what are past and present racial discriminations to the community and are they addressed in the application. The revised tool also requested the OP to include disaggregated race and ethnicity data in their reports, to be used as part of their evaluation on whether proposed zoning actions are inconsistent with the Comp Plan when viewed through a racial equity lens and whether they advance the District's racial equity goals. *See* https://dcoz.dc.gov/release/zc-racial-equity-analysis-tool-new.

narrower terms, such as "equitable development," it recognizes that many areas of policy must be brought to bear on the challenge:

> *Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant…. As the District grows and changes, it must do so in a way that encourages choice, not displacement, and builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes and share in the benefits of the growth, while not unduly bearing its negative impacts. 213.7*

The Implementation Element calls for "the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis"2501.8. This indicates that the equity analysis is intended to be based on the policies of the Comprehensive Plan and part of the Commission's consideration of whether a proposed zoning action is "not inconsistent" with the Comprehensive Plan, rather than a separate determination about a zoning action's equitable impact. The Commission's Racial Equity Tool outlines information to assist in its evaluation of zoning actions through a racial equity lens. The information for Part 1 has been provided in the preceding Comprehensive Plan analysis. The required information for Parts 2 and 3 is provided below in relation to the proposed map amendment.

Achieving equity and more specifically racial equity, requires a broad range of policies and tools, some of which fall under the zoning authorities granted to the Zoning Commission and some of which do not. Zoning Commission actions are land use and zoning focused, including the impact of decisions and developments on affordable housing, the avoidance of displacement, and the provision of access to opportunity. The broader equity goal includes public policies, budget investments, civic improvements and social services, which are typically beyond the scope of the Zoning Commission.

The Commission's racial equity tool serves as a guide in analyzing the Comprehensive Plan and considering potential impacts of the proposal. The tool starts by asking *"What is the expected goal of the zoning action?*" and then "*What are the anticipated positive and negative impacts and/or outcomes of the zoning action?".*

The zoning action requested by this application is for the approval of a zoning map change from the MU-4 zone to the MU-10 zone. Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan. The rezoning would allow the District Government to better use a property that the Comprehensive Plan has indicated is appropriate for governmental uses, high-density residential use and moderate density neighborhood-serving retail and/or service uses.

Because it is a District property, any residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Mid-City Planning Area.

The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation have the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities.

B. Equity Tool, Part 2 – Petitioner Community Outreach and Engagement

Types of Communities

- *What community may be impacted by the requested zoning action; what that impact might be; and who might benefit or be burdened by the requested zoning action.*
- *Whether there are present conditions and challenges in the community that are the result of past and/or current discrimination, and what ongoing efforts are there to address any negative impacts of discrimination*

The general community is the Mid-City Planning Area. The specific neighborhoods that might be impacted are the Strivers' Row historic district, the U Street corridor and the adjacent neighborhoods in northern Dupont Circle and southern Adams Morgan. The Mid-City Planning Area was long impacted by racial covenants which also, in the vicinity of the subject site, had the perhaps unintended result of fostering one of the more thriving African American communities in the District. What is now the Strivers' Row historic district was a predominantly Black residential area, developed in part with African American investment, and the 1600 block of U Street was at the western end of what became a predominantly Black business and entertainment corridor. The area was negatively impacted by civil disturbances in the late 1960's but has regained its health since then. However, as the data in the appendix indicates, the percentage of Black residents in the Mid-City area is slowly declining and the area near the subject site is not an exception. With a relatively static nearby housing supply, particularly west of 16th Street, there has been upward pressure on housing prices which, given the negative difference between incomes of households identifying as Black and those identifying as White, has contributed to a decline in the percentage of the neighborhood's residents who identify as Black.

Demographically, because of the laws governing the disposition of District land, and because IZ Plus would be required, the proposed zoning would enable future residential development that would benefit moderate- and lower-income District residents who, in the Mid-City area, are preponderately Black. With the property being District owned, and there being a clear preference in the Comprehensive Plan

that the site be used for affordable housing as well as public facilities, at least 30% of any residential development would have to be reserved for affordable units. For rental housing, 25% would be for very low-income households, with the remainder for low-income households. Neither group would pay more than 30% of their income towards housing costs.

At this time it is somewhat difficult to assess what the physical impact of the proposed zone change might be on the nearby neighborhood. This is because the requested action would only establish new permission and limits on what might be developed in the future. The actual potential impact could not be fully assessed until there is a specific development proposal. It is clear, however, that the requested zone change would permit a larger and taller building on the site. Depending on height and setbacks, this may result in increased shadowing during the winter on the north side of V Street and its two story rowhouses. Again, depending on height, design and use it is possible that there may be morning shadows cast onto buildings facing the west side of 17th Street between U and V Streets, possibly up to Florida Avenue during winter months. To the extent the potentially affected buildings have been historically occupied by Black residents, it is possible that some residents may view the impact of a taller building in a context of past discrimination.

Past and Present Racial Discrimination/ Harm to the Community

The neighborhood close to the site has experienced less racial discrimination than many area others of Northwest Washington. Beginning in the last quarter of the 19th century and continuing into the first three-quarters of the 20th century the area now designated as the Strivers' Row historic district, and the northern portion of the Dupont Circle neighborhood became home to many of the District's more prominent African-American leaders. There were also blocks of smaller row houses that accommodated households of more modest means. U Street itself became a prominent venue for African-American oriented commerce and entertainment, particularly east of 16th Street

This is not to say there have not been racial disparities, particularly in the larger Mid-City Planning Area. As noted in Table 6, the median household income of residents identifying as Black or African American alone is approximately 36% of the household income of those identifying as White -alone.

Community Outreach, Engagement and Participation in Decision Making

- *The type of community outreach effort and how the characteristics of the community influenced the outreach.*
- *The community's priorities and the impact the requested Commission action might have on them, as well the applicant's response to those priorities, including any planned mitigation of potentially negative consequences.*

The Office of the Deputy Mayor for Planning and Economic Development has been engaged since the Winter of 2022 with the community about the future

development of this site. The engagement log attached as Appendix B to this report lists 40 meetings and conversations DMPED staff has had with ANCs, community groups or residents since then. OP has also met with residents living primarily to the west and north of the site. Both DMPED staff and OP staff have had numerous individual telephone or e-mail conversations with community members. This does not include the 37 reports or comments filed to the record of this case by ANCs or individuals as of June 8, 2023.

Community Priorities and Impact on Zoning Action

- *ANC 1B, in which the site is located, has voted to support the petition, with recommendations for the future development of the site Exhibit 53.*
- *ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development Exhibit 48 and Exhibit 49.*
- *ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. Exhibit 43*
- *As of June 8, 2023 there were 26 letters in support of the proposed zoning, 7 opposed to the proposal and 1 that transmitted comments without stating a position on the case.*

All ANC resolutions and a significant majority of community comments have favored the proposed rezoning, citing the opportunity the proposed zone's density and dimensional maximums would give for improving facilities for existing District agencies while enabling the provision of a significant amount of affordable housing and, possibly, neighborhood-serving library space.

ANC resolutions have also stressed the need for the design of a future development to respect the scale of the historic district adjacent to the western and northern boundaries of the site, the need for transparency and community participation in any RFP process.

When the disposition process starts for the site's District-owned land there will be opportunity for the community to work with the District and a future developer on mitigating any potentially negative physical impacts. The proposed MU-10 zone requires 8% of the site to be devoted to a plaza which may help to mitigate physical impacts.

Differing community priorities have yet to be resolved with respect to the application. On the one hand some community members are concerned about potential increases in height and density. On the other hand, other community members are in favor of the proposed zone because it would make practicable a building that could accommodate new facilities for the police and FEMS, along with a significant amount of affordable housing. The zone also calls for the provision of a public plaza and the zone's density may make it feasible to incorporate retail or cultural uses into the building as well as the police/FEMS facilities and the housing.

Some individuals have suggested it would be more appropriate for the site to have a less intense zone, such as MU-7, on all of the site, or at least on the sections along 17th Street and V Street. With respect to the petitioner's response, OP, on behalf of DMPED, has not explored this for two reasons:

- The clear direction set by the Council when it decided to amend an earlier Comprehensive Plan / FLUM-update to cover the entire site within the same Residential High Density / Commercial Moderate Density and Local Public Facilities striping.
  - Subtitle G Section 400.9 of the Zoning regulations states that the MU-10 zone is intended to permit medium to high-density mixed-use development, while Section 400.6 states that the MU-7 zones are intended to permit [only] medium-density mixed use development. mixed-use development.
- The difficulty that a less dense zone would have in enabling the simultaneous realization of the following objectives, several of which are explicitly called for on this site in Mid-City Element policies:
  - The retention and improvement of the existing MPD and FEMS facilities, the latter of which requires higher than typical ceiling heights;
  - The accommodation of open-air District government fueling facilities above which development could not happen;
  - The undergrounding and expansion of MPD and FEMS parking in order to remove related parking from peripheral public and nearby residential streets, and to possibly free-up street-level space along U Street for other public, cultural or retail uses;
  - The provision of some open space for public use; and, importantly,
  - The construction of a significant number of affordable housing units in either a mixed market rate and affordable development or in an all affordable development.

C. Part 3: Disaggregated Racial and Ethnic Data

… [data tables omitted for brevity]

- *Is the area on track to meet the Mayor's 2025 affordable housing goal*?

The 2019 Housing Equity Report identified the Planning Area as having an affordable housing production goal of 1010 units by 2025. The most recent projections under the Executive Summary of the 2023 DC Comeback Plan are shown in the table below including that the Planning Area is projected to exceed its 2025 housing production goal. The Planning Area has produced 788 units since 2015. (https://open.dc.gov/36000by2025//).

…

- Is *there other data about the existing demographics of the area that is relevant to the proposed zoning action?*

Socioeconomic data indicates that the Mid City area has a 10.6% poverty rate with the Black and Native American population at a 26.5% and 31.5% poverty rate

respectively. The poverty rate and unemployment rate combined indicate that the map amendment's increase in potential maximum density could have a positive impact on these indicators since there would be more opportunity for employment and for affordable housing on the site. Any developer of a District-owned property would have to enter into a First Source Agreement to employ District residents.

- Are *there vulnerable or special populations such as seniors, children, and/or persons with disabilities that are identifiable based on the available data?*

Data indicates that working age adults with disability for the planning area is at 6.5%. However, the Native American and Black population have the highest combined percentage (37.7% +13.1% = 50.8 %) within this category.

- *What do available data sources show about the intersectionality of factors such as race, ethnicity, age, income, gender, or sexual orientation within the area of the zoning action and how might the zoning action impact the intersection of those factors?*

The Comprehensive Plan states that "residents of color are a majority of lower-income households in the District and, therefore, face a disproportionate share of the problems caused by housing insecurity and displacement" (10-A DCMR § 206.4).

The District's Upward Mobility Action Plan (June 2022) noted the following:
"Residents with lower incomes have not benefited as much from the District's economic growth as residents with higher incomes. This challenge exists because most residents with lower incomes do not have college degrees, which are required for many of the District's highly paid jobs. As a consequence, residents with lower incomes have difficulty finding housing they can afford because of the growing number of residents with high incomes are paying a premium for housing near jobs, transit, shops, restaurants, education, healthcare, and entertainment venues" (Why Upward Mobility is Important - Page 4 Item (1))

In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing. (Why Upward Mobility is Important, Page 5)

The rising cost of housing limits the ability to provide housing for a variety of household types, including family and senior housing, rental and ownership housing, and housing for all income levels. Given the District's land use characteristics only a small amount of the total land area (28.1 percent) is dedicated to residential use (10-A DCMR § 205.3). Scarcity of land increases cost of building new housing, limits availability of housing, and intensifies housing cost burdens, particularly for lower- and middle-income households. Thus, addition of housing

units in this area would still help to reduce the burden for lower-income households, particularly in desirable or high opportunity neighborhoods.

The affordability, stability, and location of housing shapes the physical, emotional, and mental wellbeing of District residents. When neighborhoods have higher economic opportunities, less economic and racial segregation, and improved built environments, they foster improved physical and mental health for both adults and children. (Why Equitable Housing Matters, page 1323, 24, 25))

When high-opportunity neighborhoods lack affordable housing or when areas with affordable housing lack neighborhood services and amenities, low-income residents are excluded from important social and economic opportunities of those healthy neighborhoods. Perhaps most importantly, when low-income residents can move or afford to live in high-opportunity neighborhoods, they thrive. Affordable housing is defined as housing available to households earning 80 percent or less of the median family income ("MFI") (§ 304.3). The IZ program requires affordable housing units to be available to households earning no more than 60 percent of the MFI for rental housing or 80 percent of the MFI for ownership housing. According to the Income Limits by Percent of Median Family Income provided by DHCD, shown in the table:
…

A moderate-income family of 4 at 80% MFI falls within a much lower household income ($97,050) category than the planning area's median income ($113,534) and the Ward ($110,457). A white household's median income well exceeds the median at $150,563 and a black household median income is at $54,172, which falls within the 50% MFI or 60% MFI for a single person household. DC has one of the highest white to Black median income gaps (~3x) of major US cities. Households that pay more than 30% of income on housing are burdened, and more than 50% of income are severely burdened.

D. Part 4: Zoning Commission Evaluation Factors

According to the Racial Equity Tool, the Commission will use the following criteria, themes and questions, along with data provided in its evaluation of a zoning action's consistency with the Comprehensive Plan, as viewed through a racial equity lens. As demonstrated above, the proposed map amendment would advance many of the policies related to racial equity in the provision of housing, job creation, the advancement of arts and culture and assist in the revitalization of an underserved area.

The table below addresses themes/questions based on Comprehensive Plan policies related to racial equity, that are anticipated to have positive or negative impacts and/or outcomes as a result of the proposed map amendment.

Table 9: Zoning Commission Racial Equity Tool Factors

Factor	Question	OP Response
Direct Displacement	Will the zoning action result in displacement of tenants or residents?	The proposed amendment would not result in physical displacement of residents as the site does not currently include a residential use. The density gained in increased residential use permission on the site would provide an opportunity for additional housing and affordable housing opportunities in the area.
Indirect Displacement	What examples of indirect displacement might result from the zoning action?	OP does not anticipate indirect displacement as a result of this zoning action.
Housing	Will the action result in changes to: ▪ Market Rate Housing ▪ Affordable Housing ▪ Replacement Housing	The map amendment would allow the provision of affordable housing and market rate housing , likely above ground level and second level District and other uses.
Physical	Will the action result in changes to the physical environment such as: ▪ Public Space Improvements ▪ Infrastructure Improvements ▪ Arts and Culture ▪ Environmental Changes ▪ Streetscape Improvements	The proposed action would create the opportunity for new construction and physical changes to the site. That would be dependent on a subsequent RFP and project for the site.
Access to Opportunity	Is there a change in access to opportunity? ▪ Job Training/Creation ▪ Healthcare ▪ Addition of Retail/Access to New Services	The zoning action would incentivize development that would lead to the retention of public sector jobs on the site, a temporary increase in construction jobs and, likely, a permanent increase in jobs to manage new residential units. Depending on the post RFP-proposal there may also be space for additional retail on U Street.
Community	How did community outreach and engagement inform/change the zoning action? ▪ (e.g., did the architectural plans change, or were other substantive changes made to the zoning action in response to community input/priorities etc.?)	This is discussed in more detail above, under Racial Equity tool 2.

55. The OP Hearing Report concluded its Comprehensive Plan analysis by stating:

E. Summary of Planning Context Analysis

The map amendment would not be inconsistent with the Comprehensive Plan. The proposed zone change would implement the FLUM and Policy Maps and the Comprehensive Plan policies cited in this report, when viewed through a racial equity lens. The increase in density would make it possible for the site to contain a greater mix of uses, more affordable housing and – possibly – more market rate housing, improved public facilities and new amenities. The final impact of the proposed zone change would be dependent on the final uses on the site and the design of the building(s) containing them. Because this is a District property, that outcome would be determined only after public consultation and review. The future development that would be enabled by the proposed zone would help the District attain its overall affordable

housing pipeline goals and help the Mid-City Planning Area exceed its minimum goal of having six percent of its housing stock be affordable units by 2025.

56. Attached as an Appendix B to the OP Hearing Report was an index of community outreach performed by the Petitioner, updated through June 7, 2023. It stated the following:

06/05/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

05/30/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED's planned RFP.

05/18/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED's planned RFP and project design.

05/17/23 DMPED staff (DL) appeared before ANC 1C's Planning, Zoning, and Transportation Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

05/17/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED's planned RFP, the District's process for land disposition, and community engagement.

05/16/23 DMPED staff (DL) communicated with a community member (neighborhood resident Jones) to answer questions about DMPED's planned RFP.

05/16/23 DMPED staff (DL) and OP staff (JL + SC) spoke with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding ANC resolution, DMPED's planned RFP, OP's zoning application, and community engagement.

05/15/23 DMPED staff (DL + JM) spoke with 3 members of fire department staff (FEMS Engine Company 9), 3 members of police department staff (MPD 3rd District), and 3 neighbors (residents Mousavi, Jones, Seaborn) while installing signs for the zoning hearing at the site. Topics discussed include signs, timelines, ANC meetings and resolutions, DMPED's planned RFP, OP's zoning application, setbacks and other zone requirements, historic context, and community engagement.

05/12/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding ANC resolutions, DMPED's planned RFP, OP's zoning application, and community engagement.

05/08/23 DMPED staff (DL) communicated with a community member (neighborhood resident Akel) to relay letter from the Interim Deputy Mayor in response to questions about DMPED's planned RFP.

04/24/23 DMPED staff (DL) communicated with a community member (neighborhood resident Jones) to answer questions about OP's zoning application, ANC resolutions, and DMPED's planned RFP.

04/20/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding ANC resolution, zoning, and community engagement.

04/11/23 DMPED staff (DL) appeared before ANC 2B (full board) to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

04/10/23 DMPED staff (DL) communicated with a community member (Yates) to answer questions about DMPED's planned RFP.

04/06/23 DMPED staff (DL) appeared before ANC 2B's Land Use Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

04/06/23 DMPED staff (DL) communicated with a community member (neighborhood resident Shelby) to answer questions about the project including, in particular, how to submit written testimony to the ZC.

04/04/23 DMPED staff (DL) joined ANC 1B (full board) meeting prepared to discuss DMPED's planned RFP, OP's zoning application, and community engagement (in this instance, no questions were asked of DMPED).

04/04/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding community goals and concerns.

03/20/23 DMPED staff (DL) communicated by email with three ANC 1B commissioners (Commissioners Handerhan, Kensek, and Fields) and by phone with one ANC 1B commissioner (Commissioner Kensek) regarding local civic associations, community goals and concerns, and DMPED's planned RFP.

03/20/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding DMPED's March Madness event and the RFP.

03/20/23 DMPED staff (DL) communicated with a community member (neighborhood resident Akel) regarding the site's history and past work on the fire station.

03/16/23 DMPED staff (DL) communicated with a community member (neighborhood resident Holden) to receive comments and answer questions about the ANC meetings, zoning, and RFP.

03/16/23 DMPED staff (DL) appeared before ANC 1B's Economic Development Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

03/16/23 DMPED announced further details regarding the property and RFP at its annual March Madness event. DMPED staff (DL) present and available to speak with members of the public about the property and RFP.

03/15/23 DMPED staff (DL) appeared before ANC 1C's Planning, Zoning, and Transportation Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

03/13/23 OP staff (Steve Cochran, Zoning & Special Projects Planner) met with neighbors (approximately 20 in total) in a special meeting (organized by neighborhood resident Akel) to discuss the zoning application.

03/13/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

03/13/23 DMPED staff (DL) communicated with a community member (neighborhood resident Shelby) to answer questions about the project including, in particular, how to submit written testimony to the ZC.

03/09/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

03/06/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

02/27/23 DMPED staff (DL) communicated with a community member (Yates) to answer questions about DMPED's planned RFP.

02/17/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) to answer questions about the project including, in particular, how and when to submit written testimony to the ZC.

02/16/23 DMPED staff (DL) appeared before ANC 1B's Economic Development Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

02/16/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

02/08/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

02/08/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) to answer questions about the project including, in particular, the process and timing for a zoning hearing and how and when to submit written testimony to the ZC.

02/07/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) to answer questions about the project including, in particular, the process and timing for a zoning hearing and how and when to submit written testimony to the ZC.

02/01/23 DMPED staff (DL) appeared before ANC 2B's Land Use Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

12/19/22 DMPED staff (project manager DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) and a fellow commissioner, SMD 1B07, regarding RFP timing and process.

07/14/22 Surplus hearing (public hearing conducted by DMPED with notice to ANC and DC Register one month earlier).

05/02/22 DMPED staff (AF) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

04/11/22 DMPED staff (AF, EE) spoke with ANC 1C Chair and SMD 1C08 commissioner (Commissioner Clem) regarding RFP timing, process and community engagement.

03/25/22 DMPED announced its intention to RFP the property at its annual March Madness event. DMPED staff (project manager AF) present and available to speak with members of the public about the property and RFP.

57. OP submitted its first supplemental report (Ex. 167). This report recommended that the Commission should re-advertise and re-notice, as a contested case, the proposed map amendment. At the public hearing held on June 26, 2023, the Commission declined to hear the merits of the map amendment case and instead voted to re-set down the proposal as a contested case, and required new public notice, consistent with OP's recommendation.

58. OP provided a second supplement to its hearing report (Ex. 358). This second supplement continued to recommend that the Commission approve the proposed map amendment from MU-4 to MU-10 with Inclusionary Zoning Plus ("IZ+"). OP added a recommendation that the Commission delay taking final action until OP brings forward a separate text amendment case to establish a building height transition setback requirement. The purpose of the setback would be to address concerns from the public about the maximum permitted height along V Street, N.W. under the proposed MU-10 zone and the potential impact a future building may have on surrounding residential uses. The report stated that OP reviewed the case record to date and heard from members of the public indicating concerning about the maximum permitted height along V Street, N.W. under the proposed MU-10 zone and the potential impact a future building may have on surrounding residential uses. To address these concerns, OP proposed to bring forward a separate text amendment that would require a building height transition setback for the subject property along V Street, N.W. and the neighboring row houses to the east. This would reduce the overall bulk of any future building by limiting the maximum height of a building to 60 feet for the first 40 feet of lot depth as follows:
    - Require a building height transition setback along V Street, NW whereby a building would be limited to a maximum height of 60 feet for the first 40 feet of lot depth as measured from the lot line along V Street, NW; and
    - Require a building height transition setback along the rear of lots 24 through 29 in Square 175 whereby a building would be limited to a maximum height of 60 feet for the first 40 feet of lot depth as measured from the subject property's property line adjacent to the public alley separating the subject property from the rear of lots 24 through 29.[13]

59. OP submitted a copy of its hearing presentation (Ex. 568).

60. OP testified in support of the Application at January 8, 2024 hearing. OP was extensively cross-examined. The cross-examination of OP continued on January 18, 2024.

61. At the close of the hearings, OP submitted a written closing statement per the Commission's request (Ex. 696). The closing statement stated that the Application:

> … is intended to implement the 2021 revisions to the Comprehensive Plan that address the future of the site.
>
> - Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site's land use designation from Local Public Facilities to a mix of Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The current MU-4 zoning on the site is not consistent with the new FLUM designation.
>
> …

[13] The Commission eventually approved the text amendment, but after it was modified to remove the building height transition setback along V Street, which was no longer needed after OP modified this Application to reduce the size of the map amendment area and retained the existing MU-4 zoning on V Street to a depth of 80 feet.

Because the property is District-owned any future lease, disposition or RFP would include ANC and neighborhood participation in the process and in the design of future construction on the site. Depending on the ultimate development plan, the MU-10 zone's density and height maximums could permit construction of newer MPD and FEMS facilities, affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets.

The Closing statement said the rationale for the map amendment was:

The site is currently within the MU-4 zone which is described as a moderate density mixed use zone. and is not consistent with the revised FLUM designation for high density residential, moderate density commercial and local public facilities. (FLUM change 8050).

Section 400.3 of the Zoning Regulations states that *the MU-4 zone is intended to*
(a) Permit moderate-density mixed-use development;
(b) Provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and
(c) Be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers.

The existing and proposed uses for the site do not comport with these purposes. The FLUM indicates the site should permit mixed use density with a residential component exceeding moderate density. The existing and proposed uses include a substantial portion of local government uses. The Zoning Regulations state that the MU-4 zone is appropriate for low and moderate density residential areas. The site is in a moderate to medium density mixed use area that includes commercial uses and housing types that range from row-houses to moderate and medium density apartment buildings up to 8 and 9 stories tall.

The proposed MU-10 zone is intended to:

400.9
(a) Permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions;
(b Be applied to areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality;
(c) Require a level of public space at the ground level; and
(d) Allow residential and non-residential bulk to be apportioned between two (2) or more lots in the same square.

The MU-10 zone … would permit both the density and the mix of uses the Comprehensive Plan envisions for the site, including public uses at the ground level.

More specifically, OP is recommending the MU-10 zone to:

- Respond to the new FLUM designation; and
- Effectuate Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the site to have enough density and height to:
    1. Accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
    2. Make it economically feasible to construct a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
    3. Not preclude the possibility of providing limited ground floor retail uses along a portion of the site's U Street face.

The closing statement further stated that:

IZ Plus AND DC LAW 10-801

11DCMR Subtitle X § 502 (b) presumes that IZ Plus will apply to a map amendment "that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable" except as provided for in Section 502.2:

The property is owned by the District, and any disposition and development of the property will be subject to affordability requirements of District Law 10-801. Under that law, at least 30% of the units would be affordable, since the subject property is within a half-mile of the U Street/African American Civil War Memorial and a quarter mile of a WMATA Priority Network Metrobus Route ("S" Routes on 16th Street).

In addition, for rental units, at least 25% would be for very low-income residents, who would pay no more than 30% of their income towards housing costs. The remainder would be for low-income residents who would pay no more than 30% of their income towards housing cost. In the case of homeownership units, 50% would be for residents who pay no more that 30% towards housing and the remaining 50% would be for moderate-income household who would pay no more that 30% of their income towards housing.

IZ Plus requires a higher affordable housing set-requirement than Regular IZ and prescribes a set-aside requirement based on either:

- a sliding-scale that is correlated to the total floor area built, or

- the amount of IZ bonus density built.

The requirements under DC Law 10-801 exceed the requirements of IZ Plus, which requires that 18% to 20% of the residential square footage be reserved for housing affordable to households earning 60% of the MFI for rental units and 80% MFI for ownership units. Nevertheless, out of an abundance of caution, OP recommends the rezoning is appropriate for IZ Plus because:

- The proposed map amendment would allow a higher maximum FAR than the existing zone and IZ Plus is designed to apply to such situations;
- The neighborhood surrounding the site, and Ward 1 in general has existing deficiencies in affordable housing. (See page 15 of this report);
- Ward 1 had a median rent of $1,803 in 2019, exceeding the District-wide median of $1,603.

COMPREHENSIVE PLAN EVALUATION

The Comprehensive Plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and that greater density may be possible if developed with Inclusionary Zoning. (227.8) For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8).

The Framework Element suggests that it is appropriate to co-locate non-governmental and governmental uses on a site that includes a Local Public Facilities designation (227.17) and that Area Elements may also provide detail on the specific mix of uses envisioned" (227.21). In this instance the Mid-City Element (Policy MC-2.3.7 Use of Public Sites) specifies that the subject site shall accommodate governmental use, "continue the history of U Street as a Black business corridor" and include additional density to accommodate affordable housing and other uses.

The subject site is designated as being appropriate for a mix of all of these uses, with the residential use (high density) having the greatest emphasis. "*The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown*". The MU-10 zone's 7.2 FAR density maximum and 100-foot height limit could accommodate the vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and the retail uses consistent with U Street traditions and be not inconsistent with the Comprehensive Plan.

The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the "*Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies*." Additionally, "*the zoning of any given area should be guided by the*

Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements."

Generalized Future Land Use Map (FLUM)

The District of Columbia Comprehensive Plan (the "Comprehensive Plan") guides the District's development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The site is designated as High Density Residential, Moderate Density Commercial, and Local Public Facilities on the Future Land Use Map of the Comprehensive Plan.

The Comprehensive Plan designates a portion of the site fronting U Street as Mixed Use.

The existing MU-4 zoning permits a maximum overall density of 3.0 FAR (with IZ) and a building height of 50 feet. These limits would make it difficult to rebuild and expand the existing MPD and FEMS facilities and parking garage and construct a substantial amount of housing and affordable housing above with a potential retail along U Street. The greater flexibility provided by the MU-10 zone is therefore appropriate given the 2021 FLUM designation, the emphasis the Comprehensive Plan places on developing affordable housing on District-owned land, and the development program anticipated for the site.

Generalized Policy Map

The Generalized Policy Map indicates that the southern half of the property, along U as being within the U Street Main Street Mixed Use Corridor. The northern half, along V Street, is designated as a neighborhood conservation area.

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

Existing development on the site does not enhance the U Street Main Street Mixed-Use Corridor. The U Street frontage has only the blank side of a parking garage and the open bays of the FEMS station. There is no possibility for the pedestrian-oriented uses cited for such a corridor in the Comprehensive Plan. The MU-10 zone would permit enough height and density for a development that could accommodate the needs of MPD and FEMS while freeing up some U Street frontage for retail or other neighborhood-serving uses. The height and density permitted by the

recommended zone would also enable future development to be responsive to the surrounding neighborhood character.

Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, ***but not preclude development, particularly to address city-wide housing needs****. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area.* ***Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies.*** *Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics.* ***In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated****. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5*

The Neighborhood Conservation designation on the northern portion of the site should not be read to preclude development. There is a direct link to the Future Land Use Map as highlighted above. As an approach "…*to managing context-sensitive growth*…" called for in the definition of Neighborhood Conservation Area, OP has proposed significant setbacks along V Street and adjacent to existing building on U Street through ZC Case 23-26.[14]

62. At the close of the final hearing, the Commission also requested that OP respond to several questions.

Other Zones

[14] The Commission again notes that the building setback along V Street was eliminated from the 23-26 case after OP reduced the size of the map amendment area in this case and retained the existing MU-4 Zoning along V Street to a depth of 80 feet.

- The appropriateness and compatibility of less intensive other zones in terms of height and density, than the proposed MU-10 zone;
- Why such less intensive other zones would also not be "not inconsistent" with the Comprehensive Plan; and
- The potential amount of housing, both market-rate and affordable, which would be generated by each other zone.

Two Zones

The Commission further requested that OP consider split-zoning the site, more particularly, to consider:

- For the northern portion of the site fronting V and Seaton streets, consider a less intensive zone than the proposed MU-10 zone along U Street, in consideration of the policy map designation of "neighborhood conservation" and where there would be more compatibility with the existing lower height/density 2-story rowhouses across V and Seaton streets.

Indirect Displacement

Third, the Commission asked OP to address whether rezoning would lead to indirect displacement.

63. OP submitted its responses in a third supplemental report (Ex. 700). It stated as follows:

> "At the close of the public hearing the Zoning Commission requested the following supplemental information from the Office of Planning."
> …
>
> In response to the Commission's question about the appropriateness and compatibility of less intensive other zones in terms of height and density, than the proposed MU-10 zone, OP stated as follows:

Zone	Height (ft)	Density (FAR)	Zoning Density Description
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density
MU-8	70 70 (IZ)	5.0 6.0 w/IZ	Medium density
MU-5A	65 70 (IZ)	3.5 4.2 w/IZ	Medium density
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density

> The alternate zones, MU-8 and MU-5A would still be considered "not inconsistent" with the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities. They both allow a moderate density commercial and a high-density residential density and accommodate local public facilities; the Comprehensive Plan defines high density residential as being typically greater than 4.0 FAR (227.7).

If used for the entire site, the MU-4 zone would not be consistent because it has a maximum density of 3.0 which does not accommodate high-density residential. However, if used in combination with another medium mixed-use zone the site, on balance, the site's zoning could be consistent with the FLUM and the General Policy Map's designation of Neighborhood Conservation along the northern portion of the site.

The following table represents approximate market rate and affordable dwelling units that could result from the various zones and split-zone options. The assumptions used for these calculations are listed below the table.

	Without Set/Step-Backs		With Set/Step-backs		Diff from MU-10 proposal	
Option	DU	Af DU (30%)	DU	Af DU (30%)	DU (less)	Af DU
Proposed MU-10	538	161	523	157		
MU-8 for entire site	342	103	334	100	-204	-61
MU-5A for entire site	274	82	267	80	-271	-81
MU-4 for entire site	171	51	171	51	-367	-110
Split MU-10 and MU-8	445	134	431	129	-106	-32
Split MU-10 and MU-4	377	113	363	109	-175	-52
Split MU-8 and MU-4	274	82	265	80	-272	-81
Split MU-5A and MU-4	219	66	210	64	-328	-328

Assumptions:

- Estimates based on "stories", but with the matter-of-right FAR not exceeded;
- Estimated one double height (20 ft. tall) story for non-residential ground floor civic uses;
- Estimates based on 100% lot occupancy (other than 8% plaza space in MU-10) for ground floor and 80% lot occupancy for residential floors above;
- Step-back refers to the 40 foot V Street step-back as proposed, and Setback refers to the east lot line setback of 12 ft. as proposed; and
- Estimates assume 1,000 sq.ft. / unit gross floor area.

Two Zones

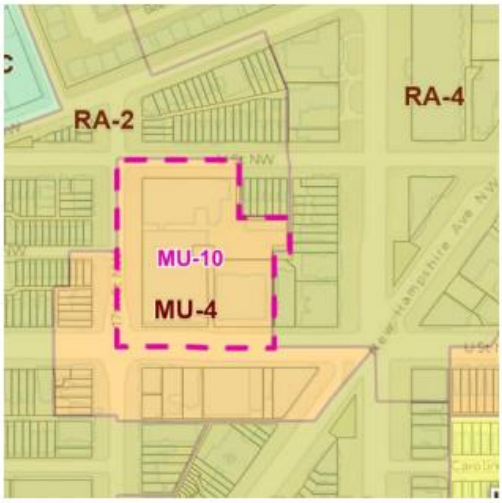
In response to the Commission's question about split-zoning the site, the OP stated as follows:



The six rowhouse lots to the east of the MPD parcel are eighty feet (80 ft). deep and extend from V Street, NW to a ten-foot wide alley that runs parallel to V Street. The five rowhouses across 17th Street, NW are each 16 feet wide for a total length of eighty feet (80 ft). and extend from V Street, NW to a ten-foot wide alley that runs parallel to V Street. The red line shown on the map above indicates the location of the ten-foot wide alleys.

The property on the north side of V Street is in the RA2, Moderate-density residential apartment zone. While the existing rowhouses are two stories, the RA-2 zone allows buildings to be constructed to a maximum height of 50 feet and an FAR of 1.8.

The property on the north side of V Street is in the RA2, Moderate-density residential apartment zone. While the existing rowhouses are two stories, the RA-2 zone allows buildings to be constructed to a maximum height of 50 feet and an FAR of 1.8.



The zoning map shows the proposed MU-10 zone in the pink dotted line; the existing zoning for the site is MU-4 and the surrounding zoning is RA-2 to the north and west and RA-4 to the east.

Should the Commission proceed with a less intensive zone along V Street, OP would recommends using the alley as a boundary of eighty feet parallel to V Street, NW.

Zone	Height (ft)	Density (FAR)	Zoning Density Description
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density
MU-8	70 70 (IZ)	5.0 6.0 w/IZ	Medium density
MU-5A	65 70 (IZ)	3.5 4.2 w/IZ	Medium density
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density

Indirect Displacement

In response to the question about whether the rezoning could lead to indirect displacement, OP stated:

Could Rezoning of 1617 U Street NW Lead to Indirect Displacement?

Summary Conclusion

OP found the neighborhood socio-economic data and relevant displacement research indicates that any indirect displacement potentially caused by future market rate housing units on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the future development.

The Housing Element of the Comprehensive Plan identifies three forces of displacement:

> *"physical displacement as households must move when the properties they occupy are redeveloped, economic displacement as housing cost increases in the neighborhood force the household to find other housing options, and cultural displacement as residents lose a sense of belonging or shared identity in their neighborhood due to neighborhood change or growth." 510.3a*

OP interprets indirect displacement as being caused by economic and cultural forces. Rising housing costs and neighborhood change can be powerful factors affecting a family's housing choice. OP's assessment is based on first, understanding the socio-economic conditions of the neighborhood surrounding the site; and second, reviewing the most current research on the impact of new housing and displacement.

OP used census data dating back to 2000 and other data for census tract 42.01 (see Figure 1 at the end of this section) to establish the current demographics and housing conditions in the area surrounding the site. These conditions are summarized as follows:

- There are an estimated 195 households (10.3 percent of the total) identified as earning less than 80% of the Median Family Income (MFI) in the census tract. Citywide, 38 percent of households earn less than 80 percent of the MFI.1
- Black residents represent 5 percent of the census tract population, however between 2000 and 2010 the Black resident population of the tract declined by almost half (46 percent); going from 13 percent to 7 percent of the population.

Figure 1. Change in Black Share of Population in Tract 42.01: 2000 - 2020

Census Year	2020	2010	2000
Percent Share	5 %	7 %	13 %

Source: US Decennial Census.

- Census Tract 42.01 is in the top 20 percent of the most expensive tracts to rent a one-bedroom unit in the city. OP estimates it requires a minimum income of 94 percent of the MFI in order to afford the median rent for one-bedrooms in this census tract.[2]
- There are only 15 dedicated affordable units within the census tract which represents only 0.6 percent of the tract's total housing units of approximately 2,300 units.[3]
- Only 33 units were newly constructed in the census tract since 2000 (CoStar). Only one IZ unit was added in the tract due to the overall lack of new development. The US Census estimates an increase of 119 new units through 2020, however this is due to a change in unit mix with more 1-bedroom and fewer 3-bedroom units.[4]

OP then went on to state that it consulted the following research to understand the potential indirect displacement in other neighborhoods with similar conditions:

- University of California and Berkeley's Urban Displacement Project "New Development for Whom? How New Housing Production Affects Displacement and Replacement in the San Francisco Bay Area" (March 2022),
- New York University's Furman Center "Supply Skepticism Revisited: What New Research Shows About the Impact of Supply on Affordability" (November 2023), and
- UCLA Lewis Center for Regional Policy Studies "Research Roundup: The Effect of Market-Rate Development on Neighborhood Rents" (February 2021)

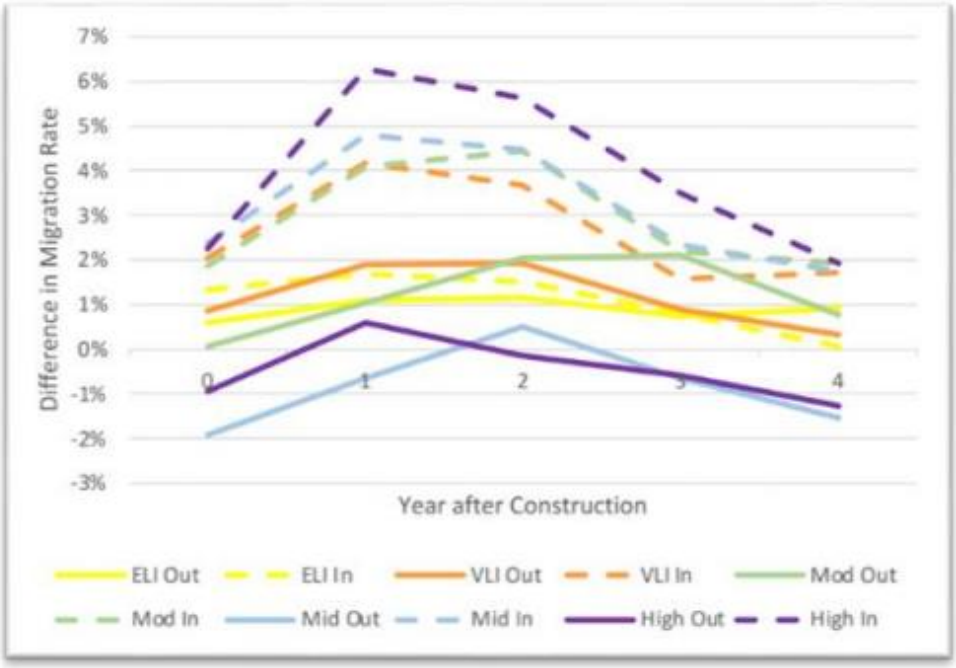
OP summarized the research by stating that:

> The research agrees that new housing supply moderates rent growth at a citywide level and in some cases at a local level; and that affordable housing and renter protections are important tools to minimize potential displacement.
>
> With regards to potential indirect displacement, UC Berkeley's research was the most focused. Measuring displacement is difficult to assess without specific survey data on why residents move. Instead, researchers track demographic change and migration to

test how migration is associated with factors believed to lead to displacement in neighborhoods such as changes in housing supply and cost. Berkeley's study used a special dataset that tracked the migration of individual households by income and found that new housing led to an increase in both in- and out-migration, or an overall 'churn' in households moving. This makes logical sense as people from both inside and outside a neighborhood move into the new housing thereby creating vacant units for others to move into, while other residents choose to the leave the neighborhood altogether.

Berkeley's study found that areas around new market rate housing did experience a slight increase of two percentage points in the out-migration of lower income households. In other words, in a typical year, about 11 of every 100 very low socio-economic status households move out, but with 100 new market rate units in a neighborhood, about 13 move out. However, in-migration rates also increased and were consistently higher for all income groups than out-migration for several years after the housing was built. The net positive effect declined over time for all income groups with the lowest income households, indicated by the solid and dashed yellow lines, experiencing a net negative effect four years after the housing was built (See Figure 2).

Figure 2. Difference in In and Out Migration Rates by Income



Source: UC Berkeley Urban Displacement Project; "New Development for Whom? How New Housing Production Affects Displacement and Replacement in the San Francisco Bay Area" (March 2022).
Notes: ELI – Extremely Low income; VLI – Very Low Income; Mod – Moderate Income; Mid – Middle Income; High – High Income

The researchers provide a valuable quote:

> *"This study suggests a level of displacement associated with new construction is at least partially mitigable. For example, while in a normal year, 10% of households might move out, a construction year will mean that 12% move out per year for the next four years. If a block group houses 500 households, then 50 move out in a typical year, but 60 might move out each year post construction, for a total of 40 displaced households over four years. Thus, displacement impacts could be mitigated with one mid-size apartment building with entirely affordable or subsidized units"* (page 12).

Therefore, any potential displacement can be mitigated by accompanying dedicated affordable housing. Affordable housing is a key component for two reasons: first, it has been estimated that low-income residents of affordable housing stay almost two years longer in their homes than residents living in market rate units; and second, when they do move affordable housing permits a similar household to move into the vacant unit. This is the essence of inclusionary housing policies, such as the District's Inclusionary Zoning (IZ), IZ +, and the District's Disposition of District Land for Affordable Housing Amendment Act of 2014, which requires up to 30 percent affordable units when the District surpluses land for housing.

OP draws several conclusions from these trends illustrated by the researcher's chart above:

- Any indirect displacement potentially caused by new market rate housing on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the project. Further, without development sites and the opportunity for more dedicated affordable units, the tract is at risk of becoming exclusionary.
- Ongoing new housing construction is needed to moderate rent growth when market demand exceeds supply. This is especially true in high-cost census tracts like U St NW.
- The District, in accordance with the recommendations of the researchers, has robust affordable housing tools that include subsidized affordable housing construction and preservation with continued protections. The publicly owned site, through the District's land disposition law, is a critical opportunity to introduce dedicated affordable units in a census tract with very little. This is supported by the Comprehensive Plan's policy of co-location with public facilities in both the Housing and Community Facilities elements provided below.

  Policy CSF-1.1.9: Co-Location
  Encourage the strategic co-location of public municipal uses on publicly-owned and controlled sites, provided that the uses are functionally compatible with each other and the site's future land use designation. Consider co-location of private and public uses as a strategy that can help advance District-wide and neighborhood priorities, such as the creation of affordable housing and equitable access to services.

64. OP then requested that it be allowed to revise the application to reduce the area proposed to be rezoned to MU-10 (Ex. 715, 718). The request stated:

> Pursuant to section Z-602.6 of the District of Columbia Zoning Regulations, 11 DCMR, the Office of Planning, as the applicant in case ZC 23-02, requests the Commission reopen the record and consider a request to revise the application by reducing the area proposed to be rezoned.
>
> The maps below show the original application and the requested revised application.



Existing Zone – MU-4 | Original Proposed MU-10 | Revised Proposed MU-10

> The Revised Proposal does not introduce a new zone. Rather, it reduces the area initially proposed to be rezoned. The Revised Proposal would pull the proposed MU-10 zone back eighty feet (80 ft). parallel to V Street and eighty feet (80 ft). parallel to 17th Street from V Street south to the center line of Seaton Street.
>
> The request is for good cause and no party will be prejudiced by the opening of the record for the Revised Proposal. The Revised Proposal responds to comments about the designation of the V Street frontage being within the Neighborhood Conservation designation of the Comprehensive Plan General Policy Map and concerns about the potential height and density of future development under the MU-10 zone relative to the immediately adjacent RA-2 residential zone.
>
> Retaining the MU-4 zone along V and 17th streets is directly responsive to the input received through the public hearing. It maintains the status quo along the V and 17th Street frontages and the existing MU-4 will provide a transition of densities in this area.

Zone	Height (ft)		Density (FAR)		Zoning Density Description
RA-2	50	50 (IZ)	1.8	2.16 w/IZ	Moderate density Residential
MU-4	50	50 (IZ)	2.5	3.0 w/IZ	Moderate density Mixed-use
MU-10	90	100 (IZ)	6.0	7.2 w/IZ	Medium to high density Mixed-use

The Comprehensive Plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and greater density may be possible if developed with Inclusionary Zoning. (227.8) For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8). High-density residential FAR in mixed-use zones is typically greater than in solely residential zones.

The revised boundary of the proposed MU-10 zone would be, on balance, "not inconsistent" with the Comprehensive Plan, including the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities. The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the *"Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies.*" Additionally, "*the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements*."

The Comprehensive Plan analysis with disaggregated data is provided in the OP hearing report filed as Exhibit 57.

65. At the request of the Commission, OP submitted a supplemental report on the revised Application Boundary dated June 13, 2024 (Ex. 720). This report provided a Comprehensive Plan analysis on the revised zone boundary.

The report stated:

…OP, as the applicant in case ZC 23-02, requested the Commission reopen the record and consider a request to revise the boundary of the application by reducing the area proposed to be rezoned. The Commission approved the request on May 30, 2024 and asked OP to provide a Comprehensive Plan analysis for the revised proposal. The maps below show the original application and the approved revised boundary.

The maps below show the original application and the approved revised boundary.



Existing Zone – MU-4 | Original Proposed MU-10 | Approved Amended Boundary for Proposed MU-10

The revised proposal does not introduce a new zone. Rather, it reduces the area initially proposed to be rezoned. The revised proposal pulls the proposed MU-10 zone back

eighty feet (80 ft). parallel to V Street and eighty feet (80 ft). parallel to 17th Street from V Street, south to the center line of Seaton Street. Retaining the MU-4 zone along V and 17th streets is directly responsive to the input received through the public hearing. It maintains the status quo along the V and 17th Street frontages and the existing MU-4 will provide a transition of densities in this area.

Zone	Height (ft)	Density (FAR)	Zoning Density Description
RA-2	50 50 (IZ)	1.8 2.16 w/IZ	Moderate density Residential
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density Mixed-use
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density Mixed-use

The Comprehensive Plan analysis contained mostly information that was repeated from prior OP reports submitted before the hearing. The following information was new.

Overview

…

The revised boundary is similar to the proposed text amendment in case ZC 23-26 that would require setbacks along V Street. The revised boundary would generate an estimated one percent (1%) fewer housing units.

Future Land Use Map

… The revised boundaries of the proposed MU-10 also provides for the focus of height and density along U Street and the transition of scale to take place within the boundaries of the property.

1. Generalized Policy Map

…

The revised boundary for the MU-10 zone would be compatible with the variety of uses and building types that already exist in the surrounding neighborhood.[15] The greater height and density permitted by the proposed MU-10 zone with the revised boundary would provide for flexibility to vary a future building's massing appropriately without making it infeasible to include the preferred mix of uses on the site and without overwhelming the scale or habitability of nearby residences.

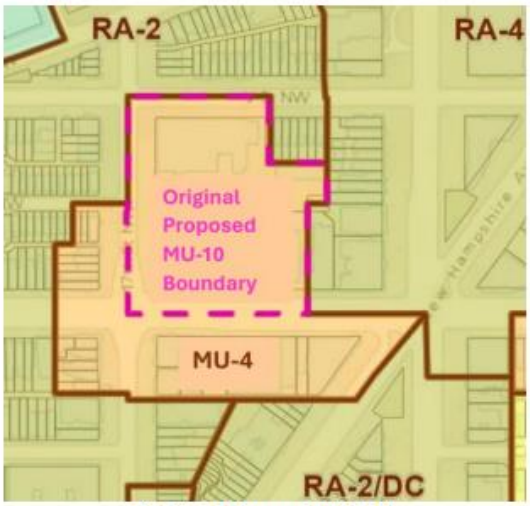
With the revised boundary the bulk of new development would be focused on the U Street frontage and the taller buildings would be set back 160 feet from the building face of the residentially zoned rowhouses fronting on V and 17th streets (80 feet from the property line plus the 80 feet of right-of-way).

…

Managing Growth and Change: Guiding Principles

[15] The Commission finds that the boundary revision eliminates most of the area included in the Neighborhood Conservation Area from the rezoning, but that a small amount remains. This small amount of area within the Neighborhood Conservation Area within the revised boundary is seen by comparing the image of the revised boundary area in the OP Supplemental Report dated June 13, 2024 to the image showing the Generalized Policy Map in that same document.

Concern was expressed in the public hearing that the initial boundary proposed for rezoning was inconsistent with Guiding Principle Number 11 in Framework Element Section 220.3 which stresses the importance of protecting, maintaining, and improving the residential character of neighborhoods. The revised boundary removes this potential inconsistency by maintaining the existing circumstances relative to the interface between the MU-4 and the residentially zoned row houses.



Original Proposed MU-10



Approved Revised Boundary Proposed for MU-10

The concern about scale must also be balanced against Comprehensive Plan Housing policies such as Guiding Principle Number 13 (Section 220.5) that states "The preservation of existing affordable housing and the production of new affordable housing, especially for low-income and workforce households, are essential to avoid a deepening of racial and economic divides in the city and must occur city-wide to achieve fair housing objectives".

As indicated by Mid-City Policy 2.3.7, Use of Public Sites, added density at the subject site "should be used to create a significant amount of new affordable housing" and other public facilities at the site. The same policy anticipates concerns about context by emphasizing that higher densities should be concentrated along U Street and that "design strategies" should be used to visually reduce building height and bulk to provide transitions to adjacent areas.

Revised Boundary: In addition to balancing the policies relative to the provision of new and affordable housing and scale, OP introduced a companion text amendment in case ZC 23-26 which would require set backs for height. The revised boundary in this case will negate the need for the setbacks in case 23-26. The revised boundary will cause the transition of scale to be within the property to a greater degree than proposed in case 23-26 and thus the circumstances relative to the character interface will be no different than currently exists. Thus, the revised boundary is not inconsistent with the Guiding Principles.

…

A. Equity Tool, Part 2 – Petitioner Community Outreach and Engagement

Types of Communities

…

The revised boundary and the distance between any new taller building and existing row houses, any increased shadowing during the winter on the two story rowhouses should be minimal.

Community Outreach, Engagement and Participation in Decision Making

- The type of community outreach effort and how the characteristics of the community influenced the outreach.
- The community's priorities and the impact the requested Commission action might have on them, as well the applicant's response to those priorities, including any planned mitigation of potentially negative consequences.

The Office of the Deputy Mayor for Planning and Economic Development has been engaged since the Winter of 2022 with the community about the future development of this site. The engagement log attached as Appendix B to Exhibit 58 lists 40 meetings and conversations DMPED staff has had with ANCs, community groups or residents since then. OP has also met with residents living primarily to the west and north of the site. Both DMPED staff and OP staff have had numerous individual telephone or e-mail conversations with community members. This does not include the 37 reports or comments filed to the record of this case by ANCs or individuals as of June 8, 2023.

Community Priorities and Impact on Zoning Action

- ANC 1B, in which the site is located, has voted to support the original petition, with recommendations for the future development of the site Exhibit 53.
- ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development Exhibit 48 and Exhibit 49.
- ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. Exhibit 43

The public hearing was held over the course of six nights - January 8, 18 and 29, 2024, February 12 and 26, 2024, and March 18, 2024. Differing community priorities have been expressed with respect to the application.

Applicant Response: Prior to the public hearing OP responded to concerns about transition of scale, height and density with a proposed text amendment to the MU-10 zone in case ZC 23-26 that would require a setback from adjacent residential buildings and along V Street NW. After the public hearing, at the May 24, 2024 meeting OP proposed a revised boundary for the MU-10 rezoning that would maintain the MU-4

zone for a depth of 80 feet along V Street and 17th Street across from the residentially zoned rowhouses. Depending on Commission action, case ZC-23-26 will be modified in response to actions taken on the revised boundary.
…

B. Part 3: Disaggregated Racial and Ethnic Data

…
The MU-10 rezoning would create an opportunity for additional housing and affordable housing and while the revised boundary would result in marginally fewer housing units (estimated at no more than one percent) it is estimated the reduction would still provide an opportunity for several hundred new units.
…

Summary of Planning Context Analysis

The map amendment to MU-10 within the revised boundaries would be not inconsistent with the Comprehensive Plan. The proposed zone change would implement the FLUM and Policy Maps and the Comprehensive Plan policies cited in this report, when viewed through a racial equity lens. The increase in density would make it possible for the site to contain a greater mix of uses, more housing and affordable housing, improved public facilities and new amenities.

The revised boundaries of the proposed zone change will lessen the impact of the impact of new development and maintain the current interface of the existing MU-4 zone and the residential rowhouses along V and 17th Streets. Future development that would be enabled by the proposed zone would help the District attain its overall affordable housing pipeline goals and help the Mid-City Planning Area exceed its minimum goal of having six percent of its housing stock be affordable units by 2025.

The revised boundary of the proposed MU-10 zone would be, on balance, "not inconsistent" with the Comprehensive Plan, including the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities.

E. GOVERNMENT REPORTS

OAG

66. The Office of the Attorney General for the District of Columbia ("OAG") submitted a statement in support of the proposed Map Amendment to the MU-10 zone (Ex. 528-530):

a. OAG's report stated that OAG's position was grounded in the requirements and policies of the District's Comprehensive Plan ("CP") and relevant statutory authority, and was intended to advance the public interest by facilitating the creation of affordable housing in a transit- and amenity-rich area;
b. It further stated that the proposed Map Amendment is consistent with the public interest as identified in the CP, which calls for leveraging public sites and bonus

density to create affordable housing in amenity- and transit-rich areas (CP §§ 229.3, 2013.11). The Mid-City planning area, where the site is located, has experienced a 70% increase in median annual rent between 2000 and 2021, disproportionately impacting non-white households and threatening the area's racial and income diversity (Appendix B – Census Data Charts). In response to these trends, the Mayor and Council amended the site's Future Land Use Map ("FLUM") designation in 2021 to "High Density Residential" (CP § 227.8), supporting greater density and additional housing, including affordable units. The site's Generalized Policy Map designations—Main Street Mixed Use Corridor and Neighborhood Conservation Area—further accommodate and encourage affordable housing (CP §§ 225.5 & 225.14). The Map Amendment complies with the CP by permitting the height and density consistent with the FLUM's "High Density Residential" designation and leveraging District-owned properties to meet equity needs through deeply affordable housing (CP § 229.3, 2013.11);

c. It also stated that by increasing allowable density, the Map Amendment facilitates compliance with the District's Surplus and Disposition Process requirements (D.C. Code § 10-801), which mandate a greater percentage of affordable and deeply affordable units for redevelopment of public sites. The Office of Planning notes that the additional height and density permitted by the Map Amendment, combined with D.C. Code § 10-801, could allow for new municipal facilities and over 200 affordable housing units, helping to mitigate rising housing costs that disproportionately affect households of color (OP Setdown Report, Ex. 2; Feb. 23, 2023 Public Meeting Transcript; OP Report of June 16, 2023, Ex. 58); and

d. OAG further stated that while the Map Amendment is consistent with the CP, the increased height and density may result in adverse impacts to neighboring properties, particularly with respect to light and air. The Office of Planning has proposed a text amendment (Z.C. Case No. 23-26) to impose increased setback and side yard requirements for the site. OAG recommends that these requirements be incorporated directly into the Map Amendment case and imposed as conditions of approval via a covenant recorded against the property, rather than through a separate text amendment. This approach would promote judicial economy and avoid confusion in the Zoning Regulations.

DDOT

67. DDOT reviewed a proposal by the Deputy Mayor for Economic Development and Planning (DMPED) to rezone two lots at 1617 U Street NW (Square 175, Lots 826 and 827) from MU-4 to MU-10 (Ex. 46). The report stated the following.

a. The site currently houses the MPD Third District Station, FEMS Engine Company #9, and a parking garage. The proposed rezoning would allow for increased residential and retail development;

b. The site is located within half a mile of the U Street Metrorail Station and just over half a mile from Dupont Circle Station, with several priority bus routes nearby. Rezoning to MU-10 would permit approximately 252 additional residential units and 25,000 square feet of retail space compared to the current MU-4 zoning. The increased density is expected to moderately increase transit, biking, and walking

trips. Vehicle trip generation is projected to rise by 26 AM peak hour trips and 27 PM peak hour trips under MU-10 zoning, compared to MU-4. The additional vehicle trips are anticipated to have minimal impact on the roadway network. DDOT supports the up-zoning to promote transit use and pedestrian activity, consistent with its approach to infill sites: dense, compact, transit-oriented, and walkable. DDOT encourages minimizing off-street parking for future redevelopment, in line with 2022 CTR Guidelines and the active DMPED RFP. Future development must include long-term and short-term bicycle parking as required by local regulations. All loading, trash pickup, and vehicle parking should occur via the public alley network, with existing curb cuts (except the fire station driveway) to be closed;

c. DDOT has no objection to the approval of the requested Map Amendment;
d. DDOT expects ongoing coordination with the Applicant during the permitting process to minimize transportation impacts, including:
   i. Potential closure and realignment of public alleys.
   ii. Coordination with ongoing U Street bus priority and streetscape projects.
   iii. Possible requirement for a Comprehensive Transportation Review (CTR) or other transportation analysis.
   iv. Transportation Demand Management (TDM) Plan may be required.
   v. Loading management and curbside management plans must be submitted.
   vi. Coordination with DDOT's Urban Forestry Division regarding existing trees.
   vii. Continued collaboration on public space design elements.
e. DDOT offered the following transportation analysis:
   i. Under MU-4 zoning: 156 residential units, 40,000 SF retail, 19 AM peak vehicle trips, 36 PM peak vehicle trips.
   ii. Under MU-10 zoning: 408 residential units, 65,000 SF retail, 46 AM peak vehicle trips, 73 PM peak vehicle trips.
   iii. Net increase: +252 residential units, +25,000 SF retail, +26 AM peak vehicle trips, +37 PM peak vehicle trips.
   iv. The analysis excludes trips generated by new MPD and FEMS facilities, assuming negligible change
f. DDOT provided estimates of the theoretical parking zoning requirements:

Development Scenario	Estimated Development Program	Zoning Min Vehicle Parking Spaces*	DDOT Preferred Max Vehicle Parking Spaces**	18 DCMR 1214 Long-Term Bicycle Spaces	Zoning Short-Term Bicycle Spaces
Maximum Current Matter-of-Right in MU-4 Zone	156 Residential Units 40,000 SF Retail	50	79	56	19
Maximum Future Matter-of-Right in MU-10 Zone	408 Residential Units 65,000 SF Retail	109	167	142	39

Note: * Includes 50% reduction for being located within ½ mile of a Metrorail station.
** See Table 2 of the CTR Guidelines for DDOT parking benchmark rates

ANC REPORTS

ANC 1B

68. On May 30, 2023, Advisory Neighborhood Commission (ANC) 1B submitted a report indicating that the Commission voted to support the application (Ex. 53). The report stated the following issues and concerns:

- **Process and Transparency**: ANC 1B supports a redevelopment process that is transparent and inclusive of the voices of those most directly impacted. This includes immediate neighbors, residents of the U Street corridor, and individuals residing in adjacent areas. The ANC strongly recommends that DMPED postpone the release of a Request for Proposals (RFP) until a determination has been made regarding the proposed zoning map amendment;
- **Compatibility and Community Impact**: In light of the diverse development context surrounding the site, ANC 1B supports redevelopment that aligns with the objective of stabilizing the area to the north, which is designated as a "Neighborhood Conservation Area" under the Comprehensive Plan. The ANC emphasizes the importance of respecting the character of the low-density residential properties located on V Street and 17th Street;
- **Massing and Height**: Recognizing the proximity of low-density residential properties, the ANC supports substantial setbacks—such as reduced building height—on the northern and western boundaries of the property. ANC 1B encourages DMPED to conduct a daylight access study and to revise the RFP requirements accordingly based on the findings;
- **Housing:** The ANC advocates for the inclusion of family-sized units and deeply affordable housing units (targeting 30–50% of Area Median Income) as part of the site's affordable housing strategy. Opportunities for homeownership should also be considered to promote equity and legacy homeownership. ANC 1B further supports the inclusion of noise mitigation measures for residents and strongly urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area; and
- **Public Amenities**: ANC 1B supports the provision of public parking for municipal and residential tenants. The ANC also endorses the preservation of publicly accessible green space along 17th Street and the potential inclusion of a library, subject to feasibility as determined by the District of Columbia Public Library system. Consideration should be given to establishing a small public park—similar to the Tenth Street Community Park—to enhance access to light and outdoor space for nearby residents. Finally, the Commission recommends that a city service be incorporated into the site to offset the anticipated loss of public services resulting from the redevelopment of the Reeves Center.

69. On July 3, 2024, ANC 1B sent a second report (Ex. 725). The second report addressed the revised OP's revised application to rezone the smaller area to MU-10. It stated the following issues and concerns:

- **Request for Continued Engagement:** ANC 1B respectfully requests further dialogue with OP regarding the matter of setbacks as outlined in Z.C. Case No. 23-26; and
- **Recommendations Concerning Redevelopment and the RFP Process:** The ANC offers the following recommendations related to the redevelopment and associated RFP:
  - **Process and Transparency:** ANC 1B supports a redevelopment process that is transparent and inclusive of community input;
  - **Compatibility and Community Impact:** The ANC supports development that contributes to the stabilization of the area north of the site, which is designated as a Neighborhood Conservation Area under the Comprehensive Plan, and that respects the existing low-density residential character of the surrounding neighborhood;
  - **Massing and Height:** ANC 1B supports the implementation of setbacks and reduced building heights along the northern and western edges of the property. The ANC encourages DMPED to conduct a daylight access study and revise the RFP requirements accordingly. The revised proposal is viewed as a positive step forward;
  - **Housing:** The ANC endorses the inclusion of family-sized units and housing that serves households classified as extremely low income, very low income, low income, and moderate income, as defined under D.C. Code § 10-801. ANC 1B also supports the inclusion of homeownership opportunities, noise mitigation measures within the RFP, and urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area;
  - **Public Amenities:** ANC 1B supports the provision of public parking accessible to both the general public and site tenants. The ANC also supports the preservation of publicly accessible green space, the inclusion of a public library (subject to feasibility), the creation of a public park, and the incorporation of a city service to offset the loss of public services resulting from the Reeves Center redevelopment; and
  - **Police and Fire Services:** The ANC strongly supports the return of police and fire services to the site to ensure that the public land continues to serve the community. DMPED should incorporate necessary upgrades to the facility to enable emergency response teams to operate without constraint. The project should also include adequate parking designated for emergency medical service vehicles and staff to prevent disruption to traffic in the surrounding area.

ANC 2B

70. On April 23, 2023, ANC 2B filed a report stating that at a regularly scheduled public meeting on April 11, 2023, at which a quorum of 9 of 9 Commissioners were present, ANC 2B voted 8-1-0 in support of the Application. The report does not list any issues or concerns (Ex. 43).

ANC 1C

71. On May 12, 2023, ANC 1C filed a report stating that at a regularly scheduled public meeting on May 3, 2023, at which a quorum of 9 of 9 Commissioners were present, ANC

1C voted 6-2-0 in support of the Application (Ex. 48, Ex. 49**).** The supporting resolution lists the following issues or concerns:

- **"Purpose of the site:** The redevelopment of the site is a unique opportunity to transform a low-rise, city-owned property that is in a transit-rich and commercially vibrant corridor into significant new affordable housing. In general, ANC 1C supports a plan for the site that includes high-density housing, in such a manner that will promote affordability and the welfare of the neighborhood's current and future residents.
- **Equitable housing:** We support maximizing the percentage of the building dedicated to affordable housing units, with at least 50% of the residential square footage of the site dedicated to affordable units. We support the inclusion of a significant number of family-sized units (3+ bedrooms) and deeply affordable (both 0-30% and 30-60% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership.
- **Fit and impact on the immediate community:** Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area North of the site which is designated as a "neighborhood conservation area" in the Comprehensive Plan. Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower building height and/or dedicated street-level green space) on the north and west sides of the property, and encourage DMPED to conduct a study on daylight access and to adjust the RFP requirements accordingly. We also support noise mitigation interventions for residents as part of the RFP.
- **Process and transparency:** We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made. We support a competitive bidding process that prioritizes developers who will commit to the goals stated in this resolution, foremost the maximization of affordable housing units. We strongly oppose any non-competitive process that results in the transfer of the property below its appraised value without such commitments, or the use of unnecessary tax abatements. We further support the selection of a developer with unionized and local labor commitments and a strong track record for worker safety, successful building inspections, and respect for tenants' rights.
- **Sustainability Goals:** We recommend taking advantage of the set-backs on the V Street to provide green plantable roof terraces with native plantings, permeable paving, low impact landscaping elements, and as much publicly accessible, usable space as possible. Pursuant to D.C. Law 24-177, Clean Energy DC Building Code Amendment Act of 2022, we recommend that the 1617 U Street Development should be constructed to a net-zero-energy standard as an exemplary model of pending D.C. wide Environmental Milestones. In addition to the net-zero-energy standard requirement which addresses energy and emissions, we recommend that the 1617 U Street Development be designed to LEED Platinum to address other environmental/human health concerns such as indoor air and water quality, healthy building materials, stormwater management, etc.

- **Public library:** We support the creation of a new library branch at the site, which would benefit current and future residents and is at the heart of an underserved section of the District.
- **Furthering affordable housing:** We support the consideration of new models of affordable housing development, including social housing or new city-owned public housing, for future developments affecting our neighborhood."

72. ANC 1C is not an automatic party because the property is not within the boundaries of ANC 1C, nor is the Property separated from the ANC 1C boundary by a street (*See* 11-Z DCMR § 403.5(b)).

NCPC

73. The Application was referred to NCPC for the 30-day comment period on July 12, 2024 (Ex. 727). NCPC submitted a report stating that it concluded that the proposed amendment would not be inconsistent with the federal elements of the Comprehensive Plan or any identified federal interest (Ex. 728, 728A).

F. PERSONS IN SUPPORT

74. A significant number of individuals expressed support for the proposed zoning amendment through written comments. Aiden O'Shea, Cheryl Cort, Andrew Lokay, Nianyi Hong, Patrick McAnaney, Alex Baca, Peter Wood, Jared Alves, Sidhant Wadhern, Harrison Greer, Paul Caderio, Matthew Holden, Patrick Husted, Steve Swanson, Andrew DeFrank, Allen Easterling, and Omari Hardy testified at the hearing in support of the Application.

75. The supporters cited the following reasons for their support of the proposal:
- **Site Utilization:** The subject site is currently underutilized and presents an opportunity for more effective land use;
- **Consistency with the purpose of the Zoning Regulations:** The proposed rezoning from MU-4 to MU-10 is consistent with the intent of the Zoning Regulations to foster "a higher quality of life and environment for residents, businesses, employees, and institutions.";
- **Consistency with the Comprehensive Plan:** The proposal advances several elements of the Comprehensive Plan;
- **Affordable Housing and Equity:** The project would deliver over 200 affordable housing units, thereby contributing meaningfully to housing equity in the District;
- **Public Facilities and Amenities:** The development would introduce new public facilities and amenities, enhancing the economic and social diversity of the neighborhood;
- **Streetscape Improvements:** The proposal includes enhancements to the streetscape, improving the pedestrian experience and overall urban design;
- **High-Density, Modern Development:** There is a recognized need for high-density development that is both affordable and modern in design;
- **Support for Mixed-Use Development:** The project supports the principles of mixed-use development, integrating residential, civic, and commercial uses;

- **Community Infrastructure:** The site is well-suited for new housing, a public library, and the reconstruction of fire and police stations, thereby strengthening community infrastructure;
- **Fiscal Benefits:** The development is expected to expand the District's tax base;
- **Transit Accessibility:** The site's proximity to public transit is anticipated to increase Metro and Circulator ridership, reducing the need for subsidies and mitigating additional vehicular traffic;
- **Redevelopment of Existing Structures:** The existing two-story garage on U Street is considered a detriment to the pedestrian environment and would benefit from redevelopment to enhance walkability; and
- **Sustainable Land Use:** The proposal promotes sustainable land use patterns that encourage walking, cycling, and transit use, thereby supporting environmentally responsible urban living.

G. PARTIES IN OPPOSITION

76. At the March 18, 2024 hearing, the parties in opposition presented their cases to the Commission.

Black Neighbors of 1617 U Street, N.W. ("Black Neighbors")

77. The Black Neighbors made written submissions (Ex. 355, 473, 504, 564-566, 596, 608, 615-617, 664-665, 678), testified at the hearing on March 18, 2024, and submitted a closing statement which summarized their position and arguments (Ex. 698).

78. The Black Neighbors argued that the Application should be denied as inconsistent with the Comprehensive Plan because of insufficient community outreach in violation of the Commission's racial equity tool. The Black Neighbors stated that this was because OP "made no meaningful attempt to conduct outreach with remaining Black residents, churches, small businesses, and civic groups in the affected area near 1617 U Street. Over the entire year-plus since filing this MU10 rezoning application, and even after being put on notice more than two months ago during the first zoning hearings, OP has still not acted in good faith as the applicant. They have chosen not to identify, reach out, and engage with the vulnerable residents, families, businesses, and groups in the area near 1617 U." (Ex. 698).

79. The Black Neighbors stated that OP should "modify their application by going back to the community to collaboratively design a customized special purpose zone for this site. … The community engagement process needed to collaboratively design a customized special purpose zone for 1617 U Street, N.W. will likely result in far more meaningful and equitable engagement between OP and the affected community, including more transparent dialog based on meaningful impact evaluation, data reporting, and analysis related to displacement and mitigation planning. This special purpose zoning solution will allow OP to correct its mistakes and step forward with a modified application consistent with the expectations, guidelines, and requirements of the Comp Plan and Racial Equity Tool, thus

ensuring actual engagement across an array of critical neighborhood stakeholders as is required." (Ex. 698).

Homeowners Within 200 Feet of Lots 826 and 827 ("Homeowners")

80. The Homeowners made written submissions (Ex. 265, 478, 478A, 596, 605, 681), testified at the hearing on March 18, 2024, and submitted a closing statement which summarized their position and arguments (Ex. 692).

81. The Homeowners stated that the Application should be denied because OP did not take a "Whole Neighborhood Approach in their request to rezone this site from MU4 to MU10, their failure to conduct any impact studies, including impacts on the structural integrity of their historic homes, on public safety, on property values, and on displacement, and their failure to engage with the community before submitting their request to drastically rezone this site." The Homeowners stated that this alleged failure meant that the proposal was inconsistent with the Comprehensive Plan's racial equity tool and policies related to community engagement.

82. The Homeowners further stated that the Application should be denied because the Applicant's "potential violation of AICP code of ethics regarding safeguarding the public trust and conducting impact studies on long-range environmental and social consequences." The Homeowners also argued that "that a by-right MU[-]10 size[d] building was incompatible and out of character with the surrounding neighborhood." (Ex. 692).

Randall Jones

83. Randall Jones made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized his position and arguments (Ex. 691).

84. Mr. Jones argued that the Application should be denied because the "Applicant did not seek and compromise with the community" and the Application was inconsistent with the Comprehensive Plan (Ex. 691).

85. Mr. Jones stated that he believed the Applicant did not meet the community outreach standards of the racial equity tool. Mr. Jones further stated that he believed that the "lack of changes to the Application indicates a fundamental breakdown in public outreach." (Ex. 691).

86. Mr. Jones concedes that the Application is consistent with and supported by the Site's FLUM designation. Mr. Jones nonetheless claimed it was inconsistent with the FLUM because the FLUM shows "Institutional" use on the Property, and a FLUM interpretation provision in the Land Use element provides:

    h. The Map does not show density or intensity on institutional and local public sites. If a change in use occurs on these sites in the future (for example, a school becomes

> surplus or is redeveloped), the new designations should be comparable in density or intensity to those in the vicinity, unless otherwise stated in the Comprehensive Plan Area Elements or an approved Campus Plan.

Mr. Jones claims that the "MU-10 zoning designation is objectively not comparable in density of intensity to the zoning designations in the vicinity." (Ex. 691).

87. Mr. Jones further claims that the Application is inconsistent with the following provision of the Comprehensive Plan's framework element because the "formal public input on the Comprehensive Plan Amendment 8050 cannot fairly be described as ample":

> Finally, the Future Land Use Map and the Generalized Policy Map can be amended. The Comprehensive Plan is intended to be a dynamic document that is periodically updated in response to the changing needs of the city. Requests to amend the maps can be made by residents, property owners, developers, and the District itself. In all cases, such changes require formal public hearings before the Council of the District of Columbia, and ample opportunities for formal public input. The process for Comprehensive Plan amendments is described in the Implementation Element. 228.1.

(Ex. 691).

88. Mr. Jones claims the Application was insistent with the following provision of the Comprehensive Plan's Framework Element describing the Generalized Policy Map:

> The Generalized Policy Map "tells the story" of how the District is expected to change during the first quarter of the century. It highlights the places where much of the city's future growth and change is expected to occur and sets the stage for the Elements that follow. The Future Land Use Map shows the general character and distribution of recommended and planned uses across the city. Both maps carry the same legal weight as the text of the Comprehensive Plan. 200.5

He further argues that the "Generalized Policy Map needs to be reviewed as required by the Comprehensive Plan, accounting for the Main Street Mixed Use Corridor, the Neighborhood Conservation Area, and the boundary between:

> The map should be used to guide land-use decision-making in conjunction with the Comprehensive Plan text, the Future Land Use Map, and other Comprehensive Plan maps. Boundaries on the map are to be interpreted in concert with these other sources, as well as the context of each location.

The context of this location is that it is surrounded by historic districts consisting of two and three story rowhomes.

The Neighborhood Conservation Area is fully described as follows:

> Neighborhood Conservation areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and

community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5."

(Ex. 691).

89. Mr. Jones further claims that the Application is inconsistent with the following Land Use Element policies:

Policy LU-2.1.5: Support Low-Density Neighborhoods
Support and maintain the District's established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space. 310.12

Policy LU-2.1.7: Row House Neighborhood Character
Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units. Upward and outward extension of row houses that compromise their design should be discouraged. 310.14

Policy LU-2.1.12: Reuse of Public Buildings
Rehabilitate vacant or outdated public and semi-public buildings for continued use including residential uses, particularly if located within residential areas. Reuse plans

should be compatible with their surroundings and co-location of uses considered to meet broader District-wide goals. Reuse of public buildings should implement Small Area and Framework Plans where possible. 310.19

Mr. Jones asserts this is because "[t]his petition to upzone neither supports nor respects the low-density row house neighborhood which surrounds it. An upzone to MU-10 would allow for the by-right construction of structures that would be incompatible with design character and out of scale with its surroundings. Further, this upzone would not be required in order to implement the policy to reuse outdated public buildings. Concerns raised by the community include displacement writ-large, disproportionate displacement of socioeconomic minorities, shadows, capacity of public facilities such as schools, capacity of transportation networks, and inadequate street parking. The Applicant has not adequately addressed any of these concerns and insists that an upzoning will allow for more housing to be built which will make housing more affordable. Simple supply and demand economics doesn't apply to the housing market as many studies have shown. Moreover, a zoning map amendment is not a "development project" and any additional housing it allows for should be discounted just as the arguments of those who fear a tall and hulking building have been." (Ex. 691).

Rochelle Apartments

90. The Rochelle Apartments made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized its position and arguments (Ex. 694).

91. The Rochelle Apartments argued the Application should be denied for three reasons, first, that OP did not satisfy the community outreach and engagement standards of the Commission' racial equity tool (Ex. 694).

92. Second, the Application was inconsistent with the following Comprehensive Plan policies:

H-2.1.1: Protecting Affordable Rental Housing
Recognize the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods. Undertake programs to protect the supply of low-cost market rate units. 510.21

H-2.1. I: Tracking Displacement
Track neighborhood change, development, and housing costs to identify areas of Washington, DC that are experiencing, or likely to experience, displacement pressures. Use the information to improve program performance and targeting of resources to minimize displacement and help residents stay in their neighborhoods.

The Rochelle Apartments claimed that OP failed to use available data to analyze displacement risk to our building, as called for in Part Three of the Racial Equity Tool: Disaggregated Data Regarding Race and Ethnicity.

> H-2.1.3: Avoiding Displacement
> Maintain programs to minimize displacement.
>
> The Rochelle Apartments claimed that OP has not provided any studies on the displacement pressures that MU-10 could create on existing rent-controlled apartment blocks or small businesses in the surrounding area, or how MU-10 has or has not affected displacement in other areas of the city.
>
> H-2.1.6: Rent Control
> Maintain rent control as a tool for moderating the affordability of older rental properties and protecting long-term residents, especially the elderly.

(Ex. 694).

93. Third, the Rochelle Apartments claimed the Application had not adequately addressed an issue/concern in ANC 1B's resolution that stated:

> "We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood."

(Ex. 694).

Dupont Circle Citizens Association ("DCCA")

94. The DCCA made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized its position and arguments (Ex. 695).

95. The DCCA made several arguments in their submissions and testimony.

96. First, the DCCA argued that the total redevelopment of the Property, including the relocation of the police and fire stations currently on the site, required further study to be completed successfully, posed considerable challenges if housing would be constructed on the site and collated with police and fire uses, and would have effects on the receipt of tax revenue (Ex. 695).

97. Second, that the Applicant had not conducted sufficient community engagement to satisfy the racial equity tool. DCCA mentioned several examples, including an admission by OP that it had not contacted any of the black churches, businesses or civic organization proximate to the site, or several black residents who lived nearby. DCCA asserted that the hearing process could not satisfy the community outreach provisions of the racial equity tool because of the nature of the hearing process (Ex. 695).

98. Third, that because the Comprehensive Plan was based on assumptions rooted in the 2010 Census data, DCCA asserts it over estimates the District's population and growth, and therefore over estimates the need for additional housing. Accordingly, there is no need for

this upzoning because the need for additional housing asserted in Comprehensive Plan policies is not supported by other data (Ex. 695).

99. Fourth, that the Application is inconsistent with the Comprehensive Plan for several reasons:

a. DCCA asserts that the Application will cause indirect displacement of residents who live near the site causing it to run afoul of the racial equity tool.
b. That the Application is inconsistent with policies in the Mid-City Element that state:
   i. The historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts, be retained and reinforced; and
   ii. Infill development should be compatible in scale and character with adjacent use

100. Fifth, that the Application is inconsistent with the following policies because a portion of the site is designated as a Neighborhood Conservation Area on the Generalized Policy Map of the Comprehensive Plan:

> 225.4 Neighborhood Conservation Areas … Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing…. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map.
>
> 225.4 The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas… new development… should be compatible with the existing scale, natural features, and character of each area.

101. DCCA stated that the Application was inconsistent with the following additional Comprehensive Plan policies:

> 227.8 High Density Residential: This designation is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. 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. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply. 227.8

228.1 Guidelines for Using the Generalized Policy Map and the Future Land Use Map The Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies. Several important parameters, defined below, apply to their use and interpretation.

a. The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements and development standards for setbacks, height, use, parking, and other attributes, the Future Land Use Map is intended to be "soft-edged" and does not follow parcel boundaries, and its categories do not specify allowable uses or development standards. By definition, the Future Land Use Map is to be interpreted broadly and the land use categories identify desired objectives…
d. The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.
e. The designation of an area with a particular Future Land Use Map category does not necessarily mean that the most intense zoning district described in that category is automatically permitted.
f. Some zone districts may be compatible with more than one Comprehensive Plan Future Land Use Map designation. As an example, the MU-4 zone is consistent with both the Low Density Commercial and the Moderate Density Commercial designation, depending on the prevailing character of the area.

MID-CITY AREA ELEMENT

2000.4 Many Mid-City neighborhoods have a strong sense of identity, including the historic districts of U Street NW, Mount Pleasant, LeDroit Park, Bloomingdale, and Striver's Section and their historic landmarks, such as the True Reformer Building, Meridian Hill/Malcolm X Park, the Lincoln and Howard Theaters, and the Prince Hall Masonic Temple. Activities like Adams Morgan Day and the DC Funk Parade on U Street NW celebrate local culture and build community pride.

2000.6 Parts of the Mid-City Planning Area have changed rapidly during the last 10 years. Already one of the densest areas in Washington, DC, Mid-City contains approximately 19 percent of the District's new housing units, and almost 14 percent of the area's housing units are affordable. Although Mid-City is close to having a fair amount of affordable housing, the distribution of that affordable housing has been concentrated in a few neighborhoods such as Columbia Heights, Reed-Cooke, and the U Street corridor.

2007.3 Pedestrian safety, improved traffic operations, and parking management are all high priorities. Increased density within this already dense Planning Area creates busier streets—both for cars and for people.

MC-1 General Policies

MC-1.1 Guiding Growth and Neighborhood Conservation

2008 The following general policies and actions should guide growth and neighborhood conservation decisions in the Mid-City Planning Area. These policies and actions should be considered in tandem with those in the Citywide Elements of the Comprehensive Plan.

2008.1 Policy MC-1.1.1: Neighborhood Conservation
Retain and reinforce the historic character of Mid-City neighborhoods, particularly its mix of row houses, apartment houses, as well as historic districts, and walkable neighborhood shopping districts. The Planning Area's squares, alleyways, and historic alley lots offer opportunities for preservation and creative development. The area's rich architectural heritage and cultural history should be preserved and enhanced.

2008.2 Policy MC-1.1.3: Infill and Rehabilitation
… Infill development should be compatible in scale and character with adjacent uses and encourage more housing opportunities

2008.4 Policy MC-1.1.5: Conservation of Row House Neighborhoods
Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house architectural pattern.

2008.6 Policy MC-2.3.1: Uptown Destination District
Encourage the growth and vibrancy of U Street NW between 6th Street NW and 12th Street NW and Georgia Avenue NW/7th Street NW between Rhode Island Avenue NW and Barry Place NW as a mixed-use center with restored theaters, arts and jazz establishments, restaurants, shops, and housing serving a range of incomes and household types.

2013.5 Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet-Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11

FRAMEWORK ELEMENT

213.6 Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality.

213.7 Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant.

HOUSING ELEMENT

Policy H-1.4.6: Whole Neighborhood Approach
Ensure that planning and new construction of housing is accompanied by concurrent planning and programs to improve neighborhood services, schools, job training, childcare, services for older adults, food access, parks, libraries, community gardens, and open spaces, health care facilities, police and fire facilities, transportation, and emergency response capacity. 506.1

Action H-2.1.I: Anti-Displacement Strategy
Track neighborhood change, development, and housing costs to identify areas of Washington, DC that have experienced, are experiencing, or are likely to experience, displacement pressures. Collect, disaggregate, and monitor data to consider income and racial characteristics of the neighborhoods and households affected by or at risk of displacement. Conduct racial equity analyses that identify the policies and underlying forces contributing to any inequities. Such analyses must consider different sources of displacement pressures, including a lack of new housing in high-demand neighborhoods and effects new development may have on housing costs in adjacent areas. Monitor best practices and identify new strategies for displacement prevention. Use the information to create a District-wide anti-displacement strategy, prepare reoccurring reports, improve program performance, and identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. Examine ways to support low-income residents in areas that have already experienced rapid displacement, such as those in Mid-City and Near Northwest. 510.22

LAND USE ELEMENT
Policy LU-2.1.5: Support Low-Density Neighborhoods
Support and maintain the District's established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space.

310.12 Policy LU-2.1.7: Row House Neighborhood Character
Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units.

310.14 Policy: LU-2.1.8 Explore Approaches to Additional Density in Low-and Moderate-Density Neighborhoods
Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-

density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

IMPLEMENTATION ELEMENT

Policy IM-1.5.5: Transparency in Decision-Making
Strongly encourage transparent decision-making in all land use and development matters, making information available and accessible to residents, and maintaining open lines of communication with the public as plans are developed. 2506.6

H. PERSONS IN OPPOSITION and UNDECLARED PERSONS

102. A significant number of individuals expressed opposition to the proposed zoning amendment through written comments or testimony at the hearings. They included Jack Evans, Alan Kenseck, Courtney Stockland, Meg Staines, Nick Delledonne, Evan Carraway, Chris Otten, Debby Hanrahan, Charles Bien, Ian Hawkesworth, William Schulz, Barbara, Meeker, Bridget Hunnicutt, Doug Hunnicutt, Robin Diener, Andria Chatmon, Parisa Norouzi, Rob Leardo, Scott Kuchenmeister, Linda Houghton, Hussien Mousavi, Danielle Brian, and Shelly Repp, testified in opposition to the Application at the February 12, 2025 hearing. Wendy Schmacher, Paige Seaborn, William Jordan, William Garber, Joe Milby, Barry Karas, Maria Gillem, Ashley DiLorenzo, Marie Marcoux, Holly Killness Packet, Thomas Farah, Elaine Sarao, Nancy Turnbull, Paul Kervin, John Hanrahan, Bonnie McGowan, Mark Mazon, Janet McMahon, Laura Richards, Kirby Vining, Kerry Kemp, Sandra Reischel, John Jones, Mr. Ellis, Sam Sarate, and Pam McKinney testified in opposition to the Application. Ashleigh Fields testified as an undeclared person.

103. The persons in opposition raised the following issues and concerns.

104. The first group of related concerns were concerns that the proposed MU-10 zone was too dense. They included:
   a. The proposed MU-10 zoning was not consistent with the Comprehensive Plan because of its height and density. The opponents asserted that this was because it was too dense given the proximity of lower density residential uses, the historic district, and the zoning to the north and east of the Site. Opponents cited policies in the Comprehensive Plan's Mide East Area Element, and the designation of a portion of the Site as a Neighborhood Conservation Area on the Comprehensive Plan's Generalized Policy Map:
      i. Several opponents stated that this could be remedied if the rezoning was limited so that it was pulled back from the portion of the Site designated as

a Neighborhood Conservation Area. This was also referred to as "split-zoning" the Site;

b. Belief that the proposed MU-10 zone is too dense, it would be out of character with the neighborhood, and that a lower intensity zone, such as MU-8 would be more appropriate:
   i. Opponents stated that lower intensity zones should be presented as options for the Commission to consider;
c. Concern that the proposed amendment would obstruct light and air and would adversely impact neighboring properties and diminish quality of life;
d. Concern that the upzoning would lead to traffic management and noise management issues, increased demand for public parking spaces, and overburden V Street;
e. Concern that the upzoning would strain public resources; and
f. Belief that the rezoning would constitute "spot zoning" because there is no other MU-10 Zoning contiguous to the Site.

105. The second group of concerns were that the Application would not advance racial equity. They included:
   a. The outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission's new racial equity tool, which is mandated by the Comprehensive Plan;
   b. The related concern that the Application did not satisfy the Comprehensive Plan policy related to racially equitable anti-displacement strategies;
   c. The potential for gentrification and indirect displacement. They included concern that the rezoning would lead to increased property taxes on neighboring residents; and
   d. Concern that a significant number of African-American residents moved away from the neighborhood in the preceding years.

106. The third group of concerns were about the potential consequences of the redevelopment of the Site that would be facilitated by the rezoning. They included:
   a. Concern that the police and fire services provided by the stations currently on the Site would be interrupted or interfered with when the redevelopment takes place;
   b. Desire for the police and fire stations to remain on the Site;
   c. Belief that redevelopment would lead to an increase in crime;
   d. Concern that the upzoning is not accompanied by a specific project in mind;
   e. A belief that more studies were necessary on the impacts of the upzoning;
   f. A comment that the report DDOT submitted did not assume the correct number of future residents or police and fire analysis;
   g. Opponents cited Comprehensive Plan policies in Chapter 11 of the Comprehensive Plan related to making emergency response systems resilient to chronic stressors and sudden natural and man made events, and ensuring that District owned land and facilities meet the needs of a growing population formed by across-systems public facilities planning;
   h. Desire for additional green space;

i. Desire for a new library on the Site;
j. Desire for a cultural use on the Site; and
k. Desire for a landmark that acknowledged and continues the history of U Street as a African-American business corridor.

107. The fourth group of concerns were concerns that the rezoning would result in a "give-away" of public land, and a desire that the Property remain publicly owned.

108. The fifth group of concerns were that the development of additional housing on the Site produced if the Site was rezoned to MU-10 and redeveloped would not result in lower housing costs and/or address the housing needs of the neighborhood. These included:
a. A belief that there was no relationship between an increase in supply of housing and the cost;
b. A belief that if the Site is redeveloped with housing it will be developed with "luxury apartments.";
c. There had not been a market study submitted showing the need for additional apartments.
d. A belief that "social housing" would be a better use of the Site;
e. A belief that the same amount of affordable housing can be produced on the Site if it retains its MU-4 zoning as would be produced if it is rezoned to MU-10;
f. A belief that what is described by OP as affordable housing is insufficient to meet the needs of low-income residents, particularly African-American residents; and
g. A belief that vacant commercial space could be converted to residential use to meet housing demand and lower costs.

109. Opponents also expressed concerns about what they considered inadequate public notice of the hearing.

110. Opponents submitted a petition signed by 1,000 community members opposed to the rezoning.

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797; D.C. Official Code § 6-641.01 et seq. (2012 Repl).) (the "Zoning Act") authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital."

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:
Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such

distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

3. The Commission must ensure that the Zoning Map, and all amendments to it, are "not inconsistent" with the CP pursuant to § 492(b)(1) of the District of Columbia Home Rule Act. (§ 2 of the Zoning Act; D.C. Official Code § 6-641.02). Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be "not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site."

4. The Commission concludes the Application advances the purposes of the Zoning Act, and is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property for the reasons discussed below.

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

5. 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. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole (*See* Durant v. D.C. Zoning Comm'n, 65 A.3d 1161, 1168 (D.C. 2013)).

OVERVIEW

6. The Commission concludes, based on the filings and testimony of OP, that the Map Amendment from the MU-4 zone to the MU-10 zone is not inconsistent with the CP in its entirety, including the CP maps and elements, and will advance a number of CP Element policy objectives:
   a. The MU-10 zone responds to the new FLUM designation for the Site;
   b. The MU-10 zone effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the Site to have enough density and height to accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police and employee vehicles that now park on neighborhood streets and grassy parking strips;
   c. The MU-10 zone makes it economically feasible to construct a significant amount of affordable housing on the site, and to construct some market rate housing atop the government facilities;
   d. The MU-10 zone will allow ground floor retail uses along the Site's U Street face;
   e. Opponents pointed out that OP's original proposal to apply the MU-10 zone over the entirety of lots 826 and 827 would conflict with several CP policies. The Commission concludes the OP's reduction of the size of the map amendment area,

which retains the existing MU-4 zoning along V Street, and a portion of 17th Street, adequately addresses these concerns; and

f. The Commission concludes that any potential Comprehensive Plan inconsistencies that remain are outweighed by the policies listed above, and the Comprehensive Plan Citywide Element policies that support the rezoning that are listed as Appendix A of the OP Setdown Report.

(FF 47-65).

FLUM

7. The Commission concludes that the Map Amendment is not inconsistent with the Property's FLUM designation. The entirety of the Property is designated as Mixed Use - High Density Residential, Moderate Density Commercial, and Local Public Facilities. The MU-10 zone permits a maximum density of 6.0 FAR (7.2 FAR with IZ). The Commission agrees with OP that the greater flexibility of the MU-10 Zone is appropriate given the FLUM designation:

a. The MU-10 Zone is consistent with the density and height guidance of the FLUM. The High Density Residential FLUM category calls for a density that is greater than 4.0 FAR. The MU-10 is fully consistent with that guidance. The High Density Residential FLUM category states that the RA-5 Zone is consistent with the designation. The RA-5 permits a maximum density of 6.0 FAR and 7.2 with IZ. The MU-10 Zone permits the same density. The RA-5 permits a maximum height of 90 feet. The MU-10 has the same height limit, although permits a 100-foot height with IZ; and

b. The MU-10 is also consistent with the use guidance of the FLUM. The MU-10 permits residential, commercial and local public facility uses. This is fully consistent with the Mixed Use Residential / Medium Density Commercial / Local Public Facilities designation because it allows for the desired residential, commercial and public facility uses on the Site. The higher density of the MU-10 allows for redevelopment of the site that allows for the preservation and/or redevelopment of police and fire station facility uses on the Site, while also permitting commercial uses on the ground floor, and high-density residential development above that can provide market rate and affordable housing.

(FF 47-65).

GPM

8. The Commission concludes that, on balance, the Map Amendment is not inconsistent with the Property's GPM designation which designates the majority of the Site as within the Main Street Mixed Use Corridor, and a small portion of the Site as within the Neighborhood Conservation Area (FF 47-65).

9. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Mixed Use Main Street Corridor. The Commission notes that:

a. Existing development on the Site does not enhance the U Street Mixed Use Corridor. The U Street frontage has only the blank side of a parking garage and the open bays of the FEMS station. There is no possibility for the pedestrian-oriented

uses cited for such a corridor in the Comprehensive Plan. The Site is therefore underutilized; and

b. The upzoning will encourage redevelopment consistent with the policy goals of the Mixed Use Main Street Corridor designation. The MU-10 Zone would permit height and density for a development that could accommodate the needs of MPD and FEMS while also freeing up some U Street frontage for retail or other neighborhood serving uses. The height and density would also enable future development to be responsive to the surrounding neighborhood character. The additional density would also accommodate upper story residential uses. Upzoning the Site would therefore foster economic and housing opportunities and serve neighborhood needs.

(FF 47-65).

10. The Commission concludes that while a small portion of the Site is within a Neighborhood Conservation Area ("NCA"), and the Commission believes that the MU-10 zoning is not fully consistent with the NCA designation, there are extenuating circumstances that makes the Application "not inconsistent" with the NCA when analyzed in its totality:

a. The original OP proposal covered a larger area with about half of the original area to be rezoned within the NCA;

b. OP amended its application so that only a very small portion of the area to be rezoned is within the NCA designation;

c. The Commission concludes the area of inconsistency is so small as to be *de minimis*:

i. The area of inconsistency is very small, the GPM is not intended to be a fine grained map, so the Commission concludes the area of inconsistency is small enough to be within the "margin of error" for the GPM; and

ii. The Commission concludes that the limitation of the MU-10 zoning to the more limited area of the revised proposal is sufficient to protect the lower density uses along V and 17th Streets, which is the purpose of the NCA designation; and

d. Out of an abundance of caution, the Commission further concludes that to the extent that there is a potential inconsistency with the NCA, this inconsistency is outweighed by other CP policies:

i. The Map Amendment is fully consistent with the FLUM designation for the reasons discussed above;

ii. It permits redevelopment of the Site with housing and affordable housing; and

iii. It is consistent with Policy MC-2.3.7 Use of Public Sites.

(FF 47-65).

Framework Element

11. The Commission concludes that the Map Amendment furthers the policies of the Framework element because the Map Amendment will provide enough density and height to permit the co-location of market rate and affordable housing with upgraded MPD And FEMS facilities and their associated parking (FF 47-65).

Land Use Element

12. The Commission concludes that the Map Amendment furthers the Land Use Element because the proposed map amendment allows for the use mix and density that the FLUM indicates is appropriate. A future project could provide new facilities for MPD and FEMS and would likely include a substantial number of residential units at the deeper affordability levels mandated by District Law. The Site is accessible to Metrorail and Metrobus, and is in an amenity-rich area (FF 47-65).

Transportation Element

13. The Commission concludes that the Map Amendment furthers the Transportation Element as it will enable development of a larger garage on the Site, which should reduce the number of government and employee vehicles now parking on adjacent streets and landscaped public parking strips. Any future development would be required to undertake a Transportation Management Plan that would examine transportation concerns in the surrounding area (FF 47-65).

Housing Element

14. The Commission concludes that the Map Amendment furthers the Housing Element because the IZ units required by a residential project resulting from a District offering or one requiring IZ Plus would increase the total supply of housing units in the Planning Area and would help alleviate the pressure on housing costs near/at transit accessible sites. New housing in a transit-rich area, blocks from a Metro Station and along a transit corridor is an ideal scenario in furthering the District's housing goals in the Planning Area, as desired in the District's Housing Equity Report (FF 47-65).

Environmental Protection Element

15. The Commission concludes that the Map Amendment furthers policies of the Environmental Protection Element because, since the District owns the property, future development will be required to meet at least a LEED Gold (v.4) standard, including solar panels, green roof elements and stormwater management (FF 47-65).

Historic Preservation and Urban Design Element

16. The Commission concludes that the Map Amendment is not inconsistent with the policies of the Historic Preservation and Urban Design Element because the Property is not within a historic district and does not contain any historic structures (FF 47-65).

Economic Development Element

17. The Commission concludes that the Map Amendment furthers policies of the Economic Development Element because the Map Amendment has the potential to facilitate replacement and possible expansion of the MPD and FEMS facilities, which would bring heightened public safety presence to the area, and promote quality future development that will create more vibrancy to the north side of this portion of the U Street corridor (FF 47-65).

Racial Equity

18. Pursuant to CP §§ 2501.4-2501.6, 2501.8, the Commission is tasked with evaluating the Application's consistency with the Comprehensive Plan through a racial equity lens. 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 (CP § 213.6). Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities." (CP § 213.7). The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions (CP § 213.9). In addition, CP § 2501.8 suggests to prepare and implement tools to use as a part of the Commission's evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity 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 (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

19. The Commission notes that the heightened requirements of the Commission's revised Racial Equity Analysis Tool were imposed February 3, 2023, which is after the Office of Planning initiated this case by submitting its Setdown Report on January 18, 2023. Therefore, the Commission concludes that the Office of Planning could not reasonably be expected to have complied with the standards of the revised Racial Equity Tool when the case was filed. Instead, the Commission concludes that the OP was required to make good faith effort to comply with the revised Tool, starting from that point forward. With respect to community outreach, which is Part Two of the Racial Equity Tool, this means that the Commission did not expect it to have completed its community outreach before filing the case.

20. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reached this conclusion based on the case record and the racial equity analyses provided by OP, which in this case is the Applicant, inclusive of community outreach and engagement information, and the OP Reports, which included disaggregated race and ethnicity data for the Mid-City Planning Area (FF 47-65). The Commission concludes that the racial equity analyses provided address the components of the Commission's Racial Equity Tool; and that the Map Amendment will further CP racial equity goals, primarily because of its potential for new housing and affordable housing development. The Commission agrees with the Office of Planning that the "rezoning would allow the [District] Government to better use a property that the Comprehensive Plan has indicated is appropriate not only for governmental uses,

but also for high-density residential use and moderate density neighborhood-serving retail and/or service uses. Because it is a District property, the residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation has the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Planning Area." (FF 47):

- Displacement – The Map Amendment will not result in the direct displacement of residents because there are no existing residential uses on the Property. The Office of Planning stated that it believed the density gained in increased residential use on the Site would provide for additional housing and affordable housing opportunities in the area, and stated that it "did not anticipate indirect displacement as a result of this zoning action." OP further stated that it found the neighborhood socio-economic data and relevant displacement research indicates that any indirect displacement potentially caused by future market rate housing units on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the future development. Opponents, particularly Ms. Akel, testified that they believed that some indirect displacement was likely to result from the redevelopment of the Site, particularly in aging apartment buildings near the Site which could be redeveloped and replaced with more expensive rental housing. Predictions about the future are always speculative, but the Commission believes that it is more likely than not that the opponents are correct that the rezoning will create an incentive for the owners of nearby apartment buildings to invest in improvements in these older apartment buildings, followed by increased rents. The Commission nonetheless concludes that the Office of Planning has adequately addressed the requirements of the Racial Equity Tool by acknowledging the issue and meeting with the community to discuss it through the course of these proceedings (FF 56-65);
- Community Outreach and Engagement – The OP's racial equity analysis included evidence that OP and DMPED staff conducted outreach with various community stakeholders as detailed in the record, including ANCs 1B, 1C and 2B, community groups and residents, including residents living primarily to the west and north of the Site. In its Hearing Report, OP discussed the substance of its outreach, and its response to the community comments. This included that a significant majority of community comments favored the proposed rezoning, citing the opportunity for improving facilities for District agencies, while enabling the provision of affordable housing, and possibly a neighborhood library; the need for the design of the future development to respect the scale of the historic district adjacent to the western and northern boundaries of the Site; and the need for transparency and community participation in the RFP process. OP stated that when the disposition process starts for the Site, it will be a further opportunity to address many of the specific community concerns about the future redevelopment. Further, OP acknowledged that some community members were concerned about the potential increases in height and density, while others are in favor of the new zoning because it would make practicable a building that could accommodate new facilities for the police and FEMS, along with additional affordable

housing. OP also acknowledged that some individuals suggested that it would be more appropriate to have a less intense zone. In response, the OP Hearing Report explained that it did not explore a less intense zone because of the clear directions set by the Council when it decided to amend the earlier Comprehensive Plan FLUM update to cover the entire Site with the same Residential High Density/Commercial Moderate Density and Local Public Facilities striping; and because the difficulty that a less dense zone would have in enabling the simultaneous realization of the various policy objectives called for in the Mid-City Element of the Comprehensive Plan for the Site.[16] In response to the community comments, the Office of Planning changed the zoning action in two significant and meaningful ways. First, the OP introduced a companion text amendment in case 23-26 which would require setbacks to address concerns about height and density. Second, OP proposed a revised boundary for the MU-10 rezoning that would maintain the MU-4 zone on the Site for a depth of 80 feet along V Street and 17th Street across from the residentially zoned rowhouses. The Commission acknowledges the multiple letters of support, the Applicant's efforts to engage with the community, and the changes it made to the proposal as a result of its outreach, and therefore concludes that the Applicant's community engagement was satisfactory (FF 47-65); and

- Disaggregated Race and Ethnicity Data – OP provided disaggregated race and ethnicity data that analyzed the proposed map amendment through a racial equity lens that was compiled from the sources identified in the Racial Equity Tool. OP's racial equity analysis included disaggregated race and ethnicity data for the Mid-City Planning Area which showed that the MU-10 rezoning would create an opportunity for additional housing and affordable housing that would provide an opportunity for several hundred new units. The analysis addressed most, but not all of the questions and data results listed in the revised Racial Equity Tool. The Commission concludes the data and analysis provided was sufficient under the totality of the circumstances for it to perform the required evaluation of the zoning action through a racial equity lens (FF 47-65).

Potential inconsistencies outweighed

21. The Commission carefully considered the potentially inconsistent Comprehensive Plan policies cited by OP, Parties in Opposition, and Persons in Opposition in this case (FF 53, 61, 77-89, 91-101, 104-108). The Commission concludes these policies are outweighed by the policies cited by OP that support the rezoning. The Commission concludes the potentially inconsistent policies were outweighed by the following considerations:

[16] "The difficulty that a less dense zone would have in enabling the simultaneous realization of the following objectives, several of which are explicitly called for on this site in Mid-City Element policies:
- The retention and improvement of the existing MPD and FEMS facilities, the latter of which requires higher than typical ceiling heights;
- The accommodation of open-air District government fueling facilities above which development could not happen;
- The undergrounding and expansion of MPD and FEMS parking in order to remove related parking from peripheral public and nearby residential streets, and to possibly free-up street-level space along U Street for other public, cultural or retail uses;
- The provision of some open space for public use; and importantly;
- The construction of a significant number of affordable housing units in either a mixed market rate and affordable development or in an all affordable development."

a. The MU-10 Zone responds to the amended FLUM designation for the Site;
b. The MU-10 Zone effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the Site to have enough density and height to accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police and employee vehicles that now park on neighborhood streets and grassy parking strips;
c. The MU-10 Zone makes it economically feasible to construct affordable housing, and market rate housing atop the government facilities on the Site while also allowing for ground floor retail uses along the Site's U Street face; and
d. Opponents correctly point out that OP's original proposal to apply the MU-10 Zone over the entirety of lots 826 and 827 would potentially conflict with CP policies that favor reduced density along V and 17th Streets. The Commission concludes that OP's reduction of the size of the map amendment area, and decision to retain the existing MU-4 zoning along V Street and the portion of 17th Street on the northern portion of the Site, adequately address these potential inconsistencies.

The Commission concludes that the potential inconsistencies cited by OP, Parties in Opposition, and Persons in Opposition are further outweighed by the Comprehensive Plan Citywide Element policies that support the rezoning that are described in the OP Setdown Report and listed as Appendix A of the OP Setdown Report. They are:

Land Use

As the Land Use Element guides the direction of future growth, it also affects future access to housing, education, jobs, services, amenities, and transportation and impacts the health and safety of residents. Growth can and must occur in a way that expands access to affordable housing, education, transportation, employment, and services for communities of color, low-income households, and vulnerable populations. Achieving equitable development requires attention to both the context and needs of different planning areas and to District-wide equity issues, described throughout the Comprehensive Plan. 304.4

Policy LU-1.4.6: Development Along Corridors
Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District's broader need for housing. 307.14

Action LU-1.4.B: Zoning Around Transit
With public input, develop and use zoning incentives to facilitate new and mixed use development, and particularly the provision of new housing, and new affordable housing in high opportunity areas to address more equitable distribution, 307.20

Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
Recognize the importance of balancing goals to increase the housing supply, including affordable units, and expand neighborhood commerce with parallel goals to preserve historic resources, advance environmental and sustainability goals, and further Fair

Housing. The overarching goal to create vibrant neighborhoods in all parts of the District requires an emphasis on conserving units and character in some neighborhoods and revitalization in others, including inclusive and integrated growth and meeting communities and public facility needs. All neighborhoods have a role to play in helping to meet broader Districtwide needs, such as affordable housing, public facilities, and more. 310.10

Policy: LU-2.1.8 Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods
Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

Policy LU-2.1.10: Multi-Family Neighborhoods
Maintain the multi-family residential character of the District's medium- and high-density residential areas. Limit the encroachment of large-scale, incompatible commercial uses into these areas. Make these areas more attractive, pedestrian-friendly, and transit accessible, and explore opportunities for compatible commercial development which provides jobs for nearby residents. 310.17

Policy LU-2.4.5: Encouraging Nodal Development
Discourage auto-oriented commercial strip development and instead encourage pedestrian-oriented nodes of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them. 313.13

Transportation

Policy T-1.1.4: Transit-Oriented Development
Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. Encourage development projects to build or upgrade the pedestrian and bicycle infrastructure leading to the nearest transit stop to create last-mile connections. Pedestrian movements and safety should be prioritized around transit stations. 403.10

Policy T-1.1.7: Equitable Transportation Access
Transportation within the District shall be accessible and serve all users. Residents, workers, and visitors should have access to safe, affordable and reliable transportation options regardless of age, race, income, geography or physical ability. Transportation

should not be a barrier to economic, educational, or health opportunity for District residents. Transportation planning and development should be framed by a racial equity lens, to identify and address historic and current barriers and additional transportation burdens experienced by communities of color. 403.13

Housing

The following citations assume the future development of the site is required to include affordable housing.

The Housing Element describes the importance of housing to neighborhood quality in the District of Columbia and the importance of providing housing opportunities for all segments of the population throughout Washington, DC...500.1

… The overall goal for the District of Columbia is that a minimum of one third of all housing produced should be affordable to lower-income households. The short-term goal is to produce 36,000 residential units, 12,000 of which are affordable, between 2019 and 2025. 501.1

Policy H-1.1.1: Private Sector Support
Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.3

Policy H-1.1.3: Balanced Growth
Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a sufficient supply of land is planned and zoned to enable the District to meet its long-term housing needs, including the need for low- and moderate density single-family homes, as well as the need for higher-density housing. 503.5

Policy H-1.1.4: Mixed-Use Development
Promote moderate to high-density, mixed-use development that includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors and high-capacity surface transit corridors, and around Metrorail stations. 503.6

Policy H-1.1.9: Housing for Families
Encourage and prioritize the development of family-sized units and/or family sized housing options which generally have three or more bedrooms, in areas proximate to transit, employment centers, schools, public facilities, and recreation to ensure that the District's most well-resourced locations remain accessible to families, particularly in areas that received increased residential density as a result of underlying changes to the Future Land Use Map. Family-sized units and/or family-sized housing options include housing typologies that can accommodate households of three or more persons and may include a variety of housing types including townhomes, fourplexes and multi-family buildings. To address the mismatch between meeting the needs of larger

households and the financial feasibility of developing family-sized housing, support family-sized housing options through production incentives and requirements that address market rate challenges for private development that may include zoning, subsidies or tax strategies, or direct subsidy and regulatory requirements for publicly owned sites. 503.11

Policy H-1.2.2: Production Targets
Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in Washington, DC from 2018 to 2030, or approximately 20,000 units, should be affordable to persons earning 80 percent or less of the area-wide MFI. In aggregate, the supply of affordable units shall serve low-income households in proportions roughly equivalent to the proportions shown in Figure 5.8: 30 percent at 60 to 80 percent MFI, 30 percent at 30 to 60 percent MFI, and 40 percent at below 30 percent MFI. Set future housing production targets for market rate and affordable housing based on where gaps in supply by income occur and to reflect District goals. These targets shall acknowledge and address racial income disparities, including racially adjusted MFIs, in the District, use racially disaggregated data, and evaluate actual production of market rate and affordable housing at moderate, low, very-low, and extremely-low income levels. 504.9

Policy H-1.2.3: Affordable and Mixed-Income Housing
Focus investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire District by developing goals and tools for affordable housing and establishing a minimum percent affordable by Planning Area to create housing options in high-cost areas, avoid further concentrations of affordable housing, and meet fair housing requirements. 504.10

Policy H-1.2.4: Housing Affordability on Publicly Owned Sites
Require that 20 to 30 percent of the housing units built on publicly owned sites disposed of for housing, co-located with local public facilities, or sites being transferred from federal to District jurisdiction, are reserved for a range of affordable housing with long-term commitments to maintain affordability, seeking to maximize production of extremely low- and very low-income for rental units, and very low- and low-income households for ownership units and family-sized units. Prioritize the provision of affordable housing in areas of high housing costs. Explore strategies at these redeveloping sites to enable seniors in the surrounding community to have opportunities to age in place, and to provide housing opportunities for residents at risk of displacement in the surrounding community. Consider Universal Design and visitability. 504.12

Policy H-1.2.5: Moderate-Income Housing
In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of those earning moderate incomes with wages insufficient to afford market rate housing in the District. 504.13

Policy H-1.2.9: Advancing Diversity and Equity of Planning Areas
Proactively plan and facilitate affordable housing opportunities and make targeted investments that increase demographic diversity and equity across Washington, DC. Achieve a minimum of 15 percent affordable units within each Planning Area by 2050. Provide protected classes (see H-3.2 Housing Access) with a fair opportunity to live in a choice of homes and neighborhoods, including their current homes and neighborhoods. 504.17

Policy H-1.2.11: Inclusive Mixed-Income Neighborhoods
Support mixed-income housing by encouraging affordable housing in high-cost areas and market rate housing in low-income areas. Identify and implement measures that build in long-term affordability, preferably permanent or for the life of the project, to minimize displacement and achieve a balance of housing opportunities across the District. 504.19

Policy H-1.3.1: Housing for Larger Households
Increase the supply of larger family-sized housing units for both ownership and rental by encouraging new and retaining existing single-family homes, duplexes, row houses, and three-and four-bedroom market rate and affordable apartments across Washington, DC. The effort should focus on both affordability of the units and the unit and building design features that support families, as well as the opportunity to locate near neighborhood amenities, such as parks, transit, schools, and retail. 505.8

Policy H-1.3.2: Tenure Diversity
Encourage the production of both renter- and owner-occupied housing, including housing that is affordable at low-income levels, throughout the District. 505.9

Environmental Protection

The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources.

Policy E-3.2.6: Alternative Sustainable and Innovative Energy Sources
Support the development and application of renewable energy technologies, such as active, passive, and photovoltaic solar energy; fuel cells; and other sustainable sources such as shared solar facilities in neighborhoods and low- or zero-carbon thermal sources, such as geothermal energy or wastewater heat exchange. Such technology should be used to reduce GHGs and imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive solar homes relying on the sun as a primary energy source. 612.8

Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff
Promote an increase in tree planting and vegetated spaces to reduce stormwater runoff and mitigate the urban heat island, including the expanded use of green roofs in new

construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 615.4

Environmental Protection Element
The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the values and functions of Washington, DC's natural resources and ecosystems, and educate the public on ways to secure a sustainable future. 601.1

(FF 47).

22. The Commission would like to address the Comprehensive Plan inconsistency arguments made by the Opponents with more specificity:

a. *Insufficient community outreach in violation of the Commission's racial equity tool. The outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission's new racial equity tool, which is mandated by the Comprehensive Plan (FF 78, 91, 97, 103a);*
Response: The Commission concludes OP and DMPED did not make a meaningful attempt to reach out to African-American residents, businesses, churches, or civic associations at the inception of the planning process for this case. OP did perform outreach to some of these individuals and groups as the case progressed, including African-American neighbors, and provided evidence of the outreach to the Commission. OP did not directly address all of the questions listed in Part 2 of the Racial Equity Tool, but addressed some, and made a good faith effort to address the substance of the most important of the questions. The Commission concludes OP's evidence of outreach was sufficient to satisfy the requirements of Part 2 of the Racial Equity Tool. OP listened to the community, and reduced the size of the map amendment area to retain the existing MU-4 Zoning for the northern portion of the Site, dramatically reducing the impact of the amendment on the neighbors in the surrounding historic districts, and on existing row houses along V and 17th Streets;

b. *Modify the application to collaboratively design a customized special purpose zone for this site (FF 79);*
Response: OP did not modify the application to include a special purpose zone, but did modify the boundary of the MU-10 map amendment in response to community feedback. The Commission concludes this is sufficiently similar to satisfy the request;

c. *Failure to conduct impact studies constitutes a violation of the racial equity tool and AICP code of ethics (FF 81-85);*
Response: The Racial Equity Tool does not mention or require impact studies. The Racial Equity Tool does not require OP to comply with the AICP Code of Ethics. OP made a meaningful change to the Application as a result of its community outreach by reducing the size of the map amendment area;

d. *Inconsistent with FLUM's "Institutional" striping because it is not comparable in density to zoning in the vicinity (FF 86);*

Response: The Commission concurs that that MU-10 zone is not comparable in density to zoning in the vicinity because it allows more density and height. However, the MU-10 is consistent with the striping on the site for High Density Residential and is therefore not inconsistent with the FLUM when all of the relevant FLUM guidance is considered;

e. *Formal public input to the Council was not adequate before it adopted the FLUM amendment for the Site (FF 87);*

Response: The Commission believes there was ample opportunity for public comment before the Council adopted the FLUM amendment. The Council's process for amending the Comprehensive Plan is not within the Commission's control;

f. *Inconsistent with the following policies because a portion of the site is designated as a Neighborhood Conservation Area on the Generalized Policy Map of the Comprehensive Plan:*

225.4 Neighborhood Conservation Areas … Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing…. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map;

225.4 The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas… new development… should be compatible with the existing scale, natural features, and character of each area (FF 88, 100);

Response: The Commission believes that the rezoning is necessary to address city-wide housing needs. The Commission concedes that the rezoning will not be compatible with the existing scale, natural features, and character of the area. However, the rezoning is in an area with access to opportunities, services, and amenities, so it should accommodate more levels of housing affordability. This area has faced displacement in the recent past, so this amendment should emphasize preservation of affordable housing. It does so by facilitating the redevelopment of the public safety uses on the Site while simultaneously allowing for the construction of housing and affordable housing by allowing enough density and height to do all these things in the same place;

g. *Inconsistent with the following Land Use Element policies:*

Policy LU-2.1.5: Support Low-Density Neighborhoods

Support and maintain the District's established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space. 310.12;

Policy LU-2.1.7: Row House Neighborhood Character
Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units. Upward and outward extension of row houses that compromise their design should be discouraged. 310.14;
Policy LU-2.1.12: Reuse of Public Buildings
Rehabilitate vacant or outdated public and semi-public buildings for continued use including residential uses, particularly if located within residential areas. Reuse plans should be compatible with their surroundings and co-location of uses considered to meet broader District-wide goals. Reuse of public buildings should implement Small Area and Framework Plans where possible. 310.19 (FF 89);
Response: The Commission agrees with the Opponents that some portions of these policies are inconsistent with the Application, mainly because the MU-10 zone is larger in scale than the surrounding neighborhood. The Application also advances these policies by potentially expanding the number of family-sized units, and by encouraging the redevelopment of the outdated buildings to include residential uses. The Commission believes that they are outweighed by other policies that encourage additional density on the Site, namely the amended FLUM designation.

h. *Inconsistent with the following Housing Element policies:*
H-2.1.1: Protecting Affordable Rental Housing
Recognize the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods. Undertake programs to protect the supply of low-cost market rate units. 510.21;
H-2.1. I: Tracking Displacement
Track neighborhood change, development, and housing costs to identify areas of Washington, DC that are experiencing, or likely to experience, displacement pressures. Use the information to improve program performance and targeting of resources to minimize displacement and help residents stay in their neighborhoods. The Rochelle Apartments claimed that OP failed to use available data to analyze displacement risk to our building, as called for in Part Three of the Racial Equity Tool: Disaggregated Data Regarding Race and Ethnicity;
H-2.1.3: Avoiding Displacement
Maintain programs to minimize displacement.
The Rochelle Apartments claimed that OP has not provided any studies on the displacement pressures that MU-10 could create on existing rent-controlled apartment blocks or small businesses in the surrounding area, or how MU-10 has or has not affected displacement in other areas of the city;
H-2.1.6: Rent Control
Maintain rent control as a tool for moderating the affordability of older rental properties and protecting long-term residents, especially the elderly. (Ex. 694; (FF 92, 103b);
Response: The Commission concedes that the Office of Planning did not use the available data to analyze displacement risk in a sufficient manner because its analysis was limited to whether the production of additional housing on the Site would lower housing costs. It did not track or directly address displacement. The District maintains programs to protect the supply of low income housing and

provide rent control. The Application is potentially inconsistent with this program because there was insufficient analysis about the application of this program to the Site after redevelopment;

i. *Inconsistent with issue expressed in ANC 1B's resolution:*
"We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood." (FF 93);
Response: DMPED has not conducted and published a displacement risk assessment;

j. *The total redevelopment of the Property, including the relocation of the police and fire stations currently on the site, required further study to be completed successfully, posed considerable challenges if housing would be constructed on the site and collated with police and fire uses, and would have effects on the receipt of tax revenue (FF 96);*
Response: The Commission agrees with this statement insofar as it believes that further study of the police and fire uses is warranted to complete the project successfully. There is the possibility that these studies will be performed before the redevelopment occurs;

k. *Because the Comprehensive Plan was based on assumptions rooted in the 2010 Census data, it overestimates the District's population and growth, and therefore overestimates the need for additional housing (FF 98);*
Response: The Commission agrees that the Comprehensive Plan was based on assumptions rooted in the 2010 Census Data. It is speculative whether these assumptions will result in an over-estimation of housing need;

l. *The Application will cause indirect displacement of residents who live near the site causing it to run afoul of the racial equity tool (FF 99a);*
Response: Whether the Application causes indirect displacement is highly speculative. It will not cause direct displacement. It is possible that the additional housing and affordable housing that is possible if the MU-10 Zoning is adopted will lessen displacement pressure on nearby buildings. It is also possible that it will increase the pressure;

m. *The Application is inconsistent with policies in the Mid-City Element that state:*
   1) *The historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts, be retained and reinforced; and*
   2) *Infill development should be compatible in scale and character with adjacent use (FF 99b);*

Response: The Site does not have row houses, older apartment houses, historic districts or a shopping district so there are none of those things to retain. There are examples of these types of buildings adjacent to the Site or nearby. Construction of a MU-10 sized building on the Site is not likely to "reinforce" these building types because it will be larger in scale, and likewise it will not be compatible in scale and character with adjacent uses;

n. *The Application is inconsistent with the following additional Comprehensive Plan policies (all policies quoted below are from FF 101):*

1) *227.8 High Density Residential: This designation is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. 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. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply. 227.8;*

228.1 Guidelines for Using the Generalized Policy Map and the Future Land Use Map

The Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies. Several important parameters, defined below, apply to their use and interpretation.

a. *The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements and development standards for setbacks, height, use, parking, and other attributes, the Future Land Use Map is intended to be "soft-edged" and does not follow parcel boundaries, and its categories do not specify allowable uses or development standards. By definition, the Future Land Use Map is to be interpreted broadly and the land use categories identify desired objectives…;*
d. *The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements;*
e. *The designation of an area with a particular Future Land Use Map category does not necessarily mean that the most intense zoning district described in that category is automatically permitted; and*
f. *Some zone districts may be compatible with more than one Comprehensive Plan Future Land Use Map designation. As an example, the MU-4 zone is consistent with both the Low Density Commercial and the Moderate Density Commercial designation, depending on the prevailing character of the area (FF 101);*

Response: The MU-10 zone allows a density of greater than 4.0 FAR and is therefore consistent with the High Density Residential FLUM designation. The MU-10 zone allows the same density as the RA-5 zone, so it is consistent with that portion of the guidance. The Commission acknowledges that the MU-10 is at the upper end of the range for the High Density Residential FLUM designation.

2) *Mid-City Area Element*

2000.4 Many Mid-City neighborhoods have a strong sense of identity, including the historic districts of U Street NW, Mount Pleasant, LeDroit Park, Bloomingdale, and Striver's Section and their historic landmarks, such as the True Reformer Building, Meridian Hill/Malcolm X Park, the Lincoln and Howard Theaters, and the Prince Hall Masonic Temple. Activities like Adams

Morgan Day and the DC Funk Parade on U Street NW celebrate local culture and build community pride;
Response: The Commission acknowledges that these historic districts exist in the vicinity of the Site, and the cultural activities occur nearby;
2000.6 Parts of the Mid-City Planning Area have changed rapidly during the last 10 years. Already one of the densest areas in Washington, DC, Mid-City contains approximately 19 percent of the District's new housing units, and almost 14 percent of the area's housing units are affordable. Although Mid-City is close to having a fair amount of affordable housing, the distribution of that affordable housing has been concentrated in a few neighborhoods such as Columbia Heights, Reed-Cooke, and the U Street corridor;
Response: The Commission acknowledges the Mid-City Area is already quite dense, has changed rapidly in the ten years prior to the adoption of the Comprehensive Plan language quoted, and has a concentrated amount of affordable housing in the U Street corridor where the Site is located;
2007.3 Pedestrian safety, improved traffic operations, and parking management are all high priorities. Increased density within this already dense Planning Area creates busier streets—both for cars and for people;
Response: The Commission acknowledges that rezoning the Site to MU-10 will almost certainly result in busier streets for cars and people;
MC-1 General Policies
MC-1.1 Guiding Growth and Neighborhood Conservation
2008 The following general policies and actions should guide growth and neighborhood conservation decisions in the Mid-City Planning Area. These policies and actions should be considered in tandem with those in the Citywide Elements of the Comprehensive Plan;
2008.1 Policy MC-1.1.1: Neighborhood Conservation
Retain and reinforce the historic character of Mid-City neighborhoods, particularly its mix of row houses, apartment houses, as well as historic districts, and walkable neighborhood shopping districts. The Planning Area's squares, alleyways, and historic alley lots offer opportunities for preservation and creative development. The area's rich architectural heritage and cultural history should be preserved and enhanced;
Response: The Site does not contain row houses, apartment houses, historic districts or a walkable shopping district. The square is an opportunity for creative development that could enhance the area's architectural heritage and cultural history;
2008.2 Policy MC-1.1.3: Infill and Rehabilitation
… Infill development should be compatible in scale and character with adjacent uses and encourage more housing opportunities
Response: The MU-10 Zone will permit development of compatible scale and character and encourage more housing opportunities. The MU-10 also permits development of a greater scale and different character than the adjacent uses. The actual scale and character of the future development is highly dependent on how the future building or buildings are designed;
2008.4 Policy MC-1.1.5: Conservation of Row House Neighborhoods

Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house architectural pattern;

Response: The Commission recognizes the Site is adjacent to row house neighborhoods. The proposed MU-10 Zoning will allow development that is more dense than the row house architectural pattern. The area of the MU-10 zone was reduced by OP to pull it further away from the row houses on V and 17th Streets to address this issue. The Commission acknowledges that the MU-10 Zoning will still be close to the row dwellings.

2008.6 Policy MC-2.3.1: Uptown Destination District
Encourage the growth and vibrancy of U Street NW between 6th Street NW and 12th Street NW and Georgia Avenue NW/7th Street NW between Rhode Island Avenue NW and Barry Place NW as a mixed-use center with restored theaters, arts and jazz establishments, restaurants, shops, and housing serving a range of incomes and household types;

Response: The Site is not located on U Street between 6th Street and 12th Street, N.W. Instead, it is located on U Street between 16th and 17th Streets. It is not located on Georgia Ave/7th Street;

2013.5 Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet-Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11;

Response: The Commission concludes that the rezoning substantially advances this policy. The rezoning will permit added density at the current site of the Engine 9, and MPD 3rd District Headquarters. This density could be, and likely will be used to create new affordable housing, market rate housing, establish space for cultural uses, and provide space for additional public facilities. Because OP reduced the size of the rezoning area, the density will be focused on the U Street side of the square because that is where the new MU-10 Zone will be located. The existing MU-4 zoning is retained along V Street, N.W. The future building can and likely will be designed with strategies to visually reduce building height and bulk and to provide appropriate transitions to adjacent lower density areas;

3) *Framework element*
213.6 Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality;
213.7 Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that

reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant;

Response: The Commission believes the rezoning was undertaken to create equitable opportunities to redevelop the Site. The Commission acknowledges that DMPED and OP's attempts at community outreach were lacking. The Commission believes that there are additional opportunities for community participation in development planning as the project coalesces further. The Commission further believes that the eventual development will include policies, programs and practices that fosters a healthy and vibrant place;

4) *Housing element*

Policy H-1.4.6: Whole Neighborhood Approach

Ensure that planning and new construction of housing is accompanied by concurrent planning and programs to improve neighborhood services, schools, job training, childcare, services for older adults, food access, parks, libraries, community gardens, and open spaces, health care facilities, police and fire facilities, transportation, and emergency response capacity. 506.1;

Response: The Commission acknowledges that OP and DMPED have not conducted planning efforts and program development in most of the program types listed. However, the Commission believes that the eventual redevelopment of the Site will include planning and programs to improve police and fire facilities, and emergency response capacity, may include a library, and will likely include a public plaza or similar open space.

Action H-2.1.I: Anti-Displacement Strategy

Track neighborhood change, development, and housing costs to identify areas of Washington, DC that have experienced, are experiencing, or are likely to experience, displacement pressures. Collect, disaggregate, and monitor data to consider income and racial characteristics of the neighborhoods and households affected by or at risk of displacement. Conduct racial equity analyses that identify the policies and underlying forces contributing to any inequities. Such analyses must consider different sources of displacement pressures, including a lack of new housing in high-demand neighborhoods and effects new development may have on housing costs in adjacent areas. Monitor best practices and identify new strategies for displacement prevention. Use the information to create a District-wide anti-displacement strategy, prepare reoccurring reports, improve program performance, and identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. Examine ways to support low-income residents in areas that have already experienced rapid displacement, such as those in Mid-City and Near Northwest. 510.22

Response: OP did provide data and analysis related to displacement in its Hearing Report and updated the analysis in its Supplemental Report on Revised Application Boundary, but did not quote or directly address the question in Part 2 of the Tool that mentions displacement in its analysis (Ex. 720). OP did directly address the issue of displacement in its Post-Hearing Supplemental Report (Ex. 700). In that report, OP concluded in relevant part that "any indirect

displacement potentially caused by new market rate housing on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the project." The Commission recognizes that no evidence was presented that the District has created a District-wide anti-displacement strategy, prepared reoccurring reports, improved program performance, or identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. OP did examine ways to support low-income residents in the Mid-City area, and concluded that developing additional housing and affordable housing was one way to do so;

5) *Land use element*
Policy LU-2.1.5: Support Low-Density Neighborhoods
Support and maintain the District's established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space;
Response: The rezoning will not maintain the existing moderate density MU-4 zoning on the portion of the Site that will be rezoned to MU-10. It will maintain the existing moderate density MU-4 zoning on the northern portion of the Site along V and 17th Streets where OP reduced the size of the map amendment area to pull it further back from the adjacent row dwellings. The Commission believes that DMPED will attempt to manage the development of the Site to be compatible with the design character of the existing neighborhood, but that the development will be larger in scale. The development will likely include some civic and open space;
310.12 Policy LU-2.1.7: Row House Neighborhood Character
Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units;
Response: The rezoning will permit development that is denser than existing design patterns. It will likely expand the number of family-sized units;
310.14 Policy: LU-2.1.8 Explore Approaches to Additional Density in Low-and Moderate-Density Neighborhoods
Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15;

Response: The rezoning will permit development that is denser than existing design patterns. The rezoning will accommodate more than a "modest" increase in density. It will likely result in the appropriate production of additional housing and affordable housing to meet the goal. However, neighborhood planning and engagement is not yet complete and will need to be expanded before a proposal is complete. New development may be compatible with the design character of the existing neighborhood even if it is more dense. There is no housing on the Site to demolish;

6) *Implementation element*
Policy IM-1.5.5: Transparency in Decision-Making
Strongly encourage transparent decision-making in all land use and development matters, making information available and accessible to residents, and maintaining open lines of communication with the public as plans are developed. 2506.6;
Response: The decision to seek this rezoning, and to reduce the size of the rezoned area has been very transparent. The next phase of designing the actual building or buildings and programs within them will be critical to the success of the overall redevelopment;

o. *The proposed MU-10 zoning is not consistent with the Comprehensive Plan because of its height and density. The opponents asserted that this was because it was too dense given the proximity of lower density residential uses, historic districts, and the zoning to the north and east of the Site. Opponents cited policies in the Comprehensive Plan's Mid East Area Element, and the designation of a portion of the Site as a Neighborhood Conservation Area on the Comprehensive Plan's Generalized Policy Map. Several opponents stated that this could be remedied if the rezoning was limited so that it was pulled back from the portion of the Site designated as a Neighborhood Conservation Area. This was also referred to as "split-zoning" the Site. Opponents stated that lower intensity zones should be presented as options for the Commission to consider (FF 102a, 102b);*
Response: The Commission concurs that the MU-10 zone permits densities and heights which are greater than the surrounding buildings and zoning. The Commission addressed the Comprehensive Plan policies above, and concedes there are inconsistencies. OP amended its application to do exactly what was suggested – it reduced the size of the map amendment area to pull it back from the northern portion of the site designated as a Neighborhood Conservation Area on the Generalized Policy Map. The existing MU-4 zone is retained along V and the northern portion of 17th Street, thereby "split-zoning" the original site. The Commission also requested and OP provided a supplemental report that considered lower density zones. The Commission considered and rejected the lower density zones because they would not produce enough housing and affordable housing;

p. *Concern that the proposed amendment would obstruct light and air and would adversely impact neighboring properties and diminish quality of life. Concern that the upzoning would lead to traffic management and noise management*

issues, increased demand for public parking spaces, and overburden V Street. Concern that the upzoning would strain public resources (FF 102c-102e);

Response: The Commission concurs that the MU-10 zone will permit a larger development on the Site that will cast larger shadows. The larger development will also lead to increased traffic, which will also contribute more noise. This will also likely lead to increased demand for public parking spaces, although there will also likely be a reduction in the number of police vehicles parked in public spaces if the garage is expanded and enhanced to improve access that may off-set the increased demand. The location of the garage entry and exit point(s) are key to whether traffic would overburden V Street;

q. *Belief that the rezoning would constitute "spot zoning" because there is no other MU-10 Zoning contiguous to the Site (102f);*

Response: The Commission concurs that there is no other MU-10 zoning contiguous to the Site. The Commission believes that the rezoning will not constitute "spot zoning" because the zoning is not inconsistent with the Comprehensive Plan, and advances the policy guidance of the FLUM designation for the Site. The Commission further notes that the site's FLUM designation of Mixed Use High Density Residential, Moderate Density Commercial, and Local Public Facilities is limited to the Site and not contiguous with other Mixed Use that contains those three striping categories so it is appropriate to for the Site to have the only MU-10 zoning in the immediate vicinity;

r. *Belief that the Application would not advance racial equity because the outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission's new racial equity tool, which is mandated by the Comprehensive Plan (103a);*

Response: As discussed in (*a*) above, the Commission concludes that OP eventually performed the bare minimum of required outreach. The Commission concedes that OP did not communicate with several key stakeholders. The Commission commends OP for amending the proposal in response to community feedback. The Commission believes that further outreach is warranted as the development planning progresses.

s. *Concern that the Application did not satisfy the Comprehensive Plan policy related to racially equitable anti-displacement strategies. The potential for gentrification and indirect displacement. This included concern that the rezoning would lead to increased property taxes on neighboring residents. And the related concern that that a significant number of African-American residents moved away from the neighborhood in the preceding years (103a-103d);*

Response: As discussed in *(l)* and *(n)(4)* above the Commission concludes that OP eventually did the bare minimum to perform the community outreach required by Part 2 of the Racial Equity Tool. OP did address the issue of indirect displacement in its Post-Hearing Supplemental Report (Ex. 700, pg. 4). However, the Commission believes that more outreach is necessary as the redevelopment process continues through later phases. The Commission further

believes that other anti-displacement strategies in addition to the production of housing and affordable housing would help to mitigate the potential for indirect displacement. The Commission believes that the administration of these additional programs and strategies are beyond the responsibilities of the Office of Planning and should be undertaken by other government agencies. The data provided by OP confirmed that a significant number of African-Americans had left the neighborhood in the preceding years;

t. *Another group of concerns were about the potential consequences of the redevelopment of the Site that would be facilitated by the rezoning. They included:*
   1) *Concern that the police and fire services provided by the facilities currently on the Site would be interrupted or interfered with when the redevelopment takes place, and desire for the police and fire stations to remain on the Site;*
   2) *Belief that redevelopment would lead to an increase in crime;*
   3) *Concern that the upzoning is not accompanied by a specific project in mind;*
   4) *A belief that more studies were necessary on the impacts of the upzoning; and*
   5) *A comment that the report DDOT submitted did not assume the correct number of future residents or police and fire analysis;*

   Response: The Commission shares these concerns and believes they should be addressed in the redevelopment process that will follow the rezoning. The Commission hopes that the appropriate District agencies coordinate temporary facilities and/or project phasing that will allow for uninterrupted police and fire services for the area that will prevent any increase in crime. The Commission concedes that the rezoning is not accompanied by a specific project. The Commission hopes that as the redevelopment proceeds, the appropriate District agencies will make efforts to identify potential impacts and appropriate mitigations. The Commission agrees that more studies are necessary in future phases of the redevelopment;

u. *Opponents cited Comprehensive Plan policies in Chapter 11 of the Comprehensive Plan related to making emergency response systems resilient to chronic stressors and sudden natural and manmade events, and ensuring that District owned land and facilities meet the needs of a growing population formed by across-systems public facilities planning. The corresponding language in the Comprehensive Plan is in the Overview section of the Community Services and Facilities Element at 1100.5, which states in relevant part:*
   - *Making the District's critical facilities and health and emergency response systems more resilient to chronic stressors and to sudden natural or human-made events; and*
   - *Ensuring that District-owned land and facilities meet the needs of a growing population, informed by a cross-systems Public Facilities Plan;*

   Response: the Commission shares these concerns and notes that Community Services and Facilities Element goes on to state the following related policies:

Policy CSF-4.1.4: Public-Private Partnerships for Police Facilities
Explore public-private partnerships to fund the construction of new police facilities, including the development of new and remodeled police stations within mixed-use projects on existing police station sites. In such cases, any redevelopment should conform to the other provisions of this Comprehensive Plan, including the preservation of usable neighborhood open space. 1114.8;
Policy CSF-4.2.2: Public-Private Partnerships for Fire and Emergency Medical Services Facilities
Explore public-private partnerships to fund the construction of new fire and EMS facilities, including the development of new and remodeled facilities within mixed-use projects on existing sites. In such cases, any redevelopment should conform to the other provisions of this Comprehensive Plan, including the preservation of usable neighborhood open space. 1115.9;
The Commission believes the rezoning will advance these policies by allowing sufficient density to fund the redevelopment and construction of new facilities on the existing Site. The Commission believes these new facilities could be more resilient to chronic stressors by increasing their size and including additional features in the garage;

v. *Opponents also expressed the desire for additional green space, a new library, a cultural use, and a landmark that acknowledged and continues the history of U Street as an African-American business corridor;*
Response: The Commission believes that it is possible that some of these additional features will be incorporated when the Site is redeveloped, and the additional density and height afforded by the MU-10 Zoning will allow greater design flexibility to include these features. The MU-10 Zone also requires inclusion of public space at the ground level;

w. *Opponents also expressed concerns that the rezoning would result in a "give-away" of public land, and a desire that the Property remain publicly owned;*
Response: The Commission concludes that the ownership of the land will not change as a result of the rezoning. The Commission believes that there are alternative means to dispose of the property that will allow the District to retain ownership of the land. The Commission shares the desire that the District maintain ownership of the Site;

x. *Opponents also expressed concerns that the development of additional housing on the Site would not result in lower housing costs and/or address the housing needs of the neighborhood;*
Response: The Commission concludes that OP provided sufficient evidence that there is a relationship between the supply and demand for housing and its cost, and that increasing the supply of housing will reduce the cost in the future. OP produced its own data analysis that showed that the rezoning will increase the housing supply by several hundred additional units;

y. *Opponents also raised related concerns about redevelopment of the site and housing costs, including a belief that "social housing" would be a better use of the Site, a belief that the same amount of affordable housing could be produced on the Site if it retains its MU-4 Zoning, a belief that what is described by the Office of Planning as affordable housing is insufficient to meet the needs of low-*

income residents, particularly African-American residents, and a belief that vacant commercial space could be converted to residential use to meet housing demand and lower costs;

Response: The Commission concedes that the redevelopment of the Site will not solve all of the District's problems. There may be other solutions that are necessary. The Commission does not want the need for other solutions to prevent it from rezoning the Site to allow greater flexibility in its redevelopment that will result in the production of additional housing and affordable housing;

z. *Opponents expressed concerns about what they considered inadequate public notice of the hearing;*

Response: The Commission concludes that the many forms of notice of the many public hearings that are listed and discussed at FF 11, 13, 16, and 31-45 were sufficient under the totality of the circumstances. Out of an abundance of caution the Commission also voted to waive any notice defects pursuant to 11-Z DCMR § 402.12 and proceed with the hearing on January 8, 2024; and

aa. Opponents submitted a petition signed by 1,000 community members opposed to the rezoning;

Response: The Commission acknowledges the petition;

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

23. The Commission must give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl).) and Subtitle Z § 405.9. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

24. The Commission concludes that OP's reports, which provided an in-depth analysis of the Map Amendment, are persuasive and the Commission concurs with OP's recommendation that the Property's rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Mid-City Area Element, and, as discussed above, would advance the CP racial equity goals when evaluated through a racial equity lens. The Commission also concurs with OP that the proposed Map Amendment is appropriate for an IZ Plus set-aside requirement (FF 47-65).

GREAT WEIGHT TO THE AFFECTED ANC REPORTS

25. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

26. On May 30, 2023 ANC 1B filed report stating that at a regularly scheduled public meeting on April 6, 2023 at which a quorum of 9 of 9 commissioners were present, ANC 1B voted 7-2-0 in support of the Application (Ex. 53). The ANC 1B Report expressed support for the Application, but expressed several issues and concerns (FF 68). The Commission addresses each below:

- Process and transparency: We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made;

Commission response: The Commission is only responsible for zoning the Property and does not have any control over the RFP process;

- Fit and impact on the immediate community: Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area north of the site which is designated as a "neighborhood conservation area" in the Comprehensive Plan and respects the low-density residential properties on V Street and 17th Street;

Commission response: The Commission believes that the OP modifications to the application, which retain the current MU-4 zooning for the portions of the Site along V Street and part of 17th Street, are sufficient to address this concern;

- Massing and height: Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower height) on the north and west side of the property and encourage DMPED to conduct a study on daylight access and adjust the RFP requirements accordingly;

Commission response: The Commission believes that the OP modifications to the application, which retain the current MU-4 zoning for the portions of the Site along V Street and part of 17th Street, are sufficient to address this concern to the extent that it pertains to zoning. The Zoning Commission is only responsible for zoning the Property and does not have any control over the DMPED RFP process;

- Housing: We would like to see family sized units and deeply affordable (30-50% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership. We also support noise mitigation interventions for residents as part of the RFP. We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood;

Commission response: The Commission believes that the IZ and IZ Plus requirements that will apply to the property will partially address this concern by requiring additional affordable units on the Property. The Commission recognizes that they will not meet the concern for family sized and deeply affordable units. The Commission's power to zone the property is limited, the Commission believes that imposing mandatory affordable housing through zoning is a careful balancing act, and has struck what it believes is the appropriate balance through its IZ regulations. This balance does not include family sized or deeply

affordable units in the IZ program. The Commission further recognizes that there is a statutory requirement for redevelopment of District owned sites, and further ability to mandate deeper levels of affordability and/or family sized units through the RFP process, but that this is not within the Commission's control because it is not zoning. The Zoning Commission is only responsible for zoning the Property and does not have any control over the DMPED RFP process;

- Public amenities: We support parking being made available for use by the public as well as the municipal and residential tenants. We support preserving publicly accessible green space at the site on 17th Street and adding a library if deemed viable by the District of Columbia Public Library system. A small public park resembling the tenth street community park should be considered to offer increased access to light and outdoor space to surrounding residents. A city service should be included on the site to account for the loss of public services from the Reeves Center Redevelopment; and

Commission response: The Commission is only responsible for zoning the Property and does not have any control over the RFP process. The Commission does not have the power to dictate whether the parking is publicly accessible, there is publicly accessible green space at the 17th Street location, whether the eventual development includes a public library, the form of a public park on the site, or the presence of public services on the Property.

27. On July 3, 2024, ANC 1B sent a second report (Ex. 725). The second report addressed the revised OP's revised application to rezone the smaller area to MU-10 (FF 69). It stated the following issues and concerns:

- Request for Continued Engagement
  ANC 1B respectfully requests further dialogue with the Office of Planning (OP) regarding the matter of setbacks as outlined in Zoning Commission Case No. 23-26.

Commission response: The Commission believes that OP was open to further dialogue with the ANC on the issue of setbacks;

- Recommendations Concerning Redevelopment and the RFP Process
  The Commission offers the following recommendations related to the redevelopment and associated Request for Proposals (RFP):
  - Process and Transparency: ANC 1B supports a redevelopment process that is transparent and inclusive of community input;
  - Compatibility and Community Impact: The Commission supports development that contributes to the stabilization of the area north of the site, which is designated as a Neighborhood Conservation Area under the Comprehensive Plan, and that respects the existing low-density residential character of the surrounding neighborhood;
  - Massing and Height: ANC 1B supports the implementation of setbacks and reduced building heights along the northern and western edges of the property. The Commission encourages DMPED to conduct a daylight access study and revise the RFP requirements accordingly. The revised proposal is viewed as a positive step forward;
  - Housing: The Commission endorses the inclusion of family-sized units and housing that serves households classified as extremely low income, very low income, low

income, and moderate income, as defined under D.C. Code § 10-801. ANC 1B also supports the inclusion of homeownership opportunities, noise mitigation measures within the RFP, and urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area;

- Public Amenities: ANC 1B supports the provision of public parking accessible to both the general public and site tenants. The Commission also supports the preservation of publicly accessible green space, the inclusion of a public library (subject to feasibility), the creation of a public park, and the incorporation of a city service to offset the loss of public services resulting from the Reeves Center redevelopment.
- Police and Fire Services: The Commission strongly supports the return of police and fire services to the site to ensure that the public land continues to serve the community. DMPED should incorporate necessary upgrades to the facility to enable emergency response teams to operate without constraint. The project should also include adequate parking designated for emergency medical service vehicles and staff to prevent disruption to traffic in the surrounding area.

Commission responses: The Commission believes that as the redevelopment process takes shape, DMPED will make good faith efforts to adhere to these recommendations to the extent possible.

28. The ANC 2B Report expressed the ANC's recommendation of support for the Map Amendment. The Commission concurs with ANC 2B's recommendation. The ANC 2B Report did not list any issues or concerns (FF 70).

29. ANC 1C is not an affected ANC because the property is not within the boundaries of ANC 1C, nor is the Property separated from the ANC 1C boundary by a street (*See* 11-Z DCMR § 101.8; FF 71, 72). The Commission therefore did not give great weight to the ANC 1C Report. The Commission nonetheless carefully considered the ANC's report and supporting resolution (Ex. 48, 49), and the issues and concerns expressed therein (FF 71), which were as follows:

- Purpose of the site: The redevelopment of the site is a unique opportunity to transform a low-rise, city-owned property that is in a transit-rich and commercially vibrant corridor into significant new affordable housing. In general, ANC 1C supports a plan for the site that includes high-density housing, in such a manner that will promote affordability and the welfare of the neighborhood's current and future residents.

Commission response: The Commission agrees with the ANC about the opportunity, and the amendment will allow high density housing.

- Equitable housing: We support maximizing the percentage of the building dedicated to affordable housing units, with at least 50% of the residential square footage of the site dedicated to affordable units. We support the inclusion of a significant number of family-sized units (3+ bedrooms) and deeply affordable (both 0-30% and 30-60% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership.

Commission response: The Commission believes that zoning change makes these goals more achievable. Whether they are actually achieved is dependent on the redevelopment project that will follow.

- Fit and impact on the immediate community: Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area North of the site which is designated as a "neighborhood conservation area" in the Comprehensive Plan. Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower building height and/or dedicated street-level green space) on the north and west sides of the property, and encourage DMPED to conduct a study on daylight access and to adjust the RFP requirements accordingly. We also support noise mitigation interventions for residents as part of the RFP.

Commission response: OP reduced the size of the map amendment area to pull it back from V and 17th Streets and retain the existing MU-4 zoning in those areas. The Commission encourages DMPED to follow the recommendation when it considers its future actions.

- Process and transparency: We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made. We support a competitive bidding process that prioritizes developers who will commit to the goals stated in this resolution, foremost the maximization of affordable housing units. We strongly oppose any non-competitive process that results in the transfer of the property below its appraised value without such commitments, or the use of unnecessary tax abatements. We further support the selection of a developer with unionized and local labor commitments and a strong track record for worker safety, successful building inspections, and respect for tenants' rights.

Commission response: The Commission believes that the RFP process is beyond the scope of this proceeding. It shares the ANC's goal that it will be a competitive process.

- Sustainability Goals: We recommend taking advantage of the set-backs on the V Street to provide green plantable roof terraces with native plantings, permeable paving, low impact landscaping elements, and as much publicly accessible, usable space as possible. Pursuant to D.C. Law 24-177, Clean Energy DC Building Code Amendment Act of 2022, we recommend that the 1617 U Street Development should be constructed to a net-zero-energy standard as an exemplary model of pending D.C. wide Environmental Milestones. In addition to the net-zero-energy standard requirement which addresses energy and emissions, we recommend that the 1617 U Street Development be designed to LEED Platinum to address other environmental/human health concerns such as indoor air and water quality, healthy building materials, stormwater management, etc.

Commission response: The Commission believes these are worth aspirations for the eventual redevelopment.

- Public library: We support the creation of a new library branch at the site, which would benefit current and future residents and is at the heart of an underserved section of the District.

Commission response: The Commission believes this is a worthy aspiration for the eventual redevelopment.

- Furthering affordable housing: We support the consideration of new models of affordable housing development, including social housing or new city-owned public housing, for future developments affecting our neighborhood.

Commission response: The Commission believes the development of new affordable housing models is beyond the scope of this proceeding.

NOTICE OF PUBLIC HEARING AND REDUCTION IN THE MAP AMENDMENT AREA

30. Before amending the Zoning Map, the Commission is required to hold a hearing on such amendment, after notice provided "in accordance with the requirements of subchapter 1 of Chapter 5 of Title 2." D.C. Official Code § 6-641.03. Subchapter 1 of Chapter 5 of Title 2 provides that in any contested case "all parties shall be given reasonable notice of the afforded hearing". (D.C. Official Code § 2-509(a)). This provision goes on to require that the notice "shall state the time, place, and issues involved" and that if the issues are amended "they should be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. *Id*. Similarly, D.C. Official Code § 6-641.05 requires that the Commission hold a "public hearing, after notice", and that the notice "shall be published at least 30 days prior to such public hearing and shall include a statement as to the time and place of the hearing and a summary of all changes."

31. In this case, the Commission met these requirements. It provided written notice in all the forms listed in FF 31-45, which included publication in the *District of Columbia Register*, posting the Property, and mailing notice to the property owners within 200 feet of the Property. The notice identified the Property that was subject to the proposed map amendment, stated that the Commission was considering rezoning from the MU-4 to the MU-10 zone the "contiguous properties at 1617 U Street, N.W. (Square 175, Lot 826) and at 1620 V Street, N.W. (Square 175, Lot 827), and to apply IZ Plus". The last notice published stated that the hearing would be held at 4 p.m. on January 8, 2024 (FF 31-45). At the January 8, 2024 hearing, the Commission voted to waive any technical defects in notice based on defects in notice required by the Zoning Regulations because the alleged defects were minor in nature, there had been extensive prior notice of the case in the community, the attendance at the hearing of so many interested community members, and because the nature of the rezoning was clear. The Commission therefore waived any technical notice defects and proceeded with the hearing pursuant to 11-Z DCMR § 402.12.[17]

[17] 11-Z DCMR § 402.12 ("A technical defect in the notice of public hearing that is minor in nature shall not deprive the Commission of jurisdiction over the case. If a defect in the notice is alleged and proven, the Commission may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations: (a) The nature and extent of the actual notice received by the parties and the public from all sources;

32. The Commission concludes that the so-called "amendment" to the boundary of the map amendment area did not require an additional hearing or notice because the revised boundary is completely within the scope of the amendment that was advertised and heard. Accordingly, interested parties were given the opportunity to present evidence and argument at the hearings, which they did in fact provide, and the Commission carefully considered. In addition, the practical effect of reducing the size of the amended area is to retain the existing MU-4 zoning for the area along V Street and a portion of 17th Street, which is exactly what was requested by several witnesses at the hearing. The Commission is not required to hold a hearing to leave the existing zoning unchanged.

DECISION

In consideration of the record for Z.C. Case No. 23-02 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
175	826 and 827; to a line 80 ft. parallel to V St. and 80 ft. parallel to 17th St. from V Street, south to the center line of Seaton St., as shown on the diagram below labeled "Approved Amended Boundary for Proposed MU-10." The MU-10 Zoning is within the blue dotted line labeled "Revised MU-10 Boundary"	MU-4 to MU-10

Diagram showing existing zone, original proposed MU-10 area, and the approved amended boundary for proposed MU-10:



Existing Zone – MU-4 | Original Proposed MU-10 | Approved Amended Boundary for Proposed MU-10

For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the Property's existing zoning of MU-4 is the equivalent of 2.5 FAR.

(b) Attendance, or lack thereof, at the public hearing; and (c) The nature and extent of the construction and/or use involved in the application.").

Proposed Action
Vote (July 11, 2024): 4-0-1 (Robert E. Miller, Joseph Imamura, Tammy M. Stidham, and Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant).

Final Action
Vote (September 12, 2024): 4-0-1 (Robert E. Miller, Joseph Imamura, Tammy M. Stidham, and Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 23-02 shall become final and effective upon publication in the *District of Columbia Register*, that is on February 20, 2026.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE "ACT"). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-12
Z.C. Case No. 24-12
Harrison Wisconsin Owner, LLC
(Consolidated Planned Unit Development and Related Zoning Map Amendment @ Square 1666, Lot 810 and a Portion of Lot 809)
September 11, 2025

Pursuant to notice, at its September 11, 2025, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Harrison Wisconsin Owner, LLC (the "Applicant") requesting review and approval of the following:

- A consolidated Planned Unit Development ("PUD") for the property consisting of Lot 810 and a portion of Lot 809 in Square 1666 (the "PUD Site") and a related Zoning Map Amendment from the R-2 zone to the RA-3 zone for the eastern portion of the PUD Site (approximately 28,654 square feet of land area in the R-2 zone) to construct a residential building with 126 units;
- Zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1;
- Such other design flexibility as is set forth in the Conditions hereof; and
- Special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking spaces as a special exception and subject to the conditions set forth in Subtitle U § 203.1(k).

The Commission considered the Application pursuant to Subtitles X and Z of the District of Columbia Zoning Regulations of 2016 ("Zoning Regulations" or "ZR16") (Title 11 of the District of Columbia Municipal Regulations ["DCMR"], to which all references are made unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.

2. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission ("ANC") 3E is automatically a party to the Application as the "affected ANC" in which the PUD Site is located.

3. The Commission received no other requests for party status.

NOTICE AND SETDOWN

4. Pursuant to Subtitle Z §§ 300.7 and 300.8, on April 12, 2024, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the PUD Site and to ANC 3E (Exhibit ["Ex."] 3G).

5. Pursuant to Subtitle Z § 300.9, following the mailing of the Notice of Intent but before filing the Application with the Commission on September 16, 2024, the Applicant presented refined plans for the Application to ANC 3E at its regularly scheduled monthly meeting on June 25, 2024. The Applicant had previously presented initial plans for the Project to ANC 3E at its regularly scheduled monthly meeting on March 14, 2024, prior to mailing the Notice of Intent (Ex. 3, 3F, 81).

6. On November 14, 2024, at its duly noticed public meeting, the Commission considered the Application and voted to set down the case for a public hearing.

7. Pursuant to Subtitle Z § 402.1, on May 20, 2025, the Office of Zoning ("OZ") sent notice of the public hearing on the Application scheduled for July 14, 2025, to:
   (a) Applicant;
   (b) ANC 3E;
   (c) ANC Single Member District Commissioners ("SMD") 3E03 and 3E04;
   (d) Ward 3 Councilmember, in whose district the PUD Site is located;
   (e) Office of ANCs;
   (f) Office of Planning ("OP");
   (g) Department of Buildings ("DOB");
   (h) District Department of Energy and Environment ("DOEE");
   (i) District Department of Transportation ("DDOT");
   (j) OZ Legal Division ("OZLD");
   (k) Owners of property within 200 feet of the PUD Site; and
   (l) Chairman and At-Large Members of the D.C. Council.
   (Ex. 17, 18).

8. OZ published notice of the July 14, 2025 public hearing, concerning the Application in the May 30, 2025 issue, of the *District of Columbia Register* (72 DCR 006316 *et seq.*) as well as on the calendar on OZ's website (Ex. 16, 17).

9. Pursuant to Subtitle Z §§ 402.3-402.4 and 402.8-402.10, on May 27, 2025, the Applicant submitted evidence that it had posted notices of the public hearing on the PUD Site and on July 10, 2025, submitted evidence that it thereafter maintained such notices (Ex. 19, 53).

PUD SITE AND SURROUNDING AREA

10. The PUD Site is located in the Northwest quadrant of the District in the Friendship Heights neighborhood in Ward 3 (Ex. 3).
11. The PUD Site consists of approximately 40,357 square feet of land area in Square 1666. The square is generally bounded by Wisconsin Avenue, N.W. to the west, Harrison Street, N.W. to the north, 42nd Street, N.W. to the east, and Garrison Street, N.W. to the south (*Id.*).

12. The PUD Site is significantly underutilized, as it is currently improved with a surface parking lot and a 705-foot television tower that is not leased, not in use, and contains no active equipment (*Id.*).

13. The square within which the PUD Site is located, Square 1666, is currently subdivided as one record lot (Lot 3) (the "Record Lot"). At the time the Application was filed, Square 1666 included three overlying assessment and taxation lots: Lots 804, 809, and 810. Lot 804 is improved with a commercial office building at 5101 Wisconsin Avenue, N.W. The northwest portion of Lot 809, which has an address of 5151 Wisconsin Avenue, N.W. (formerly the WTTG/Fox 5 DC headquarters), is approved for redevelopment with a new mixed-use building pursuant to BZA Order No. 20638 (the "5151 Wisconsin Project"). The PUD Site comprises Lot 810 and a portion of Lot 809 not included in the building footprint of the 5151 Wisconsin Project, and includes the underutilized surface parking lot and inactive television tower described above (*Id.*).

14. A private alley separates the PUD Site from the commercial office building at 5101 Wisconsin Avenue, N.W., and from the BZA-approved mixed-use development to the west (*Id.*).

15. The PUD Site is located immediately east of the Wisconsin Avenue corridor in Upper Northwest. Development along the corridor to the north, south, and west of the PUD Site is primarily composed of low- and moderate-density mix of commercial and non-residential uses. Lower density residential development is primarily found to the immediate east, north, and south of the PUD Site. Some institutional and moderate-density residential uses are interspersed within the broader neighborhood (Ex. 3).

16. Notable locations and developments in proximity to the PUD Site include Fort Reno Park (0.25 miles southeast), Georgetown Day School Campus (0.3 miles south), and the Chevy Chase Pavilion and former Mazza Gallerie developments (0.25 miles north). The Friendship Heights Metrorail station is located approximately 0.1 miles to the north of the Property, and the Tenleytown Metrorail is located approximately 0.6 miles to the south. Given the PUD Site's location, walkscore.com identifies the PUD Site as having "excellent transit" (score of 73/100) and also describes the PUD Site as being "very walkable" (score of 89/100) and gives it a "very bikeable" (score of 73/100) (Ex. 3).

CURRENT ZONING

17. The PUD Site is currently split-zoned. The western portion of the PUD Site (approximately 11,703 square feet of land area) is in the Mixed Use (MU)-4 zone, and the eastern portion of the PUD Site (approximately 28,654 square feet of land area) is in the Residential (R)-2 zone (collectively, the "Property") (*Id.*).

18. The MU-4 zone is intended to (a) permit moderate-density mixed-use development; (b) provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside the central core; and (c) be located in low-

and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers (Subtitle G § 101.9).

19. The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached houses (Subtitle D § 101.7). The R-2 zone does not have a prescribed maximum Floor Area Ratio ("FAR"); however one principal dwelling unit and one accessory apartment shall be permitted per lot of record, subject to Subtitle U, Use Permissions (Subtitle D § 201.1). The maximum building height is 40 feet and three stories, and the maximum lot occupancy is 40% for structures that are not public recreation and community centers or places of worship (Subtitle D §§ 203.1 and 210.1).

PROPOSED ZONING

20. As part of the Application, the Applicant seeks a PUD-related Zoning Map Amendment to rezone the R-2-zoned portion of the PUD Site, which consists of approximately 28,654 square feet of land area, from the R-2 zone to the RA-3 zone (Ex. 3, 3A1).

21. The Residential Apartment (RA) zones are intended to, among other things, (i) permit flexibility by allowing all types of residential development; (ii) promote stable residential areas while permitting a variety of types of urban residential neighborhoods; (iii) promote a walkable living environment; and (iv) encourage compatibility between the location of new buildings or construction and the existing neighborhood (Subtitle F § 101.2). The RA-3 zone specifically "provides for areas developed with predominantly medium-density residential" uses (Subtitle F § 101.6).

22. The RA-3 zone permits a maximum FAR of 3.0, which may increase to 3.6 FAR with Inclusionary Zoning ("IZ") bonus density (Subtitle F §§ 201.1, 201.4). The maximum building height in the RA-3 zone is 60 feet, with no limit on the number of stories (Subtitle F § 203.2). The maximum height for a penthouse or rooftop structure is 12 feet and one story, or up to 18.5 feet and two stories if it includes penthouse mechanical space (Subtitle F § 205.1). The maximum lot occupancy is 75% (or 20% for public recreation and community centers) (Subtitle F § 210.1). For a PUD in the RA-3 zone, the maximum permitted density is 4.32 FAR, the maximum building height is 75 feet, and the maximum penthouse height is 20 feet (Subtitle X §§ 303.3(b), 303.7, 303.18).

COMPREHENSIVE PLAN (TITLE 10-A DCMR)

23. The Comprehensive Plan's Future Land Use Map ("FLUM") designates the western and southwestern portions of the PUD Site as Mixed Use (Medium-Density Residential/Moderate-Density Commercial), and the eastern and northeastern portions as Moderate-Density Residential:
    (a) According to the Comprehensive Plan Framework Element, the Medium-Density Residential designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium-Density

Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate-density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium-Density Residential category, and other zones may also apply (10-A DCMR § 227.7);

(b) According to the Comprehensive Plan Framework Element, the Moderate-Density Commercial designation is used to define 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 Zone Districts are representative of zone districts consistent with the Moderate-Density Commercial category, and other zones may also apply (10-A DCMR § 227.11); and

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

24. The Comprehensive Plan's Generalized Policy Map ("GPM") designates the large majority of the PUD Site as a Neighborhood Conservation Area. According to the Comprehensive Plan Framework Element, Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comp Plan policies and the FLUM. The guiding philosophy in Neighborhood

Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated (10-A DCMR §§ 225.4, 225.5).

25. The PUD Site is also within the boundaries of a Future Planning Analysis Area on the Comprehensive Plan's GPM. According to the Comprehensive Plan's Implementation Element, this designation covers "[a]reas of large tracts or corridors where future analysis is anticipated to ensure adequate planning for equitable development. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future planning analyses process for each area. Planning analyses generally establish guiding documents. Such analyses shall precede any zoning changes in this area. The planning process should evaluate current infrastructure and utility capacity against full build out and projected population and employment growth. Planning should also focus on issues most relevant to the community that can be effectively addressed through a planning process. Individual planning analyses may study smaller areas than the Analysis Area. For the purposes of determining whether a planning analysis is needed before a zoning change, the boundaries of the Future Planning Analysis Areas shall be considered as drawn. The evaluation of current infrastructure and utility capacity should specify the physical or operational capacity both inside the boundaries and any relevant District-wide infrastructure available." (10-A DCMR § 2503.2). Notwithstanding 2503.2, re-zoning proposals received prior to planning studies in these Future Planning Analysis Areas may be considered if the following occur or have occurred: a Small Area Plan, development framework, technical study, design guidelines, Planned Unit Development, master plan already approved by the National Capital Planning Commission, or the re-zoning proposal would have been consistent with the 2012 Future Land Use Map. The intent is that both steps of the twostep process must occur: planning analyses and then appropriate rezoning, although in the case of a Planned Unit Development the planning analyses and rezoning may be combined. To advance deeply affordable housing production, proposals that reserve at least one-third (33%) of housing units as affordable to very-low- and extremely-low-income households for the life of the building in Future Planning Analysis Areas with high housing costs and few affordable housing options may proceed in advance of planning analyses (10-A DCMR § 2503.3).

26. The Comprehensive Plan also requires the Commission to evaluate all zoning actions through a racial equity lens (10-A DCMR § 2501.8). Consideration of equity is intended to be based on the policies of the Comprehensive Plan and part of the Commission's consideration of whether the PUD in this case is "not inconsistent" with the Comprehensive Plan, rather than a separate determination about a zoning action's equitable impact.

27. The Comprehensive Plan's 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*. at § 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.* at § 213.9).

28. The Comprehensive Plan's Implementation Element provides guidance for the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states that "[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of difference areas in the District." (10-A DCMR § 2501.6). In addition, the Implementation Element suggests to prepare and implement tools to use as a part of the Commission's evaluation process (*Id*. At § 2501.8). Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool (the "REA Tool") in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The REA 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 (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

29. The Comprehensive Plan also includes the Property within the Rock Creek West Area Element, which includes the following development priorities and actions that are relevant to the PUD Site:
    (a) Preserve the low-density residential neighborhoods west of Rock Creek Park. Future development in both residential and commercial areas should be carefully managed to address the existing scale, function, and character of these neighborhoods. Updates to zoning regulations offer the opportunity to create more accessory dwelling units for this area to help absorb a share of the District's growth and provide a more proportional portion of affordable and moderate- income housing sensitive to existing neighborhood context (10-A DCMR § 2308.2);
    (b) Recognize the opportunity for infill development within the areas designated for commercial land use on the Future Land Use Map. When such development is proposed, work with ANCs, residents, and community organizations to encourage mixed-use projects that combine housing, including affordable housing, neighborhood-serving retail, and commercial uses. Design transitions between

large- and small-scale development to ameliorate the appearance of overwhelming scale and to relate to context of lower-scale surrounding neighborhoods (10-A DCMR § 2308.5);

(c) Pursue the opportunity for additional housing, including affordable and moderate-income housing, with some retail and limited office space on Wisconsin Avenue and underdeveloped sites west of the Friendship Heights Metro station (10-A DCMR § 2312.7);

(d) Future development along Wisconsin Avenue, N.W. should be architecturally sensitive to adjoining residential neighborhoods. Use a variety of means to improve the interface between mixed-use districts and lower-scale residential uses, such as architectural design, the stepping down of building heights away from the avenue, landscaping and screening, and additional green space improvements (10-A DCMR § 2312.11); and

(e) Continue to work with the community, the ANCs, and local property owners to address concerns regarding building density and height, PUDs and related density bonuses, and architectural design in the Planning Area. Zoning techniques should be considered to break up the auto-oriented commercial appearance of much of Wisconsin Avenue, N.W., and instead create a more pedestrian-oriented street, distinct in function and visual character from adjacent residential areas (10-A DCMR § 2312.13).

30. The Property is located within the area covered by the Wisconsin Avenue Development Framework ("Wisconsin Ave DF"), which provides planning guidance for zoning changes consistent with the Comprehensive Plan. The Wisconsin Ave DF applies to over 100 development sites along a 1.5-mile segment of Wisconsin Avenue, N.W., with a focus on the Friendship Heights and Tenleytown–AU Metro station areas. Among other objectives, the Wisconsin Ave DF includes the following recommendations relevant to the PUD Site:

(a) Promoting a corridor of well-designed blocks that create walkable urban places with new mixed-income housing and active ground floor uses (Wisconsin Ave DF, p. 4);

(b) Designing and activating new public spaces that are inclusive of people of all ages, backgrounds, and abilities (*Id.*);

(c) Breaking down Friendship Heights' larger blocks with pedestrian connections and activating vacant and transitioning spaces in Friendship Heights, with the PUD Site specifically referenced as part of this vision (Wisconsin Ave DF, pp. 22, 26);

(d) Applying a new "Friendship Heights Transition Zone" to the eastern portion of the PUD Site, intended to facilitate residential redevelopment on blocks between Garrison and Harrison Streets, provide a transition to adjacent lower-scale residential neighborhoods, and support a maximum height of 50 feet plus a penthouse and a total FAR of 2.16 (Wisconsin Ave DF, pp. 42, 46);

(e) Applying a new "Mixed-Use Corridor Zone" to the western portion of the PUD Site, intended to enable medium-density, infill redevelopment along Wisconsin Avenue with small open spaces such as plazas or pocket parks, neighborhood-

serving retail and cafes, and a recommended height of 75 feet plus a penthouse and a total FAR of 5.4 (Wisconsin Ave DF, pp. 42, 48); and

(f) Establishing guiding principles for building design along the corridor, including but not limited to: prioritizing housing as the principal use along the Wisconsin Avenue Corridor; designing open spaces to encourage social interaction and inclusive gatherings; and shaping and orienting buildings to maximize energy efficiency, improve access to light and air, and capture interesting views or vistas (Wisconsin Ave DF, pp. 16–19).

II. THE APPLICATION

31. The Application, as amended, proposes to redevelop the PUD Site with a new mixed-income residential project (the "Project") designed to maximize compatibility with the surrounding area by distributing density across the entire PUD Site. As such, the Project would be arranged to give the appearance of four distinct buildings, interspersed with private courtyards, and would be constructed as follows:

(a) A building height of approximately 50 feet, three inches, as measured from a building height measuring point on 42nd Street, N.W., located at the midpoint of the Project's façade closest to the street lot line, at an elevation of 345 feet, three inches;

(b) A maximum habitable penthouse height of 12 feet, with a mechanical penthouse stacked above, not to exceed a total height of 18 feet;

(c) An FAR of approximately 4.308 based on the RA-3-zoned portion of the PUD Site subject to the PUD-related map amendment; however, an "apparent" or perceived FAR of approximately 3.06 when calculated across the entire PUD Site;

(d) A lot occupancy of approximately 69.2% when calculated across the entire PUD Site;

(e) A total of 126 residential units, all of which will be for rent, including a minimum of nine units with three bedrooms;

(f) Approximately 42 affordable housing units, comprising 33% of the Project's total residential unit count. These include:

- IZ Units: Affordable units required under the District's IZ regulations, based on the combined total of 75% of the bonus density utilized and 10% of the Project's habitable penthouse space. These units will be reserved for households earning no more than 60% and 50% of the Median Family Income ("MFI") and will include at least two three-bedroom units; and
- HANTA Units: Additional affordable units provided under the District's High-Needs Area Tax Abatement Program ("HANTA") will be reserved for households earning up to 80% of the MFI, with a 40-year affordability control period. These units will be the number necessary to ensure that 33% of the Project's total units are reserved for affordable housing;

(g) A total of approximately 82 vehicle parking spaces;

(h) Approximately 42 long-term and 6 short-term bicycle parking spaces;

(i) A minimum Green Area Ratio ("GAR") of 0.3;

(j) A building design that will achieve the points equivalent to the LEED Gold standard; and

(k) Sustainable features including vegetated or green roofs, rooftop solar panels, at least six EV-ready parking spaces, all-electric appliances in residential units, and dedicated areas for composting and recycling.

(Ex. 3, 14, 23, 23A1-23A5, 81, 88).

32. The Application includes a proposed PUD-related Zoning Map Amendment to rezone the east/northeastern portion of the PUD Site from the R-2 to the RA-3 zone, enabling the Project and its optimal configuration. All of the Project's density will be generated from the RA-3-zoned portion of the PUD Site, resulting in a technical FAR of 4.308. Although no density is derived from the MU-4-zoned portion, the configuration of the PUD Site boundary allows the building mass to be distributed across the entire land area (comprising the PUD Site). This yields a perceived FAR of approximately 3.06, which is below the 4.32 FAR permitted under the proposed RA-3 zoning. The resulting massing is compatible with the scale and rhythm of the surrounding neighborhood and avoids the appearance of a single, oversized building out of character with its context (Ex. 3, 3E, 14, 23, 23A1–23A5, 81).

33. The Project's layout enhances compatibility with the surrounding context and provides an appropriate transition from the Wisconsin Avenue corridor. Four distinct massings are arranged along 42nd Street N.W., creating the appearance of a moderately scaled, incremental residential development. While unified in rhythm and overall character, each pavilion features a unique architectural expression and material palette, reflecting a design approach successfully applied in other transitional zones throughout the District (Ex. 3, 14, 23, 23A1-23A5, 81).

34. To further ensure compatibility with the low-density residential uses to the east of the PUD Site, the footprint of the habitable penthouse is limited to the west side of the building, which reduces its visibility from the street and concentrates the Project's density as close to the Wisconsin Avenue commercial corridor as possible (*Id.*).

35. Certain architectural elements have been incorporated to reflect the residential character of the Project and to complement the surrounding context. The design includes articulated bays, balconies, and private entry stoops that support a residential appearance. A combination of pitched roofs, cornices, and varied three- and four-story bays contributes to a diverse roofline and helps convey the impression of multiple, incremental residential buildings across the PUD Site. Brick has been selected as the primary façade material based on its traditional character and durable appearance (*Id.*).

36. The primary residential lobby is located on Garrison Street, N.W., where the grade of the PUD Site is lowest. The residential loading area and parking garage are accessed from a private alley along the west side of the PUD Site. Because the grade slopes downward from north to south, the parking garage will be almost entirely below grade and fully screened

from view along Harrison, 42nd, and Garrison Streets. Three landscaped courtyards fronting 42nd Street, N.W. will offer direct access to ground-floor residential units and help activate the streetscape (*Id.*).

37. In addition to the standard design flexibility requested for the Project, as set forth in the Conditions herein, the Application requests two areas of zoning flexibility:
    (a) Penthouse Side Setback – West Elevation: Flexibility from the side setback requirement of Subtitle C § 1504.1(c)(2), to allow the penthouse on the west elevation, adjacent to a private alley, to be located closer to the edge of the roof than a distance equal to its height; and
    (b) Rear Yard – PUD Site Boundary: Out of an abundance of caution, flexibility from the rear yard requirement of Subtitle F § 207.1 to allow a noncompliant rear yard when measured from the building to the rear lot line of the PUD Site (approximately 17 feet required; 10 feet, nine inches proposed).

    (Ex. 3).

38. The Application also requested special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking as a special exception, specifically to permit six accessory parking spaces located within the underground parking garage that fall outside the PUD Site boundary, as shown on the proposed plans for the Project (Sheet A02). These six parking spaces are located within an R-2 zoned portion of the abutting property, where accessory parking on a lot other than the lot occupied by the principal use is permitted only by special exception pursuant to Subtitle U § 203.1(k) (*Id.*).

39. As part of the Project, the Applicant proffered public benefits and amenities, as set forth in detail in the Conditions of this Order. The Applicant's proffered public benefits and amenities are as follows:[1]
    (a) **Superior Urban Design and Architecture (Subtitle X § 305.5(a))**. The Applicant proffered superior urban design and architecture as a public benefit because:
        - The Project is designed for strong compatibility with its surroundings and to serve as a refined transition from Wisconsin Avenue. Four distinct "buildings" are planned along 42nd Street N.W., creating the impression of a moderately scaled, incremental residential development, which represents a proven approach in other transitional zones in the District. Each pavilion features its own architectural style and materials while maintaining an overall consistent character and rhythm; and
        - Features such as detailed bays, balconies, and private stoops emphasize the residential feel, while elements like pitched roofs, cornices, and varied bay projections add visual interest. These design choices help integrate the Project into the adjacent lower-density neighborhood. The Project's high-quality urban

[1] Finding of Fact No. 39 incorporates the description of each public benefit as required by Subtitle X § 308.3, which mandates that the language used must be identical to that in the Applicant's proposed order, unless a revision is necessary for clarity or to reflect a substantive change. Accordingly, the text below integrates the language from the Applicant's final list of proffers and corresponding conditions, as set forth in Ex. 91A of the record.

design and architecture provide significant PUD benefits through thoughtful massing, human-scale details, traditional residential elements, and active streetscape engagement, all contributing to a context-sensitive and cohesive addition to the area;

(b) **Site Planning and Efficient Land Utilization (Subtitle X § 305.5(c))**. The Applicant proffered site planning and efficient and economical land utilization as a public benefit of the PUD because:

- The Applicant is proffering site planning and efficient and economical land utilization as a public benefit of the PUD. The Project will transform a significantly underutilized, transit-accessible site into a vibrant mixed-income residential community, bringing new market-rate and affordable housing to an area that currently lacks residential presence and sustained economic activity; and
- The PUD Site's boundary configuration allows the development to be distributed in a way that gives the appearance of four separate buildings, even though no density comes from the MU-4-zoned portion of the site. This design produces an "apparent" or average FAR of about 3.06 when calculated across the entire PUD Site, well below the 4.32 FAR permitted under the proposed RA-3 zoning. Spreading the building mass across the site helps the Project match the scale and rhythm of the surrounding neighborhood and avoids creating a single, large multifamily structure that might be out of character with nearby residential uses. These strategies demonstrate efficient site planning and a thoughtful, context-sensitive approach to land use;

(c) **New Housing (Subtitle X § 305.5(f)(1) and (3))**. The Applicant proffered new housing as a public benefit of the PUD because:

- Subtitle X § 305.5(f)(1) identifies housing that exceeds the amount permitted as a matter of right under existing zoning as a public benefit. The Project will deliver approximately 123,444 square feet of residential gross floor area, creating 126 new units in a high-opportunity, transit-accessible location;
- The residential mix will include studios (i.e., junior one-bedroom units), as well as one-, two-, and three-bedroom layouts, offering options for a range of household sizes and living needs. Among these units, nine will be three-bedroom residences, thoughtfully distributed across the first, second, and third floors of the Project. The inclusion of three-bedroom units, incorporated at the ANC's request, is separately recognized as a PUD benefit under Subtitle X § 305.5(f)(3); and
- Overall, the proposed residential density significantly exceeds what is allowed under the existing R-2 zoning, which would permit only about 12 semi-detached or 8 detached homes, per Subtitle D § 202.1. Collectively, these features ensure that the Project's housing component offers a substantial and meaningful public benefit within the PUD;

(d) **Affordable Housing (Subtitle X § 305.5(g))**. The Applicant proffered significant affordable housing as a benefit of the PUD by dedicating approximately 33% of the overall number of residential units as affordable housing, which amounts to

approximately 42 units. The Project's affordable housing commitment is comprised of IZ units and those provided through the District's HANTA program, as follows:

- IZ – A portion of the affordable units will fulfill the District's IZ requirements for rental housing. Specifically, the IZ set-aside is based on the combined total of (i) 75% of the bonus density utilized will be set aside for households earning no more than 60% MFI and (ii) at least 10% of the Project's penthouse habitable space will be reserved for households earning no more than 50% of MFI, as required by Subtitle C §§ 1003.1, 1003.7(a), and 1003.8. Additional details regarding the IZ component are as follows:
  - The IZ component, which is part of the overall 33% affordable housing unit commitment, will comprise approximately 13,990 square feet of GFA, or 11.2% of the Project's total GFA. This translates to approximately 13 IZ units, exceeding the requirements under matter-of-right development, which would permit at most 1 IZ unit in the existing R-2 zone;
  - Of the total net residential floor area set aside for IZ, approximately 8,097 square feet will be reserved for households earning no more than 60% of MFI, pursuant to Subtitle C § 1003.7(a), and approximately 2,314 square feet will be reserved for households earning no more than 50% of MFI, pursuant to Subtitle C § 1003.8. Although the required set-aside at the 60% MFI level based on the 75% bonus density calculation is approximately 9,277 square feet, the Applicant is electing to shift a portion of that floor area to serve households at the 50% MFI level. This approach results in deeper affordability and increases the number of units available to lower-income households, as further explained below; and
  - In response to community input, one of the units reserved at the 50% MFI level will be a three-bedroom unit. Furthermore, although only 1,096 square feet of IZ set-aside is required pursuant to Subtitle C § 1003.1(b) based on the Project's habitable penthouse space, the Project will provide three units totaling 2,314 square feet, all at the 50% MFI level. This is more than twice the minimum required and reflects the Project's commitment to deeper and more inclusive affordability;
- HANTA – The balance of the units needed to meet the proffered 33%-unit affordability threshold will be delivered as non-IZ affordable dwelling units through the HANTA program, which promotes affordable housing in high-needs areas of the District. While the HANTA program allows affordability levels of up to 100% of MFI for a 40-year control period, the Applicant, through agreement with the Department of Housing and Community Development (DHCD), committed to deeper affordability levels. Specifically, the Project's HANTA-designated units will be reserved for households earning no more than 80% of MFI for 30 years, or longer, as may be required by DHCD via separate agreement. DHCD approved the Applicant's participation in the HANTA program in November 2024. By leveraging this program, the Applicant is able to deliver more impactful affordability and contribute to creating an inclusive, mixed-income community in a desirable location; and

- In conclusion, the Applicant's affordable housing proffer constitutes a public benefit and advances numerous Comprehensive Plan policies aimed at promoting accessible, affordable housing for residents of all income levels;

(e) **Environmental and Sustainable Benefits (Subtitle X § 305.5(k))**. The Applicant proffered environmental and sustainable public benefits as part of the PUD because:

- Pursuant to Subtitle X § 305.5(k)(5), the Applicant committed to incorporating sustainable features that will benefit residents, the immediate community, and the District as a whole. Specifically, the Project will feature an energy-efficient, all-electric design for the residential units, and it will incorporate green roofs, rooftop solar panels, at least six (6) electric vehicle (EV)-ready charging spaces in the underground parking garage, and dedicated areas for composting and recycling; and
- In response to the Commission's request, the Applicant committed to design the Project to achieve the minimum number of points equivalent to the LEED Gold standard under the LEED v4 BD+C: Multifamily Midrise;

(f) **Streetscape Plans (Subtitle X § 305.5(l))**. The Applicant proffered a range of streetscape improvements as a public benefit of the PUD. Subject to DDOT approval, the Applicant will provide new plantings along the PUD Site's public frontages and include sidewalk paving and perimeter landscaping, per Sheets L1-L5 of the Approved Plans. These improvements will help accentuate the residential character of the Project and its compatibility with the lower-density residential context surrounding the PUD Site. The Applicant has also committed to enlarging the existing tree pits along public space frontages of the Project, where necessary and subject to DDOT approval, and to installing new street trees in coordination with DDOT/UFD. The Applicant has committed to plant trees, following completion of construction, in any gaps in the tree boxes per DDOT's Urban Forestry Division's specifications within Square 1666 as well as across the street from Square 1666 on all four sides, subject to approval;

(g) **Park Maintenance (Subtitle X § 305.5(n))**. The Applicant proffered its funds, time, and effort to enhance Fessenden Park, a DPR-managed park located one block south of the PUD Site and generally bounded by Wisconsin Avenue, 42nd Street, and Fessenden Street, N.W., as a public benefit of the PUD because:

- Under Subtitle X § 305.5(n), park improvements qualify as a public benefit;
- In response to community feedback and in coordination with DPR and the affected Advisory Neighborhood Commission (ANC), currently ANC 3E, the Applicant has committed to spend at least $10,000, and up to $20,000, on enhancements to Fessenden Park. Planned improvements include the design and construction of two bocce courts, the installation of one park bench, and associated landscaping, all subject to approval by DPR and DDOT. The Applicant will complete these improvements prior to the issuance of the final certificate of occupancy for the PUD; and
- The Applicant will also consult with ANC 3E on the landscaping plans, present the proposed improvements upon request, and maintain the landscaping for

three years after installation. These enhancements will improve the park's functionality and appearance for the benefit of the surrounding community;

(h) **Non-Mitigation Transportation Infrastructure (Subtitle X § 305.5(o))**. Subtitle X § 305.5(o) identifies transportation infrastructure that is not strictly necessary to mitigate potential adverse impacts as a public benefit. As summarized in the Applicant's Transportation Statement (Ex. 23B) and as set forth in the Conditions hereof, the Applicant committed to implementing an enhanced TDM Plan to address potential impacts associated with the proposed parking supply and projected trip generation. However, the Applicant proffered transportation improvements that exceed standard mitigation requirements, as follows:

- Specifically, the Applicant will use best efforts, in coordination with DDOT, to improve pedestrian safety at the intersection of Garrison Street, N.W. and 42nd Street, N.W. by narrowing the intersection to shorten pedestrian crossings, slow vehicular traffic, and prevent parking in the crosswalks. To that end, the Applicant proposes to work with DDOT on the design and to advocate for the implementation of DDOT-funded bulb-outs incorporating bioretention features, where feasible, at all four corners of the intersection, to be installed prior to the issuance of the final certificate of occupancy for the Project;
- If DDOT has committed funds but has not yet constructed the bulb-outs by the time the final certificate of occupancy is issued, the Applicant proposes to coordinate with DDOT to install temporary bulb-outs (i.e., daylighting) at all four corners at the intersection, using flex posts and pavement markings, and to maintain them until permanent construction occurs. If funding for permanent construction has not been approved before that time, the Applicant proposes to expend up to $20,000 to install permanent hardened bulb-outs on the northwest and southwest corners of the intersection, subject to review and approval by DDOT and ANC 3E;
- In the event that permanent bulb-outs are constructed at all four corners prior to the issuance of the final certificate of occupancy, the Applicant proposes, in lieu of installing bulb-outs, to either donate $20,000 to a local nonprofit organization, with the consent of the affected ANC, for specific additional improvements in the public right of way or to provide specific additional improvements in the public right-of-way, which may include "daylighting" at the intersection of Harrison Street, N.W. and 42nd Street, N.W. as identified in DDOT's recommendation (see Ex. 36 at p. 2), subject to the review and consent of the affected ANC and the review and approval of DDOT; and
- Following installation of any bulb-outs, whether temporary or permanent, the Applicant proposes to keep the bulb-outs free of trash and to maintain any landscaping in accordance with DDOT standards for the life of the Project;

(i) **Uses of Special Value to the Neighborhood or the District of Columbia as aa Whole (Subtitle X § 305.5(q))**. The public benefits associated with the Project extend beyond those delivered at full build-out. A notable early benefit is the removal of the existing 705-foot television tower on the property. The uses associated with the tower have been relocated to Maryland, and the tower now

stands as a visually intrusive structure that is out of scale with the surrounding neighborhood and detracts from the area's character. Its removal will significantly enhance the local streetscape and directly respond to concerns raised by nearby residents; and

(j) **Other Public Benefits and Project Amenities that Substantially Advance the Comprehensive Plan (Subtitle X § 305.5(r))**. Pursuant to Subtitle X § 305.5(r), public benefits may include "other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan." The Project substantially advances several of the Comprehensive Plan's major themes, including expanding housing supply, increasing housing affordability, and encouraging growth in high-opportunity, transit-accessible locations, consistent with the Framework Element's direction to focus new development around transit nodes and equity-driven growth (*See*, e.g., 10-A DCMR §§ 213.7, 219.7). The Rock Creek West (RCW) Area Element of the Comprehensive Plan identifies a substantial unmet need for affordable housing, making increased supply in RCW a key policy priority (*See* 10-A DCMR § 2300.9). The Project directly advances this goal by delivering new affordable housing in an area historically limited by high land costs, with 33% of its units reserved as affordable to promote equity and inclusion. Beyond housing, the Project supports urban design and land use objectives in the Comprehensive Plan and the Wisconsin Ave DF by enabling compatible infill, appropriate scale transitions, walkable blocks, and activation of underused sites along Wisconsin Avenue, N.W. Collectively, these elements represent a significant public benefit under Subtitle X § 305.5(r).

(Ex. 3, 14, 23, 89A, 91A).

APPLICANT'S REVISIONS, SUBMISSIONS, AND TESTIMONY

40. Initial Application. Pursuant to Subtitle Z §§ 300.1-300.4, 300.6, and 300.10-300.13 on September 16, 2024, the Applicant filed its initial application materials (Ex. 1-3H).

41. Prehearing Submission. Pursuant to Subtitle Z §§ 401.1 and 401.3-401.4, on April 16, 2025, the Applicant filed a prehearing submission and supporting materials responding to the questions and comments raised by the Commission at the November 14, 2024, public meeting (Ex. 13-14F). Specifically, the prehearing submission included Application updates on traffic analysis, an interagency meeting, and community outreach with ANC 3E and the following:

(a) Affordable Housing Proffer. In response to the Commission's request, the Applicant provided a breakdown of the 33% of residential units proffer, detailing the IZ and HANTA components, submitted a preliminary IZ plan showing proposed square footage and unit distribution, and noted it would continue working with OP and DHCD and submit an updated plan with any supplemental filing;

(b) Design Compatibility. In response to the Commission's request, the Applicant further explained that the Project draws from the surrounding residential context by using traditional brick façades, incorporating courtyards and setbacks, and

presenting the appearance of four modest buildings to promote compatibility with nearby homes;

(c) Activation of Open Spaces and Landscaping. In response to the Commission's request, the Applicant stated that it would continue to explore strategies to enhance the functionality and residential character of the Project's open spaces and would include related information in a supplemental submission;

(d) Neighborhood Impact Analysis. In response to the Commission's request for additional information on the Project's potential impact on the neighborhood and demographic trends, the Applicant stated that it was preparing an evaluation for inclusion in a supplemental submission; and

(e) Prehearing Materials. The Applicant provided additional prehearing materials required under the Commission's Rules of Practice and Procedure and certification of the Applicant's compliance with filing requirements.

42. Applicant's Supplemental Pre-Hearing Submission. On June 13, 2025, the Applicant filed a supplemental submission with updated information regarding the Application (Ex. 22-23E). Specifically, the supplemental submission included:

(a) Updated Plans. The Applicant submitted updated plans reflecting minor design adjustments and revised floor plans since the initial submission, including refinements to the building façades, revised planting arrangements, and additional information confirming that proposed projections along 42nd and Garrison Streets comply with building code requirements;

(b) Updated IZ Plan. Along with the updated plans, the Applicant submitted a revised IZ plan, developed in response to ANC feedback and as part of its commitment to dedicate 33% of the Project's residential units as affordable, which confirmed compliance with the District's IZ requirements for rental housing, provided more than twice the required square footage at the 50% MFI level based on the penthouse floor area, and included a three-bedroom unit qualifying as a specific housing benefit;

(c) Transportation Considerations and Transportation Statement. The Applicant noted that on May 15, 2025, its traffic expert submitted the Transportation Statement to DDOT and included it as part of the supplemental submission in accordance with Subtitle Z § 401.8 (Ex. 23B) The Transportation Statement concluded that the Project is well-served by transit options, would generate minimal peak-hour vehicle trips, and would not adversely impact traffic or parking with implementation of the Transportation Demand Management plan (hereinafter the "TDM Plan"). In response to the proposed parking supply, DDOT recommended enhancements to the TDM Plan, including unbundled parking, long- and short-term bicycle parking, and off-site improvements such as a micromobility corral, differentiated crosswalks, and a pedestrian refuge along Garrison Street, N.W. The Applicant committed to implementing all TDM measures, subject to DDOT approval;

(d) Sustainability Features and Environmental Commitments. The Applicant refined the Project's sustainability strategy to reduce environmental impact with features

such as all-electric units, green roofs, solar panels, EV charging spaces, composting areas, and other high-efficiency systems;

(e) Additional Responses to the Commission. The Applicant provided additional responses to the questions and comments raised by the Commission at the November 14, 2024, public meeting, as follows:
- In response to the Commission's request, the Applicant provided additional information on the landscape treatment and character of the open spaces, noting that the courtyards would be modest in scale, reserved for residents, and designed to complement the surrounding residential context and perimeter landscaping;
- The Applicant committed to enhancing public space through perimeter plantings, rain gardens, and enlarged tree pits, and to installing new street trees within and around Square 1666 in coordination with DDOT and subject to approval of abutting property owners and DDOT; and
- The Applicant submitted a supplemental narrative on demographic trends and neighborhood transformation (Ex. 23C), outlining the Project's anticipated positive impacts in supporting a diverse mix of residents, advancing sustainable and equitable development, and contributing to the continued revitalization of the Wisconsin Avenue corridor;

(f) Community Outreach. The Applicant provided updated information on its engagement with ANC 3E and other stakeholders, including the Harrison Condominium Homeowners' Association. The Applicant provided updates on its commitments to the ANC, which were reflected in a draft Memorandum of Understanding (Ex. 23D), which ANC 3E unanimously supported at its June 12, 2025, public meeting, and which were also incorporated into the updated plans and the amended proffered benefits and amenities; and

(g) Public Benefits and Amenities. The Applicant's supplemental submission included an amended and restated list of public benefits and amenities (Finding of Fact ["FF"] ¶ 39).

43. Applicant's Hearing Presentation and Testimony. In advance of the July 14, 2025, public hearing for the Application, the Applicant filed a presentation (Ex. 81). At the public hearing, the Applicant presented the Application and proposed Project and responded to questions from the Commission:

(a) The Applicant provided testimony from five witnesses:
- James A. "Jad" Donohoe, IV, on behalf of the Applicant;
- Sarah Alexander of Torti Gallas Urban, as the Project's architect, admitted as an expert;
- Jami L. Milanovich of Wells + Associates, the Project's transportation consultant, admitted as an expert;
- Brandice N. Elliott of Holland & Knight LLP, the Project's land use and urban planning consultant, admitted as an expert; and
- Tim Bragan of MKSK, the Project's landscape architect, admitted as an expert.

(b) The Applicant's presentation included the following: (i) a summary of the Project background; (ii) the Applicant's outreach with OP, DDOT, and other District agency staff, as well as with the community, neighboring residents, and ANC 3E; (iii) the requested zoning, the configuration of the PUD Site boundary, zoning flexibility, and special exception relief; the proffered public benefits and amenities; (iv) the building design, site planning, and landscaping features; an overview of transportation considerations and the proposed TDM plan; and (v) an evaluation of how the Project satisfies the PUD evaluation criteria set forth in Subtitle X §§ 304.3 and 304.4, including an assessment of the Project's consistency with the Comprehensive Plan when evaluated through a racial equity lens.

(Transcript of July 14, 2025 Public Hearing ("Hearing Tr.") at pp. 10-35).

44. Post-Hearing Submission. On July 21, 2025, and at the request of the Commission, the Applicant submitted a post-hearing submission that included the following:

(a) Responses to testimony and questions from immediately adjacent neighbors (Ex. 80), addressing several topics, including clarification of the Project's building height measuring point and confirmation that the maximum height is being measured in accordance with the Zoning Regulations. The Applicant also stated that the Project is not inconsistent with the Comprehensive Plan, noting that height-related concerns are, in its view, outweighed by Rock Creek West and citywide policies that prioritize housing production and affordability. Additional responses addressed the enforceability of the PUD-related map amendment; an analysis of shadow studies (Ex. 88A), which indicated that the Project's shadows would have limited impacts on residential homes along 42nd Street, N.W.; the eligibility of Project residents for Residential Permit Parking; and issues related to maintenance of the 705-television tower and construction management;

(b) Responses to testimony from The Committee of 100 on the Federal City (Ex. 81), stating that the affordable housing proffer, particularly the IZ component, exceeds what could be achieved under a matter-of-right development and may be considered a public benefit of the PUD. The Applicant also explained that the Project is being processed as a separate zoning entitlement from the adjacent property, which is subject to a BZA-approved entitlement and is currently under construction, primarily for reasons related to timing and efficiency;

(c) Additional details, provided at the request of OP, regarding the proffered environmental and sustainable benefits of the PUD, along with a commitment, as encouraged by the Commission, to design the Project so it could achieve the minimum number of points equivalent to the LEED Gold standard, as reflected in the updated LEED scorecard (Ex. 88B); and

(d) A copy of the fully executed Memorandum of Understanding with ANC 3E (Ex. 88C), indicating that all benefits and commitments would be memorialized in the Applicant's draft proffers and corresponding conditions.

(Ex. 88-88C).

45. Draft Proffers and Corresponding Conditions. Pursuant to Subtitle X §§ 308.2 and 308.4, on July 21, 2025, the Applicant submitted its draft proffers and Conditions (Ex. 89-89A).

46. Final Proffers and Corresponding Conditions. Pursuant to Subtitle X § 308.6, on August 1, 2025, the Applicant submitted its final proffers and corresponding conditions, incorporating revisions made in response to comments from the OZLD. These revisions primarily clarified the scope and implementation of the IZ component within the proffered affordable housing benefit (Ex. 91–91A).

47. Draft Findings of Fact and Conclusions of Law. Pursuant to Subtitle Z § 601.1, on August 18, 2025, the Applicant submitted its proposed findings of fact and conclusions of law (Ex. 92-92A).

III. JUSTIFICATION FOR RELIEF

RELIEF REQUESTED

48. The Applicant requested that the Commission approve a PUD and related Zoning Map Amendment to rezone the R-2 zoned eastern portion of the Property to the RA-3 zone to permit redevelopment with a residential building containing 126 units. With the PUD-related Map Amendment to the RA-3 zone, which would be the only portion of the PUD Site generating density for the Project, the Project would achieve the following height and density:
    (a) *Height*: The Project proposes a height of approximately 50 feet, three inches; and
    (b) *Density*: The Project proposes a density of approximately 4.308 FAR.

49. The Application requested additional PUD-related zoning flexibility pursuant to Subtitle X § 303.1 from:
    (a) The penthouse side setback requirement of Subtitle C § 1504.1(c)(2), to allow the penthouse on the west elevation, adjacent to the private alley, to be located closer to the edge of the roof than a distance equal to its height; and
    (b) The rear yard requirement of Subtitle F § 207.1, to allow a noncompliant rear yard when measured from the building to the rear lot line of the PUD Site, where approximately 17 feet is required and 10 feet, nine inches is proposed.

    (Ex. 3).

50. The Application requested design flexibility consistent with Subtitle Z § 702.8, as set forth in the Conditions herein (*Id.*).

51. The Application requested a special exception, pursuant to Subtitle X § 303.13 and Subtitle U § 203.1(k), to permit off-site accessory parking spaces within the underground parking garage for the Project but located outside the PUD Site boundary and on adjacent property located in the R-2 zone (*Id.*).

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PUD SITE (SUBTITLE X § 304.4(a))

52. Comprehensive Plan. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(a) and is not inconsistent with (i) the Comprehensive Plan as a whole, including its maps, District Element policies, and Area Element policies, or (ii) other public policies related to the Property:

(a) ***FLUM***. The Project is not inconsistent with the FLUM's Moderate-Density Residential and Mixed Use (Medium-Density Residential/Moderate-Density Commercial) designations for the PUD Site because:

- The existing R-2 zoning is inconsistent with the FLUM's Moderate-Density Residential and Mixed Use designations, as it aligns with the now-outdated Low-Density Residential category;
- The Application proposes to rezone only the R-2 zoned portion of the PUD Site to the RA-3 zone, which is not inconsistent with that portion's Moderate-Density Residential designation on the FLUM;
- The proposed RA-3 zone is not inconsistent with the Framework Element, which states that "greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development," and that while the "R-3, RF, and RA-2 Zone Districts are consistent with the Moderate-Density Residential category, … other zones may also apply." Although the RA-3 zone permits a matter-of-right density of 3.0 FAR (or 4.32 FAR with a PUD), which exceeds the 1.8 FAR recommended for Moderate-Density Residential, the additional density is supported by the PUD process and IZ requirements (*See* 10-A DCMR § 227.6);
- Higher density permitted under the RA-3 zone supports citywide goals to increase housing supply and affordability, as set forth in the Mayor's Housing Equity Report (2019), the Rock Creek West Roadmap (2021), the D.C. Comeback Plan (2023), and the Wisconsin Avenue Development Framework (2024). This outcome remains consistent with the purpose of Moderate-Density Residential areas, which is to promote "neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, and improvements to the overall environment." (*See* Subtitle E §§ 101.2(a)–(b));
- By virtue of the proposed RA-3 zone, the proposed PUD advances key Comprehensive Plan objectives by using the flexibility of the PUD process to provide more total housing and a greater share of affordable housing than would be permitted under matter-of-right development in either the existing R-2 zone or the proposed RA-3 zone. By reserving 33% of all units as affordable, the Project directly responds to the District's critical housing needs. The Comprehensive Plan allows greater height and density through a PUD when balanced by public benefits that support public health, safety, welfare, and convenience. The Plan also identifies the creation of affordable housing beyond legal requirements as a high-priority public benefit in the evaluation of residential PUDs (*See* 10-A DCMR §§ 224.7, 224.9); and

- In summary, although the RA-3 zone permits higher density than typically envisioned by the Moderate-Density Residential FLUM designation, the Project's use of the PUD process, transitional location, compatible design, policy alignment, and contextual fit support a conclusion that the proposed PUD and Zoning Map amendment are not inconsistent with the Comprehensive Plan (Ex. 3, 3F, 81);

(b) ***GPM***. The Project is not inconsistent with the Neighborhood Conservation Area designation for the PUD Site. These areas are predominantly residential, with limited vacant land, and are intended to be conserved and enhanced while allowing modest infill development to meet citywide housing needs (10-A DCMR §§ 225.4–225.5). The Project advances these objectives by introducing new housing, including affordable units, on an underutilized site near a high-priority transit corridor. Its height, scale, and massing are designed to respect and transition to the lower-density residential context east of 42nd Street, N.W., consistent with the GPM. The Project also supports Comprehensive Plan goals by providing affordable housing in an area with strong existing access to transit, services, and amenities, which the Comprehensive Plan identifies as appropriate for expanded housing opportunities. Overall, the PUD balances neighborhood conservation with the District's housing needs. The PUD Site is located within a Future Planning Analysis Area, which requires the completion of a planning analysis that includes a development framework (10-A DCMR §§ 2310.4, 2503.2). The Wisconsin Avenue Development Framework satisfies this requirement, thereby providing the type of planning analysis anticipated by the Implementation Element and supporting the Commission's consideration of the proposed PUD and related Zoning Map Amendment (*Id.*);

(c) ***Land Use Element***. The Project supports the policy objectives of the Land Use Element, which is the Element that should be given the greatest weight (10-A DCMR § 300.3). By delivering 126 residential units, 33% of which will be reserved as affordable housing near the Friendship Heights Metro station, the Project advances key Land Use Element policies. The PUD Site's transit-oriented location promotes walkability, reduces car dependence, and supports mixed-income housing. The Project leverages this location by providing the required number of bicycle parking spaces and incorporating off-site improvements to enhance the pedestrian experience and improve connectivity within the neighborhood. In addition to revitalizing an underutilized site, the development strengthens corridor activity along Wisconsin Avenue and offers public benefits, including removal of the 705-foot television tower and streetscape improvements. The Project remains compatible with the surrounding residential context through thoughtful design and incorporates neighborhood beautification measures, such as streetscape and landscaping improvements, developed in response to community feedback and reflected in the Memorandum of Understanding negotiated with ANC 3E (*See* Land Use Element Policies LU-1.4.1, LU-1.4.2, LU-1.4.6, LU-1.5.1, LU-2.1.3, LU-2.1.5, LU-2.1.13, LU-2.2.4; Ex. 3F, 81, 88C);

(d) ***Transportation Element***. The Project supports the Transportation Element by advancing transit-oriented development near the Friendship Heights Metro station and enhancing pedestrian infrastructure. Streetscape improvements, including upgrading sidewalks and crossings, improving last-mile connectivity and encouraging walking and biking. By providing affordable housing near transit, the Project promotes equitable transportation access and reduces reliance on cars through thoughtful transportation demand strategies. These features align with the District's goals for safety, sustainability, and accessibility (*See* Transportation Element Policies T-1.1.4, T-1.1.7, T-2.4.1, T-2.4.2, T-3.1.1; Ex. 3F);

(e) ***Housing Element***. The Project advances key Housing Element goals by delivering 126 residential units, including a mix of market-rate and affordable units with family-sized options, in a high-cost, transit-accessible location. Through the PUD process, the Project uses zoning incentives to expand affordable housing, helping to meet production targets and support demographic diversity and equity (*See* Housing Element Policies H-1.1.1, H-1.1.2, H-1.1.5, H-1.1.8, H-1.1.9, H-1.2.2, H-1.2.3, H-1.2.7, H-1.2.9, H-1.2.11; Ex. 3F, 81);

(f) ***Environmental Protection Element***. The Project supports the Environmental Protection Element by pursuing a building design that will achieve the minimum number of points equivalent to the LEED Gold standard. The Project also incorporates all-electric residential units, energy- and water-efficient features, green roofs, solar readiness, EV-ready parking, and transit access to reduce emissions and utility costs. Permeable landscaping, new trees, and stormwater controls replace existing paving to mitigate heat island effects and development impacts (*See* Environmental Protection Element Policies E-1.1.2, E-2.1.2, E-2.1.3, E-3.1.1, E-3.2.3, E-3.2.5, E-4.1.1, E-4.1.2, and E-4.4.1; Ex. 3F, 81, 88); and

(g) ***RCW Area Element***. The Project is not inconsistent with the RCW Area Element, which emphasizes the need for increased affordable housing and context-sensitive infill development. Located in a high-cost area with limited affordable options, the Project delivers 126 new residential units, 33% of which would be reserved as affordable housing. The design provides a thoughtful transition from the higher-density uses along Wisconsin Avenue to the single-family homes east of 42nd Street, N.W. Redevelopment of the PUD Site also removes a 705-foot television tower, a longstanding community concern, improving views and enhancing the corridor's character. By revitalizing underutilized land, adding green space, and aligning with neighborhood scale and design, the Project supports the Area Element's housing production and conservation objectives (*See* RCW Area Element Policies. (*See* RCW-1.1.1, RCW-1.1.4, RCW-2.2.1, RCW-2.2.5; Ex. 3F, 81).

53. Racial Equity. The Applicant provided the following information regarding the community, the Project's potential impacts, and related outreach in its responses to the Community Outreach and Engagement component of the Commission's REA Tool:

(a) ***Community Outreach and Engagement***: The Applicant stated that it has engaged extensively with stakeholders since 2018, including ANC 3E, the Harrison Condominium Homeowners' Association, and neighboring residents, through

dozens of meetings and ongoing communication. The Applicant began presenting the redevelopment concept at public ANC meetings in May 2018 and continued outreach through 2024, including updated presentations in March and June 2024 ahead of filing the Application. Community feedback directly shaped key elements of the Project, including the inclusion of family-sized units in response to a demand for housing that accommodates larger households, the decision to make all residential units fully electric to reflect sustainability goals, the provision of HANTA-based units to promote affordability, and the decision on the number of parking spaces to address on-street parking concerns. Parking was among the issues raised by the community, but stakeholders also expressed support for the Project's efforts to enhance the neighborhood and respond to local priorities;

(b) ***Displacement***: The Project would not displace any residents or businesses, as the PUD Site is paved and used for parking, and contains a 705-foot-high inoperable television tower that would be removed; and

(c) ***Demographic Trends and Neighborhood Impact***: The Applicant provided an assessment of demographic trends in Friendship Heights, noting stagnant population growth, aging demographics, and limited housing production. The Project's 126 new residential units, with 33% reserved as affordable at varying income levels, are intended to expand housing access, diversify household types, and attract a broader range of residents. The Applicant also described design features that will enhance livability, support neighborhood revitalization, and align with the Wisconsin Ave DF's vision for a more inclusive, walkable, and vibrant community.

(Ex. 3F, 23C, 81).

54. Potential Comprehensive Plan Inconsistencies. The Applicant identified three Comprehensive Plan policies with which the Project may be viewed as potentially inconsistent: Transportation Element Policy T-1.1.8, which seeks to minimize off-street parking but may be implicated by the Project's provision of 82 spaces where only 37 are required; Housing Element Policy H-1.6.5, which encourages net-zero, energy-efficient housing and sets ambitious sustainability goals that the Project does not yet fully achieve; and Environmental Protection Element Policy E-3.2.2, which calls for net-zero buildings, a standard the Project supports in principle through renewable energy and green features but does not currently meet. However, the Applicant believes that any such inconsistencies are outweighed by the Project's overall consistency with the FLUM, GPM, and a broad range of other Comprehensive Plan policies related to transit-oriented development, new housing, and environmental sustainability (Ex. 3F, 81).

55. Wisconsin Avenue Development Framework. The Applicant discussed how the Project furthers the objectives and recommendations of the Wisconsin Ave DF, which provides a coordinated strategy to guide zoning changes and support new housing, including affordable units, along the Wisconsin Avenue corridor. The Project aligns with this vision by delivering a high-quality residential building with significant affordable housing, pedestrian-oriented design, and a scaled transition to adjacent low-density neighborhoods.

The Project is also consistent with both the Friendship Heights Transition Zone and Mixed-Use Corridor Zone recommendations, helping to activate underutilized land, enhance the public realm, and support inclusive, transit-oriented development. The Applicant also discussed how the Project would advance the guiding principles for the corridor that are relevant to the PUD Site, as follows:

(a) ***Develop housing as the principal use***: Provides a 126-unit multifamily residential building;

(b) ***Design open spaces for social interaction***: Includes landscaped courts and tree-lined streets to support gathering;

(c) ***Minimize parking and locate it below grade***: Places parking below grade and includes a TDM plan to mitigate impacts;

(d) ***Activate streetscape with pedestrian amenities***: Improves street edges with landscaping and potential seating elements;

(e) ***Design streetwall with transparency and articulation***: Features a streetwall of just over 50 feet along Garrison Street, N.W. with a canopy, Juliet balconies, and articulated bays and stoops that enhance the residential character and activate the sidewalk;

(f) ***Transition building scale near low-density areas***: Breaks up massing into four pavilion features along 42nd Street, N.W. to reduce scale;

(g) ***Maximize energy efficiency and access to light/air***: Uses efficient systems, high-performance windows, and open layouts;

(h) ***Provide private outdoor spaces***: Offers Juliet balconies, full balconies, terraces, and ground-level courts;

(i) ***Modulate massing to allow for larger units***: Project's configuration creates more corners and optimizes layouts, allowing for additional two- and three-bedroom units suitable for larger households;

(j) ***Design for a range of households***: Mix of unit types and proximity to transit, schools, and parks supports diverse residents;

(k) ***Use courtyards/terraces to add vegetation and light***: Open courts and rooftop terraces enhance livability and greenery; and

(l) ***Prioritize rooftops for residential and green use***: Rooftops include units, green roofs, solar panels, and amenity spaces.

(Ex. 3F, 81).

NO UNACCEPTABLE PROJECT IMPACTS ON THE SURROUNDING AREA OR THE OPERATION OF CITY SERVICES (SUBTITLE X § 304.4(b))

56. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(b); that is, the Project does not create unacceptable impacts on the surrounding area or on the operation of city services and facilities but instead would be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project, as outlined below:

(a) ***Land Use Impacts***. The Applicant asserted that the Project's land use impacts would be favorable. The current use of the PUD Site does not align with the District's transit-oriented development goals. In contrast, the proposed residential

use will revitalize and activate a severely underutilized property, replacing the existing 705-foot radio tower and surface parking with a more efficient, transit-oriented development. The Project will deliver approximately 126 new residential units, including affordable housing that significantly exceeds matter-of-right requirements. Its scale and design are appropriate for the Site's location between the mixed-use Wisconsin Avenue corridor and a lower-density residential neighborhood, and it aligns with the District's vision for the Site and surrounding area;

(b) ***Zoning Impacts***. The Applicant asserted that any zoning-related impacts would be favorable or acceptable given the quality of public benefits. The proposed rezoning of the R-2 zoned portion of the PUD Site to the RA-3 zone will allow for increased residential density, but any potential adverse impacts are minimal. Density will be generated only from the RA-3 zoned portion but distributed across the entire PUD Site, including the MU-4 portion, which will remain unchanged. The proposed building height of 50 feet, three inches is below the RA-3 maximum of 60 feet (or 75 feet with a PUD) and only modestly exceeds the 40-foot limit in the R-2 zone;

(c) ***Urban Design and Aesthetic Impacts***. The Applicant asserted that urban design and aesthetic impacts would be favorable. The PUD Site is currently visually unappealing due to the inactive 705-foot television tower and surface parking lot. The Project will replace these features with four small-scale residential buildings that relate well to the surrounding lower density neighborhood. Although the Project achieves a maximum FAR of 4.308, it presents a more compatible apparent FAR of 3.06 when considered across the full PUD Site. Overall, the Project will significantly improve the visual character of the PUD Site and its relationship to adjacent development;

(d) ***Housing Impacts***. The Applicant asserted that the Project will result in favorable housing impacts by delivering 126 new residential units, including a significant amount of affordable housing, on a site that currently contains no housing. The affordable units will be reserved at a range of income levels, supporting the creation of a diverse residential community in a highly desirable location;

(e) ***Transportation and Mobility Impacts***. The Applicant asserted that transportation and mobility impacts would be capable of being mitigated or acceptable given the quality of public benefits and its commitments under the Memorandum of Understanding with ANC 3E. The PUD Site is located in a transit-oriented area with existing infrastructure that supports multimodal access. The Project will enhance pedestrian and bicycle connectivity through streetscape improvements and increased access to the Wisconsin Avenue corridor. Vehicular access to the underground parking garage will be limited to the private alley, reducing potential conflicts with pedestrians and cyclists. The proposed TDM Plan includes measures to address potential impacts associated with providing 82 parking spaces at the PUD Site. Additional on-site and off-site improvements, as provided in the Memorandum of Understanding with ANC 3E, including bulb-outs with bioretention at Garrison and 42nd Streets, N.W. that will be provided as a benefit of

the PUD, further ensure that transportation impacts are capable of being mitigated or are otherwise acceptable;

(f) ***Environmental Impacts***. The Applicant asserted that environmental impacts would be favorable. The existing conditions at the PUD Site, which include a nonoperating 705-foot television tower and a surface parking lot, provide little environmental benefit. The Project will incorporate rooftop solar panels, green roof systems over the underground parking garage and building roof, and other sustainable measures. Environmental impacts are further favorable because of the Applicant's commitment to designing a building that will achieve the minimum number of points equivalent to the LEED Gold standard, which promotes reduced energy use;

(g) ***Educational Facilities Impacts***. The Applicant asserted that impacts to educational facilities would be capable of being mitigated or acceptable given the quality of public benefits. The PUD Site is within the boundaries of Janney Elementary School, Deal Middle School, and Jackson-Reed High School, which are projected to be highly utilized by School Year 2027–2028. DC Public Schools is considering boundary adjustments or an addition for Janney, has planned an addition for Deal in its Fiscal Year 2024–2029 Capital Improvement Plan, and is monitoring enrollment at the recently opened MacArthur High School to ease pressure on Jackson-Reed. Additional improvements may be pursued as needed to address capacity and facility needs;

(h) ***Cultural and Public Safety Impacts***. The Applicant asserted that public safety and cultural impacts would be favorable. The addition of many new residents promotes "eyes on the street" and, coupled with the design of the Project, will establish a neighborhood-like feel at this transitional location between the Wisconsin Avenue corridor and lower density residences surrounding the PUD Site. New residents may also support cultural activity in Friendship Heights; and

(i) ***Construction Impacts***. The Applicant asserted that construction impacts would be acceptable given the quality of public benefits or capable of being mitigated. With experience delivering similar projects, including initiating construction of the adjacent development at 5151 Wisconsin Avenue, N.W., the Applicant indicated that it is familiar with the site and well-positioned to manage construction responsibly. The Applicant also negotiated construction management-related commitments in the Memorandum of Understanding with ANC 3E.

(Ex. 3, 23B, 81, 88C).

INCLUDES PUBLIC BENEFITS AND PROJECT AMENITIES THAT ARE NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN, SMALL AREA PLAN. OR OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PUD SITE (SUBTITLE X § 304.4(c))

57. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(c). The Applicant also submitted evidence that the Project's public benefits and project amenities are not inconsistent with the Comprehensive Plan or other public policies, and that such benefits and amenities satisfy the criteria of Subtitle X § 305. The Applicant asserted, particularly with respect to the affordable housing proffer, that the proffered benefits exceed what could be achieved through matter-of-right development, are tangible

and measurable, can be delivered prior to the issuance of a certificate of occupancy, and benefit either the immediate neighborhood or address District-wide priorities *(Id.* at §§ 305.2, 305.3). The majority of the benefits accrue to the area of ANC 3E, the ANC in which the Project is located (*Id.* at § 305.4; Ex. 3, 14, 23, 81, 89A).

58. The Application, as amended, enumerated a range of benefits and amenities that are superior to what could be provided through a matter-of-right project. These benefits and amenities, which are described in detail in FF ¶ 39 and organized according to the categories set forth in Subtitle X § 305.5, are as follows:
(a) Superior Urban Design and Architecture (*Id.* § 305.5(a));
(b) Site Planning and Efficient and Economical Land Utilization (*Id.* § 305.5(c));
(c) New Housing (*Id.* § 305.5(f)(1) and (3));
(d) Affordable Housing (*Id.* § 305.5(g));
(e) Environmental and Sustainability Benefits (*Id.* § 305.5(k));
(f) Streetscape Plans (*Id.* § 305.5(l));
(g) Park Maintenance (*Id.* § 305.5(n));
(h) Non-Mitigation Transportation Improvements (*Id.* § 305.5(o));
(i) Uses of Special Value (*Id.* § 305.5(q)); and
(j) Other Public Benefits and Project Amenities that Substantially Advance the Comprehensive Plan (*Id.* § 305.5(r)).
(Ex. 3, 23, 81, 91A).

SATISFACTION OF THE PUD ELIGIBILITY STANDARDS AND ZONING FLEXIBILITY

59. The Applicant demonstrated that the Project meets the purposes and requirements for a PUD and justified the requested zoning flexibility, as set forth in FF ¶¶ 60-64 below.

60. PUD Purposes (*Id.* at §§ 300.1 and 300.2).
(a) ***Superior to matter-of-right development***. The Project is superior to a matter-of-right development because it delivers significantly more housing and affordable housing than what could otherwise be built on the site. Rezoning a portion of the PUD Site to the RA-3 zone allows multifamily development that is not feasible under the existing R-2 zoning, which would result in detached or semi-detached townhomes and only one IZ unit. Even under RA-3 zoning, a matter-of-right development could yield at most 12 IZ units. In contrast, the PUD includes 42 affordable units, representing 33% of the total 126 multifamily units. This includes approximately 13 IZ units at 50 and 60% MFI, along with 29 additional units at 80% MFI through the District's HANTA program. This mix provides both a greater number of affordable units and a wider range of affordability levels than would be possible without the PUD. These commitments, combined with the redevelopment of a severely underutilized site and a comprehensive package of public benefits and amenities, would not be achievable without the PUD and related Zoning Map Amendment;
(b) ***Protects and advances the public health, safety, welfare, and convenience***. The Project protects and advances the public policies underlying the Zoning

Regulations by redeveloping currently underutilized land with housing and affordable housing in a centrally located, transit-rich area of the District. The development of underutilized property with new housing and affordable housing advances the public health, safety, welfare, and convenience goals of the District by converting an underutilized lot into a more productive and context-appropriate use; and

(c) ***Does not circumvent the intent and purposes of the Zoning Regulations***. The Project and proposed PUD related Zoning Map Amendment to RA-3 are consistent with the purposes of the Zoning Regulations and the PUD process. While the FLUM designates a portion of the site as Moderate-Density Residential, the RA-3 zone is appropriate given the Project's design, housing production, and alignment with District goals. The PUD results in a higher quality development than would be possible as a matter-of-right, provides meaningful public benefits including deep and broad affordability, and promotes public health, safety, welfare, and convenience in a manner that is not inconsistent with the Comprehensive Plan. The site's configuration allows all density to be generated from the proposed RA-3-zoned portion spreading massing across the entire site, resulting in an apparent FAR of 3.06 (total FAR of 4.308 on RA-3 zoned portion of site) compared to the 4.32 FAR permitted for an RA-3-zoned PUD. This approach ensures the Project fits within its context and fulfills the purpose of the PUD process under Subtitle X § 300.1.

(Ex. 3, 3F, 14, 23, 81, 88).

61. Minimum Land Area (*Id.* at § 301.1). The PUD Site includes land in both the MU-4 and RA-3 zones, each of which requires a minimum of 15,000 square feet for a PUD. With a total area of approximately 40,357 square feet, the Site meets the minimum land area requirement for both zones (Ex. 3, 23A1).

62. PUD Flexibility (*Id.* at §§ 303.3, 303.7). The PUD includes a full allocation of IZ units and generates all density from the 28,654 square feet of proposed RA-3-zoned land, allowing a maximum FAR of 4.32 (123,785 square feet of GFA). The proposed FAR for the Project is 4.308, with 123,444 square feet of GFA and a building height of 50 feet, three inches, which is within the 75-foot limit for PUDs in the RA-3 zone. Accordingly, the Application satisfies the applicable PUD guidelines (Ex. 3, 23A1).

63. PUD-Related Map Amendment (*Id.* at § 303.12). The Application includes a PUD-related Zoning Map amendment to rezone the R-2 portion of the Site to RA-3, which is considered flexibility to be weighed against the PUD's public benefits. The R-2 zone permits one principal dwelling and one accessory apartment per lot, with a maximum height of 40 feet and three stories. The RA-3 zone permits up to 3.6 FAR with IZ (or 4.32 with a PUD) and a height of 60 feet (or 75 feet with a PUD). The Project proposes a total FAR of 4.308 and a building height of 50 feet, three inches, consistent with RA-3 PUD standards (Ex. 3, 23A1, 81).

64. Additional PUD-Related Zoning Flexibility (*Id.* at § 303.1(a)). The Applicant requests two areas of PUD-related zoning flexibility pursuant to Subtitle X § 303.1(a), even though the Project otherwise complies with RA-3 development standards across both the PUD Site and the Record Lot. The requested flexibility relates to:
    (a) ***Penthouse Side Setback (West Elevation)*** – Relief from the 1:1 setback required under Subtitle C § 1504.1(c)(2) is warranted, as the penthouse is intentionally located on the west side of the building to reduce visibility and shift massing away from the adjacent single-family neighborhood. The noncompliant elevation faces a private alley and will not be visible from public streets. A compliant setback would compromise the penthouse layout, reduce affordable housing, and create structural and code challenges for wood-frame construction. Flexibility would also preserve rooftop area for green roof and solar installations; and
    (b) ***Rear Yard (PUD Site Boundary)*** – While the Project complies with rear yard requirements when measured from the Record Lot under Subtitle B § 318.8, the Applicant seeks flexibility as a precaution when measuring from the PUD Site boundary. In that case, the Project provides 10 feet, 9 inches where 17 approximately feet is required. The Applicant asserted that the deviation is de minimis given the approximately 25.5 feet of separation from the abutting building at 5151 Wisconsin Avenue, N.W., which includes the width of the private alley, and that this distance is sufficient to avoid adverse impacts (Ex. 3, 23A1, 81).

SPECIAL EXCEPTION TO PERMIT OFF-SITE ACCESSORY PARKING

65. The Applicant requested special exception relief to permit off-site accessory parking spaces within the underground garage serving the Project but located outside the PUD Site boundary. The proposed plans for the Project show that six spaces are within R-2 zoned property abutting the PUD Site to the north and form part of the adjacent parcel at 5151 Wisconsin Avenue, N.W., which is included in the Record Lot but excluded from the PUD Site. The Applicant cited the Commission's authority under Subtitle X § 303.13 and Subtitle U § 203.1(k) to grant such relief and provided information demonstrating compliance with all applicable conditions of Subtitle U § 203.1(k)(1)–(11). The Applicant also asserted that the relief satisfied the general special exception standards under Subtitle X § 901.2(a) and (b), noting that the parking would serve a residential use, remain fully below grade, and be imperceptible from public view. As such, the request was in harmony with the Zoning Regulations and Map and would not result in adverse impacts on neighboring properties (Ex. 3, 81).

IV. RESPONSES TO THE APPLICATION

OP

OP Setdown Report

66. On November 4, 2024, OP submitted a report (the "OP Setdown Report") recommending that the Commission set the Application down for a public hearing (Ex. 11). The OP Setdown Report stated that the Application would not be inconsistent with the maps and policies of the Comprehensive Plan and, specifically, would not be inconsistent with the

Property's Neighborhood Conservation Area designation on the GPM and its Moderate Density Residential and Mixed-Use (Medium-Density Residential/Moderate-Density Commercial) designations on the FLUM. OP also found the Application to further racial equity and policies from the Land Use, Housing, Transportation, Environmental Protection, and Urban Design Elements, as well as the RCW Area Element and the Wisconsin Avenue DF. The OP Setdown Report also included the following comments:

(a) OP stated that the proposal would not be inconsistent with the PUD Site's FLUM designations because the Comprehensive Plan anticipates added density through a PUD or IZ, and the proposed PUD exceeds IZ requirements and yields a 3.06 FAR across the site, consistent with the Moderate-Density Residential designation;

(b) OP found that the proposal would not be inconsistent with the GPM's Neighborhood Conservation Area designation, which supports infill that addresses citywide housing needs, and that the Project advances this goal by delivering new and affordable housing;

(c) In its evaluation of the Project's consistency with the Land Use Element, OP stated that the Project would replace a surface parking lot and defunct radio tower with new housing, including 33% affordable units, and serve as transitional infill that advances housing diversity along a major corridor;

(d) OP found that the Project would not be inconsistent with the Wisconsin Ave DF, which envisions moderate-density residential use through a PUD, and aligns with goals for transitional scale, housing diversity, sustainability, and pedestrian access.

(e) OP stated that it would review the requested zoning flexibility further and provide a recommendation prior to the hearing;

(f) OP found that the Applicant's proposed public benefits and amenities package, including superior design, site planning, new and affordable housing, environmental features, streetscape improvements, and removal of the obsolete tower, would generally satisfy the standards of Subtitle X § 305.5, and stated that it would provide additional analysis following the Applicant's final submission;

(g) ***Potential Inconsistencies*** – OP identified potential inconsistencies with Comprehensive Plan policies related to parking near transit and sustainability, noting that the proposed parking exceeded requirements and may have conflicted with policies discouraging excessive off-street parking near Metro stations (Policies LU-1.4.7, LU-2.1.11, and T-1.1.8), while also noting that the Applicant had committed to working with DDOT to study and mitigate potential impacts. OP also found that although the Project included several sustainable features, it did not yet fully align with the District's net-zero energy and water efficiency goals (Policy H-1.6.5); and

(h) ***Racial Equity*** – OP stated that the Application is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens, citing its application of the Zoning Commission's REA Tool and analysis of disaggregated race and ethnicity data for the RCW Planning Area, and noted that the Applicant provided background on how exclusionary land use and lending practices have historically limited housing access in the area.

OP Hearing Report

67. On July 3, 2025, OP filed a hearing report recommending that the Commission approve the Application, and on July 21, 2025, submitted a follow-up report outlining four corrections[2] (Ex. 35, 87, together the "OP Hearing Report", and collectively with the OP Setdown Report the "OP Reports"). The OP Hearing Report also included the following comments:

(a) OP summarized its prior comments on the Application and the Applicant's responses to the Commission's comments given at the November 14, 2024, public meeting;

(b) OP did not object to the zoning flexibility requested by the Applicant. OP found the reduced penthouse setback on the west elevation acceptable given its orientation toward the alley and away from residential areas. OP also supported the rear yard relief, noting the building's sufficient separation from adjacent structures;

(c) OP supported the special exception for the off-site accessory parking spaces in the underground garage extending into the R-2 zone, finding the request met all conditions of Subtitle U § 203.1(k);

(d) The OP Hearing Report summarized OP's analysis of the Project under the Citywide Elements and the RCW Area Element of the Comprehensive Plan, reaffirmed that the Project is not inconsistent with the Comprehensive Plan, and reiterated that it would not be inconsistent with the Wisconsin Avenue Development Framework;

(e) OP restated that the Project is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and concluded that it is not expected to result in adverse impacts on city services, traffic, or parking, and that the proposed public benefits are commensurate with the degree of flexibility requested;

(f) OP supported the Applicant's requested design flexibility, but did not support flexibility for sustainable features due to insufficient detail and commitment;

(g) Regarding the proffered environmental and sustainable benefits pursuant to Subtitle X § 305.5(k), the OP Hearing Report noted that while the Application references green roofs, rooftop solar panels, EV-ready parking, and enhanced stormwater management, it provides limited detail or commitment. OP encouraged the Applicant to provide greater clarity regarding these features to pursue a building design that can achieve the minimum number of points equivalent to the LEED Gold standard; and

(h) OP noted that DDOT would file a report with conditions and ask the Applicant to explore a speed bump during public space permitting; and OP noted that DOEE provided comments in support encouraging consideration of electric options for whole-building systems.

[2] OP's follow-up report corrected the land area subject to the PUD-related map amendment (28,654 square feet), noted that the Project is separated from adjacent structures by a private rather than public alley, clarified that the requested rear yard PUD-related zoning flexibility is pursuant to Subtitle B § 318.8 not Subtitle D, and clarified that the request for accessory off-site parking in the R-2 zone is being pursued as a special exception rather than PUD-related zoning flexibility.

68. The OP Hearing Report included a racial equity analysis with the following findings in response to the REA Tool:

(a) ***Guidance Regarding the Comprehensive Plan –*** OP reiterated that the proposal is not inconsistent with the Comprehensive Plan's FLUM and GPM designations, is not inconsistent on balance with the Citywide Elements—including Land Use, Transportation, Housing, Environmental Protection, and Urban Design—and is not inconsistent with the RCW Area Element, citing policies RCW-1.1.1, RCW-2.2.1, RCW-2.2.5, and RCW-2.2.A, while also acknowledging the four potential inconsistencies previously raised in the OP Setdown Report;

(b) ***Community Outreach and Engagement*** – OP cited to the Applicant's outreach efforts described in its Comprehensive Plan evaluation (Ex. 3F), noting ongoing engagement since 2018 with neighbors, the Harrison Condominium Homeowners Association, and ANC 3E. OP stated that community input led to changes such as more family-sized units, improved environmental features, removal of the television tower, and dedicated affordable housing, and that the Applicant finalized a memorandum of understanding with ANC 3E on June 12, 2025;

(c) ***Disaggregated Race and Ethnicity Data*** – The OP Hearing Report provided disaggregated race and ethnicity data for the RCW Planning Area, which has the highest percentage of White residents and the lowest percentage of Black residents among all ten planning areas. OP noted that median income for Black residents in the area declined over the 2012-2016 and 2018-2022 time periods, a trend observed in only one other planning area. OP also found that the area has relatively high homeownership rates, lower poverty and unemployment than the District average, and a limited supply of dedicated affordable housing, with only 355 affordable units produced as of September 2024, representing 11.6% of the District's target for the area. OP concluded that the Project, which would deliver 126 new residential units, 33% of which would be dedicated affordable housing, would help advance the District's housing equity goals by expanding access to affordable housing in a high-opportunity area with historically limited availability; and

(d) ***Zoning Commission Evaluation Factors*** –The OP Hearing Report addressed the factors under the REA Tool, including displacement, housing, physical environment, access to opportunity, and community engagement. OP found that the Project would not cause direct or indirect displacement, would provide positive changes to housing, improve public space and neighborhood character, and was responsive to community input. While the Project would not directly deliver new services as an all-residential building, it would support and improve access to existing opportunities in Friendship Heights.

(Ex. 35).

69. At the July 14, 2025 public hearing, OP testified in support of the Application and summarized its comments in its prior reports (Hearing Tr. at pp. 70-74).

DDOT

70. On July 3, 2025, DDOT filed a report (Ex. 36) expressing no objection to the Application with the conditions stated below in the Order. DDOT noted that the Project will include three times more vehicle parking spaces than DDOT estimates are needed; however, to offset excess parking leading to additional driving, the Applicant has agreed to make physical improvements to the pedestrian network to encourage walking and discourage driving:
    (a) Implement the TDM Plan as proposed in the Applicant's May 15, 2025, Transportation Statement (Ex. 23B) for the life of the Project, unless otherwise noted with the following revisions:
        - Specify the minimum number of long-term bicycle parking spaces to be located horizontally on the floor (50% would be at least 21) and the amount to be designed with electrical outlets for e-bikes/scooters (10% would be at least four); and Also, specify that at least two spaces will be designed with the larger 10 feet by three feet design for cargo and larger bikes; and
        - Install a minimum of three additional inverted U bike racks near the building entrance instead of an in-street micromobility corral.
    (b) Implement the following infrastructure improvements in public space, subject to DDOT approval:
        - Add intersection "daylighting" at all four corners of the Garrison Street, N.W. and 42nd Street, N.W. intersection to increase visibility of pedestrians and slow down vehicles traveling to and from the site (or Harrison Street, N.W. and 42nd Street, N.W., if subsequent improvements are made at Garrison Street, N.W.); and
        - Construct a speed hump on 42nd Street, N.W. between Garrison and Harrison Streets, N.W.

71. At the July 14, 2025 public hearing, DDOT testified in support of the Application and confirmed the Applicant's coordination with DDOT regarding the Project's transportation impacts. DDOT also confirmed agreement on the proposed TDM Plan, as well as the agreed-upon off-site improvements and traffic calming measures (Hearing Tr. at pp. 69-70).

OTHER DISTRICT AGENCIES

72. The OP Hearing Report stated that OP had referred the Application to relevant government agencies for comment and had convened an interagency meeting with the Applicant, which was attended by DOEE, DHCD, DDOT, FEMS, MPD, and DC Water. DOEE provided comments in support of the application that were included as Attachment II of the OP Hearing Report (Ex. 35).

73. The Office of the Attorney General Equitable Land Use Section ("OAG") submitted comments on the Application in a letter dated July 3, 2025, and also testified at the July 14, 2025 public hearing (Ex. 34-34A, 47; Hearing Tr. at pp. 64-68). OAG's written comments and testimony stated that OAG supported the Application based on the

Applicant's significant affordable housing proffer and elaborated on its support based on provisions of the Comprehensive Plan.

ANC 3E

74. Pursuant to Subtitle Z § 406.2 on July 7, 2025, ANC 3E submitted a resolution (the "ANC Resolution") stating that at its properly noticed meeting on June 12, 2025, at which a quorum was present, the ANC voted 5-0-0 in support of the Application (Ex. 38). ANC 3E expressed support for the Application and summarized the public benefits memorialized in a Memorandum of Understanding with the Applicant (Ex. 88C), along with aspects of the PUD that the ANC believed would positively impact both existing and future residents of the surrounding community.

ORGANIZATIONS AND INDIVIDUALS IN SUPPORT

75. On July 11, 2025, the Coalition for Smarter Growth ("CSG") submitted a letter stating that it supported the Project and that the PUD represented "a rare change to create more affordable homes and give people the option to live in [a] high-opportunity neighborhood." (Ex. 79). Additionally, CSG's letter commended the proposed design and the Applicant's engagement with ANC 3E but also expressed concern that the proposed vehicle parking is excessive and requested a reduction in parking. CSG testified in support at the July 14, 2025, public hearing (Hearing Tr. at pp. 75-77).

76. The following individuals submitted letters in support of the Application: Rachel Davis, Barbara Kraft, Jacob Barker, Louise Brodnitz (2x), Peter Zorc, Matthew Bank, Paul Brown, Susan C. Price, Jennine Carmichael, Jamie Butler, Steven Segerlin, Tim Abrams, Parrie Henderson, Dr. Lawrence Martin, Kevin O'Halloran, Larry Cohen, Ellen Jones, Jose de Arteaga, Caroline O'Shea, Douglas Stallworth, Elizabeth Vaden, Dennis Jing, Rachel Warner, Shalom Flank, Lucia Pollock, Dennis Sendros, Joey Biaetti, Justin Schor, Valerie Wheeler, Jared Alves, Francis Dandrea, Tom Lalley, Kateri Spear, Louisa Farley, Regi Sellote, Randall Keesler, Elizabeth Floyd, Anna Marie Yombo, Elizabeth Borkowski, Ileana Schinder, Dr. Declan Cullen, Elizabeth Belair, Matt Erickson, Scott Burger, Rick Rybeck, Chuck Elkins, Rosalyn Doggett, and Jesse Abraham (Ex. 25-33, 37, 39, 41-45, 48-52, 54-78, 82-84).

INDIVIDUALS IN OPPOSITION

77. On July 13, 2025, residents of the 5100 block of 42nd Street, N.W. (collectively, the "Adjacent Neighbors"), who directly face the PUD Site, submitted written testimony and questions for the Commission's consideration (Ex. 80). The Adjacent Neighbors raised concerns regarding the following: consistency with the Comprehensive Plan; the proposed building height and whether a shorter building is feasible; potential impacts to light and air and whether impact studies including shadow studies were completed; potential street parking impacts and whether the Project will be exempt from Residential Parking Permit eligibility; whether the television tower will be removed; potential construction related noise and vibration impacts and expected construction timetable in coordination with adjacent development of 5151 Wisconsin Avenue, N.W.; and whether the PUD and related

map amendment development rights could be transferred to another entity to overdevelop the Property with another design. The Adjacent Neighbors, including Jedd Skibo, Andrea Fishman, and Jake Van Leer, testified in opposition during the public hearing held on July 14, 2025 [3] (Hearing Tr. at pp. 77–79; 83–90).

OTHER ORGANIZATIONS

78. On July 10, 2025, Shelly Repp, Chair of the Committee of 100 on the Federal City ("C100"), filed written comments in the record that commended the Applicant's efforts to generate new affordable housing, but raised issue with the IZ component of the Applicant's affordable housing proffer being the bare minimum and requested that the Applicant enhance its affordable housing proffer to include a higher percentage of units at 60% MFI using the IZ Plus standard as a guide. The comments also stated that this Project and the BZA approval for adjacent development of 5151 Wisconsin Avenue, N.W. should have been a single combined PUD instead of two separate projects. Mr. Repp testified on behalf of the C100 at the public hearing held on July 14, 2025 (Hearing Tr. at pp. 79-83).

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

79. On July 17, 2025, the Commission referred the Application to NCPC for the 30-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2); D.C. Official Code 6-641.05)) (Ex. 86).

80. On August 28, 2025, NCPC staff filed a letter stating that NCPC staff determined that the proposal falls under an exception of NCPC's submission guidelines and is exempt from NCPC review (Ex. 93).

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) a consolidated PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle Z; (b) a PUD-related zoning map amendment pursuant to Subtitle X § 303.12; and (c) PUD-related zoning flexibility pursuant to Subtitle X § 303.1.

STANDARD OF REVIEW FOR APPROVAL OF A PUD AND RELATED ZONING MAP AMENDMENT

2. Public Review. Pursuant to Subtitle X § 300.5, "A comprehensive public review by the Zoning Commission of a PUD is required in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits."

3. Land Area and Contiguity. Pursuant to Subtitle X §§ 301.1 and 301.5, the minimum area for a PUD in the applicable RA-3 zone is 15,000 square feet, all of which must "be

[3] During the public hearing, Mr. Van Leer raised a concern regarding notice (Hearing Tr. at p. 83). The Commission finds no issue with notice and concludes that the Application complied with the public notice requirements set forth in Subtitle Z §§ 402.3 and 402.4. Any non-receipt of notice is reasonably attributed to an outdated mailing address in the records of the Office of Tax and Revenue (Ex. 20).

contiguous, except that the property may be separated only by public streets, alleys, or rights-of-way."

4. PUD Purposes. Pursuant to Subtitle X §§ 300.1 and 300.2, 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 project amenities; (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan; and (d) does not circumvent the intent and purposes of the Zoning Regulations , or to result in action that is inconsistent with the Comprehensive Plan.

5. Comprehensive Plan. Pursuant to Subtitle X §§ 300.1, 300.2, and 304.4(a), the Commission must find that the PUD "is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site." The Commission is directed to review the Application against the Comprehensive Plan "as a whole."[4] The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b)) established the Comprehensive Plan's purposes are:
   (a) To define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;
   (b) To guide executive and legislative decisions on matters affecting the District and its citizens;
   (c) To promote economic growth and jobs for District residents;
   (d) To guide private and public development in order to achieve District and community goals;
   (e) To maintain and enhance the natural and architectural assets of the District; and
   (f) To assist in conservation, stabilization, and improvement of each neighborhood and community in the District.
6. Impacts. Pursuant to Subtitle X § 304.4(b), the Commission must find the Application "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."

7. Benefits and Amenities. Pursuant to Subtitle X § 304.4(c), the Commission must find the PUD "[i]ncludes specific public benefits and project amenities of the proposed

[4] *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016) ("The Comprehensive Plan is a broad framework intended to guide the future land use planning decisions for the District. Even 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. The Comprehensive Plan reflects numerous occasionally competing policies and goals and except where specifically provided, the Plan is not binding. Thus, the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole. If 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.") (internal citations and quotations omitted).

development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site." Pursuant to Subtitle X § 305.2, 305.3, 305.4, and 305.12, the PUD's benefits and amenities 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 provisions," in majority part "relate to the geographic area of the Advisory Neighborhood Commission in which the application is proposed," and "meet the following criteria: (a) Benefits shall be tangible and quantifiable items; (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need; and (d) Monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided." Moreover, a PUD "may qualify for approval by being particularly strong in only one or a few categories [of public benefits] but must be acceptable in all proffered categories and superior in many.

8. PUD Balancing Test. Pursuant to Subtitle X § 304.3, in reviewing a PUD application, the Commission must: "[J]udge, 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." Pursuant to Subtitle X §§ 303.11 and 303.12: "The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission", and "[a] PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD."

9. Special Exception Relief. Pursuant to Subtitle X § 303.13, "[a]s part of any PUD, the applicant may request approval of any relief for which special exception approval is required." The Commission "shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards." Any such flexibility is considered the type of development flexibility against which the Commission shall weigh the PUD benefits.

10. Evidentiary and Evaluative Standards. Pursuant to Subtitle X § 304.2, "the applicant shall have the burden of proof to justify the granting of" the Application according to the applicable standards. Moreover, "the Commission must address each material contested issue of fact."[5]

SATISFACTION OF PUD ELIGIBILITY STANDARDS

11. Public Review. Based on the July 14, 2025, public hearing (*see* Hearing Tr.) and the Commission's review of the record, the Commission undertook "[a] comprehensive public

[5] *Barry Farm Tenants and Allies Ass'n. v. D.C. Zoning Comm'n*., 182 A.3d 1214, 1224 (D.C. 2018) (citations omitted).

review . . . of [the Application] . . . to evaluate the flexibility or incentives requested in proportion to the proposed benefits in satisfaction of Subtitle X § 300.5.

12. Land Area and Contiguity. The minimum area included in a PUD in the MU-4 zone and the RA-3 zone is 15,000 square feet, and all such area must be contiguous. The PUD Site consists of approximately 40,357 square feet of land area, all of which is contiguous. The Commission concludes that the Application satisfies the minimum land area required under Subtitle X § 301.1 *et seq*. (FF ¶¶ 11, 17, 61).

13. PUD Purposes. Based on the evidence in the record, the Commission concludes that the Project satisfies the purposes of a PUD because:
    (a) The Project is superior to a matter-of-right development because it provides substantially more housing and affordable housing than could be constructed on the PUD Site without the PUD and related Zoning Map Amendment. The existing R-2 zoning on a portion of the PUD Site does not allow multifamily residential use and imposes greater restrictions on height, density, and lot occupancy that would prevent the proposed development configuration, which distributes density across the entire site to create the appearance of four distinct buildings. Under R-2 zoning, a matter-of-right development would yield at most 1 IZ unit, and even under RA-3 zoning, a matter-of-right development would yield at most 12 IZ units. In contrast, the Project will include approximately 13 IZ units within its approximately 42 affordable units, representing 33% of the Project's 126 total unit count. The affordable units will be reserved at a mix of 50%, 60%, and 80% MFI levels, with a minimum of nine three-bedroom units. The IZ component of the affordable housing proffer exceeds applicable requirements of a matter-of-right scenario under the existing R-2 zoning, and the overall affordable housing proffer, including the HANTA component, represents a substantial public benefit that, together with the other amenities proffered with the Application, could not be achieved without the PUD and related Zoning Map Amendment (FF ¶¶ 31, 60);
    (b) The Project offers a commendable number and quality of public benefits and project amenities, as further discussed in FF ¶ 39. The Project's design incorporates four distinct "pavilions" along 42nd Street, N.W., each with varied materials, human-scale detailing, and active streetscape engagement, which together create a refined transition to the surrounding neighborhood and achieve a level of urban design and architecture superior to a matter-of-right development. The Project's site planning transforms a significantly underutilized property into a mixed-income residential community, distributing density to achieve an apparent FAR of 3.06 (total FAR of 4.308 on RA-3 zoned portion of site) while avoiding a single, out-of-scale mass. In addition to the Applicant's affordable housing commitment described above, which reserves 33% of the Project's total units for affordable housing, the Project incorporates an all-electric design, vegetated roofs, rooftop solar panels, EV-ready spaces, and a building design that will achieve the minimum number of points equivalent to the LEED Gold standard, together with streetscape improvements including plantings, sidewalk paving, enlarged tree pits, and new

trees. Other benefits include enhancements to Fessenden Park, pedestrian safety improvements at the intersection of Garrison and 42nd Streets, N.W., and removal of the existing 705-foot television tower. Collectively, these features constitute a package of benefits and amenities that far exceed what would be provided in any matter-of-right development (FF ¶ 39);

(c) The Project protects and advances the public health, safety, welfare, and convenience. The Project redevelops currently underutilized land with housing and affordable housing in a centrally located, transit-rich area of the District, thereby converting an underutilized site into a productive and context-appropriate use that advances the District's housing, equity, and sustainability goals (FF ¶ 31, 60); and

(d) The Project does not circumvent the intent or purposes of the Zoning Regulations. The Project and PUD related Zoning Map Amendment to the RA-3 zone are consistent with the purposes of the Zoning Regulations and the PUD process. The RA-3 zone is intended to permit medium-density residential development, Subtitle F § 101.6, and is appropriate for the PUD Site given the Project's design, housing production, and consistency with District goals. The Project's use, height, and density are consistent with the character of the RA-3 zone, while the distribution of density across the entire PUD Site yields an apparent FAR of 3.06 (total 4.308 FAR) compared to the 4.32 FAR permitted, ensuring compatibility with the surrounding neighborhood. The development of currently underutilized land commensurate with RA-3 standards advances neighborhood stability and contributes to the vitality of the surrounding area (FF ¶¶ 31, 60).

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PROPERTY (SUBTITLE X § 304.4(a))

14. The Commission concludes that pursuant to Subtitle X §§ 300.1, 300.2, and 304.4(a), the Application is not inconsistent with the Comprehensive Plan and with other public policies and active programs, when the Comprehensive Plan is considered as a whole, for the following reasons:

(a) FLUM. The Project is not inconsistent with the FLUM's Moderate-Density Residential and Mixed Use (Medium-Density Residential/Moderate-Density Commercial) designations for the PUD Site. The Commission finds that, in this case, the proposed RA-3 zoning is appropriate for the Moderate-Density Residential category when applied through the PUD process because it allows multifamily development at a scale compatible with the Wisconsin Avenue corridor and the surrounding lower-density neighborhoods and provides the flexibility to deliver meaningful public benefits. The existing R-2 zoning is inconsistent with these designations because it aligns with the Low-Density Residential category and does not permit multifamily residential use. The Application proposes to rezone only the R-2 portion of the PUD Site to RA-3, with a proposed height of approximately 50 feet, three inches and a density of 4.308 FAR on the RA-3 portion, but an "apparent" FAR of 3.06 when calculated across the entire PUD Site, both within the 75 foot height and 4.32 FAR density parameters permitted for a PUD in the RA-3 zone. The Project provides the required IZ allocation and

supplements it with additional affordable units through the HANTA program, reserving 33% of all units as affordable, including deeper affordability levels and larger family-sized units. The additional density made possible through the PUD process is distributed among four "pavilions" separated by private courtyards, creating a scale and rhythm that transition compatibly to the surrounding neighborhood. In light of the transitional location, compatible design, and substantial housing and affordability commitments, the Commission concludes that the proposed RA-3 zoning, and PUD are not inconsistent with the FLUM when considered with the Comprehensive Plan as a whole (FF ¶¶ 17-23, 52(a), 66, 67);

(b) GPM. The Project is not inconsistent with the Neighborhood Conservation Area designation for the PUD Site, which encourages preservation of neighborhood character while allowing modest infill to meet housing needs. The Project introduces new market-rate and affordable housing on an underutilized site in a high-opportunity location along the Wisconsin Avenue corridor. Its height, scale, and massing transition compatibly to the lower-density residential context east of 42nd Street, N.W., while strengthening the pedestrian environment along Wisconsin Avenue. By reserving 33% of units as affordable, including deeper affordability levels and larger family-sized units, the Project advances Comprehensive Plan goals for expanding affordable housing in areas with strong access to transit, services, and amenities. The PUD Site's location within a Future Planning Analysis Area, and the fact that the Wisconsin Ave DF satisfies the planning analysis requirement of the Comprehensive Plan's Implementation Element (10-A DCMR §§ 2310.4, 2503.2), further support the Commission's consideration of the proposed PUD and related Zoning Map Amendment (FF ¶¶ 24-25, 30, 52(b), 66, 67);

(c) Land Use Element. The Project is not inconsistent with the Land Use Element, which is the Element that should be given the greatest weight. 10-A DCMR § 300.3. The Project redevelops an underutilized site in a transit-rich location into a mixed-income residential community with a substantial affordable housing component. By delivering 126 total units, 33% of which will be reserved as affordable housing with a range of MFI levels and family-sized options, the Project advances policies that encourage infill development, promote transit-oriented growth, and expand housing choice in high-opportunity areas. The site's location along Wisconsin Avenue supports walkability and corridor activation, while the design transitions in scale to the adjacent lower-density neighborhood. The Project also incorporates public realm improvements, including new trees, plantings, and sidewalk upgrades, and removes the existing 705-foot television tower (FF ¶ 52(c), 66, 67; *see also* Land Use Element Policies LU-1.4.1, LU-1.4.2, LU-1.4.6, LU-1.5.1, LU-2.1.3, LU-2.1.5, LU-2.1.13, LU-2.2.4);

(d) Transportation Element. The Project is not inconsistent with the Transportation Element. Concentrating new housing, including a substantial affordable component, near the Friendship Heights Metro station and high-capacity bus service advances the District's goals for sustainable, multimodal transportation. Pedestrian safety and connectivity are improved through upgraded sidewalks,

enhanced crossings, and new landscaping. The Project also provides secure long-term and short-term bicycle parking and a TDM Plan to encourage non-automobile trips, reducing reliance on private vehicles and supporting equitable access to transit (FF ¶ 52(d), 66, 67; *see also* Transportation Element Policies T-1.1.4, T-1.1.7, T-2.4.1, T-2.4.2, T-2.4.3) ;

(e) Housing Element. The Project is not inconsistent with the Housing Element. Delivery of 126 new units, with approximately 33% reserved at 50%, 60%, and 80% MFI levels through IZ and the HANTA program, will both exceed matter-of-right requirements of existing R-2 zoning and provides deeper affordability and larger family-sized units in a high-cost, transit-accessible neighborhood. This commitment promotes income diversity, supports equitable growth, and advances the District's housing goals for the RCW planning area. The affordable housing proffer represents a significant public benefit under the PUD process and contributes to citywide and area production targets (FF ¶ 52(e), 66, 67; *see also* Housing Element Policies H-1.1.1, H-1.1.3, H-1.1.5, H-1.1.8, H-1.1.9, H-1.2.1, H-1.2.2, H-1.2.7, H-1.2.11, H-1.3.1, H-1.3.2, H-3.1.1);

(f) Environmental Protection Element. The Project is not inconsistent with the Environmental Protection Element, particularly because it will be designed to achieve the minimum number of points equivalent to the LEED Gold standard. All-electric units and high-performance systems will reduce greenhouse gas emissions and utility costs, while green roofs, solar readiness, and EV-ready parking support cleaner energy use. New trees, landscaping, and permeable surfaces will replace paving to reduce runoff and mitigate heat island effects (FF ¶ 52(f), 66, 67; *see also* Environmental Protection Element Policies E-1.1.2, E-2.1.2, E-2.1.3, E-3.1.1, E-3.2.3, E-3.2.5, E-4.1.1, E-4.1.2, E-4.4.1);

(g) Urban Design Element. The Project is not inconsistent with the Urban Design Element, as it proposes new infill multifamily mixed-income development that would replace an underutilized surface parking lot, and incorporates design features consistent with the neighborhood character, scale, and massing provisions of the Urban Design Element. The Project would incorporate a façade of varied depth and materials to break down the massing for an appearance of multiple smaller buildings instead of one larger one (FF ¶ 66, 67; *see also* Urban Design Element Policies UD-2.2.1, UD-2.2.5, UD-4.2.1, UD-4.2.4);

(h) RCW Area Element. The Application is not inconsistent with the RCW Area Element, which calls for more affordable housing and context-sensitive infill. In a high-cost area with limited affordable options, the Project delivers 126 units, 33% of which are affordable, and transitions from Wisconsin Avenue to adjacent single-family homes. Redevelopment removes the 705-foot television tower, improves views, and adds green space, supporting housing production and conservation goals (FF ¶ 29, 52(g), 66, 67; *see also* RCW Area Element Policies RCW-1.1.1, RCW-1.1.4, RCW-2.2.1, RCW-2.2.5);

(i) Potential Inconsistencies. The Commission acknowledges that the Project may be viewed as potentially inconsistent with certain Comprehensive Plan policies, including Transportation Element Policy T-1.1.8 and Land Use Policies 1.4.7 and

2.1.11, which generally encourage minimizing off-street parking, given the provision of 82 spaces where 37 are required; Housing Element Policy H-1.6.5, which calls for net-zero and highly energy-efficient housing; and Environmental Protection Element Policy E-3.2.2, which seeks new development to achieve net-zero building performance. With respect to parking, the Commission notes that the number of spaces responds to requests from ANC 3E and neighboring stakeholders during the Applicant's multi-year engagement process and is intended to address community concerns regarding potential on-street parking impacts. The Commission finds that these potential Comprehensive Plan policy inconsistencies are outweighed by the Project's overall consistency with the FLUM and GPM, its substantial housing and affordability commitments, its transit-oriented location near the Friendship Heights Metro station, its context-sensitive design, and the numerous Comprehensive Plan policy goals and objectives that would be advanced by the Project noted immediately above. When considered as a whole, the Project remains not inconsistent with the Comprehensive Plan (FF ¶¶ 52, 54, 66(g), 67(d) and (e)); and

(j) Wisconsin Avenue DF. The Project is not inconsistent with the Wisconsin Ave DF, which calls for zoning changes and new housing, including affordable units, along the Wisconsin Avenue corridor. Within the Friendship Heights Transition Zone and Mixed-Use Corridor Zone, it delivers 126 units with 33% reserved as affordable, features a pedestrian-oriented design, and transitions in scale to nearby low-density neighborhoods. Housing is the principal use, parking is below grade, and the building form is divided into four distinct volumes to reduce mass. Landscaped courts, balconies, and green roofs further support the Wisconsin Ave DF's emphasis on livability and inclusive, transit-oriented growth (FF ¶¶ 30, 52, 55, 66, 67).

15. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens. This conclusion is based on the racial equity analysis submitted by the Applicant, which includes details on community outreach and engagement, and the OP Reports, which provide disaggregated race and ethnicity data for the RCW Planning Area. As discussed below, the Project's substantial affordable housing commitment in a high-cost, high-opportunity neighborhood meaningfully advances housing equity and access for households historically underrepresented in this area (FF ¶ 26-28, 53, 66(h), 67(e), 68).

16. Applicant's Racial Equity Analysis. The Commission finds that the Applicant's racial equity analysis addresses the components of the revised REA Tool. The Commission notes the following from the Applicant's analysis:

(a) *Community Outreach and Engagement*: The Applicant has engaged in sustained outreach with stakeholders since 2018, including ANC 3E, the Harrison Condominium Homeowners' Association, and nearby residents, through numerous public meetings, small-group discussions, and ongoing communications. The Commission finds that community feedback has been meaningfully incorporated

into the Project, resulting in specific design and programmatic changes such as the inclusion of larger family-sized units, the commitment to all-electric residential systems, and the provision of HANTA-based affordable units. While parking was identified as a concern, the Commission acknowledges that the Applicant's parking program reflects community input while balancing broader planning goals;

(b) *Displacement*: The Commission finds that the Project will not result in the displacement of any existing residents or businesses, as the PUD Site is currently improved with surface parking and a non-operational television tower. The removal of these existing conditions will enable redevelopment without adverse displacement impacts; and

(c) *Demographic Trends and Neighborhood Impact*: The Commission credits the Applicant's analysis identifying stagnant population growth, an aging demographic profile, and constrained housing production in Friendship Heights. Drawing on this information and the full record, the Commission finds that the addition of 126 new residential units, with 33% reserved as affordable at multiple income levels, will broaden housing opportunities, attract a more varied mix of households, and stimulate neighborhood reinvestment. The Commission also concludes that the Project's design features will strengthen livability and advance the Wisconsin Avenue Development Framework's vision for a more inclusive, walkable, and dynamic community.

(FF ¶ 53).

17. OP's Racial Equity Analysis. The Commission finds that OP's racial equity analysis addresses the components of the revised REA Tool (FF ¶¶ 66(h), 67(e), 68). OP's analysis included disaggregated race and ethnicity data for the RCW Planning Area, which has the highest share of White residents, the lowest share of Black residents, and is one of only two planning areas in the District where median income for Black households has declined over the 2012-2016 and 2018-2022 time periods. The area also has high homeownership rates, low poverty, and a limited supply of dedicated affordable housing. OP concluded that the Project's delivery of 126 new units, one-third of which are affordable and nine of which are three-bedroom, would expand access to housing in a high-opportunity location with historically limited affordability, helping to address income disparities and advance the District's equity goals for the Planning Area (*Id*.).

POTENTIAL IMPACTS – FAVORABLE, MITIGATED, OR ACCEPTABLE (SUBTITLE X § 304.4(b))

18. The Commission concludes that, consistent with Subtitle X § 304.4(b), the Project will not create any adverse impacts on the surrounding area or the operation of District services or facilities that cannot be mitigated, and that any potential impacts are acceptable in light of the Project's overall benefits and amenities. In reaching this conclusion, the Commission relies on the evidence in the record, including the Applicant's submissions and testimony and the OP Reports, and notes the following:

(a) Land Use Impacts. The Commission concludes that land use impacts will be favorable. The Project will replace the existing 705-foot radio tower and associated surface parking at the PUD Site with a more efficient and transit-oriented use,

delivering approximately 126 new residential units, including affordable housing that exceeds matter-of-right requirements under the existing R-2 zoning. The redevelopment aligns with the District's vision for the PUD Site and surrounding area and introduces an appropriate scale of development given the PUD Site's location between the mixed-use Wisconsin Avenue corridor and a lower-density residential neighborhood;

(b) Zoning Impacts. The Commission concludes that zoning-related impacts will be favorable or acceptable given the quality of public benefits. The rezoning of the R-2 portion of the PUD Site to RA-3 will permit increased residential density, but potential adverse impacts are minimal. The Project height of 50 feet, three inches remains below the RA-3 maximum (60 ft. or 75 ft. for a PUD), and density is distributed across the full site;

(c) Urban Design and Aesthetic Impacts. The Commission concludes that urban design and aesthetic impacts will be favorable. The Project will replace the inactive 705-foot tower and surface parking with four residential buildings scaled to the surrounding neighborhood. While developed to a maximum FAR of 4.308, the Project presents an apparent FAR of 3.06 across the full site and will substantially enhance the site's visual character and compatibility with adjacent development;

(d) Housing Impacts. The Commission concludes that the Project will result in favorable housing impacts by delivering 126 new residential units, including affordable housing, on a site that currently contains no housing. The affordable units will be reserved at a range of income levels, supporting the creation of a diverse residential community in a highly desirable location;

(e) Transportation and Mobility Impacts. The Commission concludes that transportation and mobility impacts will be capable of being mitigated or acceptable given the quality of public benefits. The PUD Site is located in a transit-oriented area with existing infrastructure that supports multimodal access. The Project will further enhance pedestrian and bicycle connectivity through streetscape improvements and increased access to the Wisconsin Avenue corridor. Vehicular access to the underground parking garage will be limited to the private alley, reducing potential conflicts with pedestrians and cyclists. The proposed TDM Plan also includes measures to address any potential impacts associated with providing 82 parking spaces at the PUD Site;

(f) Environmental, Economic, and Safety Impacts. The Commission concludes that these impacts are favorable or acceptable given the quality of public benefits. The Project will be designed to achieve the minimum number of points equivalent to the LEED Gold standard and will enhance environmental performance over existing conditions through green roofs, rooftop solar panels, EV-ready parking, and upgraded stormwater management. By introducing new residents to the area, the Project will support nearby businesses, strengthen the economic vitality of the Wisconsin Avenue corridor, and improve neighborhood safety by increasing activity and establishing a stronger residential presence in the public realm;

(g) Educational Facilities Impacts. The Commission concludes that while the PUD Site is served by schools with high utilization, DCPS is pursuing planned capacity improvements and boundary adjustments to address enrollment needs; and

(h) Construction Impacts. The Commission concludes that construction impacts will be acceptable given the quality of public benefits or capable of being mitigated. With experience delivering similar projects, including initiating construction of the adjacent development at 5151 Wisconsin Avenue, N.W., the Applicant indicated that it is familiar with the site and well-positioned to manage construction responsibly. The Applicant also negotiated construction management-related commitments in the Memorandum of Agreement entered into with ANC 3E.

(FF ¶ 56, 66, 67).

BENEFITS AND AMENITIES ARE NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN OR OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PUD SITE (SUBTITLE X § 304.4(c))

19. The Commission concludes that for the reasons given below the Project's benefits and amenities satisfy the criteria of Subtitle X §§ 304.4(c), 305:

(a) Specific Benefits and Amenities: Each of the Project's benefits and amenities is specifically described;

(b) Not Inconsistent with the Comprehensive Plan. As described above, the Application is not inconsistent with the Comprehensive Plan nor are the benefits and amenities inconsistent with the Comprehensive Plan or other public policies applicable to the PUD Site;

(c) Relative to Matter-of-Right Development. The Project's benefits are superior to a matter-of-right development of the PUD Site. The Project will deliver significantly more housing and affordable housing, at deeper levels of affordability, than would be possible or required as a matter of right under the R-2 zone, and its environmental features and public realm enhancements would not be provided under a matter-of-right scenario;

(d) Relative to Geographic Area of ANC. The Project's benefits primarily relate to the area of ANC 3E, including direct improvements to the surrounding streetscape, Fessenden Park, and neighborhood-serving transportation infrastructure;

(e) Tangible and Quantifiable. Each of the Project's benefits is tangible and/or quantifiable;

(f) Measurable and Satisfied Prior to Certificate of Occupancy. Each of the Project's benefits is capable of being delivered or arranged prior to the issuance of a final Certificate of Occupancy for the proposed multifamily residential use;

(g) Primarily Benefitting Neighborhood or Serving a Critical City-Wide Need. The Project's benefits primarily benefit the surrounding neighborhood by delivering a high-quality, sustainable building, enhancing the public realm, and improving pedestrian safety. At the same time, some benefits, such as the substantial provision of affordable housing, serve a critical city-wide need;

(h) Acceptable in All and Superior in Many. All of the Project's benefits are acceptable, and many are superior. In particular, the Commission concludes that the Project will provide housing benefits (Subtitle X § 305.5(f)(1) and (3)) and affordable

housing benefits (Subtitle X § 305.5(g)) that exceed matter-of-right requirements in both quantity and depth of affordability. The Project includes approximately 126 units, including nine three-bedroom units, reserves approximately 33% of its total units as affordable, with a portion set aside for households earning no more than 50% and 60% of MFI pursuant to the District's IZ regulations for rental units, and additional units at no more than 80% of MFI through the HANTA program; and

(i) Overall. In sum, the Commission concludes that the Project's benefits and amenities meet the criteria of Subtitle X § 304.4(c) and justify the development incentives requested.

(FF ¶ 39, 57, 58, 66, 67).

PUD BALANCING (SUBTITLE X § 304.3)

20. The Commission concludes that the requested PUD-related map amendment to the RA-3 zone is appropriate for the Property. The Project's proposed height of 50 feet, three inches and proposed density of 4.308 FAR are within the PUD limits for the RA-3 zone and are compatible with the Property's transitional location between the Wisconsin Avenue corridor and the adjacent lower-density neighborhood. The Project generates density only from the RA-3-zoned portion of the PUD Site and distributes it across the full site, resulting in an apparent FAR of 3.06, which supports compatibility with the surrounding development. The Commission finds the proposed RA-3 zoning justifiable given the quality of the Project's benefits and amenities (FF ¶¶ 39, 48, 52–55, 58–63, 66, 67).

21. The Commission concludes that the requested zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1, as well as the requested design flexibility under Subtitle Z § 702.8, are justified and balanced by the Project's public benefits and amenities. The Commission finds persuasive that the penthouse location reduces visibility and shifts massing away from the single-family neighborhood, the affected elevation faces only a private alley, and compliance would compromise layout and reduce affordable housing. The Commission finds the rear yard reduction is minor given the separation from adjacent buildings. These flexibility requests are also offset by the PUD benefits including superior design, efficient site planning, new housing and affordable housing, environmental and sustainability features, streetscape and park improvements, and non-mitigation transportation enhancements, all of which exceed what could be achieved through matter-of-right development (FF ¶¶ 37, 49, 50, 56–58, 60–64, 66, 67).

22. The Commission concludes that the Project's benefits and amenities outweigh the requested zoning flexibility, the PUD-related map amendment, and any potential adverse effects of the Project that are not otherwise favorable or capable of being mitigated. The Commission finds that the Project will deliver substantial affordable housing in a high-cost, transit-accessible location, improve neighborhood connectivity and public space, and advance multiple District planning and policy objectives, thereby satisfying the balancing test set forth in Subtitle X § 304.3 (FF ¶¶ 52–58, 60–64, 66, 67).

SPECIAL EXCEPTION RELIEF (SUBTITLE X § 303.13)

23. The Commission concludes that a special exception to permit the off-site accessory parking spaces within the underground garage serving the Project but located outside the PUD Site boundary is warranted. The Commission finds that the Application satisfies the specific conditions of Subtitle U § 203.1(k)(1)–(11) and the general special exception standards of Subtitle X § 901.2(a) and (b). The Commission credits evidence that the spaces will serve the residential use, remain fully below grade, and be imperceptible from public view, such that the relief is in harmony with the Zoning Regulations and Map and will not result in adverse impacts on neighboring properties (FF ¶¶ 38, 51, 65, 66, 67).

CONTESTED ISSUES

24. The Commission finds that the questions and issues raised by the Adjacent Neighbors and the Committee of 100 have been fully and adequately addressed by the Applicant in its post-hearing submission at Exhibit 88 of the case record (FF ¶¶ 44, 77, 78). Specifically, the Commission finds the Applicant's post-hearing submission responses to questions raised on the following sufficient: eligibility of residential parking permits for Project residents; removal of the television tower, which is a proffered benefit of the PUD; construction timetable and related impacts, the latter of which are largely addressed in the executed Memorandum of Understanding with ANC 3E and the Conditions herein; separate processing of a Board of Zoning Adjustment case for development of 5151 Wisconsin Avenue, N.W.; and inability to meaningfully alter development rights of an approved PUD except through approval by the Zoning Commission (FF ¶ 44). Based on the full record, the Commission addresses each of the issues raised as follows:

(a) Building Height and Feasibility of Shorter Building – The Commission credits the Applicant's evidence, including plans and sections, demonstrating that the building height measuring point is established in accordance with Subtitle B § 308.2. The resulting Project height of 50 feet, three inches complies with the Zoning Regulations and facilitates a compatible transition from the taller Wisconsin Avenue corridor to the lower-scale residential neighborhood to the east. The Commission notes that the Project height does not need to be altered to satisfy applicable evaluation criteria. Ultimately, the Commission reviews applications as proposed, and the Application as proposed satisfies the evaluation criteria. The Commission need not find that the proposed Project is the only feasible means to satisfy evaluation criteria (FF ¶ 44; *see* Conclusions of Law Nos. 11-15, 18-20);

(b) Light and Air Impacts and Impact Studies – The Commission finds that the Project will not cause undue adverse effects on light and air. The Commission credits the shadow studies in the record at Exhibit 88A, which show that shadows will reach the confronting residences on 42nd Street, N.W. only during limited times of the year and primarily in the late afternoon. Overall, these impacts are minimal and occur mainly in the winter months, when the sun is low and sets earlier, and in the spring and fall months during evening hours when the sun is lower in the western sky. The Commission also notes that single-family homes in the surrounding area cast shadows on adjacent properties during these same periods (FF ¶ 44);

(c) Comprehensive Plan Consistency – The Commission finds that any inconsistencies cited by the Adjacent Neighbors, particularly regarding scale, are outweighed by Rock Creek West Area Element and Citywide Element policies that prioritize housing production, affordable housing, and compatible infill in high-opportunity, transit-accessible locations. As discussed in Conclusions of Law Nos. 13-15, and consistent with direction from the District of Columbia Court of Appeals (Fn. 5), the PUD delivers substantial public benefits, including significant affordable housing and high-quality urban design, that advance multiple Comprehensive Plan objectives. The PUD, when balancing potentially competing policies, is not inconsistent with the Comprehensive Plan as a whole; and

(d) IZ - The Commission credits the Applicant's evidence that the affordable housing commitment, particularly the IZ set-aside, meaningfully exceeds what could be achieved as a matter-of-right under the R-2 zone and qualifies as a public benefit under Subtitle X § 305.5(g). The Commission agrees with the Applicant that IZ Plus does not apply to PUD-related map amendments, as set forth in Subtitle X § 502.2(a) and as previously concluded (Z.C. Order No. 22-29, Conclusion of Law No. 19(e)). The PUD's IZ set-aside will provide approximately 13 units, including two three-bedroom units at 60% and 50% MFI, and more than double the IZ required to be generated by habitable penthouse space at the 50% MFI level. Combined with the HANTA-supported units, this affordable housing commitment delivers a substantial affordable housing benefit that advances District housing goals.

(FF ¶¶ 44, 77-78).

GREAT WEIGHT TO RECOMMENDATIONS OF OP

25. The Commission is required to give "great weight" to the recommendation of OP pursuant to Section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

26. The Commission finds OP's detailed analysis of the Application, its overall conclusion that the Application satisfies the PUD requirements and is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and its ultimate recommendation to approve the Application persuasive, and concurs with OP's recommendation. The Commission also concurs with OP's support for the requested zoning flexibility, special exception relief, and design flexibility. While OP did not support the Applicant's requested design flexibility for sustainable features, the Applicant's post-hearing submission provided concrete details and commitments and updated the building design such that it will achieve the minimum number of points equivalent to the LEED Gold standard. Thus, the Commission finds this flexibility acceptable (FF ¶¶ 66–69, 44(c)).

GREAT WEIGHT TO THE WRITTEN REPORT OF ANC 3E

27. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n*, 141 A.3d at 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 Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

28. The ANC 3E Resolution stated that ANC 3E voted to support the Application. The Commission finds the ANC's support for the Project persuasive and agrees that the Application merits approval (FF ¶ 74).

DECISION

In consideration of 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, subject to the following guidelines, conditions and standards for:

- A consolidated PUD for the PUD Site and a related Zoning Map Amendment from the R-2 zone to the RA-3 zone (for the eastern portion of the PUD Site (approximately 28,654 square feet of land area in the R-2 zone));
- Zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1;
- Such other design flexibility as is set forth in the Conditions hereof; and
- Special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking spaces as a special exception and subject to the conditions set forth in Subtitle U § 203.1(k).

A. PROJECT DEVELOPMENT

1. The PUD Site shall be developed and constructed substantially in accordance with the Architectural Plans prepared by Torti Gallas Urban, dated June 13, 2025, and marked as Ex. 23A1-23A5 of the record (collectively, the "Approved Plans"), as modified by the guidelines, conditions, and standards herein.

2. As set forth in the Approved Plans, the PUD shall have a maximum height of 50 feet, three inches and approximately 123,444 square feet of gross floor area devoted to residential use (approximately 4.308 FAR).

3. The Project shall be developed pursuant to the RA-3 zone, as permitted through a PUD, except as set forth herein or modified hereby as shown in the Approved Plans, and with flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1.

4. The Project shall have design flexibility as follows:
   (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 Approved 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 Approved 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 plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
   (d) Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%), except that (1) the total square footage of the residential dwelling units shall not be reduced, and (2) the number of units and the square footage reserved for affordable housing shall not be reduced;
   (e) Parking Layout: To make refinements to the approved parking configuration, including layout and number of parking space plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
   (f) 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;
   (g) Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by this Order and are compliant with the DC signage regulations; and
   (h) Sustainable Features: To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for the LEED standard specified by this Order.

B. PUBLIC BENEFITS

1. **Housing**. The Applicant shall generate new housing at the PUD Site in accordance with this condition:
   (a) **For the life of the Project**, the Applicant shall dedicate approximately 123,444 square feet of gross floor area to residential use, resulting in approximately 126 residential units; and
   (b) **For the life of the Project**, the Applicant shall provide nine three-bedroom units.

2. **Affordable Housing**. The Applicant shall provide the affordable housing for the Project in accordance with this condition:
   (a) **For the life of the Project**, the Applicant shall provide the IZ Units in substantial accordance with Sheet G13 of the Approved Plans and as set forth below:
      i. In total, approximately 10,411 square feet of net residential floor area shall be devoted to IZ units, calculated based on the combined total of 75% of the bonus density utilized for the Project and 10% of the penthouse floor area;
      ii. At least 8,097 square feet of net residential floor area shall be devoted to IZ rental units reserved for households earning no more than 60% of the MFI; and
      iii. At least 2,314 square feet of net residential floor area shall be devoted to IZ rental units reserved for households earning no more than 50% of MFI.
   (b) **For the life of the Project**, the Applicant shall allocate two three-bedroom units to IZ, with one unit reserved for households earning no more than 50% of MFI and one unit reserved for households earning no more than 60% of MFI;
   (c) The covenant required by D.C. Official Code §§ 6-1041.05(a)(2) shall include a provision or provisions requiring compliance with this condition; and
   (d) **For the control period administered by the Department of Housing and Community Development (DHCD)**, the Applicant shall provide affordable housing in the Project equal to at least 33% of all residential units, which will include the units reserved as the IZ units. The affordable units in excess of the IZ units shall be reserved for households earning no more than 80% of the MFI and shall be provided in accordance with the High-Needs Area Tax Abatement (HANTA) program, as negotiated with and approved by DHCD.

3. **Environmental and Sustainable Benefits**. The Applicant shall provide the environmental and sustainable benefits for the Project in accordance with this condition:
   (a) **The Applicant shall submit with its building permit application for the Project** a checklist evidencing that the Project has been designed to achieve the equivalent of LEED Gold under the LEED v4 BD+C: Multifamily Midrise; and
   (b) **Prior to issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has incorporated the following into design of the Project: (i) green roofs; (ii) rooftop solar panels; (iii) at least six EV-ready charging spaces; (iv) all

electric appliances in residential units; and (v) dedicated areas for composting and recycling.

4. **Streetscape Plans**. **Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that has:
   (a) Installed new plantings, sidewalk paving, and perimeter landscaping along the PUD Site's public frontages in substantial conformance with the Approved Plans, subject to review and approval by DDOT;
   (b) Enlarged existing tree pits, as needed, along the PUD Site's public space frontages and installed new street trees where required, subject to review and approval by DDOT and the Urban Forestry Division (UFD); and
   (c) Planted new street trees to fill any gaps in the tree boxes along the public frontages of Square 1666, as well as along the opposite sides of the streets bordering Square 1666, in accordance with DDOT and Urban Forestry Division specifications and subject to review and approval by DDOT, the Urban Forestry Division, and, where applicable, the abutting property owners.

5. **Park Maintenance**.
   (a) **Prior to issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has completed the following actions related to the construction of two bocce courts, the installation of one park bench, and the design and installation of associated landscaping at Fessenden Park (collectively, the "Fessenden Park Improvements"): (i) expended between $10,000 and $20,000 for the completion of the Fessenden Park Improvements; and (ii) consulted with the affected Advisory Neighborhood Commission on at least one occasion regarding the Fessenden Park Improvements; and

   (b) **For a period of three years following the issuance of the final certificate of occupancy for the Project**, the Applicant shall maintain the new landscaping installed as part of the Fessenden Park Improvements.

6. **Non-Mitigation Transportation Improvements**. The Applicant has agreed to ensure that bulb-outs, with bioretention features if feasible, (the "Bulb-Outs") are constructed at the intersection of Garrison Street, N.W. and 42nd Street, N.W. (the "Intersection") in accordance with this condition:
   (a) **Prior to the issuance of the final certificate of occupancy for the Project**, if DDOT has committed to funding the Bulb-Outs but has not yet constructed the permanent Bulb-Outs at the Intersection, the Applicant shall install daylighting at all four corners of the Intersection, using flex posts and pavement markings, subject to DDOT review and approval, and shall maintain them until permanent construction occurs;

(b) **Prior to the issuance of the final certificate of occupancy for the Project**, if DDOT has not committed to fund the Bulb-Outs, the Applicant shall expend up to $20,000 to install permanent Bulb-Outs at the northwest and southwest corners of the Intersection, or daylighting at all four corners of the Intersection using a combination of flex post delineators and pavement markings, subject to review and approval by DDOT, and a letter of support from the affected ANC;

(c) If DDOT funds and constructs permanent Bulb-Outs at all four corners of the Intersection **prior to the issuance of the final certificate of occupancy for the Project**, then, at that time, the Applicant shall, with the consent of the affected ANC and subject to the review and approval of DDOT, either provide and install additional transportation improvements at a cost not to exceed $20,000, or demonstrate to the Zoning Administrator that it has contributed $20,000 to a local nonprofit organization for specific additional improvements in the public right of way, and that the specific improvements have been or will be provided; and

(d) **For the life of the Project**, the Applicant shall keep the Bulb-Outs free of trash and maintain any landscaping in accordance with DDOT standards.

7. **Uses of Special Value**. **Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that the 705-foot television tower has been removed from the PUD Site.

C. **BUILDING-SPECIFIC COMMITMENTS**

1. **For the life of the Project**, the Applicant shall retain a company to service the compost and recycling bins located in the Project's designated spaces;

2. **For the life of the Project**, the Applicant shall provide at least 42 long-term bicycle parking spaces for residents in a bicycle room located on the ground floor, which shall include accommodations for cargo bikes, bicycle charging, strollers, utility carts, and a bicycle repair station; and

3. **Prior to issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has constructed two residential units in compliance with the American National Standards Institute (ANSI) "A" standard.

D. TRANSPORTATION DEMAND MANAGEMENT

1. **During the operation of the Project (unless otherwise noted)**, the Applicant shall provide the following TDM measures for the Project:

(a) The Applicant will unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile;

(b) The Applicant will identify a Transportation Coordinator once the building has opened. The Transportation Coordinator will act as a point of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;

(c) The Transportation Coordinator will conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year;

(d) The Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on resident portal and in any internal building newsletters or communications;

(e) The Transportation Coordinator will 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;

(f) The Transportation Coordinator will 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;

(g) The Transportation Coordinator will provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future;

(h) All transportation and TDM commitments will be posted on the building website, if such a website exists, to allow the public to see what has been promised;

(i) A SmarTrip card will be offered for every residential unit at the time of initial leasing of the building;

(j) A minimum of 42 long-term and six short-term bicycle parking spaces will be provided for the project, in accordance with ZR16;

(k) Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes. At least two of the long-term spaces will be designed for longer cargo/tandem bikes (10 feet by three feet), a minimum of one of the long-term spaces will be equipped with electrical outlets to charge electric bikes and scooters, and a minimum of five of the spaces will be placed horizontally on the floor. There will be no fee to the residents or employees for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room;

(l) A bicycle repair station will be provided in the long-term bicycle parking storage room;

(m) The Applicant will install a minimum of six electric vehicle (EV) charging stations;

(n) **Following the issuance of a Certificate of Occupancy for the Project**, the Transportation Coordinator will submit documentation summarizing compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case;

(o) **Five years after the issuance of the final Certificate of Occupancy for the Project**, if the Transportation Coordinator has not established a relationship with DDOT or goDCgo, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo summarizing continued substantial compliance with the transportation and TDM measures conditioned in this order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter;

(p) The Applicant will install a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives. At a minimum the display should include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles;

(q) The Applicant will only lease the parking spaces in the building to tenants of the building or to tenants of a building that has no on-site parking;

(r) Subject to DDOT approval, the Applicant will install either (i) one micro-mobility corral with appropriate racks and a vertical wayfinding element on the north side of Garrison Street, N.W. adjacent to the curb, west of 42nd Street, N.W. or (ii) three additional inverted U bicycle racks beyond the three required under the Zoning Regulations, for a total of six, in public space on Garrison Street, N.W.;

(s) Annual CaBi memberships will be offered to each building resident for the first three years after the building opens;

(t) The Transportation Coordinator will provide at least two vanpool parking spaces by resident request and will note this in resident handbook and resident portal; and

(u) The Applicant will provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of two to encourage residents to walk to the grocery store and run errands.

2. **For a period of three years following the issuance of the final certificate of occupancy for the Project**, the Applicant shall provide the affected ANC with the results of any annual parking demand and trip generation surveys, if any, conducted in accordance with the requirements of DDOT and/or the approved TDM Plan.

E. **OFF-SITE AND ON-SITE TRAFFIC RELATED IMPROVEMENTS AND COMMITMENTS**

1. **Prior to the issuance of the final certificate of occupancy for the Project**, and subject to review and approval by DDOT and consent from the affected ANC, the Applicant shall construct, or cause to be constructed, a speed hump on 42nd Street, N.W., between Garrison Street, N.W. and Harrison Street, N.W.; and

2. **Prior to the issuance of the final certificate of occupancy for the Project**, and subject to DDOT review and approval, the Applicant shall continue the sidewalk paving across the Project's vehicular access points abutting the PUD Site on Garrison Street, N.W. and Harrison Street, N.W.

F. NEIGHBORHOOD-RELATED COMMITMENTS

1. **Prior to the issuance of the final Certificate of Occupancy for the Project**, the Applicant shall remove the disused utility pole adjacent to the PUD Site on Garrison Street, N.W., subject to review and approval by DDOT and the appropriate utility authority, and shall plant at least one street tree in approximately the same location in accordance with the specifications of DDOT's Urban Forestry Division; and

2. **For the life of the Project**, the Applicant shall prohibit use of the outdoor terrace adjacent to the habitable penthouse space (club room) after 10:00 p.m.

G. **CONSTRUCTION MANAGEMENT**

1. **Prior to issuance of the first building permit for the Project**, the Applicant will demonstrate to the Zoning Administrator that it has offered, at its sole cost, photographic or video pre-construction surveys to residential property owners whose properties confront the PUD Site in order to document pre-construction condition of homes;

2. **Prior to issuance of the first building permit for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has consulted with the affected ANC on issues related to parking arrangements for construction workers and construction truck routing;

3. **Prior to issuance of the first building permit for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has included the following provision in its construction contract with the general contractor: "Contractor acknowledges that the job site is surrounded by a residential neighborhood, and that on-street parking by its and its subcontractors' workforces would impose an impact on local residents. Contractor agrees to prohibit its workforces and the workforces of all subcontractors from parking or idling cars or trucks at any time of the day for any period of time on local residential streets, even if permitted by local parking regulations."; and

4. **During construction of the Project**, the Applicant shall designate a representative as its main point of contact for all construction-related matters, and will provide the contact information for its designated representative to the affected ANC.

H. **VALIDITY AND MISCELLANEOUS**

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Department of Buildings (the "PUD Covenant"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning;

2. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning;

3. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order; and

4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

PROPOSED ACTION
VOTE (July 14, 2025): **5-0-0** (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Gwen Wright to approve).

FINAL ACTION
VOTE (September 11, 2025): 5-0-0 (Joseph S. Imamura, Gwen Wright, Anthony J. Hood, Robert E. Miller, and Tammy Stidham to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall be final and effective upon publication in the *District of Columbia Register*; that is, on February 20, 2026.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-21
Z.C. Case No. 24-21
D.C. Department of General Services
(Hill East Design Review @ Square 1112E, Lot 826)
March 17, 2025

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a virtual public hearing on March 17, 2025 to consider the application (the "Application") of D.C. Department of General Services ("Applicant") for approval of a mandatory design review in the Hill East ("HE") zones in order to construct a new correctional facility at 1900 Massachusetts Avenue, S.E. (Square 1112E, Lot 826) (the "Property") pursuant to Subtitle K, Chapter 4 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR" or "Zoning Regulations" [to which all subsequent citations refer unless otherwise specified]), which applies to new construction in the Hill East Zone District pursuant to Subtitle K § 409.1, and Subtitle X, Chapter 6, which applies to a "Mandatory Design Review" as described in Subtitle X § 601.1.

The Applicant requested various design flexibility and the following relief from certain design guidelines applicable to the Hill East Zone District pursuant to Subtitle K §§ 409.2 and 409.3:

- An area variance from Subtitle K § 420.5 to permit one public entrance along Massachusetts Avenue;
- Special exception relief pursuant to Subtitle K § 412.1(k) to allow additions to a large-scale governmental use in the HE Zone District; and
- Two waivers from the ground floor preferred use requirements of Subtitle K § 417.1(e) and the design conditions of Subtitle K § 419.3.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedure, which are codified in Subtitle Z. For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT
I. BACKGROUND

Parties

1. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
   - The Applicant;
   - Advisory Neighborhood Commission 7F ("ANC 7F"), the ANC in which the Property is located and, therefore, an "affected ANC" pursuant to Subtitle Z § 101.8;
   - Advisory Neighborhood Commission 7D ("ANC 7D"), an ANC located directly across the street from the Property and, therefore, an "affected ANC" pursuant to Subtitle Z § 101.8; and

- Advisory Neighborhood Commission 6B ("ANC 6B"), an ANC located directly across the street from the Property and, therefore, an "affected ANC" pursuant to Subtitle Z § 101.8.

2. The Commission received no requests for party status.

Notice

3. Pursuant to Subtitle Z § 301.6, on June 14, 2024, the Applicant mailed a Notice of Intent to file a Zoning Application to all property owners within 200 feet of the Property and to ANC 7F, ANC 7D, and ANC 6B (Exhibit ["Ex."] 3D).

4. Pursuant to Subtitle Z § 402, on January 10, 2025, the Office of Zoning ("OZ") provided notice of the March 17, 2025, virtual public hearing to:
   - The Applicant;
   - ANC 7F;
   - ANC 7D;
   - ANC 6B;
   - ANC Single Member Districts ("SMD") 6B09, 7D09, 7D10, 7F07, and 7F08;
   - Councilmember Charles Allen;
   - Councilmember Wendell Felder;
   - 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.

   (Ex. 6-7).

5. OZ published notice of the public hearing, concerning the Application in the January 24, 2025, issue of the *District of Columbia Register* (72 DCR 000606 *et seq*.) as well as on the calendar on OZ's website (Ex. 5-6).

6. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing on the Property on February 4, 2025 in accordance with Subtitle Z § 402.8 and maintained such notice in accordance with Subtitle Z § 402.10 (Ex. 9, 15).

The Applicant

7. The Applicant is a District of Columbia government agency that oversees the construction, management and maintenance of all D.C. government-controlled real estate (Ex. 3).

8. The Applicant is pursuing the Application on behalf of the D.C. Department of Corrections ("DOC"), the District of Columbia government agency responsible for operating D.C.'s

jails and correctional facilities. As a law enforcement agency, DOC ensures the orderly, safe, secure and human confinement of individuals in custody (Ex. 3).

The Property

9. The Property is part of the 67-acre area formerly known as Reservation 13, but now commonly referred to as "Hill East." Reservation 13 is being redeveloped into a mixed-use neighborhood pursuant to the "Master Plan for Reservation 13: Hill East Waterfront" (the "Master Plan") approved by the D.C. Council in February 2003 (Ex. 3).

10. The Property is improved with the Central Detention Facility ("CDF") and Correctional Treatment Facility ("CTF"), which are operated by DOC and collectively referred to as the D.C. Jail. The CDF opened in 1976 and faces operational and maintenance challenges due to 24-hour-a-day use in an aging building. Additionally, the CDF is not designed to achieve DOC's rehabilitation goals for individuals in its custody (Ex. 3).

11. To the north of the Property across Massachusetts Avenue, S.E. is the remaining portion of Reservation 13 that is being redeveloped under Master Plan. To the east of the Property is Parcel M of Reservation 13, which is improved with a vacant building. To the south of the Property is the Congressional Cemetery. To the west of the Property is the existing Hill East neighborhood that is primarily residential (Ex. 3).

12. The Property is within two blocks of the Stadium-Armory Metrorail Station. There are also steps for the B2 and 96 Metrobus lines within two blocks of the Property (Ex. 3).

Hill East Zoning (HE-3 and HE-4)

13. The Property is located in the HE-3 and HE-4 zones and has frontage on Massachusetts Avenue, S.E. and 19th Street, S.E.

14. The HE-3 zone includes the following development standards:
    - Density: A maximum permitted density of 7.2 FAR (Subtitle K § 402.1);
    - Height: A minimum height of 80 feet is required and a maximum height of 110 feet and 10 stories is permitted. Building height shall be measured from the lowest curb level along a street frontage abutting the lot (Subtitle K §§ 403.1 and 403.2);
    - Penthouses and Rooftop Structures: Penthouses and rooftop structures are subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 403.5 (Subtitle K § 403.4);
    - Penthouse Height: A maximum penthouse height of 20 feet and one story plus mezzanine is permitted, but a second story is permitted for penthouse mechanical space (Subtitle K § 403.5);
    - Lot Occupancy: A maximum lot occupancy of 80% is permitted (Subtitle K § 404.1);
    - Rear Yard: All residential buildings shall provide a rear yard in accordance with Subtitle K §§ 406.5 or 406.6 and, in either instance, not less than 12 ft. (Subtitle K § 406.4); and

- Side Yard: No side yard is required; however, if a side yard is provided it shall be no less than eight feet (Subtitle K § 407.1).

15. The HE-4 Zone includes the following development standards:
    - Density: A maximum permitted density of 6.0 FAR (Subtitle K § 402.1);
    - Height: A maximum height of 90 feet and eight stories is permitted. Building height shall be measured from the lowest curb level along a street frontage abutting the lot (Subtitle K §§ 403.1, 403.2);
    - Penthouses and Rooftop Structures: Penthouses and rooftop structures are subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 403.5 (Subtitle K § 403.4);
    - Penthouse Height: A maximum penthouse height of 20 feet and one story plus mezzanine is permitted, but a second story is permitted for penthouse mechanical space (Subtitle K § 403.5);
    - Lot Occupancy: A maximum lot occupancy of 75% is permitted (Subtitle K § 404.1);
    - Rear Yard: All residential buildings shall provide a rear yard in accordance with Subtitle K §§ 406.5 or 406.6 and, in either instance, not less than 12 ft. (Subtitle K § 406.4); and
    - Side Yard: No side yard is required; however, if a side yard is provided it shall be no less than eight feet (Subtitle K § 407.1).

Hill East Zone District Requirements and Design Criteria

16. The Commission shall review the design of all new buildings, or additions to existing buildings in the Hill East zones for consistency with the design guidelines set forth at Subtitle K §§ 419 through 420 and with the purposes as stated in Subtitle K § 400 of Chapter 4 (Subtitle K § 409.1).

Purposes of the Hill East Zone District

17. Pursuant to Subtitle K § 400.1, the purposes of the HE zones (HE-1 through HE-4) are to:
    - Connect and integrate Reservation 13 with adjacent neighborhoods and the new waterfront park along the Anacostia River (Subtitle K § 400.1(a));
    - Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation, and housing (Subtitle K § 400.1(b));
    - Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately scaled development (Subtitle K § 400.1(c));
    - Maintain a human scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront (Subtitle K § 400.1(d));
    - Connect the Hill East neighborhood and the city at large to the waterfront via treelined public streets, recreational trails, and increased access to waterfront parklands (Subtitle K § 400.1(e));

- Demonstrate environmental stewardship through environmentally sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city (Subtitle K § 400.1(f));
- Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets (Subtitle K § 400.1(g));
- Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue (Subtitle K § 400.1(h)); and
- Create attractive "places" of unique and complementary character including: (Subtitle K § 400.1(i))
  - A new, vital neighborhood center around the Metro station at C and 19th Streets, S.E. that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;
  - Massachusetts Avenue as a grand Washington 'boulevard' in the tradition of the L'Enfant plan;
  - A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue, S.E.; and
  - A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.

Ground Floor Uses Where Required and Permitted (Subtitle K § 417)

18. For the purposes of the HE Zones, "preferred uses" shall include retail, entertainment, assembly, and performing arts, and service uses (Subtitle K § 411.1). The following locations are required to devote not less than sixty-five percent (65%) of the ground floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of Subtitle K §§ 418 through 420:
    - The west face of Square F (19th Street frontage);
    - The northwest corner of Square G;
    - The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;
    - The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and
    - All Independence Avenue and Massachusetts Avenue frontages.

    (Subtitle K § 417.1).

19. The following locations are permitted to have ground floor preferred uses, provided that the building shall be constructed so that not less than sixty-five percent (65%) of the ground floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of Subtitle K §§ 418 through 420:
    - All frontages on 19th Street;
    - All frontages on Burke Street;

- The C Street frontage of Square H, facing the park in Square E, for a maximum length of two hundred feet (200 ft.) from Square H's northeast corner at the intersection of C Street and 21st Street;
- The 21st Street frontage of Square D;
- The southeast corner of Square D, which faces the intersection of C Street and Water Street;
- The northeast corner of Square I, which faces the intersection of C Street and Water Street; and
- All frontages on Water Street.

(Subtitle K § 417.2)

Design Standards for Ground Floor Preferred Uses (Subtitle K § 418)

20. Wherever preferred uses, as defined in Subtitle K § 411, are required or allowed pursuant to Subtitle K § 412, such ground floor preferred uses shall:
    - If located on a corner, wrap around the corner to a minimum depth of 20 feet on the side street (Subtitle K § 418.1(a));
    - Occupy the ground floor to a minimum depth of 30 feet (Subtitle K § 418.1(b));
    - Have a minimum clear floor-to-ceiling height of 14 feet, measured from the finished grade, for the area of the ground floor dedicated to preferred uses (Subtitle K § 418.1(c));
    - The street-facing façades of buildings on primary streets shall devote not less than 75% per individual use or 50% of the length and 50% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances (Subtitle K § 418.1(d)); and
    - The street-facing façades of mixed-use or non-residential buildings on secondary streets shall devote not less than 75% per individual use or 30% of the length and 30% of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances (Subtitle K § 418.1(e)).

Design Conditions for the Hill East Zone District (Subtitle K § 419)

21. Subtitle K § 419 establishes the following design requirements for all buildings and structures located in the HE Zone District:
    - Except as provided in Subtitle K § 418.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than 90%)of the property line and to a height of not less than 25 ft. (Subtitle K § 419.2);
    - Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to Subtitle K § 419.2 must extend to within 25 ft. of the front property line and to a height of not less than 25 ft. (Subtitle K § 419.3);
    - Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations (Subtitle K § 419.4);
    - For every 50 ft. of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use of projections, recesses

and reveals expressing structural bays, changes in color graphical patterns, texture, or changes in building material of the façade (Subtitle K § 419.5);

- The articulation shall have a minimum change of plane of six inches (Subtitle K § 419.6);
- Façade articulation of less than two feet in depth shall qualify to meet the street frontage required building line standards of Subtitle K §§ 419.2 and 419.3 (Subtitle K § 419.7);
- Any single articulation feature shall not exceed 60% of the building façade width (Subtitle K § 419.8);
- Buildings with ground floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than 50 ft. apart (Subtitle K § 419.9);
- Security grilles shall have no less than 70% transparency (Subtitle K § 419.10);
- Street-facing facades shall not have blank walls (without doors or windows) greater than 10 ft. in length (Subtitle K § 419.11);
- Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk (Subtitle K § 419.12);
- Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors, are permitted to the extent consistent with other District laws (Subtitle K § 419.13);
  Windows shall cover the following minimum area of street-facing façades above the ground-floor level: (Subtitle K § 419.14);

Table K § 419.14: Minimum Percentage of Street-Facing Façades

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

- Buildings and structures shall clearly articulate a base, middle, and top, except for row dwellings and flats (Subtitle K § 419.15);
- High quality, durable materials which enhance the building and convey permanence shall be required (Subtitle K § 419.16); and
- The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited (Subtitle K § 419.17).

Design Conditions for Buildings Located on Primary Streets (Subtitle K § 420)

22. Since the Property is located on Massachusetts Avenue, S.E., which is designated as a primary street pursuant to Subtitle K § 400.5(a), the following design requirements apply:
    - Notwithstanding Subtitle K §§ 419.2 and 419.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of 50 ft. from the intersection, along each street frontage (Subtitle K § 420.2);

- The corner of the building at the intersection of two primary streets or a primary and secondary street shall incorporate articulation such as, but not limited to, being angled, curved, or chamfered to emphasize the corner (Subtitle K § 420.3);
- The distance from the corner shall not exceed twenty feet (20 ft.), measured from the corner of the lot to the end of the angled or curved wall segment (Subtitle K § 420.4);
- Entrances into a building shall be no more than 50 ft.)apart and recessed no more than six feet deep or 10 ft. wide (Subtitle K § 420.5);
- Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present; (Subtitle K § 420.6)
- Residential buildings shall have at least one primary entrance directly accessible from the public sidewalk (Subtitle K § 420.7); and
- Instead of the windows required by Subtitle K § 418.1(d), on primary streets artwork and displays relating to activities occurring within the building shall be permitted as a special exception if approved by the Commission pursuant to Subtitle X, provided the applicant demonstrates that:
  - The building has more than 50% of its ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and
  - The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

  (Subtitle K § 420.8).

Mandatory Design Review Standards (Subtitle X § 604)

23. Except for a Design Review required by Chapter 7 of Subtitle I, Chapter 6 of Subtitle X applies to any instance when the Zoning Regulations require the Commission's review of any building, structure, or use other than a campus plan pursuant to Subtitle X, Chapter 1. Such a review is referred to as a "Mandatory Design Review" (Subtitle X § 601.1).

24. In addition to the standards applicable to the Hill East Zone District, the Commission must evaluate and approve the Project according to the general design review standards of Subtitle X § 604, which include the following:
    - The Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (Subtitle X § 604.5);
    - The Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (Subtitle X § 604.6);
    - The Commission shall review the urban design of the site and the building for the following criteria: (Subtitle X § 604.7)
      - Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:
        - Multiple pedestrian entrances for large developments;
        - Direct driveway or garage access to the street is discouraged;
        - Commercial ground floors contain active uses with clear, inviting windows;

- Blank façades are prevented or minimized; and
- Wide sidewalks are provided;

- Public gathering spaces and open spaces are encouraged, especially in the following situations:
  - Where neighborhood open space is lacking;
  - Near transit stations or hubs; and
  - When they can enhance existing parks and the waterfront;
- New development respects the historic character of Washington's neighborhoods, including:
  - Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
  - Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
  - Development should respect and protect key landscape vistas and axial views of landmarks and importance places;
- Buildings strive for attractive and inspired façade design, including:
  - Reinforce the pedestrian realm with elevated detailing and design of first and second stories; and
  - Incorporate contextual and quality building materials and fenestration;
- Sites are designed with sustainable landscaping; and
- Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:
  - Pedestrian pathways through developments increase mobility and link neighborhoods to transit;
  - The development incorporates transit and bicycle facilities and amenities;
  - Streets, easements, and open spaces are designed to be safe and pedestrian friendly;
  - Large sites are integrated into the surrounding community through street and pedestrian connections; and
  - Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.

Comprehensive Plan (Title 10A DCMR, the "CP" or "Comp Plan")

25. The Comprehensive Plan's Future Land Use Map ("FLUM") identifies the Property for "Local Public Facilities," "Medium Density Residential," "Medium Density Commercial," and "Institutional" uses. The "Local Public Facilities" designation is intended for "includes land and facilities occupied and used by the District of Columbia government or other local government agencies." (*See* 10A DCMR § 227.17). The "Medium Density Residential" designation is for "neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings." (*See* 10A DCMR § 227.7). The "Medium Density Commercial" designation is for "shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas." (*See* 10A DCMR § 227.12). The "Institutional" designation is for "land and facilities occupied by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions." (*See* 10A DCMR § 227.18).

26. The Comprehensive Plan's Generalized Policy Map ("GPM") identifies the Property as a "Land Use Change Area," which is an area "where change to a different land use from what exists today is anticipated," with a "guiding philosophy . . . to encourage and facilitate new development and promote the adaptive reuse of existing structures." (10A DCMR §§ 225.9-225.12). The GPM also identifies the Property as within a "Resilience Focus Area," which is intended for areas within the 100- and 500-year floodplain and is meant to "ensure resilience to flooding for new development and infrastructure." (10A DCMR § 304.7). Finally, the Property is within a "Future Planning Analysis Area" that is meant to "large tracts or corridors where future analysis is anticipated to ensure adequate planning for equitable development." (*See* 10A DCMR § 2503.2).

27. The Comprehensive Plan designates the Property as within the Capitol Hill Area Element.

28. The Property is subject to the objectives and recommendations of the Master Plan, which:
- Envisions "[a]n urban waterfront district that serves the District of Columbia and connects the surrounding neighborhoods to the Anacostia River via public streets and green parks. It is a public resource hosting a mixture of uses, including health care, civic, residential, educational, community and other public uses. It is pedestrian-oriented, has a human scale, and is a convenient, safe and pleasurable place to visit, live, work and play" (Master Plan at p. 3); and
- Provides nine core planning principles, among which include:
  - Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately scaled development;
  - Maintain a human-scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront; and
  - Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails and increased access to waterfront parklands.

(Master Plan at p. 15).

II. THE APPLICATION

The Project

29. The Application proposes to subdivide the Property and construct a new correctional facility (the "Project") that will replace a portion of the CDF and be connected to the CTF, which will be renovated at a later date. The goal of the Project is to replace the aging CDF with a modern, secure, and resilient correctional facility that has the necessary infrastructure to address the critical rehabilitation, treatment and reentry needs of individuals in the custody and care of DOC (Ex. 3).

30. Once subdivided,[1] the Property will be approximately 594,157 sq. ft. of land area encompassing Hill East Parcels L, N, and O (Ex. 3, 10A2).

[1] At the time of filing the Application, the Property consisted of a single record lot (Square 1112E, Lot 826). The Applicant states that the proposal intends to subdivide the Property into Parcels L, N, and O (Ex. 3).

31. The proposed correctional facility will consist of two new buildings that are connected by an above-grade walkway. The eastern-most building ("Building 1") will be five stories and have a public entrance and lobby accessed from Massachusetts Avenue, S.E. Building 1 will feature medical clinic space, infirmary housing, intake space, transfer and release services, a visitation center, behavioral health facilities, office space for staff, resident educational programs and three floors of resident housing and support spaces (Ex. 3). The western-most building ("Building 2") will be two stories and be dedicated to housing and support spaces and administrative offices. Each building will have a below-grade parking garage with two levels (Ex. 3).

32. In total, the Project will have approximately 958 beds. Once complete, the Project will be connected to the existing CTF, which the Applicant also intends to renovate in the future (Ex. 3).

33. The Project will be constructed to the following standards:
- Approximately 1,125,772 sq. ft. of gross floor area ("GFA") for a total floor-area-ratio ("FAR") of 1.89[2];
- A maximum building height of 88 ft. for Building 1 and 46 ft. for Building 2. Each building will also have a mechanical penthouse;
- A total lot occupancy of 42%;
- Approximately 409 vehicular parking spaces and two loading berths; and
- 12 short-term bicycle parking spaces and 63 long-term bicycle parking spaces.

(Ex. 10A1-10A9).

34. As part of the Project, the Applicant proposes to extend the Massachusetts Avenue, S.E. right-of-way from the northwest side of the Property to the southeastern lot line. The 160-foot right-of-way will include 56 ft. of street with 52 ft. of public space on either side of the street. The segment of public space adjacent to the Property will have a 32-foot-wide landscape buffer, a 10-foot-wide sidewalk, a 10-foot-wide planting strip, a bicycle lane and a parking lane (Ex. 3).

35. The Project proposes only one curb cut from Massachusetts Avenue at the southeastern side of the Property. The curb cut will provide access to a private drive that connects to an internal road network within the Property and provides access to the below-grade parking garages and loading berths. The correctional facility will continue to use the existing private drive on the western side of the site as well (Ex. 3).

36. The Project's architecture is intended to create a strong, safe ,and secure civic building that offers a place for residents to be healed and reduce recidivism while also designing a building that harmonizes with the surrounding neighborhood. The defining feature is an aluminum scrim held up by a series of paired columns. The scrim has varying textures, transparency, color and tone and is broken up by a series of horizontal leaves. Beneath the

[2] This figure includes the existing CTF and the portion of the CDF that will remain on site.

scrim is an interior security wall and a window wall. The two interior walls will have different types of glazing throughout the façade in order to be responsive to the adjacent programming needs. The Project's landscaping design provides continuous and terraced retaining walls with extensive plantings along the Massachusetts Avenue frontage. The Project is designed to achieve LEED-Silver standards (Ex. 3; 10).

37. To Project will be constructed in a sequence to ensure minimal disruption to DOC operations. First, Building 1 will be constructed followed by demolition of a portion of the CDF. This sequencing will allow some residents to move from CDF to Building 1. At completion, Building 1 will be connected with the existing CTF. Second, Building 2 will be constructed (Ex. 3).

Applicant's Submissions, Revisions and Testimony

38. On December 2, 2024, the Applicant filed the initial Application and related materials (Ex. 1-3G). The supporting materials include an evaluation of the Application's consistency with the Comprehensive Plan as viewed through a racial equity lens (Ex. 3G).

39. On February 17, 2025, the Applicant filed a supplemental statement, as permitted under Subtitle Z § 401.5, which included the following:
    - Updated Architectural Plans: The Applicant refined the Project design in response to comments from U.S. Commission of Fine Arts ("CFA"), which also has review authority over the Project. The architectural refinements included changes to the scrim feature, additional detail on window wall materiality, changes to the vertical columns and mechanical penthouse screen, a simplified landscape/public space design, removal of a separate staff entrance, and minor changes to Project development data. The Applicant submitted revised architectural plans reflecting the foregoing changes (*See* Ex. 10A1-10A9);
    - Bed Count: The Applicant confirmed the number of beds that will be in CTF once the building is renovated. Accordingly, the Project and CTF will have a combined 2,144 beds;
    - Bioretention: The Applicant revised the Project's stormwater management plan in response to comments from members of the Congressional Cemetery, which is located to the south of the Property. Specifically, the Applicant revised the width of the service road and reconfigured the bioretention area to provide more room to replant buffering trees along the shared lot line with Congressional Cemetery. These revisions required a narrowing and repaving of the internal access road at the southern end of the Property and a reconfiguration of the bioretention area. The Applicant states it will plant new trees on the southern and western side of the access road;
    - Comprehensive Transportation Review: The Applicant provided a Comprehensive Transportation Review prepared by Gorove Slade Associates, the Applicant's transportation consultant, which included a draft Transportation Demand Management Plan (*See* Ex. 10B);
    - Community Outreach: The Applicant updated the Commission regarding community outreach conducted with ANC 7F, ANC 7D, ANC 6B and other organizations; and

- Outline of Witness Testimony with Expert Resumes: The Applicant provided an outline of hearing testimony for witnesses along with the resumes of proffered expert witnesses.

(Ex. 10-10D).

40. On March 3, 2025, the Applicant filed an update on review of the Project by CFA and the National Capital Planning Commission. Based on the revisions, the Applicant states that CFA voted to approve the concept submission for the Project (*See* CFA concept approval letter at Ex. 11A). The Applicant requested a waiver from Subtitle Z § 401.8 in order to make the filing within 30 days of the hearing date, which was granted by the Commission at the beginning of the March 17, 2025 public hearing (Ex. 11-11B; Tr. at pp. 6-7).

41. Testimony at the public hearing on March 17, 2025, including a PowerPoint presentation (Ex. 16A1-16A4). Three witnesses testified during the Applicant's presentation: Thomas Faust, Director of the DOC; Michelle Wilson, Deputy Director of Administration for the DOC; Agyei Hargrove, Executive Program Manager for the Applicant; Tamara Clarke, architect from CGL Companies; David Cheney, architect from CORE Architecture + Design; and Erwin Andres, traffic consultant from Gorove Slade. Mr. Cheney and Mr. Andres were accepted as expert witnesses by the Commission.

42. On March 31, 2025, the Applicant filed proposed findings of fact and conclusions of law pursuant to Subtitle Z § 601.1 (Ex. 20-20A).

Relief Requested

43. As a part of its Mandatory Design Review Application, the Applicant also requested the following flexibility and relief.

44. The Applicant requested special exception relief under Subtitle K § 412.1(k) to provide a large school government use at the Property (Ex. 3).

45. The Applicant requested area variance relief from Subtitle K § 420.5, which requires that entrances to a building on a primary street in an HE zone (i.e., Massachusetts Avenue) be located no more than 50 ft. apart and recessed no more than six ft. deep or 10 ft. wide (Ex. 3).

46. The Applicant requested two waivers from design requirements in the HE zones:
- The Applicant requested a waiver from Subtitle K § 417.1(e), which requires that a minimum of 65% of a building's ground floor frontage on Massachusetts Avenue, S.E. be dedicated to preferred uses, main building entrances or lobbies to office and residential uses; and
- The Applicant also requested a waiver from Subtitle K § 419.3, which requires that the building's frontage extend to within 25 ft. of the front property line and to a height of not less than 25 ft. (Ex. 3).

47. The Applicant requested certain design flexibility to vary elements of the final plan set approved by the Commission and still comply with the requirements of Subtitle Z § 702.8 to construct the Project in complete accordance with the final approved plans (Ex. 3).

Applicant's Justification for Design Review Approval

HE Zone Design Review Standards

48. Purposes of the Hill East Zone District (Subtitle K § 400.1) – The Application provides evidence that the Project meets the general purpose of the Hill East Zone Districts pursuant to Subtitle K § 400.1 (*see* FF No. 16 above), as follows:
    - Pursuant to Subtitle K § 400.1(a), the Applicant asserted the Project will connect and integrate Reservation 13 with adjacent neighborhoods and the Anacostia River waterfront by extending Massachusetts Avenue and substantially improving the conditions at the Property. The proposed extension of Massachusetts Avenue will offer multi-modal transportation as well as a new sidewalk and landscaping in public space. By comparison, Massachusetts Avenue currently dead-ends into a parking lot serving the CDF and CTF. Additionally, the Project will contribute to the broader neighborhood with improved site layout, a strong architectural presence and publicly engaging features (Ex. 3);
    - Pursuant to Subtitle K § 400.1(b), the Applicant asserted the Project allow the Hill East zones to meet a diversity of public needs by providing a new correctional facility that is focused on rehabilitation, behavioral health and well-being (Ex. 3);
    - Pursuant to Subtitle K § 400.1(c), the Applicant asserted the Project will extend the existing pattern of local streets through the Hill East neighborhood through the extension of the 160-foot-wide Massachusetts Avenue. Additionally, the Project is appropriately scaled as it is consistent with the physical development standards in the HE-3 and HE-4 zones (Ex. 3);
    - Pursuant to Subtitle K § 400.1(d), the Applicant asserted the Project maintains a human-scale of building heights that match existing neighborhood buildings and increase height toward the Anacostia waterfront as the Project will comply with the minimum and maximum height requirements in the HE-3 and HE-4 zones. Additionally, Building 1, which is closer to the waterfront, is taller than Building 2 (Ex. 3);
    - Pursuant to Subtitle K § 400.1(e), the Applicant asserted the Project connects the Hill East neighborhood and city at large to the waterfront by extending Massachusetts Avenue toward the waterfront with improved access for vehicles, bicyclists and pedestrians. The right-of-way extension and overall site plan represent a significant improvement over existing conditions with respect to accessibility and connectivity (Ex. 3);
    - Pursuant to Subtitle K § 400.1(f), the Applicant asserted the Project will demonstrate environmental stewardship by achieving LEED-Silver standards as well as extensive new landscaping and stormwater management features. This is an improvement over existing conditions as much of the Property is comprised of concrete and non-pervious surfaces (Ex. 3);

- Pursuant to Subtitle K § 400.1(g), the Applicant asserted the Project promotes the use of mass transit and creates an environment where pedestrian, bicycle and auto are all welcome due to its location two blocks from the Stadium-Armory Metrorail station. The DC government incentivizes the use of mass transit through a $50 per month allotment to eligible employees for Metro public transportation. Additionally, the Massachusetts Avenue extension encourages multi-modal transportation by providing dedicated vehicular, bicycle, and pedestrian lanes (Ex. 3);
- Pursuant to Subtitle K § 400.1(h), the Project limits correctional facility uses to south of Massachusetts Avenue, S.E., as envisioned in the Master Plan (Ex. 3); and
- Pursuant to Subtitle K § 400.1(i), the Project will provide unique, vibrant and attractive architecture that contributes to the overarching goals of the HE zones. In this respect, the Project represents an improvement over the existing CDF and CTF, which are aging, uninviting and architecturally outdated. The Project furthers the vision of Massachusetts Avenue as a grand boulevard by extending the 160-foot right-of-way toward the Anacostia riverfront (Ex. 3).

49. Ground Floor Uses Where Required and Permitted (Subtitle K §§ 417, 418) – With respect to the ground floor use and design standards under Subtitle K § 417 and Subtitle K § 418, respectively, (*see* FF No. 17-19 above) the Project does not provide preferred uses, which include retail, entertainment, assembly, and other use types, and, therefore, the Applicant requests a waiver from Subtitle K § 417.1 (as noted above and further discussed below). Since the Project does not provide preferred uses, the Application asserts the preferred use requirements of Subtitle K § 417.2 and the design standards for ground floor preferred uses under Subtitle K § 418 are not applicable (Ex. 3).

50. Design Conditions for the Hill East Zone District (Subtitle K § 419) – The Application provides evidence that the Project meets the general design conditions in the HE zones under Subtitle K § 419 (*see* FF No. 20 above), with the exception of Subtitle K § 419.3 from which the Applicant requests a waiver (as noted above and further discussed below), as follows:
- Subtitle K § 419.2 – The Project extends to the property line abutting Massachusetts Avenue for not less than 90% of the property and to a building height of not less than 25 ft. (Ex. 3, 10A1-10A9);
- Subtitle K § 419.4 – The Project's entrance features a decorative metal awning that extends beyond the building line (Ex. 3, 10A1-10A9);
- Subtitle K § 419.5 – The Project's façade is modulated and articulated through the use of the perforated scrim feature comprised of painted aluminum material. The scrim is broken open by horizontal leaves to provide further visual interest on the façade (Ex. 3, 10A1-10A9);
- Subtitle K § 419.6 – The perforated scrim projects more than six inches for the building's window wall (Ex. 3, 10A1-10A9);
- Subtitle K § 419.7 – The façade articulation is greater than two feet (Ex. 3, 10A1-10A9);

- Subtitle K § 419.8 - The Project incorporates a combination of articulated and modulated elements to ensure no element exceeds 60% of the building facade. These elements include vertical columns that are broken down by the varied scrim feature (Ex. 3, 10A1-10A9);
- Subtitle K § 419.9 – The Project does not have ground floor retail and, therefore, the requirement is not applicable (Ex. 3);
- Subtitle K § 419.10 – The Project does not have security grills and, therefore, the requirement is not applicable (Ex. 3);
- Subtitle K § 419.11 – The Project's façade does not feature blank walls without doors and windows as the entire façade is comprised of a window wall. The window wall is always visible through the scrim panels (Ex. 3, 10A1-10A9);
- Subtitle K § 419.12 – The Project provides a public entrance at the northwest corner of Building 1 that is clearly defined and easily accessible from the public sidewalk (Ex. 3, 10A1-10A9);
- Subtitle K § 419.13 – The Project does not provide exterior display of goods or exterior storage (Ex. 3, 10A1-10A9);
- Subtitle K § 419.14 – The Project's entire façade is made up of a window wall and, therefore, the minimum requirement of 35% windows on a non-residential façade facing a primary street is met (Ex. 3, 10A1-10A9);
- Subtitle K § 419.15 - Building 1 defines its base within the 22'-0" tall first floor with the exposed vision glass of the building entry, approximately 30% less facade panels at this level, and a large canopy at the entrance entry. Building 2 defines its base with a plinth made of a heavy board formed concrete wall softened by a landscaped berm. The top of both buildings is comprised of a full row of scrim panels that reduce toward the middle of each building to further define a base, middle and top (Ex. 3, 10A1-10A9);
- Subtitle K § 419.16 – The Project features high-quality and durable materials to enhance the feeling of the building's permanence (Ex. 3, 10A1-10A9); and
- Subtitle K § 419.17 – The Project does not feature any stucco, vinyl siding or other low-grade exterior finishes (Ex. 3, 10A1-10A9).

51. Design Conditions for Buildings Located on Primary Streets (Subtitle K § 420) – The Application provides evidence that the Project meets the design conditions for a building located on a primary street under Subtitle K § 420 (*see* FF No. 21 above), with the exception of Subtitle K § 420.5 from which the Applicant requests area variance relief (as noted above and further discussed below), as follows
- Subtitle K § 420.2 – The Project does not front the intersection of two streets and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9);
- Subtitle K § 420.3 – The Project is not located at the intersection of two primary streets or a primary and secondary street and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9);
- Subtitle K § 420.4 – The Project is not located at the intersection of two streets and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9);

- Subtitle K § 420.6 – The Project does not incorporate preferred uses and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9);
- Subtitle K § 420.7 – The Project does not incorporate a residential use and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9); and
- Subtitle K § 420.8 – The Project does not incorporate preferred uses and, therefore, this requirement is not applicable (Ex. 3, 10A1-10A9).

General Design Review Standards

52. The Applicant asserted that the Application met the general design review standards of Subtitle X § 604 because of the justifications detailed immediately below (Ex. 3, 3G).

53. Not Inconsistent with CP and Public Policies (Subtitle K § 604.5) – The Application provided evidence that the Project is not inconsistent with the Comprehensive Plan including its maps and policies when viewed through a racial equity lens, and other public policies, pursuant to Subtitle X § 604.5 as follows:
    - FLUM: The Project is not inconsistent with the FLUM's designation for the Property of Mixed-Use: "Local Public Facilities," "Medium Density Residential," "Medium Density Commercial," and "Institutional." The FLUM identifies most of the Property for the "Local Public Facilities" designation, which is intended for land and facilities occupied and used by the District of Columbia government just as the Project will be. Further, the FLUM's mixed-use categorization accounts for "large sites…where opportunities for multiple uses exist." The FLUM identifies the Property and much of Reservation 13 for a mix of uses to allow for flexibility in future planning efforts. The HE zones and the Master Plan both envision the area south of Massachusetts Avenue for a correctional facility use. Nonetheless, the Project is consistent with the expected density in the medium density residential and commercial designations (Ex. 3, 3G);
    - GPM: The Project is not inconsistent with the GPM's designation for the Property as a "Land Use Change Area" because the Project is consistent with the planning broader goals for the Hill East neighborhood, as reflected in the Master Plan. The Project is also not inconsistent with the GPM's designation for the Property within a Resilience Focus Area, since the Applicant plans to integrate green features into the Project such as LEED Silver certification and landscaping improvements along the Massachusetts Avenue frontage. The Application does not propose a zoning change and, therefore, is consistent with the Future Planning Analysis Area (Ex. 3, 3G);
    - 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 re-uses a large publicly owned site and harmonizes with the surrounding neighborhood with modern and engaging architectural design. The improved public space adjacent to the Property promotes multi-modal transit and access to Metrorail (Ex. 3, 3G);
        - *Transportation Element*: The Project is in close proximity to Metrorail and greatly improves the pedestrian, bicycle and vehicular network with the extension of the Massachusetts Avenue right-of-way (Ex. 3, 3G);

- *Environmental Element*: The Project will achieve LEED-Silver certification and incorporates new landscaping and stormwater management (Ex. 3, 3G);
- *Urban Design Element*: The Project represents a substantial architectural and site design improvement over the existing CDF and CTF. The Project employs high-quality materials to create a memorable civic building that is consistent with the vision for the Hill East neighborhood (Ex. 3, 3G); and
- *Community Services and Facilities Element*: The Project is a state-of-the-art correctional facility that focuses on education and vocational training, rehabilitative services, substance abuse, behavioral, and mental health treatment programs, and reentry supportive services. (Ex. 3, 3G); and

- Area Element*:* The Project furthers the goals of the Capitol Hill Area Element to redevelop Reservation 13 into a mixed-use neighborhood with Massachusetts Avenue as a grand boulevard. The Project is significantly setback from lower-scale row house neighborhoods to the west (Ex. 3, 3G); and
- Master Plan: The Master Plan contemplates correctional facilities to the south of Massachusetts Avenue and identifies the "Massachusetts Avenue District" for "new civic and municipal buildings" including "correctional treatment facilities." The Project is also consistent with the Master Plan's vision to extend Massachusetts Avenue toward the Anacostia River and increase building heights toward the waterfront.

Racial Equity

54. The Comprehensive Plan also requires the Commission to evaluate all zoning actions through a racial equity lens (CP § 2501.8). Consideration of equity is intended to be based on the policies of the Plan and part of the Commission's consideration of whether the design review in this case is "not inconsistent" with the Comprehensive Plan, rather than a separate determination about its equitable impact.

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

56. The Comprehensive Plan's Implementation Element provides guidance for the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states that "[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of difference areas in the District." (CP § 2501.6). In addition, the Implementation Element suggests to prepare and implement tools to use as a

part of the Commission's evaluation process (CP § 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 (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

57. The Applicant provided the following information about the community and its outreach in its responses to the Community Outreach and Engagement component of the Commission's revised Racial Equity Analysis Tool.
- *Community Outreach and Engagement*: The Applicant has attended and presented at 23 community and stakeholder meetings in connection with the Project, including meeting with ANC 7F three times; ANC 7D three times; and ANC 6B once. The Applicant also met with the Council for Court Excellence and the Jails & Justice Task Force. The Applicant held several informational sessions as well (Ex. 3G, 10).

58. General Special Exception Criteria of Subtitle X, Chapter 9 (Subtitle X § 604.6) – The Application provided evidence that the Project satisfies the general special exception criteria of Subtitle X, Chapter 9, as required under Subtitle X § 604.6:
- The Project is in harmony with the purpose and intent of the Zoning Regulations and Maps because the Project will be consistent with the intent of the Hill East zones. The Project provides an important public service and will meet the design and planning goals of the Hill East zones, including to extend Massachusetts Avenue with a multi-modal right-of-way. The Project also meets the physical development standards in the HE-3 and HE-4 zones, including as to height, FAR and lot occupancy (Ex. 3); and
- The Project will not create adverse impacts to neighboring property as it will be buffered from the surrounding neighborhood by rights-of-way. The only abutting private property is the Congressional Cemetery and Hill East Parcel M, which is vacant. Correctional facility operations are primarily within the Project. Transport and intake will occur via the new sallyport located behind Building 1. The Project provides one curb cut and two large underground garages for staff parking (Ex. 3).

59. Urban Design Criteria (Subtitle X § 604.7) – The Application provided evidence that the Project meets the urban design criteria of Subtitle X § 604.7 (*see* FF No. 23 above) in a way that is superior to a matter-of-right development in accordance with Subtitle X § 604.8, as follows:
- Subtitle X § 604.7(a) – The Project's street frontage on Massachusetts Avenue is designed to be safe, comfortable, and encourage pedestrian activity. The Project extends Massachusetts Avenue and enlivens the streetscape with a large landscape buffer, retaining walls and bench seating. Additionally, there will be no direct driveway

or garage access from Massachusetts Avenue, with only one curb cut provided at the eastern end of the site. The Project's public entrance is prominently located at the northwest corner of Building 1 (Ex. 3);

- Subtitle X § 604.7(b) – The Project's frontage along Massachusetts Avenue is intended to be open and inviting. The landscaping and bench seating in front of the Project will encourage pedestrian activity and interaction with the building (Ex. 3);
- Subtitle X § 604.7(c) – The Project will extend a major boulevard in Massachusetts Avenue and create public space that encourages multi-modal transportation and access to the Anacostia waterfront. The extension of Massachusetts Avenue also reinforces the axial views toward the waterfront as envisioned by the Master Plan. The Project is also designed to create a strong street wall that allows the public to interface with an important civic building. The correctional facility has been located at the site for almost 50 years and the new facility will enhance the neighborhood's visual connection to this long existing use. The modern and memorable architecture is consistent with the style of development in Hill East and will positively contribute to the overall neighborhood's architectural character (Ex. 3);
- Subtitle X § 604.7(d) – The Project incorporates detailed façade design with the primary architectural features of the perforated scrim, horizontal leaves and large public entrance with a canopy feature. These attractive and unique features are intended to encourage public interaction with this civic building while also achieving the goals of a secure and "functionally anonymous" correctional facility. The Project forms a close connection with adjacent public space through the use of tiered retaining walls and extensive landscape features (Ex. 3);
- Subtitle X § 604.7(e) – The Project provides extensive sustainable landscaping along Massachusetts Avenue, including native trees and other plantings. The Project will also have modern stormwater management features in accordance with current regulations. (Ex. 3); and
- Subtitle X § 604.7(f) – The Project's extension of Massachusetts Avenue significantly improves mobility and transit links in the Hill East neighborhood. As envisioned by the Master Plan, the Project continues the progress of building out the street network in the area, including between the metro station and the Anacostia waterfront. Massachusetts Avenue will be a multi-modal right-of-way that is welcoming to transit, bicyclists and pedestrians. The public space improvements will integrate the correctional facility with the surrounding community (Ex. 3).

Applicant's Justification for Zoning Relief and Design Waivers

Special Exception Relief – Large Scale Government Use

60. Pursuant to Subtitle K § 412.1(k) uses not permitted by Subtitle K § 410 and not prohibited by Subtitle K § 415 shall be permitted in the HE zones as a special exception subject to the general special exception criteria of Subtitle X § 901.2 and Subtitle K § 416.[3] Additionally,

[3] Subtitle K § 416, which applies to developments subject to inclusionary zoning requirement, is inapplicable to the Project.

an application for special exception relief within the HE zones must demonstrate compliance with the following general use provisions of Subtitle K § 413:

- Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- The proposed building will comply with the applicable ground floor use and design requirements of Subtitle K §§ 416 through 419;
- The building's architectural design will enhance the urban design features of the immediate vicinity in which it is located; and
- Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

(*See* Subtitle K §§ 412.1(k), 413.1).

61. The Applicant asserted that it meets the special exception requirements of Subtitle X § 901.2 for a large-scale government use of the Property pursuant to Subtitle K § 412.1(k), as follows:

- *Harmonious with General Purpose and Intent of Zoning Regulations* - The HE zones are intended to provide an array of uses including government services and administration…" (*See* Subtitle K § 400.1(c)). Both the HE zones and the Master Plan specifically identify a correctional facility use to be located south of Massachusetts Avenue (*See* Subtitle K § 400.1(h)) (Ex. 3); and
- *Will Not Tend to Affect Adversely Use of Neighboring Properties* – The D.C. Jail has been operating on or near the Property since 1873. The Applicant proposes to decommission the existing CDF and replace those operations with the Project. Therefore, the Project and proposed use are consistent with existing conditions (Ex. 3).

62. In addition to the general special exception standard, the Project meets the special conditions for a large-scale government use under Subtitle K § 413.1, as follows:

- Subtitle K § 413.1(a) – Parking and traffic conditions will not adversely affect neighboring property because the Project proposes below-grade parking garages with approximately 409 parking spaces. This will reduce the number of cars that circulate through the surrounding neighborhoods looking for parking. Additionally, the Project is designed to provide for on-unit virtual visitation, which means family members and legal representation do not have to travel to the site as much (Ex. 3);
- Subtitle K § 413.1(b) - The Project is not expected to create external noise that would impact adjacent properties because correctional operations are contained primarily within the proposed structures. Intake procedures will occur on the internal side of the Project away from adjacent properties. The Project is also separated from other uses by public rights-of-way, including the 160-foot-wide Massachusetts Avenue extension (Ex. 3);

- Subtitle K § 413.1(c) – The Project complies with the ground floor use and design requirements with the exception of any waivers requested or requirements that are otherwise not applicable (Ex. 3);
- Subtitle K § 413.1(d) - The new state-of-the-art facility will provide modern and memorable civic architecture and create a meaningful connection with the Hill East neighborhood. The prominent and accessible entrance establishes a public-facing element. The Project will provide extensive landscaping and retaining wall features along the Project's Massachusetts Avenue frontage that will encourage walkability (Ex. 3); and
- Subtitle K § 413.1(e) - The Project utilizes connected private drive aisles to allow for the flow of vehicular traffic around the site while minimizing conflict with public space. The Project will create only one curb cut on Massachusetts Avenue to limit any impact to pedestrian movement. There will be a separate entrance to the parking garage beneath Building 2 that is internal to the site and accessed either from the same Massachusetts Avenue curb cut or from the entrance off E Street, S.E. All vehicular entrances will be restricted with a security gate or garage door (Ex. 3).

Area Variance Relief – Building Entrances Greater Than 50 Feet Apart

63. The Applicant asserted that it meets the area variance requirements of Subtitle X §§ 1000.1, 1002.1(a) for relief from the HE zone design requirement of having building entrances on a primary street that are no less than 50 feet apart pursuant to Subtitle K § 420.5, as follows:
    - *Exceptional Situation or Condition* - The Applicant and DOC's needs to provide a safe and secure correctional facility are an exceptional and unique condition at the Property. As set forth in *Neighbors for Responsive Government v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018) and *Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979), the Project is providing a public service in that it will be a new correctional facility for the District of Columbia that is also geared toward rehabilitation and healing Residents and reducing the rate of recidivism in the justice system. A critical programmatic requirement is that the Project must be constructed in an open area on the Property to permit the facility to continue operating during construction. Therefore, the only location to site a new facility is along Massachusetts Avenue, which is a primary street in the HE zone (Ex. 3);
    - *Practical Difficulty* – The requirements of Subtitle K § 420.5 would necessitate no fewer than 11 entrances to the Project on Massachusetts Avenue. The provision of 11 entrances creates a practical difficulty for the Project because it would be contrary to DOC's goals of creating a safe and secure correctional facility. Unlike many of the use types encouraged in Hill East, a correctional facility does not require multiple building entrances. Residents are transported to the correctional facility via the sallyport, which provides for secure intake. Visitors will enter the building through the primary entrance to Building 1. Further, multiple entrances would create challenges in incorporating the intended programming, as the floorplan would have to account for new circulation patterns. For example, the entirety of Building 2 is dedicated to housing units and support spaces, but new entrances would require a reconfiguration with fewer units. (Ex. 3); and

- *No Detriment to Public Good* - The Applicant has incorporated many of the Hill East design guidelines to ensure the Project meets the intent of the Hill East zones, including on Massachusetts Avenue. Overall, the Project will not detract from the envisioned Hill East neighborhood (Ex. 3).

HE Design Waivers

64. The Application asserts good cause to grant a waiver from Subtitle K § 417.1(e), which requires preferred uses along 65% of the Project's Massachusetts Avenue frontage. Given the unique nature and security needs of the Project, the co-location of preferred uses is not feasible (Ex. 3).

65. The Application asserts good cause to grant a waiver from Subtitle K § 419.3 requiring that all portions of the Project be constructed to within 25 feet of the front property line. The only portion of the Project that does not extend to the property line is the above-ground connection between Building 1 and Building 2. The connection is setback more than 25 feet from the front property line due to internal circulation patterns and floorplan layout (Ex. 3).

III. RESPONSES TO THE APPLICATION

Office of Planning

66. OP submitted a report dated March 10, 2025 (the "OP Report", Ex. 14A)[4] recommending that the Commission approve the Application. The OP Report concluded that the Project satisfies the HE design review criteria of Subtitle K §§ 400, 417, 418, 419, and 420 (with the exception of the waivers and relief requested) and the general design review criteria of Subtitle X § 604, including that the Project, on balance, is not inconsistent with the Comprehensive Plan maps and policies as viewed through a racial equity lens, as well as the Master Plan. The OP Report also recommended approval of the special exception relief, area variance relief, and design waivers requested by the Applicant.

67. In support of its recommendation that the Commission approve the Application, the OP Report made the following findings, among others:[5]

- FLUM: The new correctional facility will continue to be owned and operated by the District of Columbia and is therefore not inconsistent with the Local Public Facilities designation for most of the site. A portion of the overall property, Parcel L, and a portion of Parcel O, is recommended for a mixed use - residential, commercial and institutional uses. The mixed-use designation for Parcel L and a portion of Parcel O is reflective of the vision of the Hill East Master Plan that Parcel L be developed with a mix of correctional supportive facilities. However, due to the need to retain the residents onsite during the future demolition of the existing, outdated buildings and to

[4] The OP Report included a request (*see* Ex. 14) to reopen the record to accept the OP Report less than 10 days before the March 17, 2025 public hearing, which was granted by the Commission at the start of the hearing (Tr. at pp. 6-7).

[5] Many of the contents of the OP Report are directly quoted in the following summary.

have some supportive services closer to where the residents are housed, the new building would be located within the area designated for medium-density residential and commercial and institutional uses. In light of flexibility provided for mixed use designations, and the direction of the Master Plan and the HE zones, taken as a whole, the development is not inconsistent with the FLUM designations for the Property;

- GPM: Reservation 13 formerly housed the City's hospital and other medical services, shelters and correctional facilities. The Hill East Master Plan outlines a vision for the redevelopment of the Hill East which includes the retention of the correctional facilities south of Massachusetts Avenue, S.E. while redeveloping the remainder of the site with a mixed-use community containing housing, affordable housing, retail, and parks and open space areas, as recommended by the FLUM, the Capitol Hill Area Element and the Reservation 13 Policy Focus Area. The development of Parcels L, N and O would be in line with the development envisioned for this Land Use Change Area. The proposal would implement and meet all applicable design guidelines for Hill East which aspire to create a high-quality neighborhood through exemplary site and architectural design and would be compatible to adjacent uses and future development envisioned for Hill East. The development would incorporate many climate resilient features including stormwater management and landscaping to minimize water run off to the Anacostia River. The Applicant states that they will continue to coordinate with DOEE on meeting applicable requirements. The future planning for the redevelopment of Reservation 13, which included significant public participation, has already taken place and resulted in the Council approved Master Plan for Reservation 13, Hill East Waterfront. To implement the recommendations of the Master Plan, the Hill East Zone and Design Guidelines were approved by the Zoning Commission. Any future planning for this area would not impact the Hill East site;
- Citywide Elements: The proposed development, including on and off-site improvements including the extension of Massachusetts Avenue, would not be inconsistent with the Citywide Elements of the Comprehensive Plan and would particularly further policies of the Land Use, Transportation, Environmental Protection, Urban Design, and Community Services and Facilities Elements.
    - *Land Use Element*: The proposed development would facilitate the redevelopment of the correctional facility south of Massachusetts Avenue, S.E. as envisioned by the Comp Plan and the Hill East Master Plan and would benefit the District as a whole. The correctional facility is in close proximity to the Stadium Armory Metro station and the development would provide improved bicycle and pedestrian access for visitors or employees. The proposed building along with future developments would lead to the revitalization of Hill East. The landscaping along Massachusetts Avenue and along other building frontages and pedestrian walkways would provide connections to the adjacent neighborhood and provide future connections to the waterfront. The proposal would particularly further the following policies:
        - Policy LU-1.3.1: Reuse of Large Publicly Owned Sites;
        - Policy LU-1.3.5: Public Benefit Uses on Large Sites;
        - Policy LU-1.3.6: New Neighborhoods and the Urban Fabric;
        - Policy LU-1.3.7: Protecting Existing Assets on Large Sites;
        - Policy LU-1.4.2: Development Around Metrorail Stations;

- Policy LU-1.4.5: Design to Encourage Transit Use;
- Policy LU-1.4.7: Parking Near Metro Stations;
- Policy LU-1.4.9: Public Facilities;
- Policy LU-2.1.2: Neighborhood Revitalization; and
- Policy LU-2.2.4: Neighborhood Beautification;

o *Transportation Element*: The proposed development would include the extension of Massachusetts Avenue, S.E. through Hill East to the future Anacostia Waterfront area, and would provide connections to other neighboring streets. The Property is in close proximity to public transit, the Stadium-Armory Metrorail station, with connections to various train and bus routes would provide increased access to workers and visitors to the facility. The existing and proposed transportation improvements, including long- and short-term bicycle parking stations, would assist in creating a multi-modal environment where pedestrians, bicyclists, and motorists can navigate safely. A multi-modal transportation system serving the development would result in a more equitable network that provides greater accessibility to workers and visitors to the site. The proposed transportation demand management plan includes strategies to manage the traffic generated by the facility and minimize any adverse impacts to the surrounding roadways. The proposal would particularly further the following policies:

- Policy T-1.1.3: Context-Sensitive Transportation;
- Policy T-1.1.7: Equitable Transportation Access;
- Policy T-1.2: Transforming Corridors;
- Policy T-1.3.1: Transit-Accessible Employment;
- Policy T-1.4.1: Street Design for Placemaking;
- Policy T-2.2.1: Multimodal Connections;
- Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning;
- Policy T-2.3.3: Bicycle Safety;
- Policy T-2.3.B: Bicycle Facilities;
- Policy T-2.4.1: Pedestrian Network;
- Policy T-2.4.2: Pedestrian Safety;
- Policy T-2.5.5: Natural Landscaping; and
- Policy T-3.1.1: TDM Programs;

o *Environmental Protection Element*: The proposed facility would incorporate energy efficient systems to reduce energy use. The development would be at a LEED Silver certification level and DOEE has made additional recommendations to the Applicant to further address energy and sustainability issues.
The proposal would particularly further the following policies:

- Policy E-1.1.2: Urban Heat Island Mitigation;
- Policy E-2.1.3: Sustainable Landscaping Policy Practices; and
- Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff;

o *Urban Design Element*: The proposed buildings would implement the applicable architectural elements required by the Hill East Design Guidelines. Design elements of the building façade would include a combination of glass, scrims, and a pronounced entrance giving the large building a strong architecture character befitting of a large-scale government building. The scale and massing of the

buildings would be consistent with the HE-3 and HE-4 zones. The abutting streetscape and landscaping would engender safe and active spaces and movement along Massachusetts Avenue and would allow for its extension towards the future waterfront area. The proposal would particularly further the following policies:
  - Policy UD-1.3.6: Waterfront Access and Connectivity;
  - Policy UD-1.4.1: Thoroughfares and Urban Form;
  - Policy UD-1.4.3: Thoroughfare Vistas and View Corridors;
  - Policy UD-2.1.1: Streetscapes that Prioritize the Human Experience;
  - Policy UD-2.2.1: Neighborhood Character and Identity;
  - Policy UD-2.2.2: Areas of Strong Architectural Character;
  - Policy UD 4.1.1: Capital Improvements and Urban Design; and
  - Policy UD-4.2.1: Scale and Massing of Large Buildings;
- *Community Services and Facilities Element*: The proposed new facility would be designed with upgrades to safety and security systems, allow for electronic visits, and provide additional opportunities for the rehabilitation of residents.
  The proposal would particularly further the following policies/action:
  - Policy CSF-5.1.1: Ensuring Safety, Security, and Humane Operation;
  - Policy CSF-5.1.3: Information Systems; and
  - Action CSF-5.1.A: Planning and Design of Correctional Facilities;

- Area Element: The Hill East Master Plan envisioned the proposed correctional facility south of Massachusetts Avenue and would address implementing many of the policies for the creation of Hill East as a vibrant, mixed-use area. The buildings would be within the required building heights and generally meets the urban design elements. As required, Massachusetts Avenue would be extended to further towards the future waterfront park and would be complemented by extensive landscaping and would enhance pedestrian circulation. The proposal would particularly further the following policies:
  - Policy CH-1.2.3: L'Enfant Avenues;
  - Policy CH-2.4.1: Redevelopment of Public Reservation 13;
  - Policy CH-2.4.2: Reservation 13 as an Extension of Hill East;
  - Policy CH-2.4.4: Stadium-Armory Metro Station;
  - Policy CH-2.4.5: Reservation 13 Building Heights; and
  - Policy CH-2.4.A: Hill East/Reservation 13 Master Plan;
- Potential CP Inconsistencies: OP identified the following CP policies which would not be advanced by the proposed development:
  - Policy LU-2.1.12: Reuse of Public Buildings;
  - Policy E-3.2.2: Net-Zero Buildings; and
  - Policy E-3.2.7: Energy-Efficient Building and Site Planning.

  The Applicant has stated that the existing CDF building is old, lacking in modern facilities and new technology and in general is not conducive to the goal of rehabilitation of its residents. To renovate the CDF building would be expensive and not cost effective. However, the CTF building is slated for renovation at a later date. The proposal would be constructed at a LEED Silver standard which is the minimum and does not meet the net-zero standards and would not incorporate alternative energy sources; and

- Hill East Master Plan: The proposed development would be wholly located to the area south of Massachusetts Avenue, S.E. and would help to implement the vision for Hill East as it would address public needs and provide a government service. The building heights would be as allowed in the HE-3 and HE-4 zones and would be consistent with the slope of the land down towards the Anacostia waterfront. Massachusetts Avenue would be extended and would be designed with bicycle lanes, pedestrian walkways and landscaping to create a "grand boulevard" and greater connectively towards the future waterfront park. The development would include stormwater management systems, and extensive landscaping to create an environmentally sensitive design. Ample parking spaces would be provided on site to reduce parking on neighborhood streets along with opportunities for virtual visits and encouragement of persons to utilize the Stadium Armory Metro Station and buses to access the property to reduce traffic to the site.

68. The OP Report concluded that when viewed through a racial equity lens, using the Commission's Revised Racial Equity Tool, the Project furthers racial equity policies of the Citywide Elements and the Capitol Hill Area Element for the reasons summarized above. The proposed development would also:
- Not result in the displacement of any residents or businesses;
- Not negatively impact housing affordability in the area; and
- Result in public space, streetscape and design improvements. Currently, the frontage along Massachusetts Avenue is mostly concrete for driveways and parking areas with very few trees or landscaping. The proposed development would provide landscaping and streetscape improvements along Massachusetts Avenue, S.E. to a degree greater than that recommended in the Hill East Master Plan and Hill East Design Guidelines, to be more accommodating to pedestrians, bicyclists and drivers. The development would comply with the Hill East Design Guidelines which envision the development of the overall Hill East into a community. The buildings would include superior urban design elements such as its vertical planes panels, opaque and translucent glass and aluminum along with horizontal projection interspersed on the façade. The design and cladding of the building would help to present a distinct architecture compatible with the present and future urban character of Hill East, and with the importance of Massachusetts Avenue, S.E. as a vibrant boulevard. The proposed public facility would have a distinctive architectural design along with the building materials. The sitting areas could provide a respite for pedestrian and bicyclist that travel down Massachusetts to future developments and the Anacostia Waterfront Park.

(Ex. 14A).

In response to Part 3 of the revised Racial Equity Analysis Tool, OP's racial equity analysis stated that "the proposed correctional facility would have a citywide impact and is not expected to have a direct impact on the Capitol Hill demographics. The racial equity impact would be citywide." Therefore, OP did not provide an analysis of disaggregated race and ethnicity data for the Planning Area but did include Citywide data (without analysis as to the zoning action's potential outcomes) as an attachment to its report (Ex. 14A).

69. The OP Report included comments from DOEE. urging the Applicant to incorporate all-electric, net-zero energy design strategies in order to comply with the Greener Government Buildings Amendment Act of 2022 (Ex. 14A).

70. The OP Report did not request any conditions of approval (Ex. 14A).

71. At the March 17, 2025 public hearing, OP testified in support of the Application, including the requested relief (Hearing Transcript "Tr." pp. 69-73).

DDOT Report

72. DDOT filed a report dated March 7, 2025 (the "DDOT Report," Ex. 13) stating that it has no objections to the Project subject to the implementation of the Transportation Demand Management Plan proposed by the Applicant in the Comprehensive Transportation Review (Exhibit 10B) for the life of the Project unless otherwise noted and subject to the following revisions requested by DDOT:
    - Design at least one of the spaces for cargo or larger bikes to be served by an electrical outlet; and
    - Specify the number of long-term bike parking spaces to be located horizontally on the floor, designed with electrical outlets, and designed for cargo and larger bikes as follows:
        - 63 spaces horizontally on the floor (in bicycle lockers);
        - Seven spaces served by electrical outlets for e-bikes and scooters; and
        - Four spaces for cargo or larger bikes (10'x3' rather than 6'x2').

73. In its presentation at the public hearing on March 7, 2025, the Applicant agreed to the revisions requested by DDOT (Ex. 16A3).

74. At the public hearing on March 7, 2025, DDOT testified in support of the Application (Tr. at pp. 66-69).

ANC Reports

75. ANC 6B submitted a resolution dated March 7, 2025 (the "ANC 6B Report," Ex. 12), which was adopted at a duly noticed and regularly scheduled monthly meeting, with a quorum present. ANC 6B voted unanimously to support the Application and noted its intention to seek further conversations with DOC and the other two affected ANCs (ANCs 7D and 7F) to help make the construction process easy on all the neighbors.

76. ANC 7D submitted a resolution dated March 13, 2025 (the "ANC 7D Report," Ex. 17), which was adopted at a duly noticed and regularly scheduled monthly meeting, with a quorum present. ANC 7D voted unanimously, with one abstention, to support the Application. The ANC 7D Report notes the Applicant presented to ANC 7D on several occasions and that there was no adverse feedback from the community. The ANC 7D Report references an expectation of on-going coordination with the Applicant and DOC, including during construction.

77. ANC 7F did not submit a report to the case record or appear or provide testimony at the public hearing.

Letters in Support, Opposition, or Undeclared

78. There was one letter of support filed in the case record and no letters of opposition. No individuals or groups testified in support or opposition at the public hearing (Ex. 18).

79. Ernest Johnson filed written comments stating that the Project should address past failures including inmate deaths, recidivism, and poor conditions. His comments note that community engagement needs to be a "cornerstone of this effort." (Ex. 4).

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 "Act")), the Commission is authorized to review and approve an application for design review in the HE zone that is consistent with the requirements of Subtitle X, Chapter 6 and Subtitle K, Chapter 4.

Standard of Review for Approval of Design Review

2. Pursuant to Subtitle X § 600.1, the purpose of the design review process is to:
   a. Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;
   b. Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;
   c. Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;
   d. Promote high-quality, contextual design; and
   e. Provide for flexibility in building bulk control, design and site placement without an increase in density or a map amendment.

3. Due to the Property's location in the HE zones, the Applicant is required to comply with the design review criteria set forth under Subtitle K § 409. Additionally, due to the Property's frontage on Massachusetts Avenue, S.E., the Applicant is required to comply with the primary streets criteria of Subtitle K § 420. Subtitle X § 604 also provides the Applicant must meet the special exception standards of Subtitle X, Chapter 9, and general design review standards/criteria.

4. Section 8 of the Act authorizes the Commission to grant special exceptions, as provided in the Zoning Regulations under Subtitle X § 901.2, where, in the judgment of the Commission, the special exceptions:

a. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
b. Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
c. Complies with the special conditions specified in the Zoning Regulations.

5. Section 8 of the Act authorizes the Commission to grant area variances, as provided in the Zoning Regulations under Subtitle X § 1002.1(a), where, in the judgment of the Commission:
a. The Property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
b. The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
c. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

6. Pursuant to Subtitle K § 409.2, for good cause shown, the Commission, in its discretion, may waive one or more of the HE zone District design standards in Subtitle K §§ 417 through 419.

7. Pursuant to Subtitle K § 409.3, the Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property, including the special exceptions provided for in this chapter. Such requests shall be advertised, heard, and decided together with the application for Commission review and approval.

8. The Commission makes the following conclusions of law based on the information provided in the case record, including testimony provided at the hearing, the Applicant's statements, the OP Report, the DDOT Report, the ANC 6B Report, and the ANC 7D Report.

Satisfaction of the General Purpose of the HE Zones (Subtitle K § 400)

9. Based on the case record and the Findings of Fact herein, the Commission concludes that the Application meets the general purpose of the HE zones as detailed below.

Subtitle K § 400.1(a) – Connect and integrate Reservation 13 with adjacent neighborhoods, and the new waterfront park along the Anacostia River.

10. The Project will connect Reservation 13 with adjacent neighborhoods and the Anacostia River by extending Massachusetts Avenue to provide a modern, multi-modal right-of-way. The Project represents a substantial improvement over existing conditions with Massachusetts Avenue dead-ending into a parking lot on the Property (Findings of Fact ["FF"] 16, 47, 65).

Subtitle K § 400.1(b) – Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation, and housing.

11. The Hill East zones are intended for a wide array of use types, including government services and administration. The Project is a government service and meets an important public need by providing a new correctional facility for the District of Columbia (FF 16, 47, 65).

> *Subtitle K § 400.1(c) – Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately scaled development.*

12. The Project will extend the 160-foot-wide Massachusetts Avenue further into the Hill East neighborhood. The Project is consistent with the physical development standards in the HE-3 and HE-4 zones and, therefore, will also be scaled in accordance with the Master Plan and HE zone standards (FF 13, 14, 16, 47, 65).

> *Subtitle K § 400.1(d) – Maintain a human-scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront.*

13. The Project is consistent with the prescribed minimum and maximum building heights in the HE-3 and HE-4 zones. The Project also increases in height toward the Anacostia waterfront as Building 1 is five stories and Building 2 is two stories. (FF 13, 14, 16, 47, 65).

> *Subtitle K § 400.1(e) – Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands.*

14. The proposed extension of Massachusetts Avenue will improve access to the waterfront. The proposed right-of-way will feature a landscape buffer on each side of the public sidewalk (FF 16, 47, 65).

> *Subtitle K § 400.1(f) – Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city.*

15. The Project will achieve LEED Silver certification and incorporates new landscaping and bioretention at the Property (FF 16, 47, 65).

> *Subtitle K § 400.1(g) – Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets.*

16. The Project is within two blocks of the Stadium-Armory Metrorail Station and, therefore, provides easy access for staff and visitors. Nonetheless, the Project promotes multi-modal transit with the extension of Massachusetts Avenue and significantly improved streetscape design. The provision of approximately 409 parking spaces and a Transportation Demand Management Plan that incorporates revisions requested by DDOT reduces the impact of parking and traffic on the neighborhood as well (FF 16, 47, 65, 71, 72).

Subtitle K § 400.1(h) – Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue.

17. The Project will be located to the south of Massachusetts Avenue, S.E. (FF 16, 47, 65).

Subtitle K § 400.1(i) – Create attractive "places" of unique and complementary character including: (1) A new, vital neighborhood center around the Metro station at C and 19th Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district; (2) Massachusetts Avenue as a grand Washington 'boulevard' in the tradition of the L'Enfant plan; (3) A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and (4) A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.

18. The Project is an attractive and engaging civic building that will contribute to the goals for the Hill East zones. The Project demonstrates substantially improved site planning on an around the Property. The Project transforms the Property into a vibrant new focal point, for the neighborhood. The new structure will not only meet modern urban design standards but also foster a welcoming environment that encourages community interaction and accessibility (FF 16, 47, 65).

Satisfaction of Ground Floor Uses Where Required and Permitted (Subtitle K § 417)

19. Based on the case record and the Findings of Fact herein, the Commission concludes that the Application complies with the ground floor use requirements set forth in Subtitle K § 417 for the reasons discussed in FF No. 48, except for the waiver requested from the requirements of Subtitle K § 417.1(e), which is discussed in Conclusion of Law ("COL") No. 29 below (FF 17, 18, 63).

Satisfaction of Design Standards for Ground Floor Preferred Uses (Subtitle K § 418)

20. Based on the case record and the Findings of Fact herein, the Commission concludes the design standards for ground floor uses are inapplicable because the Project does not provide a preferred use (FF 19, 48).

Satisfaction of General Design Conditions in the HE Zones (Subtitle K § 419)

21. Based on the case record and the Findings of Fact herein, the Commission concludes that the Application complies with the general design requirements in the HE Zones set forth in Subtitle K § 419 for the reasons discussed in FF No. 49, except for the waiver requested from the requirements of Subtitle K § 419.3, which is discussed in COL No. 30 below (FF 20, 64).

Satisfaction of Design Conditions for Buildings on Primary Streets (Subtitle K § 420)

22. Based on the case record and the Findings of Fact herein, the Commission concludes the design conditions for a building on a primary street set forth in Subtitle K §§ 420.2, 420.3, 420.4, 420.6, 420.7, and 420.8 are inapplicable for the reasons discussed in FF No. 50 and

the Applicant has otherwise obtained area variance from the requirements of Subtitle K § 420.5, which is discussed in COL No. 27 below (FF 21, 62).

Special Exception Relief

23. Based on the case record and the Findings of Fact herein, the Commission concludes the Application satisfies the general special exception standard for a large-scale government use pursuant to Subtitle K § 412.1(k). The Commission bases this conclusion on the fact the HE zones are intended to include government services and administration. Additionally, the HE zones and Master Plan both identify a correctional facility use to be located south of Massachusetts Avenue at the Property. Further, the Commission finds that a special exception to allow a large-scale government use will not tend to affect adversely the use of neighboring property because the Property has been used for a correctional facility for many decades and the Project would continue this use without a substantial change over existing conditions (FF 59, 60).

24. The Commission further concludes the Application satisfies the special conditions for a large-scale government use under Subtitle K § 413.1. The Commission bases this conclusion on a finding that the Project will not adversely affect parking and traffic conditions due to the proposed 409-space parking garages as well as the programming with on-unit virtual visitation that will reduce family and legal trips to the Project (Subtitle K § 413.1(a)). The Project is not expected to create external noise that would impact adjacent properties because correctional operations are contained primarily within the proposed structures and intake procedures will occur on the internal side of the Project. The Project is otherwise buffered from adjacent uses by rights-of-way (Subtitle K § 413.1(b)). The Project complies with the ground floor use and design requirements with the exception of any waivers requested or requirements that are otherwise not applicable (Subtitle K § 413.1(c)). The Project proposes modern, memorable and attractive civic architecture and creates a meaningful connection with the Hill East neighborhood, including with a prominent public entrance at Building 1 and extensive landscaping features along the Project's Massachusetts Avenue frontage (Subtitle K § 413.1(d)). Finally, the Project utilizes connected private drive aisles to allow for the flow of vehicular traffic around the site while minimizing conflict with public space. The Project will create only one curb cut on Massachusetts Avenue to limit any impact to pedestrian movement (Subtitle K § 413.1(e)) (FF 59, 61).

Area Variance Relief

25. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(3) (2018 Repl.) and Subtitle X §§ 1000.1 and 1000.3 authorize the Commission to grant variances from the Zoning Regulations "[w]here, by reason of . . . extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation . . . would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize . . . a variance. . . provided that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

26. The Commission may apply a more flexible standard of review when it assesses a public service organization, "especially where the organization is seeking the zoning relief in order to meet a public need or serve the public interest." (*See Neighbors for Responsive Government v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018); *see also Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (1979)). The characterization of a proposed use as a public service is significant, and "when a public service has inadequate facilities and applies for a variance to expand…then the Board of Zoning Adjustment does not err in considering the needs of the organization as possible 'other extraordinary and exceptional situation or condition of a particular piece of property.'" (*See Monaco* at 1099).

27. Based on the case record and the Findings of Fact herein, the Commission concludes the Application satisfies the area variance standard from the HE zone requirement building entrances on a primary street that are no less than 50 feet apart pursuant to Subtitle K § 420.5. The Commission finds the Applicant is providing a public service because the Project is a critical need for the District of Columbia and is designed to be consistent with DOC's safety protocols for correctional facilities as well as for the rehabilitation and healing goals of residents. As a public service, the Commission may find an exceptional condition based on the DOC's unique programming needs. Additionally, the Project must be constructed on the Property while the existing CDF continues to operate. Yet, the only open area at the Property is along a primary street on Massachusetts Avenue. Further, the Applicant faces a practical difficulty with strict compliance Subtitle K § 420.5 that would necessitate no fewer than 11 entrances to the Project on Massachusetts Avenue. This number of entrances is contrary to DOC's goals of creating a safe and secure correctional facility. Unlike many of the use types encouraged in Hill East, a correctional facility does not require multiple building entrances. Multiple entrances would create challenges in incorporating the intended programming, as the floorplan would have to account for new circulation patterns. Finally, the relief does not substantially detriment the public good because the Project will positively contribute to the Hill East neighborhood and is consistent with a majority of the HE zone design guidelines (FF 62).

Waivers

28. Pursuant to Subtitle K § 409.2, and for good cause shown, the Commission may waive one or more of the HE zone design standards in Subtitle K §§ 417 – 419.

29. Based on the case record and the Findings of Fact herein, the Commission finds good cause to waive Subtitle K § 417.1(e) requiring preferred uses along 65% of the Project's Massachusetts Avenue frontage. The Project is a unique use type that has critical safety and security needs unlike other proposed developments in the Hill East zones. As such, the co-location of preferred uses in the Project is not feasible or recommended for a correctional facility use (FF 63).

30. Based on the case record and the Findings of Fact herein, the Commission finds good cause to waive Subtitle K § 419.3 requiring that all portions of the Project be constructed to within

25 feet of the front property line. The only portion of the Project that does not extend to the property line on Massachusetts Avenue as required under Subtitle K § 419.2 is the above-ground connection between Building 1 and Building 2. The 25-foot setback is needed due to internal circulation patterns and floorplan layout (FF 64).

Satisfaction of General Design Review Standards (Subtitle X § 604)

31. The Commission concludes the Application meets the general design review standards as detailed below.

Not Inconsistent with the Comprehensive Plan (Subtitle X § 604.5)

32. As part of the Application, the Applicant submitted an evaluation of the Project's consistency with the Comprehensive Plan, as viewed through a racial equity lens. The Applicant's evaluation was guided by the Commission's Racial Equity Tool (FF 52-56).

33. In accordance with Subtitle X § 604.5, the Commission concludes that, when examined through a racial equity lens, the Project is not inconsistent with the Comprehensive Plan maps and elements and other adopted public policies and active programs related to the site. The Commission's conclusion is based on the following:

- *FLUM*: The Project is not inconsistent with the FLUM's designation for the Property of "Local Public Facilities," "Medium Density Commercial," "Medium Density Residential" and "Institutional." The FLUM identifies most of the Property for the "Local Public Facilities" designation, which is intended for land and facilities occupied and used by the District of Columbia government just as the Project will be. Further, the FLUM's mixed-use categorization accounts for "large sites…where opportunities for multiple uses exist." The FLUM identifies the Property and much of Reservation 13 for a mix of uses to allow for flexibility in future planning efforts. The HE zones and the Master Plan both envision the area south of Massachusetts Avenue for a correctional facility use. The Project is otherwise consistent with expected densities in the Medium Density Residential and Commercial designations (FF 24, 66);
- *GPM*: The Project is not inconsistent with the GPM's designation for the Property as a "Land Use Change Area" because the Project carries out the goals for the Hill East neighborhood, as reflected in the Master Plan. The Application does not propose a zoning change and, therefore, is consistent with the Future Planning Analysis Area. The Project is also not inconsistent with the GPM's Resilience Focus Area designation for the Property, since the Project integrates green design features such as landscaping improvements along the Massachusetts Avenue frontage as well as LEED Silver certification (FF 25, 66);
- *Citywide Elements*: The Project is not inconsistent with a number of policies reflected in the Comprehensive Plan's Citywide Elements, including the Land Use, Transportation, Environmental Protection, Urban Design, and Community Services and Facilities Elements. The Project re-uses a large publicly-owned site in close proximity to public transit options and harmonizes with the surrounding neighborhood with modern and engaging architectural design. The Project improves the pedestrian, bicycle and vehicular network with the extension of the Massachusetts Avenue right-of-way. The Project will achieve LEED Silver certification and incorporates new

landscaping and stormwater management. The Project represents an architectural and site design improvement over the existing CDF and CTF. The Project employs quality materials to create a civic building that is consistent with the vision for the Hill East neighborhood. The Project is a correctional facility that focuses on education and vocational training, rehabilitative services, substance abuse, behavioral, and mental health treatment programs, and reentry supportive services (FF 66);

- *Area Element*: The Project is not inconsistent with the policies of the Capitol Hill Area Element, which acknowledge and encourage redevelopment of Reservation 13 into a mixed-use neighborhood. The Project will also promote Massachusetts Avenue as a grand boulevard. The Project is setback from lower-scale row house neighborhoods to the west (FF 26, 66); and
- *Master Plan*: The Project is not inconsistent with the Master Plan because it proposes a new correctional facility to the south of Massachusetts Avenue. The Project also reflects the Master Plan's vision to extend Massachusetts Avenue toward the Anacostia River and increase building heights toward the waterfront (FF 27, 66).

34. Potential CP Inconsistencies: As stated above, the Commission has determined that the Project is not inconsistent with the CP when read as a whole. In assessing the Project's CP consistency, the Commission must acknowledge instances where the Project may be inconsistent with CP policies and explain why such inconsistencies are outweighed by other competing CP policies and considerations (*See D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 73 A.3d 107, 126 (D.C. 2013); *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016); and CP § 2504.6 (*"[r]ecognize the overlapping nature of the [CP] elements as they are interpreted and applied. An element may be tempered by one or more of the other elements*."). According to the CP evaluation in the OP Report, there is potential that the Project is inconsistent with the Land Use Element policy related to the reuse of public buildings (LU-2.1.12) and the Environmental Protection Element policies related to net-zero buildings (E-3.2.2) and energy-efficient buildings and site planning (E-3.2.7). The Commission concludes that these potential inconsistencies are outweighed by the Project's overall consistency with numerous other CP policies, particularly those described above (FF 52, 66).

Racial Equity

35. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan when viewed through a racial equity lens. The Commission reaches its conclusion based on the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Report (FF 56, 67).

36. Applicant's Racial Equity Analysis. The Commission finds that the Applicant's racial equity analysis addresses the components of the revised Racial Equity Analysis Tool. The Commission notes the following from the Applicant's analysis:

- *Community Outreach and Engagement*: The Applicant's racial equity analysis indicates that it conducted community outreach and engagement, including meetings with ANC 7F, ANC 7D, and ANC 6B. In addition, the Applicant also met with the

Council for Court Excellence and the Jails & Justice Task Force. The Commission notes that ANCs 6B and 7D each submitted reports in support of the Application. Therefore, the Commission believes that the Applicant did conduct significant outreach with the community, including the ANCs, and that the resulting Project was informed and shaped by its engagement with the community (FF 56, 74, 75).

37. OP's Racial Equity Analysis. The Commission finds that OP's racial equity analysis addresses the components of the revised Racial Equity Analysis Tool. The Commission notes the following from OP's analysis:
- *Disaggregated Race and Ethnicity Data*: The Commission notes OP's decision not to include disaggregated race and ethnicity data for the Capitol Hill Planning Area in its racial equity analysis, in response to Part 3 of the revised Racial Equity Analysis Tool. Given that the Application does not propose any residential uses, the Commission concurs with OP's judgment not to provide disaggregated race and ethnicity data for the affected Planning Area. However, the Commission did find the Project will result in public space, streetscape, and design improvements that are compatible with the Master Plan and urban character of the Hill East area (FF 67).

Satisfaction of General Special Exception Criteria (Subtitle X § 604.6)

38. The Commission concludes the Project satisfies the general special exception criteria of Subtitle X, Chapter 9 because the Project: (a) will be in harmony with the general purpose and intent of the Zoning Regulations and Maps; (b) will not tend to affect adversely the use of neighboring property; and (c) will meet such special conditions as may be specified in this title.

39. The Project is in harmony with the purpose and intent of the Zoning Regulations and Maps because the Project will be consistent with the intent of the Hill East zones. The Project meets the design and planning goals of the Hill East zones as reflected in the Master Plan and the Zoning Regulations. The Project also meets the physical development standards in the HE-3 and HE-4 zones, including as to height, FAR and lot occupancy (FF 13, 14, 57).

40. The Project will not create adverse impacts to neighboring property as it will be buffered from the surrounding neighborhood by rights-of-way. The only abutting private property is the Congressional Cemetery and Hill East Parcel M, which is vacant. Correctional facility operations are primarily within the Project. The Project provides 409 parking spaces on site in below-grade garages. Further, transport and intake will occur via the new sallyport located behind Building 1 and the internal circulation pattern on the Property allows for limited impact to the surrounding street network. The Project also provides one curb cut to limit impacts on pedestrians and bicyclists (FF 57).

Satisfaction of Urban Design Criteria (Subtitle X § 604.7)

41. The Commission concludes the Project is consistent with the urban design criteria pursuant to Subtitle X § 604.7 in a way that is superior to a matter-of-right development in accordance with Subtitle X § 604.8.

Subtitle X § 604.7(a) – Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including: (1) Multiple pedestrian entrances for large developments; (2) Direct driveway or garage access to the street is discouraged; (3) Commercial ground floors contain active uses with clear, inviting windows; (4) Blank façades are prevented or minimized; and (5) Wide sidewalks are provided.

42. The Project's street frontage on Massachusetts Avenue is designed to be safe, comfortable, and encourage pedestrian activity. The Project extends Massachusetts Avenue and enlivens the streetscape with a large landscape buffer, retaining walls and bench seating. Additionally, there will be no direct driveway or garage access from Massachusetts Avenue, with only one curb cut provided at the eastern end of the site. The Project's public entrance is prominently located at the northwest corner of Building 1 (FF 58).

Subtitle X § 604.7(b) – Public gathering spaces and open spaces are encouraged especially in the following situations: (1) Where neighborhood open space is lacking; (2) Near transit stations or hubs; and (3) When they can enhance existing parks and the waterfront

43. The Project's frontage along Massachusetts Avenue is intended to be open and inviting. The landscaping and bench seating in front of the Project will encourage pedestrian activity and interaction with the building (FF 58).

Subtitle X § 604.7(c) – New development respects the historic character of Washington's neighborhoods, including: (1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form; (2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and (3) Development should respect and protect key landscape vistas and axial views of landmarks and important places.

44. The Project extends Massachusetts Avenue and creates public space that encourages multi-modal transportation and access to the Anacostia waterfront. The Project creates a street wall that allows the public to interface with an important civic building. The Project's architecture is consistent with the style of development in Hill East and will contribute to the overall neighborhood's architectural character (FF 58).

Subtitle X § 604.7(d) – Buildings strive for attractive and inspired façade design, including: (1) Reinforce the pedestrian realm with elevated detailing and design of first (1st) and second (2nd) stories; and (2) Incorporate contextual and quality building materials and fenestration.

45. The Project's façade incorporates the perforated scrim that is broken up with horizontal leaves and the large public entrance. These features are intended to encourage public interaction with this civic building while also achieving the goals of a secure and "functionally anonymous" correctional facility. The Project forms a close connection with adjacent public space through the use of retaining walls and landscape features (FF 58).

Subtitle X § 604.7(e) – Sites are designed with sustainable landscaping.

46. The Project will have sustainable landscaping throughout the site, including in the bioretention areas (FF 58).

> *Subtitle X § 604.7(f) - Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including: (1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit; (2) The development incorporates transit and bicycle facilities and amenities; (3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly; (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and (5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*

47. The Project will create connections for pedestrians and bicyclists on Massachusetts Avenue through the public space improvements to that right-of-way. The Project will meet the zoning requirements for short- and long-term bicycle parking as well (FF 58).

"Great Weight" to the Recommendations of OP

48. 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, 1086-87 (D.C. 2016)).

49. The Commission finds persuasive OP's evaluation of the Application as having satisfied the applicable design review standards, including that the Application meets the HE and general design review requirements of the Zoning Regulations. The Commission finds OP's recommendation to approve the Application, including the requested waivers, special exception, and area variance, persuasive and concurs with this judgment (FF 65-70).

"Great Weight" to the Written Report of the ANC

50. 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 (*See* 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)).

51. The ANC 6B Report and ANC 7D Report recommend support for the Application without raising any issues or concerns. The Commission concurs with the recommendations of ANC 6B and ANC 7D to approve the Application (FF 74, 75). As noted in the ANC

Reports and the comments submitted by Ernest Johnson, the Commission strongly encourages the Applicant to continue community outreach and engagement efforts during development of the Project (FF 74, 75, 78).

52. ANC 7F did not submit a written report into the case record and, therefore, there is nothing to which the Commission can give "great weight." (FF 76).

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:

- Design review pursuant to the applicable standards and criteria in the HE Zone Districts of Subtitle K §§ 400, 417-420, the general design review criteria of Subtitle X § 604, and the special exception standards of Subtitle X § 901.2;
- Special exception relief for a large scale government use under Subtitle K § 412.1(k);
- Area variance relief from the HE zone design requirement pertaining to building entrances along a primary street under Subtitle K § 420.5;
- Waivers from the ground floor preferred use requirements of Subtitle K § 417.1(e) and the design conditions of Subtitle K § 419.3; and
- Such other design flexibility as set forth in the Conditions hereof.

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.

A. Project Development

1. The Project shall be developed substantially in accordance with the architectural plans and drawings submitted dated December 2, 2024 at Ex. 3F1-3F9, as modified in the Applicant's supplemental statement dated February 17, 2025 at Ex. 10A1-10A9 (collectively, the "Architectural Plans"), subject to the following areas of flexibility:
   a. Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided such variations do not change the exterior configuration or appearance of the building;
   b. Exterior Materials: 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 Architectural Plans approved by the Commission;
   c. Exterior Details: To make minor refinements to exterior façade details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, balcony railings and trim, or any other changes, providing such minor refinements do not substantially alter the Architectural Plans approved by the Commission and are necessary to comply with the District of

Columbia Building Code or that are otherwise necessary to obtain a final building permit;

d. Streetscape Design: To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the D.C. Department of Transportation's Public Space Division; and
e. To vary the exterior materials to make minor refinements in general design of the project to comply with the requirements of and the approval by the U.S. Commission of Fine Arts or the National Capitol Planning Commission; and
f. Landscape Design: To vary the final landscaping dimensions and materials as shown on the Architectural Plans based on either (i) availability and suitability at the time of construction, or (ii) in order to satisfy permitting requirements of the D.C. Department of Energy and Environment.

B. **Transportation Demand Management Measures**

1. **For the Life of the Project**, the Applicant shall implement the following Transportation Demand Management ("TDM") measures:
   a. DOC employees will be directed to the DC Department of Human Resources (DCHR) platform documenting the transportation benefits available to them, which will include the following:
      - A free annual Capital Bikeshare membership to each employee as part of DC Government employees' benefits;
      - Provide a $50 per month transit subsidy to eligible DC Government bargaining unit employees, who are members of collective bargaining Compensation Units 1 or 2 and use Metro public transportation to commute to and from work; and
      - Benefits-eligible employees will be permitted to enroll in the Commuter Benefits program which provides an employee-paid pre-tax benefit for employees to pay for transit services;
   b. Provide, at no charge to and for use by any employee thereof, 63 long- and 12 short-term bicycle parking spaces. The 63 long-term bicycle parking spaces shall be provided horizontally on the floor in bicycle lockers. Seven spaces shall be served by electrical outlets for e-bikes and scooters. Four spaces shall be for cargo or larger bikes (10'x3' rather than 6'x2'), with at least one of those spaces to be served by an electrical outlet;
   c. Provide at least 6 showers and 35 lockers for use by employees; and
   d. Install a minimum of 9 electric vehicle (EV) charging spaces on site.

C. **Miscellaneous**

1. This approval shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit as set forth under Subtitle Z § 702.2. Construction of the Project must begin within three years of the effective date of this Order.

Final Action
VOTE (March 17, 2025): **5-0-0** (Joseph S. Imamura, Robert E. Miller, Anthony J. Hood, Tammy Stidham, and Gwen Marcus Wright to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Z.C. Order No. 24-21 shall become final and effective upon publication in the *District of Columbia Register*; that is, on February 20, 2026.

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
2026 AGENCY SUBMISSION DEADLINE SCHEDULE

The *District of Columbia Register* is published weekly on Fridays including on public holidays that fall on a Friday. The deadline for submitting notices for publication by District agencies, boards, commissions, and public charter schools is **THURSDAY**, noon of the **PREVIOUS** week. For example, the deadline for the January 16, 2026 *District of Columbia Register* is noon on Thursday January 8, 2026.

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 19, 2026 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the January 23, 2026 *District of Columbia Register* is noon on Wednesday, January 14, 2026.

If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, January 1, 2026 is New Years Day, the deadline for the January 9, 2026 *District of Columbia Register* is noon on Wednesday, December 31, 2025.

Because Thursday, November 26, 2026 is Thanksgiving Day, the deadline for submitting documents for the December 4, 2026 *District of Columbia Register* is noon on Wednesday, November 25, 2026.

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 at https://dcregs.dc.gov:



Since the deadline changes for a Register to be published during a week that has an official District of Columbia Government holiday, the 2026 holiday schedule is provided here for your convenience.

2026 District of Columbia Government Holiday Schedule	
New Year's Day	Thursday, January 1, 2026
Dr. Martin Luther King, Jr.'s Birthday	Monday, January 19, 2026
Washington's Birthday	Monday, February 16, 2026
DC Emancipation Day	Thursday, April 16, 2026
Memorial Day	Monday, May 25, 2026
Juneteenth National Independence Day	Friday, June 19, 2026
Independence Day (Observed)	Friday, July 3, 2026
Labor Day	Monday, September 7, 2026
Indigenous Peoples' Day	Monday, October 12, 2026
Veterans Day	Wednesday, November 11, 2026
Thanksgiving Day	Thursday, November 26, 2026
Christmas Day	Friday, December 25, 2026

Below is the 2026 District of Columbia Register Submission Deadline schedule.

OFFICE OF DOCUMENTS AND ADMINSTRATIVE ISSUANCES
DISTRICT OF COLUMBIA REGISTER
2026 AGENCY SUBMISSION DEADLINE SCHEDULE

D.C. Register Issue		Submission Deadline	
Vol. 73/1	January 2, 2026*	Wednesday	December 24, 2025
Vol. 73/2	January 9, 2026	Wednesday	December 31, 2025
Vol. 73/3	January 16, 2026	Thursday	January 8, 2026
Vol. 73/4	January 23, 2026*	Wednesday	January 14, 2026
Vol. 73/5	January 30, 2026	Thursday	January 22, 2026
Vol. 73/6	February 6, 2026	Thursday	January 29, 2026
Vol. 73/7	February 13, 2026	Thursday	February 5, 2026
Vol. 73/8	February 20, 2026*	Wednesday	February 11, 2026
Vol. 73/9	February 27, 2026	Thursday	February 19, 2026
Vol. 73/10	March 6, 2026	Thursday	February 26, 2026
Vol. 73/11	March 13, 2026	Thursday	March 5, 2026
Vol. 73/12	March 20, 2026	Thursday	March 12, 2026
Vol. 73/13	March 27, 2026	Thursday	March 19, 2026
Vol. 73/14	April 3, 2026	Thursday	March 26, 2026
Vol. 73/15	April 10, 2026	Thursday	April 2, 2026
Vol. 73/16	April 17, 2026*	Wednesday	April 8, 2026
Vol. 73/17	April 24, 2026	Wednesday	April 15, 2026
Vol. 73/18	May 1, 2026	Thursday	April 23, 2026
Vol. 73/19	May 8, 2026	Thursday	April 30, 2026
Vol. 73/20	May 15, 2026	Thursday	May 7, 2026
Vol. 73/21	May 22, 2026	Thursday	May 14, 2026
Vol. 73/22	May 29, 2026 *	Wednesday	May 20, 2026
Vol. 73/23	June 5, 2026	Thursday	May 28, 2026
Vol. 73/24	June 12, 2026	Thursday	June 4, 2026
Vol. 73/25	June 19, 2026*	Wednesday	June 10, 2026
Vol. 73/26	June 26, 2026	Thursday	June 18, 2026
Vol. 73/27	July 3, 2026 *	Wednesday	June 24, 2026
Vol. 73/28	July 10, 2026	Thursday	July 2, 2026
Vol. 73/29	July 17, 2026	Thursday	July 9, 2026
Vol. 73/30	July 24, 2026	Thursday	July 16, 2026
Vol. 73/31	July 31, 2026	Thursday	July 23, 2026
Vol. 73/32	August 7, 2026	Thursday	July 30, 2026
Vol. 73/33	August 14, 2026	Thursday	August 6, 2026
Vol. 73/34	August 21, 2026	Thursday	August 13, 2026
Vol. 73/35	August 28, 2026	Thursday	August 20, 2026
Vol. 73/36	September 4, 2026	Thursday	August 27, 2026
Vol. 73/37	September 11, 2026*	Wednesday	September 2, 2026
Vol. 73/38	September 18, 2026	Thursday	September 10, 2026
Vol. 73/39	September 25, 2026	Thursday	September 17, 2026
Vol. 73/40	October 2, 2026	Thursday	September 24, 2026
Vol. 73/41	October 9, 2026	Thursday	October 1, 2026
Vol. 73/42	October 16, 2026*	Wednesday	October 7, 2026
Vol. 73/43	October 23, 2026	Thursday	October 15, 2026
Vol. 73/44	October 30, 2026	Thursday	October 22, 2026
Vol. 73/45	November 6, 2026	Thursday	October 29, 2026
Vol. 73/46	November 13, 2026*	Wednesday	November 4, 2026
Vol. 73/47	November 20, 2026	Thursday	November 12, 2026
Vol. 73/48	November 27, 2026*	Wednesday	November 18, 2026
Vol. 73/49	December 4, 2026	Wednesday	November 25, 2026
Vol. 73/50	December 11, 2026	Thursday	December 3, 2026
Vol. 73/51	December 18, 2026	Thursday	December 10, 2026
Vol. 73/52	December 25, 2026*	Wednesday	December 16, 2026
Vol. 74/1	January 1, 2027*	Wednesday	December 23, 2026

*Weeks with District of Columbia Government public holidays. Last Updated December 5, 2025