

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF CABLE TELEVISION AND TELECOMMUNICATIONS
3007 Tilden Street, NW, Pod P, Washington, DC 20009**

**AMENDMENTS TO THE RATE ORDERS REGARDING RATES FOR BASIC
SERVICE AND EQUIPMENT AND INSTALLATION OF COMCAST
CABLEVISION OF THE DISTRICT, LLC, FOR THE PERIOD COMMENCING
ON JUNE 2003 THROUGH MAY 2004 AND FOR THE PERIOD COMMENCING
ON JUNE 2004 THROUGH MAY 2005**

This Order amending the Office of Cable Television and Telecommunications' ("OCTT") February 24, 2004 "Rate Order Regarding Rates for Basic Service and Equipment and Installation of Comcast Cablevision of the District, LLC, for the Period Commencing on June 2003 through May 2004" ("2004 Rate Order") and the March 25, 2005 "Rate Order Regarding Rates for Equipment and Installation of Comcast Cablevision of the District, LLC, for the Period Commencing June 2004 through May 2005" ("2005 Rate Order"), shall be effective this 13th day of January 2006 ("effective date").

1.00 RECITALS

- 1.01 OCTT and several other Local Franchise Authorities ("LFAs") utilized the services of an independent auditor ("Consultant") to review Comcast Communications, LLC's ("Comcast") national aggregated Federal Communications Commission ("FCC") Form 1205, setting the maximum permitted rates that Comcast may charge for equipment used to receive its basic tier services.
- 1.02 OCTT issued its 2004 and 2005 Rate Orders based upon the Consultant's recommendations to the LFAs. In the 2004 Rate Order, OCTT required Comcast to issue refunds to District of Columbia Comcast subscribers ("subscribers") for over-charges for basic cable converter box rental fees; digital converter box rental fees; and VCR installation fees. In the 2005 Rate Order, OCTT imposed maximum rates for equipment and installation that were lower than the rates suggested by Comcast's FCC Form 1205.
- 1.03 Comcast petitioned the FCC for a stay of the 2004 and 2005 Rate Orders. The FCC granted Comcast's request and granted the stay.
- 1.04 This Order represents a compromise between OCTT and Comcast (the "parties"), in the best interests of the subscribers, to resolve the parties' differences concerning the financial obligations and limitations imposed by the 2004 and 2005 Rate Orders.

2.0 AMENDMENTS

The 2004 Rate Order is amended as follows:

- 2.01 Comcast shall issue a two dollar and fifty cent (\$2.50) credit to each subscriber within sixty (60) days of the effective date.
- 2.02 The refund requirements imposed upon Comcast by OCTT, as stated in Paragraphs 3 through 5 of the 2004 Rate Order, are deemed fully satisfied upon Comcast's full performance of the requirements established in Paragraph 2.01 above.
- 2.03 Comcast shall calculate franchise fees owed as if there were no refunds issued associated with the 2004 filing, and it shall not take a credit against franchise fees paid to OCTT based upon the refund amount. Comcast may calculate franchise fees using its standard methodology and separately paying OCTT an amount equal to the product of the local franchise fee percentage multiplied by the designated customer credit.
- 2.04 Comcast shall file with OCTT written verification that the credits, required in Paragraph 2.01, have been issued. Such verification shall be forwarded to the OCTT General Counsel, within 90 days of this Order.

The 2005 Rate Order is amended as follows:

- 2.05 Comcast shall modify its existing cost claims in the District of Columbia as set forth in Comcast's amended FCC Form 1205, which is attached to this Order as "Attachment A." These adjustments include:
 - 2.05.1 *Unbundling:*
 - a. Comcast shall remove the following previously challenged cost categories: property taxes, insurance, utilities, building maintenance, equipment maintenance, and tuition reimbursement.
 - b. Comcast may retain the following previously challenged cost categories: bonuses, commissions, and training, to the extent that the amounts claimed are related to equipment and installation rates, are limited to personnel directly involved with regulated equipment and installation based on the amount of time such personnel actually devotes to equipment and installation-related activities.

2.05.2 *Other:*

- a. Comcast shall include "contractor" installation times, in addition to "in-house" installation times, in the calculation of activity times as depicted in the Form 1205 and statistical summary, included in "Attachment A."
- b. Comcast shall provide "converter maintenance" at time of installation and survey support for in-house installation and maintenance activity times.

2.06 Comcast's former proposed rates were rejected by OCTT pursuant to the 2005 Rate Order. Comcast's "Rates as Filed" and OCTT's "Rates Adopted" are set forth in "Attachment B." In settlement of Comcast's FCC Appeal, with respect to the District of Columbia, OCTT accepts the rates proposed in the amended Form 1205 (Attachment A).

2.07 OCTT amends the installation and equipment rates imposed by Paragraph 7 of the 2005 Rate Order, as follows:

	AMENDED 2005 RATES ADOPTED
Equipment Rates	
Remote Control Type 1	\$ 0.27
Remote Control Type 3	\$ 1.19
Basic-Only Converter (Converter 1)	\$ 1.27
Addressable or Digital Converter or DVR (Converter 2)	\$ 4.63
HDTV Converter (Converter 3)	\$ 11.17
Installation Rates	
Hourly Service Charge	\$ 33.47
Unwired Installation	\$ 45.55
Prewired Installation	\$ 28.58
Additional Outlet (Same Trip)	\$ 14.47
Additional Outlet (Separate Trip)	\$ 22.52
Move Outlet	\$ 21.51
Upgrade (Non-addressable)	\$ 15.72
Downgrade (Non-addressable)	\$ 12.90
Upgrade/Downgrade, Addressable	\$ 1.99
VCR Connect (Same Trip)	\$ 7.71
VCR Connect (Separate Trip)	\$ 15.11
Customer Trouble Calls	\$ 22.30

- 2.08 Based on Paragraph 2.07 above, if a revised "maximum permitted" rate is lower than the actual rate in the District of Columbia, Comcast shall lower the actual rate in the District of Columbia and issue credits to local customers. No offsets shall be computed or claimed to reduce this refund amount. Rate changes or credits shall be issued within 60 days of the effective date.
- 2.09 Comcast shall file with OCTT written notice of any credits or refunds issued to subscribers, pursuant to Paragraph 2.08. This notice shall include the total amount of refunds and credits issued and total number of subscribers receiving refunds. Such notice must be forwarded to OCTT General Counsel within 90 days of the effective date.
- 2.10 Comcast shall not increase any existing equipment rates prior to its normally scheduled equipment rate adjustment in 2006. Comcast shall not increase equipment rates in 2006, in the District of Columbia, for the purpose of offsetting the credits, refunds or rate reductions imposed by this Order.

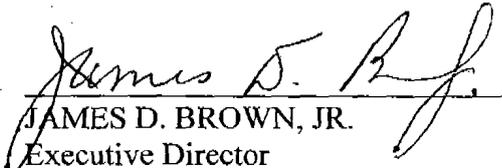
3.0 ORDERING CLAUSES

NOW, THEREFORE IT IS ORDERED THAT:

- 3.01 As of the effective date, the 2004 Rate Order is amended to include Paragraphs 2.01 through 2.04, above, and the 2005 Rate Order is amended to include Paragraphs 2.05 through 2.10, above.
- 3.02 Comcast shall take all necessary implementing actions required to comply with the 2004 Rate Order, as amended, including, but not limited to:
 - a. Issuing a \$2.50 Credit to subscribers within 60 days of this Order; and
 - b. Reporting to OCTT that the credits have been issued.
- 3.03 Comcast shall take all necessary implementing actions required to comply with the 2005 Rate Order, as amended, including, but not limited to:
 - a. Determining whether a revised "maximum permitted" rate is lower than the actual rate in the District of Columbia;
 - b. Issuing credits or refunds to subscribers, if applicable, within 60 days of this Order; and

- c. Reporting to OCTT that the credits have been issued, if applicable.
- 3.04 The terms of the 2004 Rate Order and the 2005 Rate Order are superseded to the extent that the terms are inconsistent with this Order.
- 3.05 This Order does not serve to limit the District of Columbia's rights with respect to rate regulation and those rights are hereby reserved.
- 3.06 This Order shall be released to the public and to Comcast, and a public notice shall be published stating that this Order has been issued and is available for review, pursuant to 47 C.F.R. § 76.936(b).

DISTRICT OF COLUMBIA
OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

By: 
JAMES D. BROWN, JR.
Executive Director

ATTACHMENT A

FORM 1205
 DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
 "EQUIPMENT FORM"

Comcast - Working Copy - FY2004

Community Unit Identifier (CUID) of cable system		Date of Form Submission
SEE FCC FORM 1240 FILING		3/1/05
Name of Cable Operator		
COMCAST CABLE COMMUNICATIONS, LLC / COMCAST CABLE COMMUNICATIONS HOLDINGS, INC.		
Mailing Address of Cable Operator		
City	State	ZIP Code
Name and Title of person completing this form:		
Telephone number	Fax Number	

Name of Local Franchising Authority		
PLEASE SEE FRANCHISE AUTHORITY LISTING PROVIDED WITH FCC FORM 1240 FILING		
Mailing Address of Local Franchising Authority		
City	State	ZIP Code

This form is being filed: (Enter an "x" in the appropriate box)

In conjunction with FCC Form 1200, FCC Form 1220, or FCC Form 1225.
 Attach the completed FCC Form 1200, FCC Form 1220, or FCC Form 1225 to the front of this form.

OR
 In order to fulfill FCC rules requiring an annual filing of this form
 Enter the date on which you last filed this form (mm/dd/yy)

Note: This should be the date on which the rates last justified, by using either FCC Form 393 or the prior filing of this form, were in effect.

Enter the date on which you closed your books for the fiscal year reflected in this form: (mm/dd/yy)

Note: This will indicate the end of the 12-month fiscal year for which you are filing this form.

Indicate the corporate status of your cable system (Enter an "x" in the correct box)

- C-Corporation
- Subchapter S corporation
- Partnership
- Sole Proprietorship
- Other (Please explain below)

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CHEDULE A: CAPITAL COSTS OF SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT AND PLANT

Equipment and Plant	Vehicles	Tools	Maintenance Facilities	Other 1. (Specify below)	Other 2. (Specify below)
Gross Book Value	\$652,381,165.00	\$429,585,964.00	\$0.00		
Accumulated Depreciation	\$572,896,268.00	\$281,950,761.00	\$0.00		
Deferred Taxes	\$9,916,721.00	\$28,691,650.00	\$0.00		
Net Book Value [B-(C+D)]	\$69,568,176.00	\$118,943,553.00	\$0.00	\$0.00	\$0.00
Rate of Return	0.1125				
<i>Calculation of Gross-up Rate</i>					
Federal Income Tax Rate	0.35				
State Income Tax Rate	0.0674				
Net Total Income Tax Rate [(G1+G2)-(G1 x G2)]	0.3938				
<i>Adjustment to Reflect Interest Deductibility</i>					
a Actual Interest Amount	\$1,876,000,000.00				
b Total Net Assets	\$101,459,000,000.00				
c Base Return on Investment Amount [G4b x F]	\$11,414,137,500.00				
d Interest Deductibility Factor [G4a/G4c]	0.1644				
Effective Tax Rate [G3 x (1-G4d)] [C-Corps skip to G7]	0.3291				
<i>Adjustments for Non-C Corporations</i>					
a Base Return on Investment Amount [G4c]	n/a				
b Distributions	\$0.00				
c Contributions (may not exceed G6b)					
d Returns Subject to Income Tax [G6a-G6b+G6c]	n/a				
e Returns Percentage Subject to Income Tax [G6d/G6a]	n/a				
Gross-Up Rate [C-Corps: 1/(1-G5) Other: 1/(1-G5 x G6e)]	1.4905				
Grossed-Up Rate of Return [F x G7]	0.1627				
Return on Investment Grossed-Up for Taxes [E x H]	\$11,665,281,182.33	\$19,944,607,870.33	\$0.00	\$0.00	\$0.00
Current Provision for Depreciation	\$76,013,364.00	\$40,213,527.00	\$0.00		
Annual Capital Costs [I+J]	\$87,678,645.1823	\$60,158,134.8703	\$0.00	\$0.00	\$0.00
GRAND TOTAL (sum of Line K entries)	\$147,836,780,0526				

Box 1.

Specify: Other 1. _____

Specify: Other 2. _____

CHEDULE B: ANNUAL OPERATING EXPENSES FOR SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT

	Salaries & Benefits	Supplies	Utilities	Other Taxes	Other 1. (Specify below)	Other 2. (Specify below)
Annual Op. Expenses for Svc. Install. and Maint. of Equip.	\$3,107,154,051.15	\$9,310,674.97	\$0.00	\$0.00	\$255,358,757.76	\$218,447,434.32
GRAND TOTAL (sum of Line A entries)	\$3,590,770,919.20					

Box 2.

Specify: Other 1. Contract Labor / Converter Maintenance

Specify: Other 2. Vehicle Expenses / Rentals and Lease Expense

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SCHEDULE C: CAPITAL COSTS OF LEASED CUSTOMER EQUIPMENT							
Equipment	Remote 1	Remote 2	Cable Card	Converter 1	Converter 2	Converter 3	Converter 4
Total Maintenance/Service Hours (Attach Explanation)	411,973		726	110,044	7,167,507	549,125	-
Total # of Units in Service	17,313,803		3,713	243,486	15,855,516	1,214,801	-
Gross Book Value	\$173,314,534.00		\$495,480.00	\$363,082.00	\$3,232,131,665.00	\$567,232,559.00	\$0.00
Accumulated Depreciation	\$142,355,803.00		\$41,290.00	\$337,510.00	\$2,011,059,454.00	\$70,316,516.00	\$0.00
Deferred Taxes	(\$7,285,582.00)		\$100,812.00	(\$2,203.00)	\$254,507,105.00	\$113,439,983.00	\$0.00
Net Book Value [D-(E+F)]	\$38,244,313.00	\$0.00	\$153,178.00	\$21,771.00	\$966,565,166.00	\$383,476,060.00	\$0.00
Grossed-Up Rate of Return [From Sched. A, Line H]	0.1677						
Return on Investment Grossed-Up for Taxes [G x H]	\$6,412,855,567.3	\$0.00	\$59,254,877.3	\$4,657,347.7	\$167,074,879,504	\$64,301,758,703.4	\$0.00
Current Provision for Depreciation	\$36,789,984.00		\$41,290.00	\$27,353.27	\$478,748,093.41	\$80,206,590.18	\$0.00
Annual Capital Costs [I + J]	\$43,202,839,167.3	\$0.00	\$100,544,877.3	\$32,010,617.7	\$640,822,872,914	\$144,508,348,883.4	\$0.00
GRAND TOTAL [sum of Line K entries]	\$828,666,718,859.8						

Box 3.

SCHEDULE D: AVERAGE HOURS PER INSTALLATION	
Average Hours per Unwired Home Installation (attach an explanation)	1.3608
Average Hours per Pre-Wired Home Installation (attach an explanation)	0.8537
Average Hours per Additional Connection Installation at Time of Initial Installation (attach an explanation)	0.4324
Average Hours per Additional Connection Installation Requiring Separate Installation (attach an explanation)	0.6727
Other Installation (by Item Type):	
Item 1. Relocate Outlet	
Average Hours per Installation (attach an explanation)	0.6425
Item 2. Upgrade Non-Addressable	
Average Hours per Installation (attach an explanation)	0.4697
Item 3. Downgrade Non-Addressable	
Average Hours per Installation (attach an explanation)	0.3853

DISTRICT OF COLUMBIA REGISTER

Federal Communications Commission
Washington, D.C. 20554

FEB 10 2006
Approved by: OMB 3660-0703

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WORKSHEET FOR CALCULATING PERMITTED EQUIPMENT AND INSTALLATION CHARGES	
STEP A. Hourly Service Charge	
Total Capital Costs of Installation and Maintenance (Schedule A, Box 1)	\$147,836,780.0326
Total Annual Operating Expenses for Installation and Maintenance (Schedule B, Box 2)	\$3,590,270,918.29
Total Capital Costs and Operating Expenses for Installation and Maintenance (Line 1 + Line 2)	\$3,738,107,698.2526
Customer Equipment and Installation Percentage (attach an explanation)	0.2053
Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment (Line 3 x Line 4)	\$763,327,615.00
Total Labor Hours for Maintenance and Installation of Customer Equipment and Services (attach explanation)	22,929,478.81
Hourly Service Charge (HSC) (Line 5/Line 6)	\$33,4734

METHOD OF BILLING FOR INSTALLATIONS (place an "x" in the appropriate box)
 Installations billed by the hour based on the HSC calculated in Line 7.
 Installations billed as a standard charge.

STEP B. Installation Charge	
Uniform HSC for all installations (From Step A, line 7)	\$33,4734
OR	
Average Charge for Installation Types	
a. Unwired Home Installation	
a1. HSC (Line 7)	\$33,4734
a2. Average Hours per Unwired Home Installation (Schedule D, Line A)	1.3668
a3. Charge per Unwired Home Installation (a1 x a2)	\$45,5506
b. Pre-wired Home Installation	
b1. HSC (Line 7)	\$33,4734
b2. Average Hours per Pre-wired Home Installation (Schedule D, Line B)	0.8537
b3. Charge per Pre-wired Home Installation (b1 x b2)	\$28,5762
c. Additional Connection Installation at Time of Initial Installation	
c1. HSC (Line 7)	\$33,4734
c2. Average Hours per Additional Connection Installation at Time of Init. Install. (Schedule D, Line C)	0.4324
c3. Charge per Additional Connection Installation at Time of Initial Installation (c1 x c2)	\$14,4719
d. Additional Connection Installation Requiring Separate Installation	
d1. HSC (Line 7)	\$33,4734
d2. Avg. Hours per Additional Connection Installation Req. Sep. Install. (Schedule D, Line D)	0.6727
d3. Charge per Additional Connection Installation Requiring Separate Installation (d1 x d2)	\$22,5176
e. Other Installations (As specified in Schedule D, Line E):	
e1. HSC (Line 7)	\$33,4734
e2. Average Hours per Installation of Item 1 (Relocate Outlet)	0.6425
e3. Charge per Installation of Item 1 (e1 x e2)	\$21,5067
e4. HSC (Line 7)	\$33,4734
e5. Average Hours per Installation of Item 2 (Upgrade Non-Addressable)	0.4697
e6. Charge per Installation of Item 2 (e4 x e5)	\$15,7224
e7. HSC (Line 7)	\$33,4734
e8. Average Hours per Installation of Item 3 (Downgrade Non-Addressable)	0.3653
e9. Charge per Installation of Item 3 (e7 x e8)	\$12,2073

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EP C. Charges for leased Remotes

(Calculate separately for each significantly different type)	a Remote 1	b Remote 2	c Cable Card
Total Maintenance/Service Hours (Corresponding column from Schedule C, Line B)	411,973	0	726
HSC (Line 7)	\$33,4734	\$33,4734	\$33,4734
Total Maintenance/Service Cost (Line 10 x Line 11)	\$13,790,137,0003	\$0.00	\$24,301,6884
Annual Capital Costs (Corresponding column from Schedule C, Line K)	\$43,202,839,5673	\$0.00	\$100,544,8773
Total Cost of Remote (Line 12 + Line 13)	\$56,992,976,5676	\$0.00	\$124,846,5657
Number of Units in Service (Corresponding column from Schedule C, Line C)	17,313,803	0	8,715
Unit Cost (Line 14/Line 15)	\$3,2918	\$0.00	\$14,3255
Rate per Month (Line 16/(12))	\$0,2743	\$0,00	\$1,1918

EP D. Charges for leased Converter Boxes

(Calculate separately for each significantly different type)	a Converter 1	b Converter 2	c Converter 3
Total Maintenance/Service Hours (Corresponding column from Schedule C, Line B)	110,044	7,167,507	549,125
HSC (Line 7)	\$33,4734	\$33,4734	\$33,4734
Total Maintenance/Service Cost (Line 18 x Line 19)	\$3,683,546,8248	\$239,520,828,3010	\$18,381,080,7511
Annual Capital Costs (Corresponding column from Schedule C, Line K)	\$39,010,6177	\$640,822,972,814	\$144,508,348,8834
Total Cost of Converter (Line 20 + Line 21)	\$3,712,557,4425	\$880,343,801,1156	\$162,889,429,6345
Number of Units in Service (Corresponding column from Schedule C, Line C)	243,486	15,852,518	1214801
Unit Cost (Line 22/Line 23)	\$15,2596	\$55,3481	\$134,0873
Rate per Month (Line 24/(12))	\$1,2717	\$4,629	\$11,1739

EP E. Charges for Other Leased Equipment

Total Maintenance/Service Hours (Corresponding column from Schedule C, Line B)	0
HSC (Line 7)	\$33,4734
Total Maintenance/Service Cost (Line 26 x Line 27)	\$0.00
Annual Capital Costs (Corresponding column from Schedule C, Line K)	\$0.00
Total Cost of Equipment (Line 28 + Line 29)	\$0.00
Number of Units in Service (Corresponding column from Schedule C, Line C)	0
Unit Cost (Line 30/Line 31)	\$0.00
Rate per Month (Line 32/(12))	\$0.00

METHOD OF BILLING FOR CHANGING SERVICE TIERS OR EQUIPMENT (place an "x" in the appropriate box)

- as a Nominal Charge (Enter the nominal charge in Line 34)
- as a Uniform Hourly Service Charge
- as an Average Charge (Enter the Average Hours for Changing Service Tiers in Line 36b.)

EP F. Charges for Changing Service Tiers or Equipment

Nominal Charge for Changing Service Tiers	
If you use an escalating scale of charges, place an "x" in the box at the right.	
OR	
Uniform Hourly Service Charge	0/4
OR	
Average Charge for Changing Service Tiers	
36a. HSC (Line 7)	\$33,4734
36b. Average Hours to Change Service Tiers	0.4697
36c. Average Charge for Changing Service Tiers (Line 36a x Line 36b)	\$15,7225

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WORKSHEET FOR CALCULATING TOTAL EQUIPMENT AND INSTALLATION COSTS	
Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	\$147,836,780.0526
Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	\$3,590,270,918.20
Total Annual Capital Costs of Installation and Maintenance [Line 1 + Line 2]	\$3,738,107,698.2526
Customer Equipment and Installation Percentage (attach explanation)	
Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment [Line 3 x Line 4]	\$0.00
Total Capital Costs of Leased Customer Equipment (Schedule C, Box 3)	\$828,666,716.8598
Annual Customer Equipment and Installation Costs [Line 5 + Line 6]	\$828,666,716.8598
Percentage Allocation to Franchise Area (see instructions)	
Allocated Annual Equipment and Installation Cost [Line 7 x Line 8]	\$0.00
Monthly Equipment and Installation Cost [Line 9 / (12)]	\$0.00
Number of Basic Subscribers in Franchise	
Monthly Equipment and Installation Cost per Subscriber [Line 10 / Line 11]	\$0.00
Inflation Adjustment Factor [See Instructions]	
Adjusted Monthly Equipment and Installation Cost per Subscriber [Line 12 x Line 13]	\$0.00

DISTRICT OF COLUMBIA REGISTER

Federal Communications Commission
Washington, D.C. 20554

Approved by **FEB 10 2006**
Cable 3020-003

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PRIMARY SCHEDULE

Current Equipment and Installation Rates	Permitted	Actual
Charges for Cable Service Installations		
a. Hourly Rate [Step A, Line 7]		
		\$4
b. Average Installation Charges:		
1. Installation of Unwired Homes [Step B, Line 9a3]	\$45.55	*
2. Installation of Prewired Homes [Step B, Line 9b3]	\$28.58	*
3. Installation of Additional Connections at Time of Initial Installation [Step B, Line 9c3]	\$14.47	*
4. Installation of Additional Connections Requiring Separate Install [Step B, Line 9d3]	\$22.58	*
5. Other Installations (specify) [Step B, Lines 9e3, 9e6, 9e9]		
a. Relocate Outlet	\$11.51	*
b. Upgrade Non-Addressable	\$15.72	*
c. Downgrade Non-Addressable	\$12.90	*
Monthly Charge for Lease of Remote Controls [Step C, Line 17, columns a-c]		
Remote Control Type 1: All Units	\$0.27	*
Remote Control Type 2:	\$0.60	*
Remote Control Type 3:	\$1.89	*
Monthly Charge for Lease of Converter Boxes [Step D, Line 25, columns a-c]		
Converter Box Type 1: (Basic Only Units)	\$1.27	*
Converter Box Type 2: (All Other Units)	\$4.63	*
Converter Box Type 3:	\$11.17	*
Monthly Charge for Lease of Other Equipment [Step E, Line 33]		
Other Equipment (Specify)	\$0.00	*
Charge for Changing Tiers (if any) [Step F, Line 34, 35 or 36c]	\$12.71	*

LABOR COST AND POLICY CHANGES

Indicate your answer to the following three questions by placing an "x" in the appropriate box.

Have you included the labor costs associated with subscriber cable drops in your charges for initial installation?

YES
 NO

Have you capitalized the labor costs associated with subscriber cable drops?

YES
 NO

If you have filed this form before, have you changed any policy, e.g., cost accounting or cost allocation that causes an increase in the costs included in the computation of equipment and installations charges?

YES (You must attach a full explanation)
 NO

CERTIFICATION STATEMENT

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of the Cable Operator Comcast Cable Communications, LLC Comcast Cable Communications Holdings, Inc.	Signature Working Copy-FY2004
Date 3/1/05	Title

*See Rate Card Provided with FCC Form 1240 Filing.

FCC FORM 1205

SCHEDULE D: AVERAGE HOURS PER INSTALLATION

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Item 4. Upgrade/Downgrade Addressable	
Average Hours per Installation (Attach an Explanation)	
Item 5. Connect VCR - Connect Initial	
Average Hours per Installation (Attach an Explanation)	0.2303
Item 6. Connect VCR - Connect Seperate	
Average Hours per Installation (Attach an Explanation)	0.4514
Item 7. Customer Trouble Call	
Average Hours per Installation (Attach an Explanation)	0.6663
Item 8. (Specify)	
Average Hours per Installation (Attach an Explanation)	
Item 9. (Specify)	
Average Hours per Installation (Attach an Explanation)	
Item 10. (Specify)	
Average Hours per Installation (Attach an Explanation)	

FCC FORM 1205
STEP B. INSTALLATION CHARGE

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e10. HSC [Line 7]	N/A	
e11. Average Hours per Installation of Item 4 [Addressable Upgrade/Downgrade]	N/A	
e12. Charge per Installation of Item 4 [e10 x e11]		\$1,9900
e13. HSC [Line 7]	\$33,4734	
e14. Average Hours per Installation of Item 5 [VCR Connect-Initial]	0.230	
e15. Charge per Installation of Item 5 [e13 x e14]		\$7,7089
e16. HSC [Line 7]	\$33,4734	
e17. Average Hours per Installation of Item 6 [VCR Connect-Separate]	0.451	
e18. Charge per Installation of Item 6 [e16 x e17]		\$15,1099
e19. HSC [Line 7]	\$33,4734	
e20. Average Hours per Installation of Item 7 [Customer Trouble Call]	0.6663	
e21. Charge per Installation of Item 7 [e19 x e20]		\$22,3033
e22. HSC [Line 7]	\$33,4734	
e23. Average Hours per Installation of Item 8 [Schedule D, Line E, Item 8]		
e24. Charge per Installation of Item 8 [e22 x e23]		
e25. HSC [Line 7]	\$33,4734	
e26. Average Hours per Installation of Item 9 [Schedule D, Line E, Item 9]		
e27. Charge per Installation of Item 9 [e25 x e26]		
e28. HSC [Line 7]	\$33,4734	
e29. Average Hours per Installation of Item 10 [Schedule D, Line E, Item 10]		
e30. Charge per Installation of Item 10 [e28 x e29]		

FCC FORM 1205
SUMMARY SCHEDULE

Comcast – Working Copy – FY2004

Current Equipment and Installation Rates		Permitted	Actual
d.	Upgrade/Downgrade Addressable	\$1.99	*
e.	Connect VCR - Connect Initial	\$7.71	*
f.	Connect VCR - Connect Separate	\$15.41	*
g.	Customer Trouble Call	\$22.30	*
h.			
i.			
j.			

* See Rate Card Provided with FCC Form 1240 Filing.

FCC FORM 1205
SCHEDULE C

Comcast -- Working Copy -- FY2004

SCHEDULE C, LINE B - REMOTE 1

LINE 1.	Total Labor Hours for Maintenance / Service of Remotes and Converters	8,239,454 hrs.
LINE 2.	Percentage of Line 1 Allocated to Remotes	0.0500
LINE 3.	Total Maintenance / Service Hours Allocated to Remotes	411,973
LINE 4.	Schedule C, Line C - Total Units in Service-Remote 1	17,313,803
LINE 5.	Number of Units-Remote 1 / Total Remote Units [Line 4 / (Line 4 + Line 8)]	1.0000
LINE 6.	Total Maintenance / Service Hours Allocated to Remote 1 (Line 3 x Line 5)	411,973 hrs.

SCHEDULE C, LINE B - REMOTE 2

LINE 7.	Total Maintenance / Service Hours Allocated to Remotes (Line 3)	411,973 hrs.
LINE 8.	Schedule C, Line C - Total Units in Service-Remote 2	
LINE 9.	Number of Units-Remote 2 / Total Remote Units [Line 8 / (Line 4 + Line 8)]	
LINE 10.	Total Maintenance / Service Hours Allocated to Remote 2 (Line 7 x Line 9)	hrs.

SCHEDULE C, LINE B - CABLE CARD

LINE 11.	Total Maintenance / Service Hours Allocate to Cable Card	726 hrs.
LINE 12.	Schedule C, Line C - Total Units in Service-Cable Card	8,715
LINE 13.	Allocation Percentage	1.0000
LINE 14.	Total Maintenance / Service Hours Allocated to Cable Card (Line 11 x Line 13)	726 hrs.

SCHEDULE C, LINE B - CONVERTER 1

LINE 15.	Line 1 above	8,239,454 hrs.
LINE 16.	Total Labor Hours Allocated to Converters (Line 1 - Line 3 - Line 12)	7,826,755 hrs.
LINE 17.	Schedule C, Line C - Total Units in Service-Converter 1	243,486
LINE 18.	Number of Units-Converter 1 / Total Converter Units [Line 17 / (Line 17 + Line 21 + Line 25)]	0.0141
LINE 19.	Total Maintenance / Service Hours Allocated to Converter 1 (Line 16 x Line 18)	110,044 hrs.

SCHEDULE C, LINE B - CONVERTER 2

LINE 20.	Total Labor Hours Allocated to Converters (Line 16)	7,826,755 hrs.
LINE 21.	Schedule C, Line C - Total Units in Service-Converter 2	15,855,516
LINE 22.	Number of Units-Converter 2 / Total Converter Units [Line 21 / (Line 17 + Line 21 + Line 25)]	0.9158
LINE 23.	Total Maintenance / Service Hours Allocated to Converter 2 (Line 20 x Line 22)	7,167,507 hrs.

SCHEDULE C, LINE B - CONVERTER 3

LINE 24.	Total Labor Hours Allocated to Converters (Line 16)	7,826,755 hrs.
LINE 25.	Schedule C, Line C - Total Units in Service-Converter 3	1,214,801
LINE 26.	Number of Units-Converter 3 / Total Converter Units [Line 25 / (Line 17 + Line 21 + line 25)]	0.0702
LINE 27.	Total Maintenance / Service Hours Allocated to Converter 3 (Line 24 x Line 26)	549,125 hrs.

SCHEDULE C, LINE B - CONVERTER 4

SYSTEMS SYSTEM VERIFICATION STATISTICS BY STATE

GI NUMBER	SYSTEM NAME	STRATA	SUBS	Unaided Aerial	Unaided Underground	Unaided ¹	Prevised	AO Same	AO Separate	Move Outlet	Upgrade	Downgraded	YCR Same	YCR Separate	Inside Wire Serv Call	TC Customer/ Owned Equip	TC Customer/ Education	Combined Trouble Call ²	
E000385	SANTA BARBARA	1	36 251	1.2500	1.2500	1.2500	1.0000	0.5000	0.7500	0.7500	0.7500	0.5000	0.2500	0.7500	1.0000	1.0000	1.0000	1.0000	
E000420	WILLOW GROVE	1	58 415	1.3333	1.8333	1.3650	0.6330	0.7003	0.6601	0.3333	0.6004	0.5000	0.3333	0.5833	0.5833	0.5000	0.5000	0.5278	
E000815	TUCSON	1	80 364	1.4167	1.0833	1.4048	0.6448	0.4534	0.8671	0.5425	0.3931	0.2500	0.3333	0.5833	1.0000	0.5000	0.3333	0.7272	
E000534	AUGUSTA	1	108 613	1.7500	1.5000	1.5883	0.5883	0.5833	0.8333	0.5000	0.5000	0.2500	0.4167	0.4167	1.0000	0.6667	0.5833	0.7500	
E000735	PRINCE WILLIAM COUNTY	1	110 632	1.0000	1.3333	1.3167	0.6667	0.3333	0.6667	0.5000	0.3333	0.2500	0.3333	0.3333	0.6667	0.5000	0.3333	0.5000	
E000563	ALBUQUERQUE	1	132 856	1.5000	1.2500	1.3308	0.6667	0.2500	0.5000	0.2500	0.4167	0.5000	0.2500	0.5000	0.7500	0.5000	0.4167	0.5556	
E000591	DELAWARE COUNTY	1	138 836	1.7500	1.2500	1.7302	0.7500	0.6667	0.7500	0.5000	0.5000	0.5000	0.2500	0.3333	1.0000	0.5000	0.5833	0.7778	
E000731	JACKSONVILLE	2	282 288	1.3333	1.3333	1.4084	0.7398	0.4892	0.4892	0.7315	0.5654	0.5204	0.4133	0.2778	0.4861	0.8571	0.8786	0.5937	0.6805
E000742	SALT LAKE CITY	2	243 237	1.5000	2.2500	1.9608	0.8333	0.5000	0.7500	0.1870	0.1450	0.2439	0.1330	0.0430	0.1617	0.1846	0.1950	0.2300	0.1774
E000781	JACKSONVILLE	2	276 217	1.3333	1.3333	1.4084	0.7398	0.4892	0.4892	0.7315	0.5654	0.5204	0.4133	0.2778	0.4861	0.8571	0.8786	0.5937	0.6805
E000731	DALLAS WEST	2	282 288	1.3333	1.3333	1.4084	0.7398	0.4892	0.4892	0.7315	0.5654	0.5204	0.4133	0.2778	0.4861	0.8571	0.8786	0.5937	0.6805
E000125	CHEAPEAKE BAY	2	156 526	1.5000	1.5000	1.5900	0.9167	0.4167	0.7500	0.5833	0.4167	0.4167	0.2500	0.4167	0.4167	0.7500	0.5833	0.6667	0.6667
E000420	KNOXVILLE	2	180 295	1.5000	1.5000	1.9750	0.7544	0.3817	0.4599	0.5000	0.3282	0.3169	0.4167	0.5000	0.7500	0.5833	0.5833	0.6667	0.6667
E000782	WILLAMETTE VALLEY	2	185 597	1.5000	1.5000	1.5000	1.0833	0.6667	0.7500	0.7500	0.4167	0.3333	0.1667	0.3333	0.7500	0.5833	0.5833	0.6667	0.6667
E000235	INDIANAPOLIS	2	191 027	1.0000	1.0000	1.0000	0.9167	0.5833	0.6667	0.5833	0.3333	0.3333	0.0833	0.3333	1.0000	0.5000	1.0000	0.5000	0.5000
E000742	DENVER METRO SOUTH	2	239 286	1.6667	1.6667	1.6667	1.0000	0.4167	0.7500	0.7500	0.5833	0.5833	0.0833	0.3333	1.0000	1.0000	1.0000	0.5000	0.5000
E000781	SALT LAKE CITY	2	243 237	1.5000	1.5000	1.5000	0.8333	0.5000	0.7500	0.5000	0.5000	0.3333	0.1667	0.5000	0.7500	0.5833	0.5000	0.6411	0.6411
E000591	JACKSONVILLE	2	276 217	1.3333	1.3333	1.3333	0.7500	0.5000	0.7500	0.5000	0.2500	0.5000	0.0833	0.3333	0.7500	0.7500	0.7500	0.7500	0.7500
E000731	DALLAS WEST	2	282 288	1.3333	1.3333	1.3333	0.7500	0.5000	0.7500	0.5000	0.2500	0.5000	0.0833	0.3333	0.7500	0.7500	0.7500	0.7500	0.7500
ESTIMATED TOTAL		48	72,000	63,1422	67,6028	38,1019	23,9127	35,1138	27,3328	24,9799	19,4383	13,3328	23,3328	23,3328	41,1429	32,5714	25,7138	33,1428	
E000286	NORTH BAY	3	306 004	0.8833	0.6000	0.7559	0.5560	0.2892	0.5264	0.7500	0.4842	0.3730	0.1667	0.5000	0.7500	0.6000	0.4167	0.5833	0.5833
E000607	LANSING/GRAND RAPIDS	3	370 587	1.8867	1.5000	1.4248	0.8326	0.4500	0.7500	0.3164	0.3283	0.1667	0.5000	0.5000	0.7500	0.5000	0.5000	0.5000	0.5000
ESTIMATED TOTAL		38	53,4375	53,4375	51,9458	38,8336	18,8917	28,2952	25,3330	15,8088	14,5672	7,3891	14,9280	14,9280	28,5000	26,5212	22,1664	25,7292	
E000384	CONNECTICUT	4	442 989	1.5000	1.3333	1.3761	0.7259	0.5000	1.0912	0.6188	0.5517	0.3333	0.1667	0.5000	0.6667	0.5000	0.3333	0.5000	0.5000
E000629	NORTH CHICAGO	4	487 114	1.4167	1.2500	1.3677	0.8007	0.3961	0.4749	0.6009	0.4167	0.2500	0.4167	0.5000	0.7500	0.6667	0.5000	0.6389	0.6389
E000304	NEW ENGLAND EAST	4	542 453	1.3333	1.3333	1.3333	0.8333	0.3333	0.5000	0.5000	0.6667	0.5000	0.2500	0.4167	0.7500	0.6667	0.5000	0.6687	0.6687
ESTIMATED TOTAL		13	16,5750	13,8500	14,1742	9,0453	5,1301	8,2866	9,7590	5,5935	2,1671	8,5000	8,5000	10,2815	7,1500	5,9586	7,8000	7,8000	
E000384	CONNECTICUT	4	442 989	1.5000	1.3333	1.3761	0.7259	0.5000	1.0912	0.6188	0.5517	0.3333	0.1667	0.5000	0.6667	0.5000	0.3333	0.5000	0.5000
E000629	NORTH CHICAGO	4	487 114	1.4167	1.2500	1.3677	0.8007	0.3961	0.4749	0.6009	0.4167	0.2500	0.4167	0.5000	0.7500	0.6667	0.5000	0.6389	0.6389
E000304	NEW ENGLAND EAST	4	542 453	1.3333	1.3333	1.3333	0.8333	0.3333	0.5000	0.5000	0.6667	0.5000	0.2500	0.4167	0.7500	0.6667	0.5000	0.6687	0.6687
ESTIMATED TOTAL		11	15,8833	14,3609	14,9568	8,8530	4,3810	7,5767	8,3056	5,9856	4,8833	2,4446	4,8833	8,2500	6,7225	4,8833	6,6704	6,6704	
GRAND TOTAL		110	4,501,331	4,4327	4,3326	1,3516	8,8421	0,4736	0,7207	0,6247	0,4762	0,3959	0,2303	0,4514	0,8017	0,6633	0,5339	0,6663	

1 Average of Unaided Aerial and Unaided Underground, with equal weights for each type.
2 Average of Inside Wire Service Calls, Customer-Owned Equipment Calls, and Customer Education Calls, with equal weights for each type.

2004 SAMPLE SYSTEM INSTALLATION ACTIVITY BY STRATA

GL NUMBER	SYSTEM NAME	STRATA	SUBS	# of Unwired Aerial Installs	# of Unwired Underground Installs	# of Unwired Installs ¹	# of Prewired Installs	# of AO Same Installs	# of AO Separate Installs	# of Move Outlet Installs	# of Upgrade Installs	# of Downgrade Installs
E000385	SANTA BARBARA	1	36,251	3.00	12.17	60.50	880.75	784.25	82.67	9.25	569.88	45.17
E000820	WILLOW GROVE	1	59,415	16.50	0.25	85.83	748.34	607.08	128.16	-	795.63	313.38
E000615	TUCSON	1	80,364	19.67	213.50	577.25	1,599.67	1,812.75	466.50	-	1,857.71	556.71
E000544	AUGUSTA	1	109,613	77.50	82.75	297.83	2,852.41	3,578.33	347.41	0.75	2,654.29	515.54
E000135	PRINCE WILLIAM COUNTY	1	110,632	6.92	182.08	466.58	3,013.33	887.42	254.16	14.50	5,074.91	347.58
E000610	ALBUQUERQUE	1	132,650	127.17	216.92	575.42	3,420.91	5,604.00	301.25	53.25	3,219.00	250.25
E000853	DELAWARE COUNTY	1	138,836	60.42	4.83	374.42	2,088.84	1,227.25	921.00	-	4,962.83	1,393.67
TOTAL			MEAN(M)	44.45	101.79	348.26	2,086.04	2,071.58	357.31	11.11	2,733.47	488.90
			SD	46.03	100.24	213.28	1,057.76	1,858.87	280.32	19.44	1,821.07	433.69
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	48	(M*N)	2,133.81	4,885.71	15,716.66	100,129.69	99,435.93	17,150.79	533.07	131,206.33	23,467.15
E000125	CHESAPEAKE BAY	2	156,526	185.08	149.83	807.49	2,631.00	3,137.75	553.25	4.50	4,542.83	1,945.00
E000420	KNOXVILLE	2	160,295	137.00	70.00	415.92	2,902.25	1,942.41	250.50	0.17	4,442.00	2,359.17
E000762	WILLIAMETTE VALLEY	2	165,597	110.08	159.00	400.66	3,679.00	2,484.66	150.17	62.00	2,784.04	1,508.79
E000255	INDIANAPOLIS	2	191,027	27.17	120.17	533.51	4,124.34	4,132.59	614.00	11.92	4,499.79	682.80
E000742	DENVER METRO SOUTH	2	239,286	51.25	460.17	675.42	6,108.92	983.75	97.67	-	6,470.29	483.37
E000781	SALT LAKE CITY	2	243,237	439.75	631.58	1,570.66	7,400.41	1,758.50	1,073.92	-	7,105.96	3,241.96
E000591	JACKSONVILLE	2	276,217	172.33	359.42	865.33	6,774.75	10,000.66	3,157.84	98.67	6,053.71	1,389.38
E000731	DALLAS WEST	2	282,288	42.92	105.75	807.09	8,215.08	8,946.58	780.16	21.58	8,061.46	1,855.13
TOTAL			MEAN(M)	145.70	256.99	759.51	5,229.47	4,173.36	834.69	24.85	5,495.01	1,683.20
			SD	132.88	203.45	373.92	2,157.43	3,415.29	995.57	36.38	1,723.80	889.78
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	38	(M*N)	5,536.51	9,765.62	28,861.40	198,718.84	158,587.82	31,748.17	944.44	208,810.40	63,981.63
E000286	NORTH BAY	3	306,004	215.58	117.75	577.83	7,037.75	8,972.33	3,469.17	-	7,042.09	3,065.66
E000607	LANSING/GRAND RAPIDS	3	370,567	191.08	417.42	791.25	7,201.66	3,532.92	364.09	105.09	2,053.63	918.88
TOTAL			MEAN(M)	203.33	267.59	684.54	7,119.71	6,252.63	1,916.63	52.54	4,547.86	1,992.27
			SD	17.32	211.90	150.91	115.90	3,846.24	2,195.63	74.31	3,527.37	1,518.01
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	13	(M*N)	2,643.29	3,478.81	8,899.02	92,556.19	81,284.13	24,916.17	683.06	59,122.16	25,899.53
E000364	CONNECTICUT	4	442,959	155.75	30.92	277.92	5,283.25	5,464.00	309.59	85.50	7,388.75	1,833.17
E000629	NORTH CHICAGO	4	457,114	191.00	164.67	1,340.42	7,541.00	3,048.25	5,765.25	81.92	5,147.30	2,638.79
E000304	NEW ENGLAND EAST	4	542,453	312.08	8.67	1,132.67	12,820.00	13,314.25	1,265.08	160.41	16,222.58	2,788.17
TOTAL			MEAN(M)	219.61	68.09	917.00	8,548.08	7,275.50	2,446.64	109.28	9,586.21	2,420.04
			SD	82.00	84.38	583.13	3,867.99	5,367.39	2,913.44	44.32	5,855.52	513.71
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	11	(M*N)	2,415.71	748.95	10,087.02	94,028.82	80,830.50	26,913.03	1,202.03	105,448.31	26,620.48
GRAND TOTAL		110	4,501,331	115.72	171.83	586.95	4,413.04	3,812.17	915.44	30.57	4,587.16	1,272.26

¹ Average of # of Unwired Aerial Installs and # of Unwired Underground Installs, with equal weights for each type.

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2004 SAMPLE SYSTEM TOTAL INSTALLATION HOURS BY STRATA

GL NUMBER	SYSTEM NAME	STRATA	SUBS	Unwired ¹	Prewired	AO Same	AO Separate	Move Outlet	Upgrade	Downgrade
E000385	SANTA BARBARA	1	36,251	75.63	880.75	392.12	62.00	6.94	427.41	22.58
E000820	WILLOW GROVE	1	59,415	134.33	472.45	425.29	123.05	-	477.70	156.69
E000615	TUCSON	1	80,364	622.12	1,031.42	821.95	308.20	-	1,007.80	218.84
E000544	AUGUSTA	1	109,613	473.04	3,409.58	2,087.24	289.50	0.62	1,327.15	257.77
E000135	PRINCE WILLIAM COUNTY	1	110,632	614.33	2,008.99	295.78	169.45	7.25	1,691.47	86.90
E000610	ALBUQUERQUE	1	132,650	765.78	2,280.72	1,401.00	150.63	13.31	1,341.36	62.56
E000853	DELAWARE COUNTY	1	138,836	647.81	1,566.63	818.21	690.75	-	2,481.42	696.83
TOTAL			MEAN(M)	476.15	1,664.36	891.65	256.22	4.02	1,250.61	214.60
			SD	268.02	999.11	648.23	210.85	5.25	713.83	228.79
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	48	(M*N)	22,855.21	79,889.38	42,799.42	12,298.80	192.82	60,029.50	10,300.61
E000125	CHESAPEAKE BAY	2	156,526	1,211.24	2,411.84	1,307.50	414.94	2.62	1,893.00	810.48
E000420	KNOXVILLE	2	160,295	405.54	2,189.57	683.13	114.45	0.09	1,457.71	747.58
E000762	WILLIAMETTE VALLEY	2	165,597	601.00	3,985.46	1,656.53	112.63	46.50	1,160.11	502.88
E000255	INDIANAPOLIS	2	191,027	533.51	3,780.78	2,410.54	409.36	6.95	1,499.78	227.58
E000742	DENVER METRO SOUTH	2	239,286	788.01	6,108.92	409.93	73.25	-	3,774.12	281.95
E000781	SALT LAKE CITY	2	243,237	2,356.00	6,166.76	879.25	805.44	-	3,552.98	1,080.55
E000591	JACKSONVILLE	2	276,217	1,696.81	10,162.13	5,000.33	3,420.88	98.67	3,026.85	694.69
E000731	DALLAS WEST	2	282,288	1,076.09	6,161.31	4,473.29	585.12	10.79	2,015.36	463.78
TOTAL			MEAN(M)	1,083.52	5,120.85	2,102.56	742.01	20.70	2,297.49	601.19
			SD	664.83	2,607.22	1,745.18	1,112.26	35.13	1,011.86	286.31
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	38	(M*N)	41,173.89	194,592.17	79,897.35	28,196.32	786.67	87,304.61	22,845.09
E000286	NORTH BAY	3	306,004	436.77	3,934.05	2,595.20	1,826.17	-	3,409.49	1,143.45
E000607	LANSING/GRAND RAPIDS	3	370,567	1,127.35	5,996.00	1,766.46	273.07	78.82	772.94	301.66
TOTAL			MEAN(M)	782.06	4,965.03	2,180.83	1,049.62	39.41	2,091.22	722.55
			SD	488.31	1,458.01	586.01	1,098.21	55.73	1,864.32	595.23
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	13	(M*N)	10,166.77	64,545.33	28,350.77	13,645.02	512.30	27,185.81	9,393.20
E000364	CONNECTICUT	4	442,959	383.00	3,835.11	2,732.00	337.82	52.91	4,076.56	611.00
E000629	NORTH CHICAGO	4	457,114	1,833.34	6,038.13	1,085.38	2,737.96	49.22	2,144.88	1,099.59
E000304	NEW ENGLAND EAST	4	542,453	1,510.18	10,682.91	4,437.64	632.54	80.21	10,815.60	1,394.08
TOTAL			MEAN(M)	1,242.17	6,852.05	2,751.67	1,236.10	60.78	5,679.01	1,034.89
			SD	761.41	3,495.70	1,676.22	1,308.96	16.93	4,552.06	395.53
ESTIMATED TOTAL	NUMBER OF SYSTEMS(N)	11	(M*N)	13,663.92	75,372.52	30,268.41	13,597.15	668.57	62,469.14	11,383.77
GRAND TOTAL		110	4,501,331	798.73	3,767.27	1,648.33	615.79	19.64	2,154.45	490.21

¹ Based on the weighted average of Aerial and Underground Install Times, with weights equal to Activity Levels for each Install time type.

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2004 Estimates and Standard Errors

AVG. INSTALL TIME - UNWIRED*

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	1.4084	67.60	0.2271	14.50
2	38	8	1.3670	51.95	0.3241	14.97
3	13	2	1.0903	14.17	0.4730	16.00
4	11	3	1.3597	14.96	0.0235	0.02
110 20			148.68		45.48	
Estimated Total =						148.68
Std. Error =						6.74
Estimated Mean =						1.3516
Std. Error =						0.0813
COEFFICIENT OF VARIATION =						4.64%

* Average of Aerial and Underground, with equal weights.

INSTALL ACTIVITY - UNWIRED**

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	348.26	16,716.48	213.28	12788727.05
2	38	8	759.51	28,861.38	373.92	19923803.71
3	13	2	684.54	8,899.02	150.91	1628328.71
4	11	3	917.00	10,087.00	563.13	9302051.64
110 20			64,563.88		43842911.11	
Estimated Total =						64,563.88
Std. Error =						6,606.26
Estimated Mean =						586.9444
Std. Error =						60.0571
COEFFICIENT OF VARIATION =						10.23%

** Average of # of Aerial Installs and # of Underground Installs, with equal weights.

INSTALL TOTAL HOURS - UNWIRED***

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	476.15	22,855.20	268.02	20195618.54
2	38	8	1,083.52	41,173.76	664.83	62984847.37
3	13	2	782.06	10,166.78	488.31	17048935.91
4	11	3	1,242.17	13,663.87	761.41	17005858.85
110 20			87,859.61		117235460.67	
Estimated Total =						87,859.61
Std. Error =						10,827.53
Estimated Mean =						798.7237
Std. Error =						98.4321
COEFFICIENT OF VARIATION =						12.32%

UNWIRED

Estimated Population Mean Time per Install =	1.3808
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*** Weighted average of Aerial and Underground (weights = activity levels).

AVG. INSTALL TIME - PREWIRED

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.7938	38.10	0.2183	13.40
2	38	8	0.9693	36.83	0.2432	8.43
3	13	2	0.6958	9.05	0.1935	2.68
4	11	3	0.7866	8.65	0.0551	0.09
110 20			92.63		24.59	
Estimated Total =						92.63
Std. Error =						4.96
Estimated Mean =						0.8421
Std. Error =						0.0451
COEFFICIENT OF VARIATION =						5.35%

INSTALL ACTIVITY - PREWIRED

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	2,089.04	100,129.92	1,057.76	314558433.75
2	38	8	5,229.47	198,719.86	2,157.43	583266849.20
3	13	2	7,119.71	92,556.23	115.90	960445.92
4	11	3	8,648.08	94,028.88	3,867.99	438866168.11
110 20			485,434.89		1417651896.97	
Estimated Total =						485,434.89
Std. Error =						37,651.72
Estimated Mean =						4,413.0445
Std. Error =						342.2883
COEFFICIENT OF VARIATION =						7.76%

INSTALL TOTAL HOURS - PREWIRED

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	1,664.36	79,889.28	999.11	280642645.55
2	38	8	5,120.85	194,592.30	2,607.22	968657448.30
3	13	2	4,965.03	64,545.39	1,458.01	151994210.95
4	11	3	6,852.05	75,372.55	3,495.70	358450942.37
110 20			414,399.52		1759745247.17	
Estimated Total =						414,399.52
Std. Error =						41,949.32
Estimated Mean =						3,767.2684
Std. Error =						381.3574
COEFFICIENT OF VARIATION =						10.12%

PREWIRED

Estimated Population Mean Time per Install =	0.8537
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2004 Estimates and Standard Errors

AVG. INSTALL TIME - AO SAME

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.4982	23.91	0.1670	7.84
2	38	8	0.4919	18.69	0.1001	1.43
3	13	2	0.3946	5.13	0.1480	1.58
4	11	3	0.3965	4.36	0.0904	0.24
110	20			52.10		11.10

Estimated Total = 52.10
 Std. Error = 3.33
 Estimated Mean = 0.4736
 Std. Error = 0.0303
 COEFFICIENT OF VARIATION = 6.39%

INSTALL ACTIVITY - AO SAME

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	2,071.58	99,435.84	1,858.87	9714,60375.45
2	38	8	4,173.36	158,587.68	3,415.29	166214,9324.23
3	13	2	6,282.63	81,284.19	3,846.24	105773,9892.84
4	11	3	7,275.50	80,030.50	5,367.39	845,060,345.42
110	20			419,338.21		453,940,9737.94

Estimated Total = 419,338.21
 Std. Error = 67,352.87
 Estimated Mean = 3,812.1655
 Std. Error = 612,2889
 COEFFICIENT OF VARIATION = 16.06%

AVG. INSTALL TIME - AO SEPARATE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.7315	35.11	0.1450	6.91
2	38	8	0.7446	28.29	0.1706	4.15
3	13	2	0.6382	8.30	0.1581	1.79
4	11	3	0.6887	7.58	0.3488	3.57
110	20			79.28		15.41

Estimated Total = 79.28
 Std. Error = 3.93
 Estimated Mean = 0.7207
 Std. Error = 0.0357
 COEFFICIENT OF VARIATION = 4.95%

INSTALL ACTIVITY - AO SEPARATE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	357.31	17,150.88	280.32	22092,009.69
2	38	8	834.69	31,718.22	995.57	141,240,246.55
3	13	2	1,816.63	24,916.18	2,185.63	344,686,563.43
4	11	3	2,446.64	28,913.04	2,913.44	248,985,223.92
110	20			100,898.33		757,004,043.48

Estimated Total = 100,898.33
 Std. Error = 27,513.71
 Estimated Mean = 915.4394
 Std. Error = 250,1246
 COEFFICIENT OF VARIATION = 27.32%

INSTALL TOTAL HOURS - AO SAME

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	891.65	42,799.20	648.23	1181,368,282.22
2	38	8	2,102.56	79,897.28	1,745.18	434,005,586.62
3	13	2	2,180.83	28,350.79	586.01	245,585,199
4	11	3	2,761.67	30,288.37	1,676.22	824,182,623.33
110	20			181,315.64		8591,143,281.15

Estimated Total = 181,315.64
 Std. Error = 25,673.22
 Estimated Mean = 1,648.3240
 Std. Error = 233,3929
 COEFFICIENT OF VARIATION = 14.16%

AO SAME

Estimated Population Mean Time per Install = 0.4324

INSTALL TOTAL HOURS - AO SEPARATE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	256.22	12,298.56	210.85	124,897,113
2	38	8	742.01	28,186.38	1,112.26	176,289,288.83
3	13	2	1,049.62	13,645.06	1,098.21	862,336,620.9
4	11	3	1,236.01	13,596.11	1,308.96	502,990,377.59
110	20			67,736.11		325,261,589.65

Estimated Total = 67,736.11
 Std. Error = 18,035.56
 Estimated Mean = 615.7828
 Std. Error = 163,9597
 COEFFICIENT OF VARIATION = 26.63%

AO SEPARATE

Estimated Population Mean Time per Install = 0.6727

2004 Estimates and Standard Errors

AVG. INSTALL TIME - MOVE OUTLET

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	6	0.5694	27.33	0.2439	19.99
2	38	7	0.6667	25.33	0.1800	5.45
3*	13	1	0.7500	9.75	-	0.00
4	11	3	0.5732	6.31	0.0641	0.12
110			17		68.72	25.56
Estimated Total =						68.72
Std. Error =						5.06
Estimated Mean =						0.6247
Std. Error =						0.0460
COEFFICIENT OF VARIATION =						7.36%

* Variance for stratum 3 imputed by averaging other strata variances.

INSTALL ACTIVITY - MOVE OUTLET

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	11.11	533.28	19.44	106247.71
2	38	8	24.85	944.30	36.38	188599.38
3	13	2	52.54	683.02	74.31	394821.29
4	11	3	109.28	1,202.08	44.32	57618.36
110			20		3,362.68	747286.74
Estimated Total =						3,362.68
Std. Error =						864.46
Estimated Mean =						30.5698
Std. Error =						7.8587
COEFFICIENT OF VARIATION =						25.71%

INSTALL TOTAL HOURS - MOVE OUTLET

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	4.02	192.96	5.25	7749.00
2	38	8	20.70	786.60	35.13	175861.66
3	13	2	39.41	512.33	55.73	222067.05
4	11	3	60.78	668.58	16.93	8407.66
110			20		2,160.47	414085.37
Estimated Total =						2,160.47
Std. Error =						643.49
Estimated Mean =						19.6406
Std. Error =						5.8500
COEFFICIENT OF VARIATION =						29.78%

MOVE OUTLET

Estimated Population Mean Time per Install =	0.6425
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AVG. INSTALL TIME - UPGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.5204	24.98	0.1330	4.97
2	38	8	0.4160	15.81	0.1097	1.71
3	13	2	0.4303	5.59	0.0762	0.42
4	11	3	0.5450	6.00	0.1251	0.46
110			20		52.38	7.56
Estimated Total =						52.38
Std. Error =						2.75
Estimated Mean =						0.4761
Std. Error =						0.0250
COEFFICIENT OF VARIATION =						5.25%

INSTALL ACTIVITY - UPGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	2,733.47	131,206.56	1,821.07	932352917.08
2	38	8	5,495.01	208,810.38	1,723.80	423436817.70
3	13	2	4,547.86	59,122.18	3,527.37	889627246.86
4	11	3	9,586.21	105,448.31	5,855.52	1005755357.80
110			20		504,587.43	3251172339.44
Estimated Total =						504,587.43
Std. Error =						67,019.05
Estimated Mean =						4,587.1585
Std. Error =						518.3550
COEFFICIENT OF VARIATION =						11.30%

INSTALL TOTAL HOURS - UPGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	1,250.61	60,029.28	713.83	143257261.89
2	38	8	2,297.49	87,304.62	1,011.86	145900143.99
3	13	2	2,091.22	27,185.86	1,864.32	248511767.96
4	11	3	5,679.01	62,469.11	4,652.06	607823340.48
110			20		236,988.87	1145492514.32
Estimated Total =						236,988.87
Std. Error =						33,845.13
Estimated Mean =						2,154.4443
Std. Error =						307.6830
COEFFICIENT OF VARIATION =						14.26%

UPGRADE

Estimated Population Mean Time per Install =	0.4697
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2004 Estimates and Standard Errors

AVG. INSTALL TIME - DOWNGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.4133	19.84	0.1182	3.93
2	38	8	0.3833	14.57	0.1098	1.72
3	13	2	0.3506	4.56	0.0316	0.07
4	11	3	0.4167	4.58	0.0834	0.20
110			20		43.54	5.92
Estimated Total =						43.54
Std. Error =						2.43
Estimated Mean =						0.3959
Std. Error =						0.0221
COEFFICIENT OF VARIATION =						5.59%

INSTALL ACTIVITY - DOWNGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	488.90	23,467.20	433.69	52879321.10
2	38	8	1,683.20	63,961.60	889.78	112818453.90
3	13	2	1,992.27	25,899.51	1,518.01	164761336.75
4	11	3	2,420.04	26,620.44	513.71	7741006.95
110			20		139,948.75	338200118.69
Estimated Total =						139,948.75
Std. Error =						18,390.22
Estimated Mean =						1,272.2814
Std. Error =						167,1838
COEFFICIENT OF VARIATION =						13.14%

INSTALL TOTAL HOURS - DOWNGRADE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	214.60	10,300.80	228.79	14716384.65
2	38	8	601.19	22,845.22	286.31	11681211.79
3	13	2	722.55	9,393.15	595.23	25332360.83
4	11	3	1,034.89	11,383.79	395.53	4589023.44
110			20		53,922.96	56318980.72
Estimated Total =						53,922.96
Std. Error =						7,504.60
Estimated Mean =						490.2087
Std. Error =						68.2236
COEFFICIENT OF VARIATION =						13.92%

DOWNGRADE

Estimated Population Mean Time per Install =	0.3853
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AVG. INSTALL TIME - VCR SAME

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	6	0.2778	13.33	0.0430	0.62
2	38	6	0.1945	7.39	0.1255	3.19
3*	13	1	0.1867	2.17	0.0815	1.04
4	11	3	0.2222	2.44	0.0481	0.07
110			15		25.33	4.92
Estimated Total =						25.33
Std. Error =						2.22
Estimated Mean =						0.2303
Std. Error =						0.0202
COEFFICIENT OF VARIATION =						8.76%

AVG. INSTALL TIME - VCR SEPARATE

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	6	0.4861	23.33	0.1617	8.79
2	38	7	0.3928	14.93	0.0793	1.06
3*	13	1	0.5000	6.50	0.1076	1.81
4	11	3	0.4445	4.89	0.0481	0.07
110			17		49.65	11.72
Estimated Total =						49.65
Std. Error =						3.42
Estimated Mean =						0.4514
Std. Error =						0.0311
COEFFICIENT OF VARIATION =						6.90%

AVG. INSTALL TIME - TROUBLE CALLS**

Stratum	N	n	Mean	N*Mean	s	N(N-n)s ² /n
1	48	7	0.6905	33.14	0.1774	8.85
2	38	8	0.6771	25.73	0.1514	3.27
3	13	2	0.6000	7.80	0.0157	0.02
4	11	3	0.6019	6.62	0.0893	0.23
110			20		73.29	12.37
Estimated Total =						73.29
Std. Error =						3.52
Estimated Mean =						0.6663
Std. Error =						0.0320
COEFFICIENT OF VARIATION =						4.80%

* Variance for stratum 3 imputed by averaging other strata variances.

* Variance for stratum 3 imputed by averaging other strata variances.

** Average of Inside Wire Service Calls, Customer-Owned Equipment Calls, and Customer Education Calls, assuming equal activity weights.

ATTACHMENT B

2005 EQUIPMENT AND INSTALLATION RATES

	A COMCAST RATES AS FILED	B ORIGINAL 2005 RATES ADOPTED	C AMENDED 2005 RATES ADOPTED
Equipment Rates			
Remote Control	\$ 0.33	\$ 0.29	Type 1: \$ 0.27 Type 3: \$ 1.19
Basic-Only Converter (Converter 1)	\$ 1.30	\$ 0.49	\$ 1.27
Addressable or Digital Converter or DVR (Converter 2)	\$ 4.83	\$ 4.10	\$ 4.63
HDTV Converter (Converter 3)	\$ 8.33	\$ 6.06	\$ 11.17
Installation Rates			
Hourly Service Charge	\$ 35.17	\$ 30.17	\$ 33.47
Unwired Installation	\$ 52.23	\$ 37.88	\$ 45.55
Prewired Installation	\$ 31.40	\$ 19.83	\$ 28.58
Additional Outlet (Same Trip)	\$ 17.15	\$ 12.28	\$ 14.47
Additional Outlet (Separate Trip)	\$ 25.31	\$ 19.72	\$ 22.52
Move Outlet	\$ 23.60	\$ 14.14	\$ 21.51
Upgrade (Non-addressable)	\$ 17.12	\$ 12.61	\$ 15.72
Downgrade (Non-addressable)	\$ 15.55	\$ 12.58	\$ 12.90
Upgrade/Downgrade, Addressable	\$ 1.99	\$ 1.99	\$ 1.99
VCR Connect (Same Trip)	\$ 8.79	-	\$ 7.71
VCR Connect (Separate Trip)	\$ 16.10	\$ 13.78	\$ 15.11
Customer Trouble Calls	\$ 23.27	\$ 9.95	\$ 22.30

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Business and Professional License Administration

NOTICE

Theater (Live) License for McGinty Enterprises, Inc. Extended to February 18, 2006

D.C. Official Code Title 47 Section 47-2805.1 authorizes the Mayor to establish a licensing period for which a license was issued under the general Licensing law may be issued. Before the Theater license is renewed, D.C. Official Code Title 47 Section 47-2820 requires that the Director of the Department of Consumer and Regulatory Affairs (DCRA) shall give written notice by mail to licensees and the affected Advisory Neighborhood Commission thirty (30) days prior to granting or renewing a license. Further, the Director shall cause the notice to be published in the D.C. Register.

This Notice is notifying the public that DCRA hereby extends the renewal deadline for Theater (Live) establishment, **McGinty Enterprises, Inc.** until **February 18, 2006**. The Department will mail renewal notices to the affected parties 30-45 days prior to the renewal of the Theater license.

If you would like more information pertaining to this notice, please contact the Basic Business License Info-Center at (202) 442-4311.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

PUBLIC NOTICE OF SOLICITATION

Historic Howard Theatre Disposition Solicitation to be issued February 10

The Office of the Deputy Mayor for Planning and Economic Development will issue on Friday, February 10, 2006 a Solicitation of Offers for the redevelopment of the historic Howard Theatre, located at 620 T Street, NW in the heart of the Cardozo/Shaw and LeDroit Park neighborhoods.

Built in 1910, the Howard Theatre was a prominent performing arts center in one of Washington, DC's African-American neighborhoods and entertainment districts. The theatre closed in the 1970s. Today, the Howard Theatre is remembered as a "music house" and an important home to legendary accomplishments by many acclaimed and diverse cultural and musical artists whose impact was worldwide.

The District's vision is to reposition the Howard Theatre as not only an icon of past achievements, but also as a competitive, self-sufficient and contemporary venue for launching future generations of musical and cultural talent and for showcasing today's most celebrated artists. The District envisions the property as a mixed-use entertainment facility that will foster economic vitality in the area that once was known as "Black Broadway."

The Solicitation of Offers will be issued by the Office of the Deputy Mayor for Planning and Economic Development and will be made available on Friday, February 10 in the Wilson Building (1350 Pennsylvania Avenue, NW, Suite 317) and on the web at (<http://www.dcbiz.dc.gov/dmped>).

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in **eleven (11)** Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

VACANT: **3D07, 3D08**
 5C10
 6B11
 7C04
 8B02, 8B03, 8C05, 8C06, 8E01, 8E06

Petition Circulation Period: **Monday, February 13, 2006 thru Monday, March 6, 2006**
Petition Challenge Period: **Thursday, March 9, 2006 thru Wednesday, March 15, 2006**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call 727-2525.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Human Services
Early Care and Education Administration
RFA # 0217-06 for the UCC Child Development Center (CDC)

AMENDMENT

On behalf of the District Of Columbia Department of Human Services (DHS), Early Care and Education Administration, (ECEA), the Office of Grants Management hereby issues the following change to RFA #0217-06, FY 2006 Unified Communication Center (UCC) Child Development Center (CDC).

The current language found on page 8, in section C.2. TARGET POPULATION is being deleted and replaced by the following statement:

- C.2.4. The multi-purpose room will be used by children and the appropriate number of staff during the period of shift changes. The multi-purpose room may be used at other times for program related activities for children enrolled in the CDC, as long as the appropriate numbers of staff are on duty to cover the child to teacher ratio. The maximum number of children that can occupy the multipurpose room is seventeen (17). However, at no time will the program capacity of the CDC exceed sixty-seven (67) children. The projected licensure capacity of eighty-four (84) is solely to accommodate the transition periods during which the multipurpose room may be used to accommodate the additional seventeen (17) children.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES

PUBLIC NOTICE OF FUNDING AVAILABILITY

PRE-KINDERGARTEN INCENTIVE PROGRAM

RFA# 0213-06

The District of Columbia Department of Human Services (DHS) seeks applications from qualified applicants for grants to provide true-quality pre-kindergarten services in community-based classrooms to 3- and 4-year olds residing in wards throughout the District of Columbia.

Formed through a partnership of the District of Columbia Public Schools (DCPS) and DHS, this Pre-Kindergarten Incentive Program is administered by the DHS Early Childhood Education Administration (ECEA). The goal of the Program is to ensure that at least 360 3- and 4-year old District of Columbia children, currently deprived of child development and early education services, receive in community-based settings, the same benefit of quality early education as their peers receive in public school pre-k classrooms.

This is the second year of the Pre-Kindergarten Incentive Program. Fourteen grants were made in fiscal year 2005 to fund 21 classrooms for more than three hundred 3- and 4-year olds throughout the District.

Private, non-profit organizations that operate in the District of Columbia are encouraged to apply. Priority for funding will be given to organizations that have nationally accredited early childhood programs or have applied for accreditation at the time of application, and organizations previously funded under this grant program.

Grants will be provided to hire and train staff and equip 24 classrooms for at least 360 District of Columbia resident children. A total of \$3,360,000 is available for multiple grants averaging \$9,333 per child.

The Request for Applications (RFA) will be released on February 13, 2006. The RFA may be obtained from Ms. Priscilla Burnett at the DHS Office of Grants Management, 64 New York Avenue, NE, Sixth Floor, Washington, DC 20002, or downloaded by computer from the DC Office of Partnerships and Grants Development website, www.opgd.dc.gov, under "District Grants Clearinghouse."

Applicants are encouraged to attend a Pre-Application Conference scheduled for Thursday, February 23, 2006, from 10:00 am to 12:30 pm at the Martin Luther King, Jr. Library (901 G Street, NW) in auditorium A-5.

The deadline for response to this RFA is 3:30 p.m. on Friday, March 10, 2006.

DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

**Judicial Tenure Commission Begins Review Of
Judge Wendell P. Gardner, Jr.**

This is to notify members of the bar and the general public that the Commission has begun inquiries into the qualifications of Judge Wendell P. Gardner, Jr. of the Superior Court of the District of Columbia. Judge Gardner is a declared candidate for reappointment as an Associate Judge upon the expiration of his term on July 1, 2006.

Under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 796 (1973), §443(c) as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §12(1) provides in part as follows:

"...If a declaration (of candidacy) is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written statement of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the nomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia Court."

The Commission hereby requests members of the bar, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Judge Gardner which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting material shall be kept confidential unless expressly authorized by the person submitting the information.

All communications shall be mailed or delivered by **March 31, 2006**, and addressed to:

District of Columbia Commission on Judicial
Disabilities and Tenure
Building A, Room 312
515 Fifth Street, N.W.
Washington, D.C. 20001
(Telephone: (202) 727-1363)
(Fax: (202) 727-9718)

The members of the Commission are:

William P. Lightfoot, Esquire, Chairperson
Hon. Gladys Kessler, Vice Chairperson
Gary C. Dennis, M.D.
Eric H. Holder, Jr., Esquire
Ronald Richardson
Claudia A. Withers, Esquire

BY: /s/ William P. Lightfoot
Chairperson

2006 RESOLUTION OF THE RENTAL HOUSING COMMISSION

for

**THE CHANGE IN THE CONSUMER PRICE INDEX, URBAN WAGE EARNERS
AND CLERICAL WORKERS – (CPI-W), WASHINGTON-BALTIMORE,
DC-MD-VA-WV, ALL ITEMS**

It is hereby resolved by the Rental Housing Commission this 30th day of January, 2006:

1. Whereas, effective January 1998, the United States Department of Labor eliminated the “Washington, D.C. Standard Metropolitan Statistical Area Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for All Items,” which was published bimonthly in odd numbered months ending with November each year, and initiated the “Consumer Price Index, Urban Wage Earners and Clerical Workers – (CPI-W), Washington-Baltimore, DC-MD-VA-WV, All Items,” which includes the city of Washington, D.C., and the states of Maryland, Virginia, and West Virginia, hereinafter referred to as Washington-Baltimore, that is published bimonthly in odd numbered months ending in November each year;
2. Whereas, pursuant to Section 206(b) of the Rental Housing Act of 1985, D.C. Law 6-10, the Rental Housing Commission is mandated to determine the change, during the twelve months of calendar year 2005, in the Washington-Baltimore Standard Metropolitan Statistical Area Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for All Items;
3. Whereas, pursuant to the requirements of Section 206(b) of the Rental Housing Act of 1985, D.C. Law 6-10, the Rental Housing Commission used the reported CPI-W for calendar year 2005 in the Washington-Baltimore Standard Metropolitan Statistical Area (SMSA) Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for All Items;
4. Be it resolved that the Commission determined the 2005 change in the CPI-W for the Washington-Baltimore SMSA was 4.2%.
5. Pursuant to the requirements of Section 202(a)(3) of the Rental Housing Act of 1985, D.C. Law 6-10:
 - (a) The Rental Housing Commission hereby certifies that the rent ceiling adjustment of general applicability, to become effective on May 1, 2006 shall not exceed 4.2% of the rent ceilings in effect on April 30, 2006; and

- (b) The Rental Housing Commission adopts the Certification and Notice of Rent Ceiling Adjustment of General Applicability, effective May 1, 2006, in the form annexed hereto and directs its transmittal to the District of Columbia Office of Documents for publication in the District of Columbia Register.

RUTH R. BANKS, CHAIRPERSON

RONALD A. YOUNG, COMMISSIONER

JENNIFER M. LONG, COMMISSIONER

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION
CERTIFICATION AND NOTICE OF RENT CEILING ADJUSTMENT OF
GENERAL APPLICABILITY**

EFFECTIVE MAY 1, 2006

1. Pursuant to Section 206(b) of the Rental Housing Act of 1985, D.C. Law 6-10, the Rental Housing Commission shall determine an adjustment of general applicability in the rent ceilings of the rental units established by Section 206(a), which shall be equal to the change during the previous calendar year in the Washington, D.C. Standard Metropolitan Statistical Area (SMSA)¹ Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for All Items.
2. Pursuant to Section 206(b) of the Rental Housing Act of 1985, the Commission determined that the Washington-Baltimore (SMSA) CPI-W for All Items increased by 4.2% during the previous calendar year.
3. Accordingly, the Rental Housing Commission determined that the change during calendar year 2005, in the Washington-Baltimore SMSA CPI-W for All Items was 4.2%.
4. Pursuant to the requirements of Section 202(a)(3) of the Rental Housing Act of 1985, D.C. Law 6-10, the Rental Housing Commission hereby certifies and gives notice that the rent ceiling adjustment of general applicability to become effective on May 1, 2006, shall not exceed 4.2% of the rent ceiling in effect on April 30, 2006.

1. The Rental Housing Commission and the Rent Administrator are mandated by the Rental Housing Act of 1985 (Act), D.C. OFFICIAL CODE § 42-3501.01 *et seq.*, to annually calculate and publish in the D.C. Register the percentage change in the Washington, D.C., Standard Metropolitan Statistical Area Consumer Price Index for All Items. D.C. OFFICIAL CODE §§ 42-3502.02(a)(3), 3502.04(k), 3502.06(b) (2001).

The Act does not comply with two changes in the publication by the Department of Labor (DOL), Bureau of Labor Statistics (BLS), which publishes the CPI-W statistics and determines what areas will be in the Standard Metropolitan Statistical Area. First, DOL/BLS enlarged the geographical areas included with Washington, D.C., in the local Standard Metropolitan Statistical Area and second, the name of the DOL/BLS statistical document was changed. Originally, the Standard Metropolitan Statistical Area included only three jurisdictions, which were Washington, D.C., Maryland, and Virginia. The statistical document issued by DOL/BLS, and used by both the Rent Administrator and the Rental Housing Commission was named "Consumer Price Index, Urban Wage Earners and Clerical Workers - (CPI-W), Washington, DC-MD-VA, All Items." That publication was discontinued, and now the DOL/BLS publication is the "Consumer Price Index, Urban Wage Earners and Clerical Workers-(CPI-W), Washington-Baltimore, DC-MD-VA-WV, All Items." The difference is the inclusion of the state of West Virginia and the city of Baltimore, Maryland into the Standard Metropolitan Statistical Area with Washington, D.C.

METROPOLITAN POLICE DEPARTMENT

NOTICE OF INTENT TO DEPLOY ADDITIONAL TEMPORARY CLOSED CIRCUIT TELEVISION CAMERAS

The Chief of the Metropolitan Police Department, pursuant to the public notice requirements established in 24 D.C. Municipal Regulations (DCMR) § 2502.1 et seq., hereby gives notice of the intent to deploy additional, temporary Closed Circuit Television (CCTV) cameras to support public safety operations during the Major Cities Chiefs' Conference from February 6 through February 12, 2006.

During this time, the temporary cameras will be deployed generally in the area of F Street, NW between 13th and 14th Streets, NW.

These temporary cameras are in addition to the nineteen (19) permanent cameras that are part of the MPD's CCTV system. Pursuant to 24 DCMR §2502.1, the Metropolitan Police Department is required to provide public notice of plans to deploy CCTV cameras prior to such deployment, except under exigent circumstances

The general locations of the nineteen (19) permanent Closed Circuit Television (CCTV) cameras are as follows:

Camera Location

1000 Block Jefferson Drive, SW
 Pennsylvania Avenue & 15th Street, NW
 14th Street and Constitution Avenue, NW
 700 Block 18th Street, NW
 200 Block Constitution Avenue, NW
 700 Block 19th Street, NW
 19th Street & Dupont Circle, NW
 100 Block Vermont Avenue, NW
 400 Block L'Enfant Plaza, SW

Camera Location

1100 Block Connecticut Avenue, NW
 1100 Block Pennsylvania Avenue, NW
 (2 cameras)
 800 Block Vermont Avenue, NW
 Wisconsin Avenue & M Street, NW
 1000 Block Nineteenth Street, North
 (Rosslyn, VA)
 3600 Block M Street, NW
 500 Block North Capitol Street, NW
 1300 Block Wisconsin Avenue, NW
 300 Block Independence Avenue, SW

The public may submit comments in writing regarding a particular deployment, or the CCTV system in general, to the Chief of Police, Metropolitan Police Department, 300 Indiana Avenue, NW, Room 5080, Washington, DC, 20001, or via e-mail at mail.chief-of-police@dc.gov

The Metropolitan Police Department's CCTV system is a secure, wireless network of 19 cameras owned and operated by the MPD. These cameras are mounted on various buildings primarily in the downtown DC area. They focus on public spaces around the National Mall, the US Capitol, the White House, Union Station and other critical installations, as well as major arteries and highways that pass through downtown DC. Under DC regulations, additional cameras can be added to the network on a temporary or permanent basis following a period of public comment. During exigent circumstances, additional cameras can be deployed on a temporary basis without advance public notice, but with a post-deployment notification to the public.

The CCTV system is not a round-the-clock video monitoring operation. The system is activated only during major events in the District (such as large-scale demonstrations, the Fourth of July celebration, Presidential Inaugurations, etc.) or during periods of heightened alert for terrorism. CCTV camera feeds are displayed in the MPD's Joint Operations Command Center (JOCC), a secure facility located on the 5th Floor of police headquarters. The JOCC is operated by the MPD, but may include staff from other federal, regional, state and local public safety agencies participating in joint operations.

The MPD's use of CCTV is designed to ensure the protection of personal privacy rights. The CCTV network has no audio capability; it provides video images of public spaces only. The cameras can pan at 360 degrees and tilt at 180 degrees. The cameras do have the capability to zoom in on a particular location, but are used primarily to monitor wide areas of public space, not the individuals within that space. The CCTV system does not use face-recognition or any other biometric technology. Both DC regulations and internal MPD policy expressly prohibit the arbitrary monitoring of individuals or monitoring of individuals based on race, gender or other factors. Regulations and policies also prohibit the use of the CCTV system for the purpose of infringing on First Amendment rights.

Additional information about the CCTV network can be found on the MPD website at www.mpdc.dc.gov/cctv.

FEB 10 2006

DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

Notice of Education Licensure Commission Public Sessions

The Education Licensure Commission ("the Commission"), pursuant to the Advisory Neighborhood Commission Act, CODE Ann., § 1-261 (1987), AND THE ADMINISTRATIVE PROCEDURE ACT, D.C. CODE ANN., § 1-1506 (1987), hereby gives notice that the Commission's public meetings are going to take place as follow:

Unless otherwise noted, meetings are held monthly, every 4th Thursday, 4:00 pm, at:

One Judiciary Square
441 4th Street, Northwest
Judiciary Square Conference Center, Suite 1114
Washington, DC 20001

Meeting Dates	Session
February 23, 2006	PS-02-06
March 23, 2006	PS-03-06
April 27, 2006	PS-04-06
May 25, 2006	PS-05-06
June 22, 2006	PS-06-06
July 27, 2006	PS-07-06
September 28, 2006	PS-09-06
October 26, 2006	PS-10-06
November 16, 2006	PS-11-06
December 21, 2006	PS-12-06

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 17066 of Judy and Clarke Brinckerhoff, Susan Buck, and David Price from the Zoning Administrator's administrative decision to issue Building Permit No. B452591, dated June 26, 2003, to John Walsh and Linda Jewell for the construction of a rear addition to an existing single-family detached dwelling at 4624 Brandywine Street, N.W. ("Subject Property") as non-compliant with the side yard (§ 405) and nonconforming structure (§ 2001.3) provisions in the R-1-B District.

HEARING DATE: December 16, 2003

DECISION DATE: December 16, 2003

DECISION AND ORDER

This appeal was submitted on August 5, 2003 by Judy and Clarke Brinckerhoff, Susan Buck, and David Price (collectively, "Appellants") challenging the issuance of Building Permit No. B452591. The permit approved construction of an addition to the rear of the Subject Property. The Appellants alleged the permit was issued in violation of the side yard requirements of the R-1-B zone district. At the conclusion of the December 16, 2003 public hearing, the District of Columbia Board of Zoning Adjustment ("BZA") voted to deny the appeal.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. The District of Columbia Office of Zoning ("OZ") mailed memoranda dated September 16, 2003 providing notice of the appeal to: the Property Owners, the Councilmember for Ward 3, Advisory Neighborhood Commission 3F, Single Member District 3F03, the District of Columbia Office of the Attorney General, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), and the District of Columbia Office of Planning ("OP"). On September 24, 2003, the OZ mailed further memoranda providing notice of the appeal to Single Member District 3E02, and Advisory Neighborhood Commission 3E. Pursuant to 11 DCMR § 3112.14, the Office of Zoning mailed letters of notice of the hearing dated October 20, 2003 to the parties to the appeal and ANC 3E.

Appellants' Case. The Appellants own properties adjacent to the Subject Property. They argued the building permit was improperly issued because: (1) 11 DCMR § 405.9 requires eight-foot side yards in R-1-B districts; (2) 11 DCMR § 2001.3(b) prohibits expansion of nonconforming structures; and (3) the addition does not fit within the exception for additions created by 11 DCMR § 405.8.

Zoning Administrator's Case. The Zoning Administrator argued although the side yard was less than the eight feet required in the zone district by 11 DCMR § 405.9, the addition fell within the exception created by 11 DCMR § 405.8.

Request for Party Status and Property Owners' Case. The property owners, John Walsh and Linda Jewell ("Property Owners") were automatically granted party status pursuant to 11 DCMR § 3199(a)(3). They argued that 11 DCMR § 405.8 authorized construction of the addition.

Government Reports. None.

ANC Report. None.

Motion for Summary Judgment. The Board voted 3-1-1 to deny the Property Owners' motion for summary judgment (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John G. Parsons, in support, Ruthanne G. Miller opposed, David A. Zaidain not voting).

Hearing and Decision. The Board held a public hearing on the appeal on December 16, 2003. Testimony and evidence was provided by Acting Zoning Administrator Faye Ogognye on behalf of DCRA. Clarke and Judy Brinckerhoff, and Susan Buck testified for the Appellants. Steven Sher, Director of Zoning and Land Uses Services with the law firm of Holland and Knight, and former member of the District of Columbia Municipal Planning Office, testified for the Property Owners. At the conclusion of the hearing, the Board voted to deny the Appeal.

FINDINGS OF FACT

1. The Subject Property is a single-family dwelling located at 4624 Brandywine St., N.W. (square 1548, lot 21), in an R-1-B zone district and is owned by is owned by John Walsh and Linda Jewell ("the Property Owners").
2. The Appellants own homes adjacent to the Subject Property. Judy and Clarke Brinckerhoff own 4628 Brandywine St., to the immediate west of the subject property. Susan Buck and David Price own 4620 Brandywine St., to the immediate east.
3. On June 26, 2003, the Property Owners received Building Permit No. B452591. The permit approved construction of an addition to their home.
4. The Property Owners submitted plans with their application for the building permit showing the western wall of their home running parallel with the lot line. The plans show that the western wall of the existing house lies 5.1 feet away from the lot line. The plans further show that the planned addition extends the full width of the rear portion

of the house, so that the western wall of the house and addition form one contiguous wall 5.1 feet from the lot line.

5. Pursuant to 11 DCMR § 405.9, the side yards in an R-1-B zone must be at least eight (8) feet wide.

6. The Subject Property was constructed prior to 1958, and, to the extent that it does not comply with the applicable area requirements, is thus a nonconforming structure. 11 DCMR § 199.1 ("nonconforming structure").

7. Pursuant to 11 DCMR § 2001.3(b)(2), a nonconforming structure cannot be expanded in a way that increases or extends the nonconforming aspect of the structure.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.07(f) and (g)(1) (2001 ed.)), to hear and decide appeals where it is alleged by an appellant that there is error in any decision by an administrative officer in the carrying out or enforcement of the Zoning Regulations.

The Appellant claims that DCRA erred in issuing the building permit because the addition to this nonconforming use results in the creation of a substandard side yard of less than 8 feet as is required in an R-1-B zone district. Although the Appellants recognized that 11 DCMR § 405.8 allows for pre-1958 buildings to be expanded so long as the side yard retains a depth of at least 5 feet, they contend that this property does not fall within this exception. The Board disagrees.

Section 405.8 reads as follows:

In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; *provided, that the width of the existing side yard shall not be decreased*; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

(Emphasis added).

The Appellants' focus on the italicized text, claiming that the addition decreased the width of the existing side yard. This is clearly not the case. The plans show the side yard is the same width before and after construction of the addition, 5.1 feet. The addition only extends into the rear yard. It does not encroach further into the side yard.

The Appellants also argue that the text of 11 DCMR § 405.8, though allowing additions to structures with non conforming side yards, does not allow the addition to extend the non-conformity. In essence, the Appellants' argue that the only purpose of the provision is to permit a single family dwelling, with a nonconforming side yard of at least five feet, to extend that side yard, so long as the extension maintains a width of eight feet. Such an interpretation would make § 405.8 superfluous, because § 2001.3 already permits a structure with a nonconforming side yard of any width to be extended in the manner suggested by appellants.

That section provides:

Enlargements or additions may be made to the [nonconforming] structure; provided:

- (a) The structure shall conform to percentage of lot occupancy requirements;
- (b) The addition or enlargement itself shall:
 - (1) Conform to use and structure requirements; and
 - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor

(3) Nor create any new nonconformity of structure and addition combined.

Thus, § 2001.3 already authorized the Property Owners to enlarge the structure, so long as the addition did not extend the nonconforming part of the side yard. The Board notes that in interpreting the Zoning Regulations it is required to provide meaning to all of its provisions so that no parts are rendered superfluous. *See Matter of T.L.J.*, 413 A.2d 154, 158 (D.C. 1980); *see also McDaniels v. District of Columbia Dept. of Employment Services*, 512 A.2d 990, 992 (D.C. 1986). Thus, § 405.8 cannot be read to authorize the same thing permitted by § 2001.3. Rather, § 405.8 can only be given effect if interpreted as an exception to the proscription of § 2001.3(b)(2) against extending a nonconformity. That exception being that the nonconforming aspect of a side yard may be extended, if that the side yard is not less than 5 feet in width. Since the width of the side yard in question is greater than 5 feet, it may be expanded as a matter of right.

The legislative history of this provision corroborates the Board's conclusion. As noted in its Motion for Summary Judgment, the Zoning Commission for the District of Columbia adopted the text of § 405.8 (then codified as § 3305.9) in Zoning Commission case Z.C. 76-10. The Commission took proposed action to approve the text on December 9, 1976 and, through its Executive Secretary, forwarded the proposed text to the National Capital Planning Commission for its review, as required by § 492 of the District Charter. Attached to the letter was the report of the Municipal Planning Office, the predecessor

FEB 02 2006

FINAL DATE OF ORDER: _____

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17319 of William J. McKeever, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to an existing single-family row dwelling under section 223, not meeting the court (section 406) requirement in the DC/R-5-B District at premises 1723 Riggs Place, N.W. (Square 153, Lot 104).¹

HEARING DATE: May 10, 2005

DECISION DATE: June 7, 2005

DECISION AND ORDER

This self-certified application was submitted March 10, 2005 by the owner of the property that is the subject of the application, William J. McKeever ("Applicant"). The application, as amended, requested special exception approval, pursuant to 11 DCMR § 223, to allow construction of a one-story addition at the rear of the first floor of a row dwelling located in the DC/R-5-B district at premises 1723 Riggs Place, N.W. (Square 153, Lot 104).

Following a hearing on May 10, 2005 and a public meeting on June 7, 2005, the Board voted 4-1-0 to approve the application.

PRELIMINARY MATTERS:

Notice of Application and Notice of Hearing. By memoranda dated March 11, 2005, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, the Councilmember for Ward 2, Advisory Neighborhood Commission ("ANC") 2B, and Single Member District/ANC 2B01. Pursuant to 11 DCMR § 3113.13, on March 17, 2005 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 2B, and owners of property within 200 feet of the subject property.

Requests for Party Status. ANC 2B was automatically a party in this proceeding. The Board received untimely requests for party status in opposition to the application from Norma Zane Chaplain, Robert Murphy, Ralph Redford, Margaret Roggensack, Monica Yin, and Volker Zinser, who all reside in the 1700 block of Riggs Place N.W. The Board granted party status to the group of neighbors, represented by Volker Zinser.

Applicant's Case. The Applicant, represented by architect William G. Middleton, stated that the special exception was needed to allow construction of a one-story addition at the rear of a single-family row dwelling. The Applicant asserted that the small addition would not substantially affect the use or enjoyment of any abutting or adjacent dwelling or property,

¹ The caption previously used for this application indicated that the subject property did not meet the requirements applicable to side yards (§ 405) or courts (§ 406). However, no side yard is required in the R-5-B zone, and none is provided at the subject property, which is improved with a row dwelling. Accordingly, no relief from the side yard requirements was necessary in this case.

441 4th St., N.W., Suite 210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

E-Mail Address: zoning_info@dc.gov

Web Site: www.docz.dcgov.org

including with respect to the light, air, and privacy of use and enjoyment, or visually intrude on the character, scale, or pattern of neighboring houses.

Government Reports. By memorandum dated April 21, 2005, the Office of Planning ("OP") recommended approval of the requested special exception. According to OP, the proposed one-story rear addition would comply with the requirements for special exception relief, would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and would not tend to affect the use of neighboring property adversely.

By memorandum to the Applicant dated May 13, 2005, the Office of Planning's Historic Preservation Office ("HPO") indicated that the Applicant's proposed one-story rear addition would be "a modest and reasonable expansion of the property" that raised "no preservation concerns." HPO noted that the addition would be barely visible from the public alley due to its recess within the side courtyard of the row dwelling and its location behind a rear-yard privacy fence.

ANC Report. By letter dated April 29, 2005, ANC 2B indicated that, at a regular public meeting on April 13, 2005 with a quorum present, the ANC voted 7-0-2 to support the application for a special exception allowing construction of the first-floor addition at the subject property.

Party in Opposition to the Application. The party in opposition presented testimony from several residents of the 1700 block of Riggs Place who stated generally that the proposed addition would detract from the historic character of the block by visually intruding on the character, scale, and pattern of houses in a row of dwellings all designed by the same architect, and would diminish the light, air, and privacy currently enjoyed by neighboring properties.

Persons in Opposition to the Application. The Board received approximately 10 letters in opposition to the application, most from residents of the 1700 block of Riggs Place. The letters generally asserted that the proposed additions would damage the architectural integrity of the entire row of houses on the north side of the 1700 block of Riggs Place, deprive surrounding residences of light and air, and "set a dangerous precedent for expansion into an already congested area of alleyway" at the rear of the subject property.

FINDINGS OF FACT

The Subject Property

1. The subject property is located at 1723 Riggs Place, N.W. (Square 153, Lot 104), on the north side of Riggs Place between New Hampshire Avenue and 18th Street in the Dupont Circle area of Ward 2. The site is improved with a three and a half story row dwelling built circa 1890.
2. The subject property has a lot area of 1,674 square feet and a lot width of 18 feet. An open court at the rear of the property, along the eastern property line, is approximately 18 feet long and ranges in width from 4.2 to 5.7 feet.

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3. The lot occupancy of the subject property is currently 61.9 percent and will increase to 63.3 percent as a result of the proposed addition. Thus, the lot occupancy of the subject property, including the addition, will not exceed the maximum of 70 percent permitted pursuant to 11 DCMR § 223.3.
4. The subject property has a rear yard of 23.8 feet, in excess of the minimum requirement of 15 feet.
5. A public alley, 12 feet wide, provides access to the rear of the subject property. Parking for one vehicle is provided in the rear yard, which is enclosed by a six-foot privacy fence.
6. The subject property is zoned DC/R-5-B. The purpose of the Dupont Circle overlay district includes to require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; protect the integrity of buildings that contribute to the historic districts within the overlay zone; enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development; ensure compatibility of development with the Comprehensive Plan; and preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide. 11 DCMR § 1501.4.
7. The subject property is located within a historic district. The Historic Preservation Office of the Office of Planning indicated no concerns regarding the proposed addition.

The Applicant's Project

8. The Applicant proposes to enclose a portion of the court with a one-story addition approximately 10 feet high and 24 square feet in area (4.2 feet by 5.7 feet) to expand the kitchen area of the row dwelling. The remaining court will be 14 feet long and approximately 4 feet wide.
9. The addition will be constructed of glass and stucco, with views onto the rear yard at the subject property.
10. The addition will not be visible from the row dwelling to the west of the subject property and, due to its small size and lack of windows facing east, will have only a minimal impact on the row dwelling to the east. The addition will not be easily visible from the alley due to the fence at the rear of the property.
11. The Board credits the testimony of the Office of Planning that the small proposed addition, designed to be residential in appearance, will not unduly affect light and air available to neighboring properties or unduly compromise the privacy of their use and enjoyment, and will not substantially visually intrude on the character, scale, and pattern of houses along the street frontage.

BZA APPLICATION NO. 17319

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12. The Board also credits the testimony of the Office of Planning that the proposed addition will be in conformance with the purposes of the Dupont Circle overlay district in that the addition will be of a scale consistent with the nature of the overlay district for height and bulk, will enhance the residential character of the area by maintaining an existing residential use, will be compatible with the Comprehensive Plan by preserving and enhancing an existing residential neighborhood, and will preserve a rear yard in excess of the minimum depth required and protect light, air, and privacy.

CONCLUSIONS OF LAW

The Applicant seeks a special exception under section 223 pursuant to 11 DCMR § 3104.1 to allow construction of a one-story addition on the rear of a single-family row dwelling in the DC/R-5-B zone. The Board is authorized to grant special exceptions where, in the Board's judgment, a special exception would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. D.C. Official Code § 6-641.07(g)(2) (2001); 11 DCMR § 3104. Pursuant to § 223, the Board may permit, by special exception approval, an addition to a one-family dwelling that does not comply with requirements pertaining to minimum lot dimension, lot occupancy, rear and side yards, courts, and nonconforming structures, subject to the conditions enumerated in section 223. The Applicant's property does not comply with requirements pertaining to courts.

Court. Pursuant to 11 DCMR § 406.1, where an open court is provided for a one-family dwelling located in the R-5-B district, the court must be at least 6 feet wide. The entire open court at the subject property will be 4.2 feet wide after a slightly wider portion (5.7 feet in width) is enclosed by the Applicant's planned addition.

§ 223 Provisions. The Applicant seeks approval of an addition to a one-family row dwelling that does not comply with requirements pertaining to courts. The Board may grant such approval as a special exception subject to the provisions enumerated in § 223. The provisions include that the proposed addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, and in particular (a) the light and air available to neighboring properties must not be unduly affected; (b) the privacy of use and enjoyment of neighboring properties must not be unduly compromised; and (c) the addition, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. 11 DCMR § 223.2.

The Board credits the testimony of the Office of Planning in concluding that the Applicant's proposed addition is consistent with the requirements for special exception approval under section 223. The Board is not persuaded by the testimony of the party in opposition that the planned addition would detract from the historic character of the block by visually intruding on the character, scale, and pattern of the row dwellings, or diminish the light, air, and privacy of neighboring properties.

BZA APPLICATION NO. 17319**PAGE NO. 5**

The planned addition will not unduly affect the availability of light or air to neighboring properties, given its small size and its location on the first floor at the interior edge of a court at the rear of the subject property. The addition will not compromise the privacy of use and enjoyment of neighboring properties, in part because the addition will be barely visible from any neighboring dwelling or from the alley at the rear of the subject property. Similarly, the addition will not visually intrude on the character, scale, or pattern of houses along the street frontage. The one-story addition will enclose a portion of a court at the rear of existing dwelling, and will not be visible from the street.

Approval of this application will not permit the introduction or expansion of a nonconforming use, in violation of 11 DCMR § 223.5. Rather, the Applicant's planned addition will be devoted to single-family residential use, which is a principal purpose of the Residence zone.

The Board also credits the testimony of OP in concluding that the requested special exception is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property. The planned addition will continue and improve the use of the subject property as a single-family dwelling.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the issues and concerns of ANC 2B, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception to allow construction of a one-story addition to the rear of a single-family row dwelling in a DC/R-5-B zone.

Accordingly, it is therefore **ORDERED** that the application is **GRANTED**.

VOTE: **4-1-0** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II and Kevin Hildebrand (by absentee vote) to approve; Ruthanne G. Miller opposed).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: FEB 01 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17355 of Joseph and Regina Stettinius, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of an addition to a single-family detached dwelling under § 223 of the Zoning Regulations, not meeting the side yard requirements (§ 405) in the R-1-B District at premises 3051 Avon Lane, NW. (Square 1282, Lot 258).

HEARING DATE: September 13, 2005

DECISION DATE: October 11, 2005

DECISION AND ORDER

Joseph and Regina Stettinius, the property owners (the owner or the applicant) of the subject premises, filed an application with the Board of Zoning Adjustment (Board) on April 29, 2005 for a special exception under § 223 to construct an addition to their residence¹ where the addition will not conform to the minimum side yard requirements of § 405 of the Zoning Regulations. Following a hearing on September 13, 2005, the Board voted to approve the special exception.

Preliminary Matters

Self-Certification Outerbridge Horsey, an architect retained by the applicant, submitted a "self-certification" form with the Board which describes the zoning relief that is requested (Exhibit 2).

Notice of Public Hearing Pursuant to 11 DCMR 3113.13, notice of the hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory neighborhood Commission (ANC) 2E, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect (Exhibit 24).

ANC Report In its report dated September 2, 2005, ANC 2E indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted to support the special exception, subject to a condition that the applicant remove the windows on the wall facing the property to the west (Exhibit 23).

Request for Party Status ANC 2E was automatically a party to this proceeding. The Board received a request for party status from the owner of neighboring property at 1645 31st Street NW (Exhibit 22). The property is owned by the "1645 31st Street NW Personal Residence Trust". The Trustees are members of the family that has owned the property since 1939: Alfred Friendly, Jonathan Friendly, Lucinda Friendly Murphy, Nicholas Friendly, and Victoria Friendly (the Friendlys or the Neighbors). The request for party status was granted and the Friendlys opposed the application at the public hearing, asserting, among other things, that the additions

¹ As will be explained in the Findings of Fact, the applicant proposes to construct three additions to his home.

would adversely impact upon their privacy and light and air, and would also exacerbate existing drainage problems.

Other Persons in Support/Opposition The Board received several letters in support of the application (Exhibit 21). It also received one letter in opposition from Barbara Zartman, chair of the Historic Preservation, Planning and Zoning Committee within the "Citizens Association of Georgetown". Ms. Zartman asked the Board to postpone the decision until prior "illegal construction" could be assessed.

Government Reports

OP Report OP reviewed the special exception application and prepared a written report recommending approval of the application (Exhibit 25). Among other things, OP concluded that the proposed additions would not unduly affect light and air to neighboring properties. In addition, John Moore, the OP representative who prepared the report, testified at the public hearing in support of the application.

US Commission on Fine Arts (Old Georgetown Board) The Commission stated that it had "no objection" to the additions, as depicted in architectural drawings submitted by the owner (Exhibit 21).

Preliminary Matters

Prior to the public hearing, the Friendlys filed a motion to dismiss or postpone the hearing, based upon existing structures at the property that were allegedly built without permits. The Friendlys argued that it would be inequitable for the Board to hear the application based upon the applicant's "unclean hands", and that, at a minimum, the hearing should be postponed because the calculations assumed for zoning relief were erroneous. The Board denied the motion, noting that the application was self-certified and the owner, therefore, proceeded at his own risk.²

FINDINGS OF FACT

The Site and Surrounding Area

1. The subject property is a single-family dwelling located at 3051 Avon Lane, NW, (Square 1282, Lot 258) near the intersection of Avon Lane and Avon Place, in the Georgetown neighborhood. It is located in the R-1-B zone, and is bounded by R Street to the north, Q Street to the south, Avon Place to the east, and 31st Street to the west.
2. The property was improved in 1948 with a two-story single-family dwelling with basement and a nonconforming accessory garage structure. Single-family detached dwellings are the predominant land use on the square in which the property is located.
3. To the west of the property is the Friendly property, which fronts on 31st Street, at 1645 31st Street. The subject property is separated from the Neighbors' property by a ten foot high fence.

² Although not relevant to this application, the owner later submitted evidence that permits were obtained for the structures in question.

BZA APPLICATION 17355**PAGE NO. 3**

The dwelling at the Friendly property is more than 100 feet to the west of the subject property lot line. However, a clay tennis court at the Neighbors' property abuts the fence at the lot line of the subject property.

The Requested Relief

4. The applicant proposes to construct three additions to the existing dwelling in order to create more interior living space for his family. Two of the three additions will be one story; one of the additions will be two stories in height. The first one story addition will be on the east side of the dwelling and will extend along the front to about mid-point of the dwelling. The second addition will be two stories on the west side of the dwelling and will extend to the fence at the Neighbors' property line. The third addition will be a single story on the north side of the dwelling and will connect with the two story addition to the west.

5. Section 405 of the Zoning Regulations requires a minimum side yard of eight feet in the R-1-B zone. Because the second addition will extend to the lot line and eliminate the western side yard, the dwelling and proposed additions will not comply with applicable area requirements under § 405.

6. The proposed additions will increase the lot occupancy from 24% to 36%

The Impact of the Addition

7. With his application, the owner submitted elevation plans and a site plan showing the relationship of the addition to adjacent buildings and views from the public ways (Exhibit 8 and Applicant's Post-Hearing Submission, Exhibit B).

8. The dwelling at 1644 Avon Place is to the immediate east of the property. Because the addition to the east will be only one story it will not be high enough to compromise the light and air or privacy of use and enjoyment of this dwelling.

9. The Board credits and adopts OP's finding that the proposed additions will not significantly decrease the amount of light and air received at neighboring properties (Exhibit 25, Transcript, p. 51). The dwelling at the Neighbors' property is more than 100 feet away from the proposed western addition; it is the Neighbors' tennis court which is adjacent to the proposed addition. Also, as noted above, portions of the proposed eastern addition will be only one story and will not rise to a height that will affect light and air to the neighboring dwelling at 1644 Avon Place (Exhibit 25).

10. The Board finds that the ten feet fence at the Neighbors' lot already casts a shadow on the property, and the proposed western addition will only minimally affect light and air at the Neighbors' property. The applicant's architect prepared diagrams depicting the shadows cast on the Neighbors' property with existing conditions and also with the proposed western addition (Applicant's post-hearing submission, Exhibit D). According to the shadow study, the proposed additions will only minimally affect the light and air received at the Neighbors' property.

BZA APPLICATION 17355

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11. The Board finds that the proposed additions will not unduly compromise the use of the tennis court at the Neighbors' property. The proposed western addition is only 27 feet long and will be built so there is minimal overlap with the 120 foot tennis court (See, Post-Hearing Submission Site Plan, Exhibit B). Nor will any shadows created by the additions be significant enough to interfere with use of the court.

12. The Board finds that, so long as the number of windows on the western addition is minimized, the proposed addition will not unduly affect the privacy of use and enjoyment of the Neighbors' property. As noted by OP, the western wall will actually reduce the number of existing second floor windows and increase privacy of the tennis court.

13. The Board credits and adopts OP's finding that, as viewed from the street, alley, or public way, the proposed additions will not visually intrude upon the character or scale and pattern of homes along the street frontage. As viewed from Avon Lane, most of the addition will be screened by the one-story garage and mature trees. As viewed from the rear, the existing pool house and mature trees will limit view of the addition. As also noted, the Old Georgetown Board reviewed the architectural drawings for the proposed additions and had no objection to the project.

14. The Board received no persuasive evidence that the proposed additions will result in the intensification of any drainage problems that may exist at the Neighbors' property.

15. The Board received no persuasive evidence that the proposed additions resulted in the Neighbors' loss of a contract purchaser for their property, or, that the proposed additions will have such a result in the future.

CONCLUSIONS OF LAW

The Special Exception

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code § 6-641.07(g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. The applicant is seeking a special exception pursuant to 11 DCMR § 223 and 3104.1 to construct an addition to a one-family dwelling in an R-1-B District, where the addition will not comply with the side yard requirements of § 405.

The Board can grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are granted.

The general tests. First, the requested special exception must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1. As to the first test, the proposed addition will not change the residential use of the dwelling and will be in harmony with the existing residential neighborhood.

Since the second test is nearly identical to the criteria for the special conditions under § 223, it will be discussed in the section below entitled "The 'special conditions' for an addition under § 223.1".

The "special conditions" for an addition under § 223.1. Under Section 223.1 of the Zoning Regulations, the Board may permit an addition to a single family dwelling where it does not comply with applicable area requirements, such as the side yard requirement, subject to its not having a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

223.2(a) The light and air available to neighboring properties shall not be unduly affected. Light and air to neighboring properties will not be unduly affected. As stated in the Findings of Fact, the proposed additions will not significantly affect light and air at the Neighbors' property or the property at 1644 Avon Place (See, Findings of Fact 8 – 11).

The light and air at the Neighbors' tennis court will be affected, but only minimally. However, the fact that the tennis court will be subjected to slightly more shade at particular times of the year is not a substantially adverse impact that requires denial of this application.

223.2(b). The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. Nor will the privacy of use and enjoyment of neighboring properties be significantly affected by the proposed additions. The property at 1644 Avon Place will not be affected by the one story eastern addition (Finding of Fact 8). Moreover, the Board concurs with OP that the proposed western wall will actually reduce the number of existing second floor windows and, therefore, increase the privacy of the tennis court (Finding of Fact 12, Exhibit 25).

223.2(c). The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. The proposed additions will cause no visual intrusion as viewed from the street. As set forth above, views from Avon Lane and from the rear will be screened by the existing garage and pool house, and by mature trees (Finding of Fact 13).

223.2(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevations and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways. The applicant provided a site plan, surveyor's plat, floor plans, elevations and photographs to represent the relationship of the proposed additions to adjacent buildings and views from the public way (Finding of Fact 7, Exhibit 25).

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts. The subject property is in the R-1-B zone (Finding of Fact 1). The proposed additions, will increase the lot occupancy from 24% to 36% (Finding of Fact 6). Therefore, this condition will be met.

223.4 The Board may require special treatment in the way of design screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties. The Board agrees with OP that no special treatment is required (Exhibit 25).

223.5 This section may not be used to permit the introduction or expansion of a nonconforming use. As noted by OP, the proposed additions will not introduce or expand a nonconforming use (Exhibit 25). The nonconforming accessory garage structure was built in 1948 and will not be expanded (Findings of Fact 2, 4).

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended; D.C. Official Code § 1-9.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. For the reasons stated in this Decision and Order, the Board finds the ANC's advice to be persuasive.

In reviewing a special exception application, the Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For the reasons stated in this Decision and Order, the Board finds OP's advice to be persuasive.

For the reasons stated above, the Board concludes that the applicant has satisfied the burden of proof with respect to the application for a special exception under § 223 to allow the construction of an addition that does not comply with the side yard requirements an R-1-B zone.

Therefore, for the reasons stated above, the application for a special exception is granted

VOTE: 3-1-1 (Geoffrey H. Griffis, Curtis L. Etherly Jr., and John A. Mann II in favor of the motion to grant; Ruthanne G. Miller opposed, and no Zoning Commission member having participated in the application)

Vote taken on October 11, 2005

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order.

FEB 02 2006

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 04-34

Z.C. Case No. 04-34

(Text Amendments - 11 DCMR - Use of Pervious Parking and Driveway Surfaces)

January 9, 2006

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-35
Z.C. Case No. 04-35
(The Salvation Army - Consolidated Planned Unit Development)
January 9, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on July 7, 2005, to consider an application from The Salvation Army ("Applicant") for the consolidated review and approval of a planned unit development for Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805, located at 2302 – 2320 Martin Luther King, Jr. Avenue, S.E., pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR §3022.

FINDINGS OF FACT

1. The project site is located in the Near Southeast neighborhood of Ward 8 at the intersection of Martin Luther King, Jr. Avenue and Morris Road, S.E. The site consists of Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805 and has an address of 2302 – 2320 Martin Luther King, Jr. Avenue, S.E. (the "Property"). The Property comprises approximately 19,280 square feet of land area and is located in the C-2-A Zone District. The Applicant plans to develop a multi-use, community-serving center on the Property. Community centers are permitted as a matter of right in the C-2-A zone.

2. On December 3, 2004, The Salvation Army filed an application with the Zoning Commission ("Commission") for review and approval of a planned unit development ("PUD"). The Applicant sought relief from the non-residential floor area ratio ("FAR") and roof structure requirements. The Applicant proposed to construct a new community center that will become a centerpiece for a wide variety of community programs that are needed in Anacostia (the "Project"). The Project will comprise approximately 46,988 square feet of gross floor area, including approximately 4,100 square feet of retail space and other uses such as community program space, office space for The Salvation Army, a childcare center and family development center, worship space, job training, a health and wellness center, and underground parking.

3. At a Special Public Meeting on March 14, 2005, the Commission unanimously voted to set down the application for a public hearing. The Zoning Commission held a public hearing on the application on July 7, 2005. By proposed action taken October 17, 2005, the

Commission voted to approve the application by a vote of 4-1-0. Final action to approve the application was taken January 9, 2006, by a vote of 4-1-0.

4. Parties in this proceeding are the Applicant and Advisory Neighborhood Commission ("ANC") 8A. There were no additional requests for party status. The Commission voted to waive the requirement of §3012.5 to accept the report of ANC 8A, which was filed July 7, 2005.

PUD APPLICATION AND PROJECT

5. The Property is located on the southwest corner of Martin Luther King, Jr. Avenue and Morris Road, S.E. It is bounded to the east by a 15-foot-wide public alley. To the west, the Property abuts an auto body shop and asphalt parking lot. A liquor store is located across Martin Luther King, Jr. Avenue from the site. The Property has an elevation change of approximately 15 feet from its low point along Martin Luther King, Jr. Avenue to its rear property line. (Exhibit 16, Applicant's Prehearing Statement dated April 27, 2005 at pp. 5-6.)

6. The Property is located in an underserved urban neighborhood that has a need for community-based programs and resources. The commercial strip along this portion of Martin Luther King, Jr. Avenue is in need of revitalization, but the surrounding area generally is characterized by stable residential neighborhoods. The predominant use in the area is single-family homes, with some walk-up and garden apartments. The area is characterized by high pedestrian and automobile traffic and other urban activities. (Prehearing Statement at p. 5.)

7. Several other developments are planned for the neighborhood. The District of Columbia Department of Transportation ("DDOT") has allocated funds for streetscape improvements to Martin Luther King, Jr. Avenue. The construction of a 300,000-square-foot office center for DDOT is planned for the intersection of Martin Luther King, Jr. Avenue and Good Hope Road. The Anacostia Economic Development Center, a 26,000-square-foot office development, also is planned for that area. (Prehearing Statement at pp. 5-6.)

8. The Property is convenient to public transportation. Three bus stops are nearby, at the southeast corner of Martin Luther King, Jr. Avenue and Morris Road, the northwest corner of Martin Luther King, Jr. Avenue and Chicago Street, and at the northeast corner of Morris Road and Mount View Place. The Property is well served by Metrorail, being located four blocks from the Anacostia Metro Station. (Prehearing Statement at p. 6.)

9. The Property is located in the moderate-density residential land use category as shown on the District of Columbia Generalized Land Use Map. Moderate-density residential is defined to include rowhouses and garden apartments as the predominant uses. (Prehearing Statement at pp. 22-23).

10. The Project will create an inviting community building comprising approximately 46,988 square feet of gross floor area for an FAR of 2.45. The building will have four and one-half stories with a height of 50 feet. The lot occupancy will be 61 percent. The building will

contain community program space, office space for The Salvation Army, a childcare and family development center, worship space, a job training center, an approximately 7,300-square-foot health and wellness center, underground parking, and approximately 4,100 square feet of retail space. (Prehearing Statement at p. 6).

11. The architectural concept for the Project intends to make a statement with a fresh, innovative, forward-looking design. The sanctuary roof has been designed to articulate a feeling of transcendence and features a full-height abstract cross element of light and metal. The building cladding will be a mixture of warm-toned brick, zinc metal panel, and multi-colored glass with an accent of ceramic tile. The choice of brick as a material is consistent with the dominant material in the existing neighborhood and the introduction of the floating metal panels provides a unique element to the design. (Prehearing Statement at pp. 5-6; Testimony of Colden Florance, Transcript at p. 19.)

12. The formal pedestrian entry to the building will be at the ground level and accessed from Martin Luther King, Jr. Avenue. The retail element of the Project will have the prominent corner location at this level. Family assistance facilities and offices also will be located on the ground floor. The ground level features the day care drop-off and the entrance to the parking garage, which will be accessed from Morris Road. The driveway to the parking garage will accommodate one inbound lane and one outbound lane of traffic and will provide access to the loading dock. The licensed childcare facility will be located on the second floor. The Applicant anticipates that the childcare facility will serve approximately 50 children. A sanctuary seating approximately 170 persons will be located on the third floor, which will be the center of church activities. The sanctuary will have audiovisual facilities and will be available for community meetings during the week. The third floor also will provide space for the after-school program. The workforce development program will be located on the fourth floor. The fifth floor will provide space for Spiritual Partnership in Realizing Individual Transformation ("S.P.I.R.I.T."), a coalition of 22 churches. S.P.I.R.I.T. will operate the 7,300-square-foot wellness center on the fifth floor. The roof will feature a walking track. (Prehearing Statement at pp. 7-8; Florance, Transcript at p. 18; Testimony of Todd Smith, Transcript at pp. 12-16.)

13. The site plan provides approximately 9,000 square feet of community recreation space. The Applicant plans to widen the existing sidewalk along Martin Luther King, Jr. Avenue from 10 feet to 13 feet. The Project also includes the construction of a new sidewalk along Morris Road. The building will include two terraces, one balcony, and a roof terrace with a walking track. The Project will provide an outdoor play yard with trees for children attending the licensed childcare center. The Applicant will plant four new trees along the sidewalks to enhance the streetscape. (Prehearing Statement at Exhibit E; Exhibit 28, Applicant's Post-hearing Submission dated August 18, 2005, at Exhibit E.)

14. The original design of the Project included 34 parking spaces in an underground parking garage and a traffic circle for the drop-off of children attending the day care center. In response to concerns voiced by the Commissioners during the public hearing, the Applicant modified the drop-off area by eliminating the traffic circle and providing four additional parking spaces. As a result, the Project will have a total of 38 parking spaces, four of which will be

designated for use by parents dropping off children at the childcare center. (Post-hearing Submission at Exhibit B.)

15. The Salvation Army has entered into a written agreement with Union Temple Baptist Church to provide overflow parking for the Project. The church has agreed to allow the use of its parking lot for The Salvation Army when those spaces are not in use for church services and activities. The church parking lot provides a total of 145 spaces and is less than a four-minute walk from the Property. (Prehearing Statement at Exhibit G.)

16. The Applicant submitted a traffic analysis by Nicole White of Symmetra Design and Lou Slade and Dan VanPelt of Gorove/Slade Associates. The report states that the Property is convenient to multiple modes of public transportation. The traffic expert found that the affected intersections currently operate at an overall acceptable level of service during the morning and evening peak periods. The report concludes that both of the study intersections are projected to continue operating at acceptable levels of service with the addition of the Project and other projects planned for the area. The report also concludes that the signal timings at the intersection of Martin Luther King, Jr. Avenue and Morris Road should be adjusted during the evening peak hour to give more green light time to Morris Road. At the public hearing, Ms. White testified that the community is characterized by high usage of public transportation. She also testified that the study projects that the traffic caused by the Project will be approximately two percent of the traffic on Martin Luther King, Jr. Avenue and a little less than 10 percent of the traffic on Morris Road. She further noted that The Salvation Army currently provides Metrocheks for employees at its other locations and plans to provide them to its employees at the Project. (Prehearing Statement at Exhibit E; Testimony of Nicole White, Transcript at pp. 26-27.)

17. The Applicant plans to incorporate sustainable practices into many aspects of the Project, including community and cultural sensitivity, environmental responsiveness, and resource efficiency. The Project will enhance the local community with workforce and economic development, child care, and family assistance. The retail space will foster local enterprise. New community recreation space will be of substantial benefit to the neighborhood. The sidewalk along Morris Road will facilitate neighborhood traffic. The existing condition of the Property is characterized by broken asphalt and concrete and two dilapidated, abandoned structures, all of which constitute a hazard to the community. The Project will revitalize this prominent corner with an efficient and attractive new building that houses uses that are responsive to neighborhood activities and needs. The Property is convenient to public mass transportation. It is within walking distance to the Anacostia Metrorail Station, and there is a bus stop in front of the site. The landscape plan will incorporate local planting species. The Project has been designed to use resources efficiently. The windows have been strategically placed to optimize natural light during the day. The windows also will be insulated and will feature color glazing to reflect heat from the sun, while avoiding glare. They also will be operable, which will provide superior indoor air quality. The structure of the building will be of concrete, and the Applicant will specify the use of fly ash. The materials also will include steel for the metal panels and exposed steel lintels and columns. Steel typically has 25 percent recycled content. The brick for the Project will be locally manufactured and made from local resources. To the

extent possible, the interior will feature recycled, sustainable materials. The parking garage will provide bicycle racks to discourage use of vehicles for transportation. (Prehearing Statement at Exhibit E.)

18. The Applicant is seeking flexibility from the roof structure setback requirements of §§ 411 and 770.6 of the Zoning Regulations. Roof structures are required to be set back from all exterior walls at a 1:1 ratio and that the enclosures be of equal heights. The mechanical equipment, elevator override, and the stair enclosures on the southern side of the Project do not meet these requirements. The enclosures for the mechanical equipment will be six feet high, whereas the elevator override and the stair enclosure will be 16 feet high. A second stair access and mechanical equipment room will have separate six-foot high enclosures. The Applicant indicated that the Project cannot meet the setback requirements because of the need to have separate access to the retail portion of the ground floor and the need to provide recreational uses on the roof. Furthermore, the unequal heights of the enclosures will reduce the massing of the structures.

19. The Applicant also requested relief from the 60 percent maximum lot occupancy requirement of § 772 of the Zoning Regulations. During the public hearing, the Commission determined that relief from § 772 was not necessary because the lot occupancy limitation applies only to residential uses. (Transcript at p. 8.)

20. During the public hearing, the Commission determined that the Project required relief from the parking requirements of Chapter 21 of the Zoning Regulations. According to the calculations of the Office of Planning, the Project requires 282 parking spaces. The Project provides only 38 parking spaces.

21. The Project is consistent with, and furthers the goals and policies stated in, the elements of the Comprehensive Plan of the National Capital. The Project is consistent with the following major themes of the Comprehensive Plan:

- Stabilizing the District's neighborhoods;
- Increasing the Quantity and Quality of Employment Opportunities;
- Respecting and Improving the Physical Character of the District; and
- Preserving and Ensuring Community Input.

The Project also is consistent with many Major Elements of the Comprehensive Plan, including the Land Use, Urban Design, and Human Services Elements, and fulfills the goals and policies of the Ward 8 Plan. (Prehearing Statement at pp. 22-25; Exhibit 22, Office of Planning Report, dated June 27, 2005, at pp. 7-9.)

22. The Project satisfies numerous aspects of the Comprehensive Plan. The Generalized Land Use Map designates the Property for moderate density residential development, and the Property is zoned for mixed-use (i.e., commercial and residential). The uses proposed will complement the residential development in the area, and the proposed retail

space is consistent with the mixed-use zoning. The Comprehensive Plan states that cultural and educational facilities are necessary ingredients of neighborhood vitality. The Project will provide services that complement one another and provide a "one-stop" service center for the community. The Project will further the economic development of the neighborhood by providing much-needed job training programs and other opportunities for employment. This building will have a strong physical identity and will set a standard for the redevelopment of other properties along Martin Luther King, Jr. Avenue. The Project is consistent with the Ward 8 Plan, because it will increase labor force job skills and employment opportunities, maintain and improve the physical character of the neighborhood, encourage development on vacant and underused land, improve the availability of child care, and establish a use consistent with both existing residential and existing and proposed commercial uses. (OP report at pp. 7-9.)

23. Both the proposed design of the building and the uses featured in the Project were the result of extensive discussions with the community. The Salvation Army has established a partnership with the Community Equity Empowerment Partnership ("CEEP"), a non-profit organization located in Southeast, to help the Applicant establish a model leadership/training program in the Project that will offer life skills training to prepare participants for employment. The Salvation Army also has partnered with S.P.I.R.I.T., a non-profit organization based in Southeast created by a coalition of approximately 20 local churches, to operate the wellness center. The Applicant participated in numerous informal community meetings and formal meetings involving ANC Commissioners, Councilmembers, business and civic association leaders, District government agencies, churches and other non-profit organizations, and citizen forums. The Salvation Army has participated in, and provided regular reports to, the Anacostia Main Street board. (Prehearing Statement at p. 3; Testimony of Bob Boulter, Transcript at pp. 30-32; Testimony of Vernon Hawkins, Transcript at pp. 88-89.)

24. Testimony and evidence on behalf of the Applicant was provided by Major Todd Smith on behalf of The Salvation Army; Colden Florance of Smithgroup Architects (who testified as an expert in the field of architecture); Nicole White of Symmetra Design (who testified as an expert in the field of transportation planning); Bob Boulter of FaithWorks; and Vernon Hawkins, Chief Operating Officer of the Union Temple Baptist Church.

25. Major Smith testified about the history and mission of The Salvation Army and the goals of the Project. He also testified about The Salvation Army's meetings with the community and its partnership with local non-profit organizations. He stated that The Salvation Army's objective is for the Project to be a clear demonstration of its commitment to serve and to participate as a member of the Anacostia community. (Testimony of Todd Smith, Transcript at pp. 10-17.)

26. As addressed in the Applicant's Prehearing Statement and through the testimony of Mr. Smith and Mr. Florance, the following public benefits and project amenities will be created as a result of the Project:

- Urban Design and Architecture – The PUD Project will have a distinctive architecture and design through the materials used. The brick on the façade will identify with the materials used on most buildings in the neighborhood, and the glass and metal will introduce a forward-looking aspect for the community. The stair tower will give a distinctive identity to the building's entrance, and the separate entrances into the retail area will help integrate the building into the community. The cross element will be subtly integrated into the building façade to represent the mission of the Salvation Army and will give the intersection a strong identity. The different materials and colors will delineate parts of the building and give a feeling of openness. The Project is sensitively designed to enhance the sense of place and visual identity of the community. The Project's focus on and treatment of Martin Luther King, Jr. Avenue is an important design element. The intent of the design is to make a memorable building that lifts the spirit and invites the observer in and to provide a vibrant, lively image for the revitalization of the Anacostia neighborhood. At the rear of the building, the play area is landscaped to separate it from the sidewalk area and also provide a buffer and security to this area. (Prehearing Statement at p. 13; OP report at p. 5.)

- Site Planning – The Project will make effective use of an underutilized parcel of land by reinforcing the corner of an important intersection and filling a gap in the urban streetscape. The Project will take advantage of the grade change, which will minimize the building's height and provide for 38 underground parking spaces without the need for a curb cut on Martin Luther King, Jr. Avenue. Vehicular access to the garage and the childcare drop-off area will be provided via an unsignalized driveway off of Morris Road. The Project also includes designated parking spaces for child pick-up and drop-off. The site will be efficiently used to accommodate a building that will maximize the services that could be provided. In addition to the many activities that will occur in the building, a significant amount of space has been allocated to terrace and balcony space that can be used for passive recreation. (Prehearing Statement at p. 14; OP report at p. 5.)

- Effective and Safe Vehicular and Pedestrian Access – Transportation measures that mitigate adverse traffic impacts are considered public benefits and amenities of a PUD. As detailed in the transportation analysis submitted by the Applicant, users of the Project primarily are expected to use public transportation. The Applicant estimates that between 65 and 70 percent of the users of the Project will use public transportation. The building has been designed to mitigate adverse traffic impacts. The Project will provide vehicles a single point of entry and exit to the parking garage. The Applicant will provide a lay-by along Morris Road to enter the parking garage and drop-off area for the childcare center. Vehicles entering the building on Morris Road will either allow the drop-off of children using the designated parking spaces at the ground level of the building or may proceed to the underground parking garage. The Project also will provide a separate pedestrian entrance on Martin Luther King, Jr. Avenue and the construction of a sidewalk on Morris Road adjacent to the site. The widened sidewalk on Martin Luther King, Jr. Avenue will provide safer walking conditions for pedestrians who use the Salvation Army facilities and who currently cut through the site to access the bus stop on that street. The separate entrances and exits will mitigate any potential pedestrian and vehicular conflicts. (Prehearing Statement at pp. 14-15; OP report at p. 6.)

- Employment and Training Opportunities – The Project will provide a model leadership/employment training program, in partnership with CEEP, that will offer job and life skills training to prepare participants for jobs that pay a living wage. This program will serve men and women of all ages but will have a special focus on young men and women between the ages of 14 and 24. This training will include connections to specific employment opportunities and will try to provide childcare for participating parents who need affordable childcare during their training. In addition, the Applicant plans to participate in a First Source Agreement with the District of Columbia Department of Employment Services and a Memorandum of Understanding with the Minority Business Opportunity Commission for construction jobs. (Prehearing Statement at p. 17; OP report at p. 6.)

- Social Services / Facilities – In addition to employment and life skills training, the Project will provide the social services typically offered at other Salvation Army facilities, including family assistance, a health and wellness center, a childcare center, and worship space. (Prehearing Statement at p. 17.)

- Environmental Benefits – The Applicant plans to incorporate sustainable practices into the development of the Project. (Prehearing Statement at Exhibit E.)

- Uses of Special Value to the Neighborhood – The community center and the proposed services will provide many benefits to the Anacostia area and in effect to the District as a whole. The wellness center and social services will attend to their clients' physical and mental well-being and job training will provide more opportunities for clients and contribute to the well-being of the neighborhood. The building will bring activity to the site and contribute to the revitalization of Martin Luther King, Jr. Avenue. (OP report at p. 6.)

27. In response to issues raised by Commissioners during the July 7, 2005 public hearing, the record of the case was left open for the Applicant to provide the following materials and information:

- A revised design for The Salvation Army Sign;
- A revised plan for the childcare drop-off;
- Further information about the sizes of the parking spaces provided;
- Additional details about the roof deck, roof terrace perimeter fence, and the screening of the equipment room;
- A more detailed plan for the streetscape; and
- A discussion of the design philosophy behind the Project and its impact on the future development of Martin Luther King, Jr. Avenue.

The Applicant submitted the required materials on August 18, 2005. The Applicant revised the design of The Salvation Army sign by lowering it, removing the illumination, and providing less conspicuous materials for its construction. The revised sign will be constructed of pre-cast concrete masonry material that will blend into the pre-cast masonry material of the building. The

childcare drop-off was revised to eliminate the traffic circle and instead provide four additional, designated parking spaces for parents dropping off children. The Applicant submitted a parking analysis explaining that the parking level will feature a total of 38 spaces, 10 on the first floor and 28 on parking level P1. Eighteen spaces will be full-size spaces, and 20 will be compact spaces. The Applicant provided an exhibit depicting the roofscape for the building as well as the details of the proposed perimeter fencing and the visual screening of the mechanical enclosure. The Applicant also provided a site plan depicting in more detail a comfortable and inviting streetscape showing the expanded sidewalk along Martin Luther King, Jr. Avenue and the new sidewalk along Morris Road. The site plan also shows the location of the four new trees to be planted in the streetscape area. Finally, the Applicant submitted the statement of Mr. Florance describing his architectural vision for the site and its role as a catalyst and model for future development. (Exhibit F, Applicant's Post-hearing submission, dated August 18, 2005.)

GOVERNMENT REPORTS

28. The Office of Planning ("OP"), in its report dated June 27, 2005 and through its testimony at the public hearing, recommended approval of the Project. OP stated that it strongly supports The Salvation Army's vision for the proposed community center whose programs are geared towards low- to moderate-income residents of the Anacostia area. The report noted that OP believes the Project will benefit the community by providing programs that will address clients' physical, mental, and economic needs. The report further found that the building will facilitate revitalization along Anacostia's main street. OP concluded that the proposed PUD is not inconsistent with the objectives and policies of the Comprehensive Plan and in fact specifically addresses many of them. (Exhibit 22.)

29. In testimony at the public hearing, the representative of OP noted that the Project is consistent with the designation of the Property on the Generalized Land Use Map as moderate-density residential. OP testified that the Comprehensive Plan states that access to cultural and educational facilities is necessary for neighborhood vitality. OP found that the Project will provide services that complement the residential use and will provide an efficient one-stop service center for the community. (Testimony of Maxine Brown-Roberts, Transcript at p. 86.)

30. The District Department of Transportation submitted a report dated, March 16, 2005, that supported the Project. The DDOT report concluded that the Project will not create dangerous or objectionable traffic conditions. (Exhibit 13.)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

31. ANC 8A adopted a resolution expressing unanimous support of the Project at a regularly scheduled and publicly noticed meeting on February 1, 2005. The ANC, in its written resolution dated June 20, 2005, stated that the facility is critical to the well-being and growing of the east of the river neighborhoods and incorporates all of the best of community involvement and community planning in bringing to fruition a community project. (Exhibit 24.)

PERSONS IN SUPPORT

32. Vernon Hawkins, the Chief Operating Officer of Union Temple Baptist Church, testified in support of the Project. He explained that the Project is the result of extensive involvement with the community and that the church and S.P.I.R.I.T. fully support the Project. (Transcript at pp. 87-91.)

PARTIES AND PERSONS IN OPPOSITION

33. No parties or persons appeared in opposition to the Project.

NCPC ACTION

34. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission ("NCPC") pursuant to §492 of the District Charter. By letter dated November 8, 2005, the Executive Director of NCPC noted that pursuant to the Executive Director's Delegated Action authority, the Executive Director found that the proposed PUD project does not adversely affect the "federal interests".

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits, 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

2. Under the PUD process, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested flexibility from the requirements of §§ 411 and 770.6 of the Zoning Regulations regarding roof structures and the required relief from the parking requirements of Chapter 21 can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

5. The Commission agrees with the testimony of the project architect and the representative of the Applicant and believes that this Project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that social and employment services provided in the Project are significant and substantial project amenities of this PUD application.

6. In accordance with D.C. Official Code §1-309.10(d)(2001), the Commission must give great weight to the issues and concerns of the affected ANC. ANC 8A filed a resolution in support of the Project, and the Commission has accorded to the ANC's decision the "great weight" consideration to which it is entitled. The Commission takes note of ANC 8A's conclusion that an organization that will aid in community development while providing much-needed services to neighborhood residents is always welcomed. ANC 8A found that the Project will uplift the community and expressed particular enthusiasm for the childcare, conference/worship, retail facilities, social service, workforce development, and health/wellness programs that the Salvation Army plans to offer at this site.

7. The Commission notes the support the Project has received from numerous neighborhood organizations and the ANC and that there is no opposition to the application.

8. Approval of the PUD is not inconsistent with the Comprehensive Plan. Specifically, the Commission believes that the Project will act as a catalyst for future development along Martin Luther King, Jr. Avenue. It will help to create an exciting street life and a rewarding community experience.

9. The Commission notes that the flexibility requested is minor in comparison to the benefits and amenities provided by the Project. The Project will be developed under the existing C-2-A zoning, and the proposed community center use is permitted as a matter of right in that zone. The height and density of the Project comply with the standards of the C-2-A zone. Only two areas of flexibility are requested, flexibility from the roof structure requirements and the parking requirements. The design of the roof structures will permit use of the roof for community recreation. The Applicant has made arrangements with a local property owner to provide overflow parking in its parking lot, if necessary. Furthermore, the Property is well-served by Metrorail and bus service.

10. The Applicant has addressed the Commission's concerns about the illuminated sign, childcare drop-off, size and number of parking spaces, design of the roof structures, streetscape design, and architectural vision. The Commission believes that the Project, as revised, will not cause adverse visual or traffic impacts in the neighborhood.

11. Notice of the public hearing was provided in accordance with the Zoning Regulations.

12. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a Planned Unit Development Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805. The approval of this PUD is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 28 and 30 of the record, as modified by the guidelines, conditions, and standards of this Order.

2. In accordance with the plans and materials noted above, the approved PUD shall consist of a community center with approximately 38 parking spaces. The Project will include approximately 46,988 square feet of gross floor area resulting in a FAR of approximately 2.45. The height of the Project will be 50 feet and the lot occupancy will be approximately 61 percent.

3. The Applicant shall adhere to the sustainable practices set forth in Exhibit E to its Prehearing Statement, marked as Exhibit 16 in the record.

4. The Applicant shall be party to a written agreement with the Union Temple Baptist Church for use of the church's 145 parking spaces by clients of the community center.

5. The Applicant, prior to the issuance of a building permit, shall enter into a Memorandum of Understanding with the Office of Local Business Development in substantial conformance with the Memorandum of Understanding submitted as part of the Applicant's Prehearing Statement, Exhibit 16 of the record.

6. The Applicant, prior to the issuance of a building permit, shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the First Source Agreement submitted as part of the Applicant's Prehearing Statement, Exhibit 16 of the record.

7. The Applicant shall have flexibility with the design of the PUD in the following areas:

- To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior appearance of the building;
- To vary the final selection of the exterior materials within the color ranges and material types as proposed, but with no reduction in quality, based on availability at the time of construction;
- To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply

with Construction Codes or that are otherwise necessary to obtain a final building permit; and

- To upgrade and continue to improve the facades of the building utilizing architectural embellishments and materials superior to those shown on the plans in Exhibits 16, 28 and 30 with specific intention of enlivening the ground floor and streetscape of the Martin Luther King, Jr. Avenue and Morris Road facades. By way of example, the Commission encourages the use of natural stone or pre-cast concrete in lieu of split block and brick elements on the façade and to provide additional detail with use of signage, mullions and architectural embellishments at the ground level.

8. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

9. The consolidated PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit and construction of the project must start within three years of the date of the effective date of this Order pursuant to 11 DCMR §§ 2408.8 and 2408.9.

10. 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, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which 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 shall 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.

On October 17, 2005, the Zoning Commission **APPROVED** the application by a vote of 4-1-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Michael G. Turnbull to approve; Gregory N. Jeffries opposed).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on January 9, 2006, by a vote of **4-1-0** (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Kevin L. Hildebrand [by absentee ballot] to adopt; Gregory N. Jeffries opposed).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register on _____.

ZONING COMMISSION ORDER NO. 05-31**Z.C. Case No. 05-31****(Georgetown University – Construction of New Business School and Renovation of Former Harbin Field into Multi-Sports Facility)****November 28, 2005**

Application No. 05-31 of the President and Directors of Georgetown College (the "Applicant"), pursuant to 11 DCMR § 3104 and in accordance with § 210 for special exception approval of an application for further processing of an approved Campus Plan to permit the construction of a new McDonough School of Business facility (MSB) and a new multi-sports facility (MSF).

HEARING DATE: November 28, 2005

DECISION DATE: November 28, 2005 (Bench Decision)

SUMMARY ORDER

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commission (ANC) 2E, and to owners of property within 200 feet of the site. The campus of Georgetown University is located within the jurisdiction of ANC 2E.

As directed by 11 DCMR § 3035.4, the Commission required the Applicant to satisfy the burden of proving the elements of § 210 of the Zoning Regulations, which are necessary to establish the case for a special exception for a college or university.

The D.C. Office of Planning, in a report dated November 17, 2005, which was submitted into the record, concluded that the application is in conformance with the provisions of § 210 and recommended approval of the application with the condition that all athletic events at the MSF expected to draw more than 100 visitors shall begin before 4:00 p.m. or after 7:00 p.m. ANC 2E submitted a letter to the Zoning Commission, dated October 7, 2005, in support of the application in light of the fact that Georgetown will continue to comply with its Campus Plan. The Burleith Citizens Association and the Hillandale Homeowners Association Board of Directors also submitted letters in support of the application.

Richard Hinds, legal advisor to the Citizens Association of Georgetown (CAG), spoke on CAG's behalf to oppose only two aspects of the application: the need to limit the use of the MSF and to require construction traffic to use the Canal Road entrance. The Applicant agreed to the latter

condition, but did not agree to language limiting the use of the MSF. The Commission agreed with the Applicant and denied CAG's request for conditioning approval on limiting the use of the MSF. The Commission further noted that it could not include a condition concerning construction traffic, even though the Applicant had agreed to it, because the condition bore no relationship to the impact of the operation of the use itself.

Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 210 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes and gives great weight to the recommendation of the Office of Planning that the application satisfies the requirements of § 210 with the condition OP requested. The Commission notes and gives great weight to the recommendation of ANC 2E that the proposed application will not adversely affect the use of the neighboring property as the proposed construction is located on the interior of the campus, the application does not propose an increase of on-campus parking, and the new facilities are not likely to increase campus related traffic on adjacent streets.

It is, therefore, **ORDERED** that the application be **GRANTED** subject to the condition that all events taking place at the MSF expecting to draw more than 100 visitors shall start either before 4:00 p.m. or after 7:00 p.m.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the Order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

VOTE: 4-0-1 (Anthony J. Hood, John G. Parsons, Gregory N. Jeffries, and Michael Turnbull to approve; Carol J. Mitten, not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this Order.

FEB - 2 2006

FINAL DATE OF ORDER: _____

1030

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Thursday, March 2, 2006, at 6:00 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Acting Secretary to the Zoning Commission at (202) 727-6311.

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