

District of Columbia
BOARD OF ELECTIONS AND ETHICS

Monthly Report
of
Voter Registration Statistics
for the period ending
May 31, 2005

Covering Citywide Totals by:

WARD, PRECINCT, and PARTY

One Judiciary Square
441 - 4th Street, NW, Suite 250N
Washington, DC 20001
(202) 727-2525

<http://www.dcboee.org>

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D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

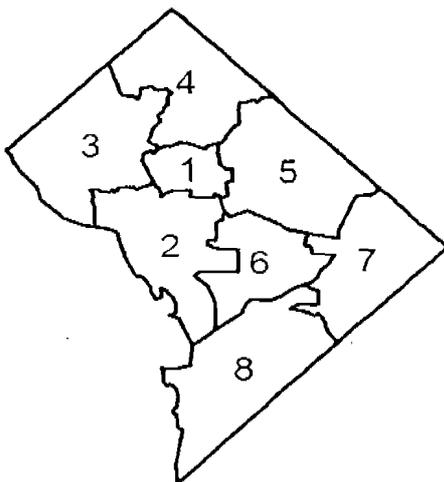
CITYWIDE SUMMARY

Party Totals and Percentages by Ward for the period ending May 31, 2005

*The decrease in voter registration reported for the month of May 2005 is due to the ongoing conduct of the 2005 Biennial Residency Canvass.

WARD	DEM	REP	STG	N-P	OTH	TOTALS
1	29,202	2,576	945	8,651	234	41,608
2	24,399	5,292	486	8,564	189	38,930
3	29,640	7,889	441	9,041	133	47,144
4	41,253	2,795	634	7,411	205	52,298
5	40,076	2,165	630	6,506	219	49,596
6	33,585	4,561	632	7,301	194	46,273
7	38,100	1,660	496	5,440	160	45,856
8	31,064	1,607	541	5,102	168	38,482
TOTALS	267,319	28,545	4,805	58,016	1,502	360,187
<i>TOTAL Percentage (by party)</i>	<i>74.2%</i>	<i>7.9%</i>	<i>1.3%</i>	<i>16.1%</i>	<i>0.4%</i>	<i>100.0%</i>

Wards



**D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**

PRECINCT STATISTICS

Ward 4

For the Period Ending: May 31, 2005

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
45	1,816	100	31	309	13	2,269
46	2,512	104	39	451	12	3,118
47	2,153	159	40	540	16	2,908
48	2,355	154	38	425	9	2,981
49	614	36	15	145	4	814
51	2,880	616	41	583	8	4,128
52	1,151	280	8	233		1,672
53	953	93	22	221	4	1,293
54	1,855	125	36	397	15	2,428
55	2,281	113	29	356	18	2,797
56	2,707	98	38	567	15	3,425
57	2,198	102	32	377	15	2,724
58	2,056	63	34	321	6	2,480
59	2,412	97	31	349	11	2,900
60	1,537	97	30	528	12	2,204
61	1,476	75	21	242	3	1,817
62	2,976	187	40	339	8	3,550
63	2,717	132	66	452	15	3,382
64	2,157	81	17	286	10	2,551
65	2,447	83	26	290	11	2,857
TOTALS	41,253	2,795	634	7,411	205	52,298

**D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**

PRECINCT STATISTICS

Ward 7

For the Period Ending: May 31, 2005

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
80	1,152	50	16	176	8	1,402
92	1,201	63	20	184	8	1,476
93	1,164	58	13	175	5	1,415
94	1,525	74	20	194	5	1,818
95	1,275	41	24	196	2	1,538
96	1,659	70	27	258	4	2,018
97	979	42	18	166	2	1,207
98	1,402	48	18	181	9	1,658
99	1,057	45	17	168	7	1,294
100	1,345	66	21	198	4	1,634
101	1,421	47	14	174	6	1,662
102	1,807	79	24	220	9	2,139
103	2,737	120	34	405	14	3,310
104	1,927	96	29	298	12	2,362
105	1,605	70	27	224	6	1,932
106	2,556	102	30	336	5	3,029
107	1,176	64	14	212	4	1,470
108	1,031	45	7	99	5	1,187
109	926	41	10	97	2	1,076
110	3,363	132	37	431	13	3,976
111	1,714	69	26	306	7	2,122
112	1,736	73	20	262	11	2,102
113	1,796	87	15	263	8	2,169
132	1,546	78	15	217	4	1,860
TOTALS	38,100	1,660	496	5,440	160	45,856

D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

The decrease in voter registration reported for the month of May 2005 is due to the ongoing conduct of the 2005 Biennial Residency Canvass. The total net change by party for this period is shown below:

Voter Registration Reported	DEM	REP	STG	N-P	OTH	TOTALS
<i>April 30, 2005</i>	271,381	29,005	4,875	58,845	1,461	365,567
<i>May 31, 2005</i>	267,319	28,545	4,805	58,016	1,502	360,187
TOTAL Net Change	-4,062	-460	-70	-829	41	-5,380

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH**

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.61, D.C. Code §1.1506, and 20 DCMR § 206, the Air Quality Division (AQD) of the Environmental Health Administration located at 51 N Street, N.E., Washington, DC, intends to issue a permit to American University to install and operate an Emergency generator; 50 kW Kohler model 50 REOZJB in its facility located at 4400 Massachusetts Avenue, N.W., in the District of Columbia.

The application to install and operate the emergency generator unit is available for public review at AQD and copies may be made between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olivia Achuko at (202) 535-2997.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Chief, Engineering and planning Branch, Air Quality Division, Environmental Health Administration, 51 N Street, N.E., Washington D.C. 20002. No written comments postmarked after July 18, 2005 will be accepted. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Olivia Achuko, at (202) 535-2997.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTHNOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.61, D.C. Code §1.1506, and 20 DCMR §206, the Air Quality Division (AQD) of the Environmental Health Administration located at 51 N Street, N.E., Washington, DC intends to issue a permit to construct One (1) 8.31 mm Btu/hr, natural gas-fired, Burnham hot water boiler, model 4FN.993.50.G.GP, located at Blue Plains AWTP Grit Chamber Building No. 2 – 5000 Overlook Avenue, S.W. Washington, in the District of Columbia.

The application and the proposed permit to construct the hot water boiler is available for public inspection at AQD offices and copies may be obtained between the hours of 8:15 am and 4:45 pm Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any to John C. Nwoke, at (202) 724-7778.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Chief, Engineering and Planning Branch, Air Quality Division, Environmental Health Administration, 51 N Street, N.E., Washington, D.C. 20002. No written comments postmarked after July 17, 2005 will be accepted. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address, and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact John C. Nwoke at (202) 724-7778.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH**

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.61, D.C. Code §1.1506, and 20 DCMR § 206, the Air Quality Division (AQD) of the Environmental Health Administration located at 51 N Street, N.E., Washington, DC, intends to issue a permit to Mr. Ngozika J. Nwaneri to install and operate Model 8550 Semi Down Flow Paint Spray Booth at his property located at 2000 Kendall Street, N.E., in the District of Columbia.

The application to install and operate the paint spray unit is available for public review at AQD and copies may be made between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olivia Achuko at (202) 535-2997.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Chief, Engineering and planning Branch, Air Quality Division, Environmental Health Administration, 51 N Street, N.E., Washington D.C. 20002. No written comments postmarked after July 18, 2005 will be accepted. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Olivia Achuko, at (202) 535-2997.

Hope Community Charter School**Request for Response (RFR)**

Hope Community Charter School is seeking bids for Student Bus Services and for Food Services. Both bids will be received at 3 Oaks Corporation, 55 Page Lane, Hampstead, NH 03841 until 12:00 P.M. (EST), July 1, 2005. All bids must be marked either - **Attention: RFR#OAK05-012 Bus Services** or **Attention: RFR #OAK05-011 Food Services**. Copies of the bid specifications can be obtained by calling Scott Mullane at 603-247-0900 or by emailing scott.mullane@3oakscorp.com on June 8, 2005 after 10 A.M. The contract will be awarded the qualified Bidder with the most points in the Evaluation Criteria.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES

PUBLIC NOTICE OF FUNDING AVAILABILITY

**INCOME MAINTENANCE ADMINISTRATION (IMA)
FY 2006 FAMILY-TO-FAMILY GRANT**

The Department of Human Services (DHS), Income Maintenance Administration (IMA) is the lead agency in the District of Columbia for the implementation of the Temporary Assistance for Needy Families (TANF) program. The TANF program, which replaced the former Aid to Families with Dependent Children (AFDC) program, provides cash assistance to eligible low-income families with children.

Some TANF recipients and some low-income families lack the immediate and extended family support systems that can be important sources of advice, friendship and nurturing. DHS/IMA seeks to establish mentoring programs that would strengthen family relationships, including marriage, that are central to achieving and sustaining goals of personal responsibility and self sufficiency. The Family-to-Family mentoring program would help fill the need for positive relationships to reinforce and support self-sufficiency goals.

(DHS/IMA) seeks community-based and faith-based organizations in the District to establish family-to-family mentoring programs to encourage and promote the development of individuals within strong families and within a framework that builds upon family strengths, including marriage. The funds are made available through the U.S. Department of Health and Human Services, Temporary Assistance for Needy Families (TANF) program.

DHS/IMA has approximately \$490,000 for multiple grant awards.

The Request for Application (RFA) will be released on June 20, 2005. The RFA may be obtained from DHS/IMA located at 645 H Street, NE, Washington, D.C., 20002. In addition, the RFA will also be available on the Mayor's Office of Partnerships and Grants Development website (<http://www.opgd.dc.gov>) under the link to the District Grants clearinghouse. For additional information, please contact Ms. Priscilla Burnett, Department of Human Services, Office of Grants Management at 202-671-4407.

The deadline for submission is Wednesday, August 3, 2005 at 5:00 p.m

Applicants are encouraged to attend the Pre-Application conference scheduled for Wednesday, July 6, 2005 from 9:00 a.m. until 12:00 noon at the Income Maintenance Administration, 645 H Street, NE; 5th Floor Conference Room, Washington, D.C., 20002. Applicants interested in attending the Conference should RSVP to Marchelle White, DHS/IMA at (202) 698-3942 on or before Friday, July 1, 2005.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Executive Office of the Mayor

OFFICE OF PARTNERSHIPS AND GRANTS DEVELOPMENT

First Quarter Report on Donations Approved by OPGD for FY 2005

Pursuant to Mayor's Order 2002-2 dated January 11, 2002, the Director of the Office of Partnerships and Grants Development (OPGD), in consultation with the Office of the Attorney General's Ethics Counselor, is publishing the District's First Quarter Report on Donations for Fiscal Year 2005. The Order requires the OPGD Director to review all requests by District officials to solicit or accept donations and approve or disapprove such requests as appropriate in accordance with the Rules of Conduct Governing Donations (Mayor Memorandum 2002-1) and Section 115 of the D.C. Appropriations Act. This report includes data on all donations requests submitted to the OPGD Director for the period beginning October 1, 2004 and ending December 31, 2004. During this period, the OPGD Director approved the solicitation and/or acceptance of \$166,747 in donations of which \$75,230 represented financial contributions and \$91,517 were in-kind donations. Please contact the OPGD Director at (202) 727-8900 for more details on the report.

D.C. Recipient	Donor	Donation Information	Approval Date
Child and Family Services Agency (CFSA)	International Special Events Society – DC Chapter	Financial donation of \$5000 to support CFSA's Office of Volunteer Services	Authority to accept approved on 12/22/04
CFSA	David Nassif Assoc.	Financial donation of \$100 to support the 2004 Holiday Drive	Authority to accept approved on 12/6/04
CFSA	Jonathan & Sheila Davies	Financial donation of \$100 to support the 2004 Holiday Drive	Authority to accept approved on 12/24/04
CFSA	Catrina Kelly-Wyatt	In-kind donation worth \$500 for ladies coats and shoes	Authority to accept approved on 10/27/04
CFSA	Brenricha Isam	In-kind donation worth \$20 for long sleeve shirts	Authority to accept approved on 10/1/04
CFSA	Elaine Overton	In-kind donation worth \$150 for two winter coats	Authority to accept approved on 10/14/04
CFSA	Kelly Friedman	In-kind donation worth \$10 for underclothes	Authority to accept approved on 10/1/04
CFSA	Andrea Shelton	In-kind donation worth \$100 for three pair shoes	Authority to accept approved on 10/27/04
CFSA	Jennifer Johnson	In-kind donation worth \$150 for a ski jacket	Authority to accept approved on 10/14/04
CFSA	Catrina Kelly-Wyatt	In-kind donation worth \$500 for adult and children clothing	Authority to accept approved on 10/27/04
CFSA	Michelle Marsh	In-kind donation worth \$100 for baby and toddler clothing	Authority to accept approved on 10/27/04
CFSA	Neil Muchnik	In-kind donation worth \$750 for blinds and shades	Authority to accept approved on 10/1/04
CFSA	Carrie A. Colella	In-kind donation worth \$150 for boys clothing	Authority to accept approved on 10/1/04
CFSA	Catherine Higgins	In-kind donation worth \$300 for children clothing and bedding	Authority to accept approved on 10/27/04
CFSA	Michele Tornbere	In-kind donation worth \$500 for clothing and an answering machines	Authority to accept approved on 10/14/04

D.C. Recipient	Donor	Donation Information	Approval Date
CFSA	Norma Wynn	In-kind donation worth \$100 for clothing and crib sheets	Authority to accept approved on 10/14/04
CFSA	Sophia Ferguson	In-kind donation worth \$250 for clothing and shoes	Authority to accept approved on 10/1/04
CFSA	Karima Woodfork	In-kind donation worth \$400 for clothing and shoes	Authority to accept approved on 10/1/04
CFSA	Meghan Rudy	In-kind donation worth \$100 for clothing	Authority to accept approved on 10/27/04
CFSA	Thomas L. Floyd	In-kind donation worth \$1000 for clothing	Authority to accept approved on 10/27/04
CFSA	Brenricha Isam	In-kind donation worth \$25 for clothing	Authority to accept approved on 10/14/04
CFSA	Zakia Joyner	In-kind donation worth \$800 for girls clothes and shoes	Authority to accept approved on 10/27/04
CFSA	Debra Hutchinson	In-kind donation worth \$150 for infant and toddler clothing	Authority to accept approved on 10/1/04
CFSA	Regina Gerard	In-kind donation worth \$800 for Microsoft software & a Compaq computer	Authority to accept approved on 10/1/04
CFSA	Tawanna Bell	In-kind donation worth \$240 for school supplies	Authority to accept approved on 10/1/04
CFSA	Lakeyti Wells	In-kind donation worth \$300 for girls clothing and prom dresses	Authority to accept approved on 10/1/04
CFSA	Suzanne M. Fenzel	In-kind donation worth \$50 for toddler clothing	Authority to accept approved on 10/14/04
Department of Health (DOH)	United States Congress - Office of the Attending Physician	In-kind donation worth \$4200 for 3000 doses of flu vaccines	Authority to accept approved on 10/22/04
DOH	American Red Cross HHQ.	In-kind donation worth \$2445 for 300 doses of flu vaccines	Authority to accept approved on 11/10/04
DOH	World Bank	In-kind donation worth \$8500 for 1000 doses of flu vaccines	Authority to accept approved on 10/22/04
DOH	Sidfley, Austin, Brown & Wood, LLP	In-kind donation worth \$2500 for 100 doses of flu vaccines	Authority to accept approved on 10/22/04
Department of Human Services (DHS)	Redemption Ministries	In-kind donation worth \$6,000 worth for music studio equipment	Authority to accept approved on 10/21/04
DHS	The Today Show Charitable Fdn., Inc.	In-kind donation worth \$20,000 for toys, clothing & health care products	Authority to accept approved on 10/27/04
DHS	Cheri Johnson	In-kind donation worth \$500 for toys, clothing & personal care during the Holidays	Authority to accept approved on 12/2/04
Executive Office of the Mayor/Office of Community Affairs (EOM/OCAF)	Fannie Mae Foundation	Financial donation of \$1500 for the Mayor's Annual Holiday Gift Drive	Authority to accept approved on 10/27/05
EOM/OCAF	Marc Barnes	Financial donation of \$1000 for the Mayor's Annual Holiday Gift Drive	Authority to accept approved on 12/18/04
EOM/OCAF	Cake Love	Financial donation of \$30 for the Mayor's Annual Holiday Gift Drive	Authority to accept approved on 12/27/04
EOM/OCAF	Washington Gas & Light Company	Financial donation of \$500 for the Mayor's ANC Reception held on 1/2/05	Authority to accept approved on 12/20/04

D.C. Recipient	Donor	Donation Information	Approval Date
EOM/OCAF	Robert Byrd, MBM Entertainment LLC.	Financial donation of \$500 for the Mayor's ANC Reception held on 1/2/05	Authority to accept approved on 2/20/04
EOM/OCAF	Scott Bolden	Financial donation of \$500 for the Mayor's ANC Reception held on 1/2/05	Authority to accept approved on 2/20/04
EOM/Office of the Secretary (OS)	James Peters American Promotional Events Inc. (TNT Fireworks)	Financial donation of \$5000 for the Mayor's delegation to China	Authority to accept approved on 10/19/04
EOM/OS	Bruce Kaufmann (Professional Products Inc.)	Financial donation of \$5000 for the Mayor's delegation to China	Authority to accept approved on 11/17/04
EOM/OS	Thomas Weng	Financial donation of \$5000 for the Mayor's delegation to China	Authority to accept approved on 10/7/04
EOM/OS	Alfred H. Liu (AEPA Architects Engineering P.C.)	Financial donation of \$5000 for the Mayor's delegation to China	Authority to accept approved on 10/7/04
EOM/OS	Yung Cheng	Financial donation of \$2000 for the Mayor's delegation to China	Authority to accept approved on 10/7/04
EOM/OS	Xiang Rong Zhang	Financial donation of \$5000 for the Mayor's delegation to China	Authority to accept approved on 10/7/04
EOM/OS	Anthony Cheng	Financial donation of \$3000 for the Mayor's delegation to China	Authority to accept approved on 10/7/04
EOM/OS	Squire, Sanders & Demsey	Financial donation of \$1000 for the Mayor's delegation to China	Authority to accept approved on 10/15/04
EOM/OS	David Wilmot (Harmon, Wilmot & Brown LLP)	Financial donation of \$25,000 for the Mayor's delegation to China	Authority to accept approved on 10/15/04
EOM/State Education Office (SEO)	National Forum of Black Public Administrators	Financial donation of \$5000 for the Needs Based Scholarship Grant Program	Authority to accept approved on 12/3/04
Fire & Emergency Management Services (FEMS)	Home Safety Council	In-kind donation worth \$3000 for smoke alarms for DC homeowners	Authority to accept approved on 10/28/04
FEMS	First Alert	In-kind donation worth \$4500 for smoke alarms	Authority to accept approved on 10/19/04
Metropolitan Police Department (MPD)	The National Capital Police Fund	Financial donation of \$5000 for Halloween community program activities	Authority to accept approved on 11/2/04
MPD	Hotel Association of Washington	In-kind donation worth \$900 for the 4 th Annual Award Ceremony on?	Authority to accept approved on 12/20/04
Parks and Recreation (DPR)	Mr. & Mrs. Kelly Lewis	In-kind donation worth \$350 for 10 shelves and 28 brackets	Authority to accept approved on 10/1/05
DPR	No. Michigan Park Civic Association	In-kind donation worth \$625 for a Hoover Conquest Vacuum Cleaner	Authority to accept approved on 10/1/04
DPR	Friends of Guy Mason	In-kind donation worth \$1100 for a kiln	Authority to accept approved on 12/21/04
DPR	Who's On Deck, Inc.	In-kind donation worth \$3500 for a bull pen baseball screen, electronic scoreboard & storage container at the Guy Mason Recreation Center	Authority to accept approved on 12/27/04
DPR	Friends of Guy Mason	In-kind donation worth \$6500 for card tables, kiln, and markers	Authority to accept approve on 11/30/04

D.C. Recipient	Donor	Donation Information	Approval Date
DPR	Guy Mason Baseball	In-kind donation worth \$6000 for the Youth Baseball Program's scoreboard & flag pole repairs at the Guy Mason Recreation Center	Authority to accept approved on 12/27/04
DPR	BB&T	In-kind donation worth \$8000 for 200 tickets to the Basketball Classic on 12/4-5.	Authority to accept approved on 12/7/04
Public Library (DCPL)	Vernon Tancil	In-kind donation worth \$14 for four hardback books	Authority to accept approved on 10/12/04
DCPL	Carmella Mazota	In-kind donation worth \$50 for eleven books	Authority to accept approved on 10/20/04
DCPL	Deanna Miller	In-kind donation worth \$60 for twelve books	Authority to accept approved on 10/12/04
DCPL	John Harlee, Jr.	In-kind donation worth \$50 for nineteen books	Authority to accept approved on 10/12/04
DCPL	Paula Durbin	In-kind donation worth \$240 for video tapes and cassette tapes	Authority to accept approved on 10/22/04
DCPL	Catherine Tuerk	In-kind donation worth \$35 for twenty-nine books	Authority to accept approved on 11/04/04
DCPL	Gordon Brown	In-kind donation worth \$25 for thirty-five books	Authority to accept approved on 10/22/04
DCPL	Mary Myers	In-kind donation worth \$85 for forty-two books	Authority to accept approved on 10/20/04
DCPL	Ann E. Misback	In-kind donation worth \$50 for forty-five books	Authority to accept approved on 10/22/04
DCPL	Vernon Tancil	In-kind donation worth \$5 for five books	Authority to accept approved on 11/2/04
DCPL	Louise G. White	In-kind donation worth \$100 for fifty books	Authority to accept approved on 11/4/04
DCPL	Lura A. Young	In-kind donation worth \$50 for books	Authority to accept approved on 10/22.
DCPL	Vernon Tancil	In-kind donation worth \$25 for seven books	Authority to accept approved on 10/12/04
DCPL	Gay Davis Miller	In-kind donation worth \$215 seventy-four books	Authority to accept approved on 11/10/04
DCPL	Daphne Meere	In-kind donation worth \$28 for eight books	Authority to accept approved on 10/12/04
DCPL	Carol Zachary	In-kind donation valued at \$880 for eighty-eight books	Authority to accept approved on 10/21/04
DCPL	Carol Zachary	In-kind donation valued at \$40 for nine books	Authority to accept approved on 10/12/04
DCPL	Carol Zachary	In-kind donation valued at \$600 for ninety books	Authority to accept approved on 10/19/04
DCPL	Caroline Bartman	In-kind donation valued at \$100 for books	Authority to accept approved on 10/19/04
DCPL	Debra McLaughlin	In-kind donation valued at \$250 for refreshments at the Palisades Library 40 th Birthday Celebration	Authority to accept approved on 10/29/04
DCPL	Maryann Dean	In-kind donation valued at \$200 for books	Authority to accept approved on 11/13/04
DCPL	Robert L. Walker	In-kind donation valued at \$500 for books	Authority to accept approved on 10/12/04
DCPL	Debra McLaughlin	In-kind donation valued at \$250 for pens and gifts at the Palisades Library 40 th Birthday Celebration	Authority to accept approved on 10/29/04

D.C. Recipient	Donor	Donation Information	Approval Date
DCPL	Debra McLaughlin	In-kind donation valued at \$500 for a Discovery Creek Rolling Rain Forest Truck for the Palisades Library 40 th Birthday Celebration	Authority to accept approved on 10/29/04
DCPL	DC Public Library Foundation	In-kind donation valued at \$1100 for staff development activities	Authority to accept approved on 10/7/04

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE

GT97-3, IN THE MATTER OF THE APPLICATION OF WASHINGTON
GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS RATE
SCHEDULES FOR NOS. 3, 3A, AND 6

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice of its action taken in Order No. 13604, issued on June 6, 2005, extending the deadline for filing reply comments in this matter. The reply comment period is extended until June 24, 2005.

2. On February 25, 2005, Washington Gas Light Company ("WGL" or the "Company") filed an Application requesting authority to revise Rate Schedule No. 3 Interruptible Sales Service, Rate Schedule No. 3A Interruptible Delivery Service, and Rate Schedule No. 6 Small Aggregation Pilot.¹ A Notice of Proposed Rulemaking ("NOPR") was published in the D.C. Register on March 25, 2005 inviting the public to comment on WGL's Application.² The NOPR stated that all comments must be received within thirty (30) days of the date of publication of the NOPR.³ Reply comments were due no later than 45 days of the date of the publication of the NOPR.⁴

3. On April 13, 2005, the Office of the People's Counsel ("OPC") filed a motion requesting an extension of time until Monday, May 2, 2005, and until May 17, 2005, for OPC and interested parties to file comments and reply comments, respectively.⁵ On April 22, 2005, the Commission granted OPC's request and extended the comment and reply comment period to May 13, 2005 and May 27, 2005, respectively.⁶ On April

¹ Formal Case No. GT97-3, *In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Letter to Sanford M. Speight, Acting Commission Secretary, from Bernice K. McIntyre, Senior Counsel for Washington Gas Light Company, re: Formal Case No. GT97-3 ("GT97-3")*, filed February 25, 2005 (hereinafter referred to as "Application").

² 52 D.C. Reg. 3138-3140.

³ *Id.* at 3140.

⁴ *Id.*

⁵ GT97-3, Motion for Extension of Time of the Office of the People's Counsel, filed April 13, 2005.

⁶ GT97-3, Order No. 13564 rel. April 22, 2005.

25, 2005,⁷ Pepco Energy Services (“PES”) filed its initial comments and on May 13, 2005,⁸ OPC filed its comments.

4. On May 25, 2005, WGL filed a motion on behalf of itself and the other parties requesting that the Commission extend the deadline for filing reply comments to June 10, 2005.⁹ In its Motion, WGL states that on May 24, 2005, it met with OPC and PES to discuss and clarify issues raised in their initial comments.¹⁰ In order to make sure that their reply comments are responsive to the issues clarified in the meeting, WGL, OPC and PES now seek additional time to file their reply comments.¹¹

5. After considering WGL’s Motion, the Commission has decided to extend the deadline for filing reply comments. Because of the one-week publication delay in the D.C. Register, we have decided to extend the reply comment period beyond the time requested by WGL. In the event that any party files reply comments before the publication of this notice, that party may either supplement those comments or withdraw and resubmit them by the new deadline.

⁷ GT97-3, Initial Comments of Pepco Energy Services, Inc., filed April 25, 2005.

⁸ GT97-3, Comments of the Office of the People’s Counsel, filed May 13, 2005.

⁹ GT97-3, Motion for Leave of Washington Gas Light Company to Extend Time for Filing Reply Comments, filed May 25, 2005 (“WGL Motion”).

¹⁰ GT97-3, WGL’s Motion at 2.

¹¹ *Id.* at 2.

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

Application No. 16566-E of the President and Directors of Georgetown College, pursuant to 11 DCMR § 3104.1, for a special exception for the review and approval of the University Campus Plan – years 2000-2010 under Section 210 in the R-3 and C-1 Districts at premises bounded by Glover Archbold Parkway to the west, the National Park Service property along the Chesapeake & Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Street, and 36th Street to P Street to the east and Reservoir Road to the north. (Square 1222, Lots 62, 801-810; Square 1223, Lots 85-86, 807-810, 812, 815, 826, 827, 831, 834, 846-847, 852-853, 855, and 857-858; Square 1226, Lots 91, 94-101, 104-105, 803-804, 806, and 811-815; Square 1248, Lots 122-125, 150-157, 800-802, 804-806, 829-831, and 834-835; Square 1321, Lots 815-817)

HEARING DATES: June 13, 2000 and July 18, 2000

DECISION DATES: September 5, November 8, and December 5, 2000; April 5, 2005

ORDER ON REMAND

PRELIMINARY MATTERS:

On January 31, 2000, the President and Directors of Georgetown College (hereinafter “University” or “Applicant”) filed an application for review and approval of the Georgetown University Campus Plan for Years 2000-2010. Following a public hearing, the Board voted to approve the campus plan subject to conditions. An order reflecting that decision was issued March 29, 2001 (“March 29 Order”). The Board subsequently revised some of the conditions of approval in an order on reconsideration issued August 6, 2001 (Order No. 16566-A). The Applicant requested an order staying the enforcement of certain conditions; that motion was denied by order issued January 10, 2002 (Order No. 16566-B). The Board certified the Applicant’s 2000 campus plan, as revised to reflect the conditions of approval, by order issued May 22, 2002 (Order No. 16566-C).

The Applicant appealed the March 29 Order and the order on reconsideration to the District of Columbia Court of Appeals. By order issued December 4, 2003, the Court of Appeals vacated the Board’s decision and remanded the case for further proceedings. *See President and Directors of Georgetown College v. District of Columbia Board of Zoning Adjustment*, 837 A.2d 58 (D.C. 2003).

At a public meeting on June 22, 2004, the Board indicated its intent to conduct further proceedings on the application, and requested submissions from the parties recommending issues they believed should be addressed on remand. Submissions were

received from the Applicant and two parties in opposition, Citizens Association of Georgetown and Hillandale Homeowners Association.

By order issued October 15, 2004, the Board directed any party that wished to do so to submit a proposed order either granting or denying the application in whole or in part, including findings of fact, conclusions of law, and any proposed conditions necessary to mitigate potential adverse impacts identified based on the existing record in this proceeding (Order No. 16566-D). Proposed orders were submitted by the Applicant, Citizens Association of Georgetown, and Hillandale Homeowners Association. At a public meeting on April 5, 2005, the Board voted to approve the application subject to conditions.

Other than the submissions filed by the Parties after remand, the Board's decision was based exclusively upon the record as it existed on March 29, 2001. References in this order to District agencies and officials are based upon their status at that time. Thus, although the transportation responsibilities of DPW were subsequently transferred to the District Department of Transportation, the views remain attributable to DPW. Similarly, the Board's decision to approve the Campus Plan and the requested enrollment increase are based upon the facts existing in 2001 and what would be reasonable to predict based upon those facts.

Application. The Applicant filed an application pursuant to 11 DCMR § 3104 for a special exception under 11 DCMR § 210 for approval of the University Campus Plan – years 2000-2010 for its campus in Georgetown, located in the R-3 and C-1 districts. The zoning relief requested in this application was self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Public Hearing. By memoranda dated February 4, 2000, the Office of Zoning sent notice of the application to the Office of Planning; the Department of Public Works; the Zoning Administrator; and Advisory Neighborhood Commission (“ANC”) 2E, the ANC for the area within which the subject property is located.

The public hearing on the application was originally scheduled for May 16, 2000 and June 13, 2000. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on March 23, 2000 mailed notice of the hearing to the Applicant, the owners of property within 200 feet of the subject property, and ANC 2E. Notice was also published in the D.C. Register (47 D.C.R. 2169).

By letter dated April 25, 2000, the Applicant agreed to a one-month postponement of the hearing sought by five community organizations representing residents of neighborhoods surrounding the University's campus for purposes of a mediation effort intended to

resolve issues raised by the Applicant's proposed campus plan. The Applicant participated in a mediation process sponsored by the Office of Planning in May 2000. During the mediation process, the Applicant met with representatives of the community groups opposed to the proposed campus plan, and subsequently amended its proposed plan.

The public hearing was held June 13, 2000 and July 18, 2000. Notice of the continued hearing was published in the D.C. Register (47 D.C.R. 4387).

Requests for Party Status. ANC 2E was automatically a party in this proceeding. The Board received requests for party status from the Burleith Citizens Association, Citizens Association of Georgetown, Cloisters in Georgetown Homeowner's Association, Foxhall Community Citizens Association, Georgetown Residents Alliance, and Hillandale Homeowners Association. These requests were all granted. The Wormley Neighbors Association also requested to participate as a party, but failed to appear at the hearing. Its request for party status was denied.

Applicant's Case. The Applicant presented evidence and testimony from Leo J. O'Donovan, president of the University; Dorothy M. Brown, chief academic officer; Alan Brangman, the University's architect and director of facilities planning, who was recognized by the Board as an expert in architecture; Linda Greenan, assistant vice president for external relations; Jeanne Lord, the assistant dean of students, who heads the Applicant's off-campus student affairs program; John Green, senior vice president of MedStar Health, a nonprofit health-care organization that operates the University's hospital; Louis Slade, a principal with Gorove Slade Associates recognized by the Board as an expert in traffic and parking; Karen Frank, executive director of University Facilities and Student Housing; and Lewis Bolan, president of Bolan Smart Associates, a real estate and economic consulting firm and recognized by the Board as an expert real estate economics.

The Applicant described the proposed 2000 Campus Plan as an update of prior plans approved by the Board. Among other things, the proposed plan was designed to provide adequate space for existing and future university programs, and to reorient the campus to traditional design principles that would create a pedestrian-friendly campus with more open space for student activities and rational vehicular circulation. The Applicant's proposal initially projected an increase of 500 students in undergraduate enrollment (*i.e.* an increase in the cap on the number of undergraduate students from 5,627 to 6,127), construction of four new buildings and renovations or additions to six existing buildings, and design changes to improve pedestrian circulation on the campus.

After the mediation process in May 2000, the Applicant amended its proposed plan by (1) reducing the requested increase in undergraduate enrollment to 389, for a new maximum

of 6,016 undergraduate students;¹ (2) proposing to delay any increase in undergraduate enrollment above the existing current cap of 5,627 students until after the Southwest Quadrangle project (a planned 780-bed residence hall on campus)² was occupied or until Fall 2003; (3) strengthening the University's off-campus student affairs program; and (4) providing the Board with progress reports in every future application for further processing.

Government Reports. The Office of Planning ("OP") submitted reports dated June 12, 2000 and July 14, 2000. OP concluded that the Applicant's proposed 2000 campus plan "basically meets the test of the zoning regulations, except that additional measures are needed to address the issue of possible impacts resulting from additional undergraduate enrollment." OP expressed concern that the future increase in undergraduate enrollment, without any additional on-campus housing, "could mean continuing negative impacts on nearby neighborhoods."

OP recommended approval of the application with an increase in undergraduate enrollment of 389 students, subject to conditions related to housing and enrollment. OP suggested a "formula" approach to future increases in undergraduate enrollment that would require the University to take certain actions to address impacts if the number of students living off campus in ZIP Code 20007 (*i.e.* the residential neighborhoods in the vicinity of the campus) exceeded a specific percentage. According to OP, the impacts could be mitigated by measures possibly including (a) providing more student housing on-campus, (b) providing student housing elsewhere (*i.e.* outside ZIP Code 20007 as well as outside other areas affected by other universities), and (c) undertaking an increased off-campus student program.

In its supplemental report, the Office of Planning elaborated on its "formula" approach and proposed that the University should be required to take certain action if more than 700 undergraduate students were living within ZIP Code 20007 after the 2003-2004 academic year. According to OP, "[i]f undergraduate numbers began to approach [700], it would be an indication that a problem situation was developing." OP stated that if the number of undergraduate students living within the 20007 ZIP Code exceeded 700 after Fall 2003, the University could provide additional student housing on-campus, provide student housing elsewhere, provide incentives for students to live outside the boundaries

¹ The Applicant initially sought to increase the cap on undergraduate enrollment by 500 students, from 5,627 to a maximum of 6,127 undergraduates. The proposed increase was subsequently reduced by 111 students to 389, for a proposed new cap of 6,016. The revised request represented an increase of 500 students over the Applicant's then enrollment of 5,516.

² The Applicant's prior campus plan anticipated construction of a new dormitory to create 500 new beds. See BZA Application No. 15302, Order issued October 12, 1990, at 12. By order issued June 10, 1999 in Application No. 16427, the Board granted, subject to conditions, the University's application under the approved campus plan to construct the residence hall and related facilities.

of 20007, or postpone any increase in its undergraduate enrollment until number of undergraduate students living in 20007 decreased below 700.

OP recognized the relationship between enrollment and the percentage of students housed on-campus as a "major issue," particularly with respect to undergraduate students, noting that "students living in rented houses off-campus have been a significant community problem, especially in Burleith." According to OP, some students living in neighborhoods adjacent to the University, often in group houses, "create objectionable impacts on those neighborhoods because of noise, parked cars, trash, conversion of back yards to parking, etc." According to OP, "[f]rom a planning perspective, it is desirable to have a stable neighborhood and housing stock and avoid a concentration of group houses that affect the character of the neighborhood." However, OP also noted that the "impact of undergraduate students on adjacent neighborhoods should greatly decrease when the Southwest Quadrangle opens in 2003."

By memorandum dated June 8, 2000, the Office of Intermodal Planning of the Department of Public Works ("DPW") reviewed the transportation impacts of the Applicant's proposed 2000 campus plan, particularly with respect to efforts to minimize the impact of traffic generated by the University, traffic circulation and level of service, and parking facilities. In assessing the potential traffic and parking impacts of the University's proposed campus plan, DPW considered especially the Applicant's projected student populations; the faculty and staff population, including the medical center staff; and existing conditions in the neighborhoods in the vicinity of the campus. In preparing its comments, DPW also reviewed a report by a traffic consultant retained by Hillandale Homeowners Association.

DPW concluded that the proposed campus plan would result in an increase in traffic generation at both the northern and southern entrances to the campus, but that much of the increase would be spread throughout the day and therefore would not significantly affect peak-hour traffic congestion. DPW stated that "Reservoir Road suffers from traffic congestion, especially during the morning and evening peak hours, which severely affects local residents' ability to access Reservoir Road." DPW was investigating alternative traffic management strategies designed to reduce overall congestion on Reservoir Road in cooperation with the University, the University's medical center, and local residents.

DPW encouraged the Applicant to increase its efforts to encourage graduate students, faculty, and staff to use non-vehicular modes of travel as much as possible to avoid overall congestion. DPW commented favorably on the Applicant's plans to increase the percentage of undergraduate students living on campus as an effective means to reduce university-related traffic on local streets, and encouraged the Applicant to continue its efforts to promote the use of mass transit and its shuttle bus service, especially by faculty and staff.

The Board heard testimony from Lieutenant Patrick Burke, currently the Metropolitan Police Department's traffic coordinator and formerly assigned to the district encompassing the campus and surrounding neighborhoods, concerning the police interaction with the University. Lieutenant Burke testified that concerns in communities near the campus pertained to quality-of-life issues and "stemmed around students living off campus, noise, and related issues." He acknowledged that "problems" with "a number of houses" occupied by students have a negative impact on the affected neighborhoods, but commented favorably on the University's efforts to improve conditions associated with students living off-campus.

ANC Report. At a special public meeting held June 6, 2000, with a quorum present, ANC 2E voted 5-3 to adopt a resolution in support of the Applicant's 2000 Campus Plan. The resolution noted that the University "has developed plans to house a substantial number of undergraduate students through the construction of a new 780-bed dormitory, the Southwest Quadrangle, and in doing so, will significantly reduce the impact of off-campus housing in nearby neighborhoods." ANC 2E also noted the Applicant's intentions to phase in an increase in its enrollment cap from 5,627 to 6,016 upon completion of the Southwest Quadrangle, maintain on-campus housing for at least 85 percent of the undergraduate student population, and reduce off-campus housing demands by students in neighborhoods near the campus. ANC 2E conditioned its approval of the proposed campus plan "by urging that measures be taken to strengthen the off campus affairs program."

In a "position statement" dated October 31, 2000, ANC 2E described the standards of conduct necessary to avoid adverse impacts associated with students living off-campus, addressing issues of trash, loud parties, and late-night street noise. The ANC emphasized that the University bore primary responsibility for educating its students and ensuring that they adhered to community standards and the laws of the District of Columbia. ANC 2E expressed support for the Applicant's efforts to address issues associated with students living off-campus and to educate students about the appropriate standards of community living. The position statement was adopted by unanimous vote at the ANC's regularly scheduled meeting of October 30, 2000, which was duly noticed and at which all members were present.

Persons in Support. The Board received letters or heard testimony from approximately 30 persons, businesses, or organizations in support of the application. Persons in support of the application generally cited the University's commitment to on-campus housing, its efforts to address community concerns, volunteer activities undertaken by students, assistance provided by the University to community organizations, and the advantages of living near the University, including the proximity to students whose foot traffic through the neighborhood created a sense of security for pedestrians.

Parties in Opposition. The neighborhood associations collectively testified and presented evidence in opposition to the Applicant's proposal. The parties in opposition indicated their general support for most of the goals of the Applicant's proposed 2000 campus plan but expressed concern about some current, and potentially future, operations of the University that are objectionable to neighboring property. Citing a "large number of unknowns" in the planning process, the community association parties suggested approval of a five-year campus plan instead of committing to the 10-year proposed plan.

The parties in opposition urged the Board to maintain the Applicant's existing cap on undergraduate enrollment, asserting that "large numbers of students in the community cause a negative impact, because of behavior, housing and other issues" and that the University's efforts to mitigate the impact have not solved the problem. According to the parties in opposition, increasing the cap on the number of students enrolled in the University without additional increases in on-campus housing would increase objectionable impacts in the community, in part because the University's assertion that completion of the Southwest Quadrangle project would diminish the number of students living in the community was a "fallacy" or a "matter of conjecture." The parties in opposition contended that the University's current level of enrollment created objectionable conditions in the surrounding neighborhoods associated with students living in group houses, including deleterious impacts on the housing stock and the historic character of the neighborhoods due to the transient nature of student residents; overcrowding of numerous students in relatively small single-family dwellings; accumulations of trash that contribute to infestations of rats; and behavior problems, particularly pertaining to noise and late-night parties.

With respect to traffic, the parties in opposition expressed concern about whether proposed development of the medical center portion of the campus would exacerbate existing flow problems on Reservoir Road, and about whether new facilities on the southern portion of the campus would also create adverse traffic impacts. The parties in opposition also questioned whether the on-campus supply of parking would be adequate after completion of the new construction and expansion of existing buildings projected in the Applicant's proposed 2000 campus plan. Hillandale Homeowners Association provided testimony from Joseph Cutro, P.E., who was recognized by the Board as a traffic expert. The witness questioned certain conclusions reached by the Applicant's traffic expert, and disputed the Applicant's assertion that the projected changes to the medical center operations in the north campus would have no impact on traffic or parking.

Persons in Opposition. The Board received numerous letters or heard testimony in opposition to the application from approximately 45 persons and from the Federation of Citizens Associations. The persons in opposition, many residents of neighborhoods near

the campus, generally opposed any increase in student enrollment without an increase in the supply of on-campus housing, asserting that the university use currently created adverse impacts on neighboring property through objectionable conditions associated with students living off-campus. The persons in opposition cited changes in the character of the neighborhood as students replaced the permanent resident population; overcrowding of students living in or visiting group houses; frequent loud noise, particularly late at night; disorderly behavior; objectionable traffic and parking conditions; litter, including improper disposal of bulk trash; and the lack of an effective response from the University to complaints from neighborhood residents.

FINDINGS OF FACT

The subject property

1. The Georgetown University campus, known as 3800 Reservoir Road, N.W., comprises 104 acres located in the Georgetown neighborhood of Ward 2. The campus is bordered on two sides by public parkland and Canal Road. The southern boundary extends east along Prospect Street to 35th Street, excluding the structure on the north side of Prospect Street between 36th and 37th Streets. The campus is bounded on the west by Glover Archbold Park and on the north by Reservoir Road. The eastern boundary runs from Reservoir Road at 37th Street south and east past the Cloisters residential development and the grounds of the Sisters of Visitation High School and Convent to a point just west of 36th and P Streets, then continues south, excluding a row of residences on the west side of 36th Street to O Street, south on 36th Street to N Street, east to 35th Street, and finally south to Prospect Street.
2. The campus is zoned primarily R-3 (with a small portion zoned C-1), and is located within the Georgetown Historic District.
3. The University has been located on its present campus since its founding in 1789. With certain exceptions, the campus boundaries include land owned by the University that has been actively devoted to university use for over 200 years. The proposed campus plan does not seek any change in the previously adopted campus boundaries, and does not propose to move any major new building off campus.
4. The University reached an agreement with MedStar to operate the clinical care enterprises of the Georgetown University Medical Center. Pursuant to the agreement, the facility will continue to be used as a university medical center with a university hospital, university medical school, and accessory buildings and uses. The University continues to own the land, and will exercise exclusive control over aspects of the medical center relating to its academic program as a learning facility

for medical students and medical residents in furtherance of the academic mission of the University.

5. The Applicant testified that the licensed capacity of the hospital – 535 beds – would not change, but that the number of employees might increase consistent with an increase in in-patient admissions. The Applicant projected an increase in admissions to approximately 18,000 per year, up from 13,000. The hospital currently has a staff of 2,600 full-time equivalent employees.
6. The Applicant currently employs 6,727 faculty and staff on campus, but projects that the number will rise to 7,500 over the life of the proposed campus plan. The Applicant's traffic and parking calculations were based on the projected number.

Proposed 2000 Campus Plan

7. The Applicant submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR § 210.4.
8. The Applicant's 2000 campus plan proposes a total of approximately 1.3 million square feet of new construction: approximately 740,000 square feet devoted to academic/administrative space; 432,000 square feet devoted to medical/health care space; and 88,500 square feet devoted to residential/campus life/athletic space. The planned new developments on campus include a science building, a business school, an administrative/academic building, and a physicians' office building at the Medical Center. Other projects set forth in the proposed plan include additions or renovations to several existing buildings as well as the renovations of Harbin Field into a multi-sports facility and McDonough Gymnasium to allow its use as a convocation center.
9. Including the planned new construction, the total gross floor area of buildings on campus would be approximately 6.2 million square feet. The proposed additional gross footage and existing square footage would result in a floor area ratio (FAR) of 1.41, or 0.39 below the 1.8 FAR permitted by the Zoning Regulations. Lot occupancy would be 36 percent.

Noise

10. The Applicant's proposed campus plan will minimize any adverse noise impacts associated with the university use on the subject property through measures including the location of on-campus student residences away from residential neighborhoods abutting the campus, installation of landscape buffers and new construction that will mitigate noise from outdoor events on campus, and implementation of new policies by the University to regulate noise generated by

campus activities and to address noise impacts associated with students living off-campus.

11. The University's medical center contains a helicopter pad. The Applicant testified that helicopters, used exclusively for medical purposes, made approximately eight trips per week to and from the campus, and projected that the number of trips would likely increase to no more than 12 flights per week with increased utilization of the hospital.
12. The Board credits the testimony of the Office of Planning that "the University has made sufficient proposals to address the noise issue."
13. The Board finds that approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of noise.

Traffic

14. The campus is served by streets including Reservoir Road, a minor arterial street adjacent to the campus on the north; Canal Road, a principal arterial on the south; and several local residential streets on the east side of campus, such as Prospect, 36th, 37th, O, and P Streets. Reservoir Road provides four points of access to the campus. Access control gates in the interior of the campus preclude the north-south movement of vehicles across the campus (except for service vehicles).
15. The campus is served by several Metrobus routes, some of which connect the campus to Metrorail stations, as well as by shuttle buses operated by the Georgetown University Transportation Shuttle ("GUTS"). The five GUTS shuttle bus routes connect the campus and locations in the District (Dupont Circle, Wisconsin Avenue, and the University's law school) and in northern Virginia (Rosslyn and North Arlington). The GUTS shuttle buses are free for the University's students, faculty, and staff, and currently serve more than 3,000 riders per day.
16. The Board credits the testimony of the Applicant's traffic expert that approximately 30 percent of the traffic on Reservoir Road during peak hours is related to the University, while the balance is commuter and neighborhood traffic, and that all intersections abutting the campus operate at acceptable levels of service.
17. The Board credits DPW's testimony that university-related traffic flow along 38th and 39th Streets adjacent to the campus are nine and two percent, respectively, an amount of traffic not likely to cause adverse traffic impact in the residential area.

18. The Board credits the testimony of DPW that the provision of on-campus housing is an effective way to minimize traffic to and from the campus, and its conclusion that the Applicant's plans to house 84 percent of its undergraduate students on campus after completion of the Southwest Quadrangle project (up from 77 percent) would have an extremely beneficial improvement on local traffic.
19. The Board credits the testimony by DPW that the increases in students, faculty, and visitors to the campus projected in the Applicant's proposed 2000 campus plan would not generate adverse traffic impacts, in part because some of the additional trips to the campus would be made by mass transit or other non-vehicular modes of travel, and because most of the trips would likely occur during non-peak times.
20. As part of the 2000 campus plan, the Applicant proposed to implement a transportation management plan ("TMP") intended to ensure that traffic and parking generated by the University would not create any adverse impacts on neighboring communities. Elements of the TMP include:
 - (a) Continued operation and expansion of the GUTS shuttle bus system – the University doubled the fleet of GUTS vehicles to serve new and existing routes, using small buses that would be less intrusive on neighborhood streets, expanding hours of operation, and scheduling more frequent trips on each route, especially during rush hours;
 - (b) Enhanced alternative transportation programs – the University increased incentives provided to students, faculty, and staff to use carpools, and implemented the Metrochek program to encourage use of mass transit;
 - (c) Implementation of an off-site parking program – the University planned to create satellite parking options in Rosslyn (and possibly in Maryland, depending on demand) for use by University students, faculty, and staff, who would pay an off-campus parking rate half the cost of parking on campus and receive free shuttle bus service to and from campus.
21. The Board finds that approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of traffic.

Parking

22. The campus provides parking for 4,029 vehicles. The existing campus parking supply is consistent with the cap of 4,080 spaces approved in the University's 1990 campus plan as a means to discourage people from driving to the campus.

The Applicant proposed to maintain the cap of 4,080 parking spaces in the 2000 campus plan.

23. Campus parking is presently provided on a large surface lot in the southern portion, in three garages in the northern portion, and in numerous small surface lots. There are 1,535 marked parking spaces located on the southern portion of the campus, accessed from Canal Road and Prospect Street. An additional 2,494 spaces (a combination of marked and stacked parking spaces) are located on the northern portion of the campus accessed from Reservoir Road. The Applicant indicated an intent to provide additional parking spaces – initially a total of 2,545, and eventually 2,800 spaces – in the northern portion of the campus near the hospital and clinical center, and to maintain the supply of 1,535 spaces in the southern portion for use primarily by faculty, staff, students, and visitors. Two new parking facilities were proposed for the Medical Center campus to replace surface parking and a valet parking program that provides 400 parking spaces and handles approximately 560 cars per day. The large surface lot at the south end of campus would be replaced with a below-grade parking structure as part of the Southwest Quadrangle, with access directly from Canal Road.
24. Students living on-campus are not permitted to have cars on campus, and students living in areas of the District and Northern Virginia accessible to campus by Metro or the GUTS service may not use campus parking. Students living off-campus are required to register their vehicles with the Department of Motor Vehicles.
25. Most streets in the vicinity of campus restrict long-term parking through the use of parking meters or by requiring the applicable residential parking permit.
26. The Board credits the testimony of the Applicant's traffic expert that the peak parking demand on the campus is approximately 3,600 vehicles, occurring at approximately 2 p.m. on weekday afternoons.
27. The Board credits the testimony of DPW that the current supply of parking on-campus (*i.e.* 4,029 spaces) is adequate to meet peak demand requirements.
28. The Board finds that the Applicant's proposal to maintain the existing cap of 4,080 parking spaces within the campus boundaries is adequate to meet the demand for parking associated with the university use and is appropriate as a means to discourage people from driving to the campus. Approval of the Applicant's proposed campus plan is not likely to create conditions objectionable to neighboring property because of parking.

Number of Students

29. In the University's prior campus plan, the Board adopted an enrollment cap of 5,627 undergraduate students, excluding "non-traditional students such as women returning to school, English as a second language students, commuters, and other non-traditional students not requiring housing." (See BZA Application No. 15302, order dated October 12, 1990, at 9.)
30. The University's enrollment in 2000 included 6,166 undergraduate students (approximately 5,842 full-time and 325 part-times students), and 2,840 graduate students.
31. The Applicant proposed to increase its enrollment cap by 389, to a maximum of 6,016 traditional undergraduate students. The Applicant also proposed to increase graduate student enrollment by 1,284, of whom approximately 800 would be enrolled in programs on the campus.
32. The University testified that the number of traditional undergraduate students is measured as an average taken over the Fall and Spring semesters of the academic year.
33. Approximately 77 percent of the University's traditional undergraduate students presently live on campus. Freshman and sophomore students are required to live on-campus.
34. A new residence hall project, the Southwest Quadrangle, was scheduled to be completed by Fall 2003, providing 780 new beds on campus and raising the proportion of traditional undergraduates living on campus to 89 percent. After completion of the Southwest Quadrangle, the University would have available approximately 5,053 beds on campus for undergraduate students. The Applicant projected that at least 84 percent of undergraduates would live on campus by 2010, with the requested increase in enrollment 389 deferred until the Southwest Quadrangle was completed.
35. The Applicant operates an office of off-campus affairs intended, among other things, to assist students making the transition to off-campus living, to serve as a liaison between students and residents of neighborhoods near the campus, to establish standards of responsible conduct, and to investigate and adjudicate violations of the University's Code of Conduct that occur off-campus. Components of the off-campus program, including recent improvements by the Applicant, include:
 - (a) Educational outreach to students, including distribution of a handbook to new students that articulates the University's expectations for students, an

- off-campus orientation for sophomores that provides information about local laws, safety, and neighborhood matters; and on-going programs concerning alcohol or substance abuse;
- (b) An office of off-campus housing, which will provide information about housing available to students and publish materials providing information about off-campus living; and
 - (c) A telephone hotline operated during the school year from 9:00 p.m. to 3:00 a.m. on Thursday, Friday, and Saturday nights as well as certain holidays, allowing neighborhood residents to call to report concerns to an operator who contacts the appropriate students or dispatches an "on-site response person" to discuss the concern with the students.
36. Students may be disciplined for misconduct that occurs off-campus, primarily relating to noise and late-night parties. Sanctions for off-campus violations of the University's code of conduct may include suspension, and typically range from community service and fines to disciplinary probation.
37. The Applicant proposed to implement a new "off-campus student affairs program" with proactive measures intended to address adverse impacts from students living in the surrounding community. Elements of the program include:
- (a) An acknowledgement that the University will address adverse impacts from students living off campus, including noise, drinking, partying, parking, trash, and disrespectful behavior;
 - (b) A clear statement that the University will not tolerate behavior that adversely impacts the surrounding community and reflects poorly on the institution;
 - (c) Clear-cut procedures for educating students living off-campus as to their community responsibilities, enforcing the University's new Code of Conduct, and implementing stiffer sanctions and penalties for violations of the Code;
 - (d) The creation of a new neighborhood council, called the Alliance for Local Living ("ALL"), that will meet with the University to bring issues to the attention of the University and to identify problems and their solutions, inviting representatives of District government agencies as needed to work toward community-wide solutions;

- (e) Increased coordination with the Metropolitan Police Department to assure an institutionalized and coordinated approach to issues concerning student conduct off campus;
 - (f) Increased and enhanced on-campus events, programs, and activities as well as comprehensive alcohol education programs; and
 - (g) An implementation plan that outlined immediate, short-term, and long-term actions that could be monitored, tracked, and evaluated, so that statistics could be shared with ALL and reported to the Office of Planning and the Zoning Administrator annually.
38. The Board finds that the Applicant's proposal to increase its enrollment cap on the number of traditional undergraduate students to 6,016, calculated as an average over the Fall and Spring semesters of the academic year, is not likely to become objectionable to neighboring property or to adversely affect the use of neighboring property. After completion of the new Southwest Quadrangle project, the University will have more than 5,000 beds on campus, a number sufficient to house 84 percent of the traditional undergraduate population. The University has implemented new measures and enhanced existing programs that will help to prevent and mitigate the impacts of any student misconduct off-campus in the neighborhoods abutting the campus.
39. The Board credits the testimony of the Office of Planning and DPW that the Applicant's proposed increase in graduate student enrollment would have only limited impacts and would not tend to create objectionable conditions.

Harmony with the Zone Plan

40. The Board finds that the Applicant's proposed campus plan will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The new construction projected in the plan will result in a floor area ratio and lot occupancy for the campus consistent with requirements of the Zoning Regulations.
41. The Board finds that the Applicant's proposed campus plan is consistent with provisions in the Comprehensive Plan germane to the University, including the statements in the Ward 2 element indicating that the University's "development plans ... should not adversely impact surrounding adjacent residential areas" (§ 1340.3) and expressing concern about the conversion of residential property in Burleith and Hillandale to group houses (§ 1361.2).

CONCLUSIONS OF LAW AND OPINION:

The Applicant is seeking a special exception, pursuant to Sections 210 and 3104 of the Zoning Regulations, for approval of an updated campus plan for the years 2000 to 2010. The Board is authorized to grant a special exception where, in the judgment of the Board based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will 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 (2001), 11 DCMR § 3104.1.

The Zoning Regulations specify that use as a university in a residential zone shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. 11 DCMR § 210.2. The Board concludes that the Applicant has met its burden of showing that the university use will not be objectionable to neighboring property, subject to conditions adopted in this Order necessary to minimize any potential adverse impacts on neighboring property associated with the university use consistent with the new campus plan.

The Zoning Regulations specify that the number of students is one factor that the Board must take into account when assessing whether a university use in a residential zone is likely to become objectionable to neighboring property. *See* 11 DCMR § 210.2. The Board concludes that the Applicant's proposed increase in the cap on enrollment applicable to traditional undergraduate students will not tend to create conditions objectionable to neighboring property or otherwise adversely affect the use of neighboring property. The completion of the Southwest Quadrangle project will likely result in a decrease in the number of undergraduates living off-campus in surrounding neighborhoods, and the University's new off-campus student affairs program is likely to lessen the incidence of student misconduct in the surrounding neighborhoods.

The Board notes the ANC's support for a phased-in increase in the cap on undergraduate enrollment from 5,627 to 6,016 after completion of the Southwest Quadrangle project. According to ANC 2E, the impact of off-campus student housing will be significantly reduced through completion of the Southwest Quadrangle and by maintaining 85 percent of undergraduates in on-campus housing.

The Board gives great weight to the testimony of the Office of Planning concerning the relationship between enrollment and the percentage of students housed on-campus, describing problems created by some students living in rented houses off-campus, and concluding that the "potential effects of increased undergraduate and graduate enrollment ... raise questions of continuing though reduced adverse impacts on the surrounding communities in the future." However, the Board declines to adopt OP's suggested "formula" approach, which would require the University to take certain actions intended to mitigate the impact of a larger enrollment on the residential neighborhoods

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surrounding the campus if the number of undergraduate students living in Zip Code 20007 exceeded a certain number.

The Board is not persuaded that the "formula" approach is necessary. As OP itself noted, completion of the Southwest Quadrangle would likely lessen the impacts of undergraduate students on neighborhoods in the vicinity of the campus. It is unclear how the proposed "formula" approach would be implemented and enforced, other than through a reliance on "monitoring of the housing situation." The Board concludes that the increased supply of on-campus housing, sufficient to house more than 80 percent of the increased enrollment of traditional undergraduate students on campus, and the implementation of proactive measures by the University to address potential adverse impacts associated with students living in the neighborhoods near the campus are adequate to avoid creation of objectionable conditions in the neighborhoods bordering on the campus.

The Board was not persuaded by the parties in opposition that the university use is currently creating adverse impact on neighboring property, or that the proposed increase in enrollment would create objectionable conditions not capable of mitigation through the University's enhanced programs addressing student conduct off-campus. Some students living off-campus – albeit a minority of students living off-campus and a small fraction of the University population – may create objectionable conditions in communities surrounding the campus through several causes, including student misconduct. The University's off-campus programs are a reasonable approach that will allow the University to monitor off-campus student activity in a proactive manner to prevent adverse impacts that off-campus student houses or vehicles may otherwise have on the community.

The Board accorded the issues and concerns of ANC 2E the great weight to which they are entitled. In doing so, the Board fully credited the unique vantage point that the ANC holds with respect to the impact of the University and its proposed campus plan on their constituents. The ANC adopted a resolution in support of the proposed campus plan that urged implementation of measures to strengthen the University's off-campus affairs program and thereby minimize the potential adverse impact of the University on surrounding residential neighborhoods.

CONCLUSION

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to the application seeking approval of a new campus plan effective through December 31, 2010, subject to the conditions adopted in this Order. Accordingly, it is **ORDERED** that the application is **GRANTED SUBJECT** to the following **CONDITIONS**:

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1. The Applicant's proposed campus plan is approved until December 31, 2010, subject to the following conditions intended to mitigate any adverse impacts potentially arising from the location of a university use in a residentially zoned district.
2. The Applicant shall not increase undergraduate enrollment above the cap of 6,016. This cap shall apply to traditional full-time undergraduate students (that is, undergraduate students
3. The Applicant shall implement and enforce programs, as described in Findings of Fact No. 35-37 and set forth in Exhibit No. 191 of the record, designed to mitigate any adverse impacts associated with students living off-campus in the neighborhoods in the vicinity of the campus.
4. The Applicant shall avoid scheduling events that attract large numbers of visitors to the campus during the peak traffic times of 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m. The Applicant shall employ campus personnel as necessary to direct visitors to campus parking areas and to facilitate smooth flow of traffic into and out of the campus.
 - a) All weekday evening performances at the Performing Arts Center expected to draw more than 100 visitors shall begin no earlier than 7:00 p.m.
 - b) Athletic events at Harbin Field expected to draw over 100 visitors shall begin before 4:00 p.m. or after 7:00 p.m.
5. The Applicant shall maintain a parking inventory of no more than 4,080 off-street parking spaces within the campus boundary.
6. The Applicant shall enhance its Transportation Management Program, described in Finding of Fact No. 20, so as to promote greater transit usage, including increased ridership of the GUTS bus service, and to work with the community, MedStar, and the Department of Public Works as part of a cooperative team effort to look at mitigation strategies for Reservoir Road.
7. The Applicant shall prepare a revised campus plan that is consistent with this Order, accompanied by a table of changes that lists each change. In addition, the Applicant shall include in the revised Campus Plan its Code of Student Conduct; Guide to Off-Campus Living, description of its New Office of Campus Student Affairs Program, and any other documents reflecting the programs, policies and procedures it has or will institute, and to which it is required to implement and enforce, pursuant to condition no. 3 of this Order, including those described in Findings of Fact No. 35-37 and set forth in Exhibit No. 191 of the record. The Applicant shall submit an original and 10

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copies of the revised plan to the Board no later than 30 days from the effective date of this Order, and shall, on the same day, serve a copy of the revised plan and table of changes on each party to this proceeding. Each party shall have 14 days in which to submit to the Board, and to serve on all other parties, its comments on the Applicant's proposed changes. Comments on the revisions shall be strictly limited to whether the revisions correctly and clearly reflect the Order. After review of the Applicant's proposed revised plan and the parties' comments, the Board shall determine whether further proceedings are warranted or shall certify the revised copy as the approved campus plan. The revised plan shall be deemed approved 60 days after submission, absent action by the Board before that date. Copies of the approved plan shall be maintained in the Office of Zoning and the Office of the Zoning Administrator.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., and John A. Mann II voting to approve the application subject to conditions; Zoning Commission member not participating, not voting)

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

Each concurring member has approved the issuance of this Order.

Final Date of Order: JUN 01 2005

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 10 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

THERE TO) 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. RSN

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

Appeal No. 17127 of Nebraska Avenue Neighborhood Association (NANA), pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decisions of the Department of Consumer and Regulatory Affairs (DCRA) in the issuance of Building Permit No. B454315 dated August 25, 2003, and Building Permit No. B456618 dated November 7, 2003,¹ revision permits issued for the Sunrise Assisted Living Facility (Sunrise or the Facility), located at 5111 Connecticut Avenue, NW in the R-2 and R-5-B zone (Square 1989, Lot 162)

DECISION AND ORDER

HEARING DATES: April 13, 2004 and May 25, 2004
DECISION DATE: May 25, 2004

This appeal was filed with the Board of Zoning Adjustment (the Board) on January 5, 2004, challenging DCRA's decisions to approve two revised building permits at the Facility. The first revised permit, dated August 25, 2003, modified the seventh floor balconies, allegedly in violation of various setback requirements. The second revised permit, dated November 7, 2003, allowed Sunrise to relocate a trash room enclosure to the rear of the building, allegedly resulting in an increase in the floor area ratio (FAR) over that permitted as a matter of right and an unlawful protrusion into the rear yard. Sunrise moved to dismiss the appeal of both permits, claiming the appeal of the August 25, 2003 permit was untimely, and the appeal of the November 7, 2003 permit was barred by the doctrine of *res judicata*. After hearing argument and reviewing the written submissions of the parties, the Board voted to dismiss the appeal of both permits, finding that the appeal of the August 25, 2003 permit was untimely, and that the Appellant failed to state a claim of error with respect to the November 7, 2003 permit.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Public Hearing

The Office of Zoning scheduled a hearing on the appeal for April 13, 2004. In accordance with 11 DCMR § 3113.4, the Office of Zoning mailed notice of the hearing to the Appellant, the property owner, and DCRA.

¹ As originally filed, the appeal also challenged Building Permit Nos. B454064, B454523, B454596 and B453159. However, the scope of the appeal was narrowed at the public hearing held on April 13, 2004.

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Parties

The Appellant in this case is the Nebraska Avenue Neighborhood Association (NANA) and the Advisory Neighborhood Association 3/4G (ANC 3/4G) (collectively, the Appellant). Sunrise, the owner of the subject property, was represented by Allison Prince, Esq. of Shaw Pittman, LLP. As the property owner, Sunrise is automatically a party under 11 DCMR § 3106.2. DCRA was represented by Lisa Bell, Esq., Senior Counsel.

Requests for Party Status

The Board received requests for party status from Anne Page Chiapella and John Frye, both residents of 5126 Nebraska Avenue, NW. However, Ms. Chiapella and Mr. Frye withdrew their requests for party status after clarifying that the Appellant represented their views and that they would assist the Appellant during its case presentation.

FINDINGS OF FACT**Background**

1. The Sunrise facility is an assisted living facility located at 5111 Connecticut Avenue, NW. The property is located in a "split" zone: a portion of the property is in the R-2 zone and a portion is in the R-5-D zone.
2. NANA appealed DCRA's issuance of the main building permit for the Facility on or about March, 2001. The issuance of that permit was ultimately upheld by this Board and the DC Zoning Commission through its *sua sponte* review process² in BZA Orders No. 16716A, 16716B and Zoning Commission Order No. 952.
3. NANA filed a second appeal on or about March, 2002 challenging a remedial permit that, in part, modified the elevator penthouse in accordance with the Zoning Commission's decision. This Board dismissed the second appeal in BZA Order No. 16879-A, dated February 4, 2003. NANA moved for reconsideration of the Board's Order of dismissal, but the motion was dismissed as untimely.
4. NANA filed a third appeal on or about March, 2003 challenging a wall test report while construction was ongoing. This Board denied that appeal as premature in BZA Order No. 17010.

² The *sua sponte* review process is a discretionary review process of BZA orders that is set out in section 3128 of the Zoning Regulations.

5. On or about December 5, 2003, the Sunrise facility was issued Certificate of Occupancy (C of O) No. 66771 by DCRA. The first resident moved into Sunrise on or about January 6, 2004, and twenty-two senior citizens resided there by the time of the public hearing in this appeal.

The Present Appeal

6. The present appeal was filed on January 6, 2004, and concerns a challenge to two revision permits, both of which were issued by DCRA prior to the C of O: permit B454315 issued by DCRA on August 25, 2003 (the August permit), and permit B456618 issued by DCRA on November 7, 2003 (the November permit).
7. Appellant claims that the August permit, which approved changes at the 7th floor roof level, resulted in a stairwell and penthouse not being enclosed, allegedly in violation of setback requirements in the Zoning Regulations.
8. Appellant claims that the November permit, which approved a relocation of a trash room enclosure, resulted in an unlawful increase in the FAR and a protrusion into the required rear yard.

The Motion to Dismiss

9. Prior to the public hearing, Sunrise filed a motion to dismiss the present appeal.
10. Sunrise contended that the August permit had no zoning impacts but that, in any event, that portion of the appeal challenging the August permit must be dismissed as untimely.
11. Sunrise originally claimed that the challenge to the November permit was barred by the doctrine of *res judicata*. In essence, Sunrise claimed that all zoning challenges had been adjudicated in the prior appeals; and, because the November permit made only minor interior changes to the Facility, no new zoning issues had been raised by the present appeal. Sunrise later withdrew its claim of *res judicata*, conceding that the relocation of the trash room was an exterior change that could have zoning implications and that this challenge had not been adjudicated during the prior Board appeals. Notwithstanding its change in legal theory, Sunrise maintained throughout the proceedings that the appeal of the November permit should be dismissed without a hearing because it did not state a factual or legal basis to support a claim of error.

The August Permit

12. Given the Appellant's close scrutiny of the Sunrise project, including three prior

appeals to this Board, the Board is persuaded that the Appellant knew or should have known about the August permit on or about the date it was issued, on August 25, 2003.

13. Appellant filed this appeal on January 6, 2004, more than 120 days after the August permit was issued.
14. Although it may have been difficult for the Appellant to obtain details from DCRA regarding the revised permits and plans, there is no evidence that DCRA's actions substantially impaired Appellant's ability to file an appeal.

The November Permit

15. The November permit authorized, among other things, the relocation of a trash room enclosure from a location adjacent to the alley stub to the southeastern corner of the site adjacent to the building.
16. The trash room, comprising approximately 80 square feet, abuts the rear of the Sunrise building. Although it was built into an existing retaining wall, it is not part of the building. It has a roof that was constructed at grade level.
17. According to the project architect, Sunrise was not constructed to its full allowable FAR, but had a "surplus" FAR of approximately 187 square feet. Also according to the architect, relocating the trash room did not result in an FAR calculation that exceeded the maximum allowed (Exhibit 24).
18. The Appellant did not provide specific information as to the amount of allowable FAR at the project, the amount of FAR existing before the trash room enclosure was moved, or the amount of FAR at the project after it was moved.

CONCLUSIONS OF LAW

The Appeal of the August Permit was Untimely

The District of Columbia Court of Appeals has held that "[t]he timely filing of an appeal with the Board is mandatory and jurisdictional." *Mendelson v. District of Columbia Board of Zoning Adjustment*, 645 A.2d 1090, 1093 (D.C. 1994). The Board's Rules of Practice and Procedure (11 DCMR, Chapter 31) require that all appeals be filed within 60 days of the date the person filing the appeal had notice or knew of the decision complained of, or reasonably should have had notice or known of the decision complained of, whichever is earlier. 11 DCMR § 3112.2(a). This 60-day time limit may be extended only if the appellant shows that: (1) "There are exceptional circumstances that are outside the appellant's control and could not have been reasonably anticipated

that substantially impaired the appellant's ability to file an appeal to the Board; and (2) "The extension of time will not prejudice the parties to the appeal." 11 DCMR 3112.2(d).

This appeal, filed January 6, 2004, was untimely filed as to the August permit. As stated in the Findings of Fact, Appellant knew or should have known about the permit approval when it was issued on August 25, 2003, or shortly thereafter. Thus, under section 3112.2(a) of the Regulations, the appeal should have been filed within 60 days of that date, or by October 24, 2003. Instead, it was filed on January 6, 2004, approximately 136 days after the Appellant was charged with notice of the decision complained of. While the Appellant may have had difficulties in preparing its actual case, the Board did not find any exceptional circumstances outside of its control that impaired its ability to file a timely, good faith appeal with respect to the August permit.

The Appeal of the November Permit

The Res Judicata Issue

The appeal of the November permit is not barred by the doctrine of *res judicata*, as originally claimed by Sunrise. Under the doctrine of *res judicata*, once a claim has been litigated, a party is precluded from relitigating the same claim in a subsequent proceeding. *Rhema Christian Center v. BZA*, 515 A.2d 189 (D.C. 1986). However, the appeal of the November permit raised new issues involving the alleged zoning impacts of the trash room relocation. It was undisputed by the parties that this permit approved the relocation of a trash room at the property. Because this relocation constituted an exterior change – not a minor interior change as originally suggested by Sunrise – it could conceivably have had a zoning impact. Appellant alleged that the relocation to the rear of the property resulted in an unlawful increase in FAR and an unlawful protrusion into the rear yard. While Sunrise denied each of these assertions, the issues were properly before the Board for its consideration.

Appellant Failed to State a Claim of Administrative Error

The FAR Claim

The Board's jurisdiction in an appeal pursuant to the Zoning Act is limited to whether an administrative official erred in the carrying out or enforcement of the Zoning Regulations. *See* D.C. Official Code 6-641.07(g)(1) (2001). With respect to the FAR claim, the Appellant never articulated what the exact administrative error was, despite repeated attempts from the Board to extract this information. Although the Appellant alleged that the trash enclosure resulted in an excessive amount of FAR, this claim was never stated with any particularity. The Appellant never specifically alleged the amount of FAR that existed at the Facility before the trash room was moved. Nor did it allege the

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exact amount by which the allowable FAR had been exceeded, only that it was over that permitted as a matter of right.

The Appellant initially asserted in a pre-hearing submission (Attachment 9 appended to Exhibit 10) that the FAR had increased 78 square feet as a result of the trash enclosure being moved. When questioned by Board members, the Appellant asserted that the FAR had increased by 114 square feet. However, the Appellant never stated what it believed the FAR was to begin with. To be sure, the Appellant argued that the baseline FAR figure could be ascertained from a plan that had been submitted to DCRA. However, the plan referenced by the Appellant was submitted in connection with an earlier permit that preceded several design changes at the project. This plan could not possibly have represented the amount of FAR at the project at the point that the trash room was moved. Because the design changes necessarily resulted in new FAR calculations at each juncture, it was incumbent upon the Appellant to demonstrate the exact FAR prior to the relocation of the trash room, and the amount of additional FAR that resulted from the trash room being moved. Only by supplying these two critical figures could the Appellant have established how the trash room relocation impacted upon the FAR.

Because the Appellant never stated its FAR claim with any particularity, the Board is dismissing that portion of the appeal. As explained above, the Appellant failed to state its FAR-related claim with any degree of particularity, despite being afforded the opportunity to do so during two public hearings and/or by written submissions. In the interests of fairness and justice, and as a matter of law, the Board cannot countenance further proceedings on this issue when Appellant has failed to state a case that can be responded to by the Appellee and Sunrise, and considered by the Board.

The Protrusion Claim

Appellant claims that the November permit allows the trash room to unlawfully protrude into the rear yard of the property. The Board disagrees with this assertion as a matter of law and finds that the trash room enclosure lawfully occupies the rear yard.

Appellant's claim is based upon alleged violations of sections 2502.1 and 2503.1 of the Zoning Regulations. Section 2502.1 prohibits projections into required yards and other open spaces unless excepted elsewhere in section 2502 or section 2503 of the Regulations. Section 2503.1 prohibits structures in required yards unless excepted elsewhere in section 2503. However, Appellant incorrectly concludes that the enclosure is a "projection" or "structure", when in fact it is an "accessory building". Appellant claims the trash room enclosure is not "accessory" to the Sunrise building, but is part of it. The Board concludes otherwise. As stated in the Findings of Fact, the enclosure abuts the Sunrise facility, but is not part of the building. Having concluded that the trash room enclosure is an accessory building, the Board turns to section 2500.2 of the Regulations.

This provision not only permits accessory buildings in a rear yard; it limits their location to the rear yard. As such, the trash room enclosure lawfully occupies the rear yard and the November permit which approved this location was properly issued.

Therefore, for the reasons stated above, it is hereby **ORDERED**:

1. The motion to dismiss the appeal as untimely is **GRANTED** as to the revised building permit of August 25, 2003.

Vote taken on May 25, 2004

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann, II and Carol J. Mitten, in favor of the motion)

2. The motion to dismiss the appeal on the grounds of *res judicata* is **DENIED** with respect to the revised building permit of November 7, 2003.

Vote taken on May 25, 2004

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann, II and Carol J. Mitten, in favor of the motion)

3. The motion to dismiss the appeal on the ground that it fails to state a claim of administrative error is **GRANTED** with respect to the revised building permit of November 7, 2003.

Vote taken on May 25, 2004

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann, II and Carol J. Mitten, in favor of the motion)

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

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

FINAL DATE OF ORDER: JUN 02 2005

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.

SG/rsn

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

Application No. 17323 of Application of 2105 10th Street, N.W. LLC, pursuant to 11 DCMR §§ 3104.1, for a special exception from the roof structure set back provisions (section 411) under subsection 770.6, and pursuant to 11 DCMR § 3103.2, a variance from the residential recreation space requirements under section 773, a variance from the rear yard requirements under section 774, and a variance from the slope of parking ramp requirements under subsection 2117.8, to allow the construction of a residential condominium in the Arts/C-2-B District at premises 2105 10th Street, N.W. (Square 358, Lots 5, 6, and 802).

HEARING DATE: May 24, 2005
DECISION DATE: May 24, 2005 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 770.6 and section 411, and variances pursuant to § 3103.2 from the requirements of sections 773, 774, and subsection 2117.8. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 770.6, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 773, 774, and 2117.8 that

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there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II,
Gregory Jeffries and Curtis L. Etherly, Jr. to approve).

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: MAY 27 2005

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.

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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. TWR

5863

ZONING COMMISSION NOTICE OF FILING
Case No. 05-15
(Consolidated PUD – Broadway I Associates, LLC)
May 25, 2005

THIS CASE IS OF INTEREST TO ANC 6C

On April 12 and May 23, 2005, the Office of Zoning received an application from Broadway I Associates, LLC (the “applicant”). The applicant is requesting from the Zoning Commission approval of a consolidated PUD for property known as 318 I Street, N.E.

The property that is the subject of this application consists of Square 775, Lots 1, 22, 23, 32, 826, and 827 in Northeast Washington, D.C. (Ward 6), at the northwest corner of 4th and I Streets, N.E. The property is zoned C-2-B.

The applicant proposes to develop approximately 140 new residential units and will include approximately 9,150 square feet of affordable housing. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

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

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