

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
**BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING**  
P.O. BOX 37200  
WASHINGTON, D.C. 20013-7200

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of **September, 2005**. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

Each listed property has been condemned by the District of Columbia Government's Board for the Condemnation of Insanitary Buildings (BCIB). The authority for this board is Title 6, Chapter 9, of the District of Columbia Code, 2001 Edition. The BCIB has examined each property and has registered with the record owner (via condemnation) a strong disapproval of the condition in which the property is being maintained. The BCIB has recorded at the Office of the Recorder of Deeds an Order of Condemnation against each property for the benefit of purchasers and the real estate industry.

These properties were condemned because they were found to be in such an insanitary condition as to endanger the health and lives of persons living in or in the vicinity of the property. The corrective action necessary to remove the condemnation order could take the form of demolition and removal of the building by the owner or the BCIB. However, most buildings are rendered sanitary, i.e., the insanitary conditions are corrected by the owner or the BCIB.

The administration of the condemnation program does not take title to property. The title to each property remains with the owner. Accordingly, inquiries for the sale or value of these properties should be directed to the owner of record. Inquiries regarding the owner or owner's address should be directed to the Office of Tax and Revenue, Customer Service, Office of Real Property Tax (202) 727-4829, 941 North Capitol Street, NE, 1<sup>st</sup> floor.

For further assistance, contact the Support Staff of the BCIB on 442-4486.

THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING

Enclosure:

**BOARD FOR  
THE CONDEMNATION OF INSANITARY BUILDINGS**

**NOTICE OF PUBLIC INTEREST**

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest</u>			
1102 Buchanan Street	124	2918	4
1102 Buchanan Street-Rear	124	2918	4
5109 Connecticut Avenue	48	1989	3
5109 Connecticut Avenue	48	1989	3
5109 Connecticut Avenue-Rear	48	1989	3
1323 Corcoran Street	21	240	2
1461 Florida Avenue	147	2660	1
3003 Georgia Avenue	111	3052	1
3200 Georgia Avenue	909	2892	1
3200 Georgia Avenue-Rear (West)	909	2892	1
3200 Georgia Avenue-Rear (East)	909	2892	1
3626 Georgia Avenue	135	2897	1
3801 Georgia Avenue	55	3028	4
739 Harvard Street	73	2888	1
4907 Kansas Avenue	77	3252	4
641 Keefer Place	19	3041	1
440 Kenyon Street	43	3049	1
709 Kenyon Street	806	2892	1
416 Luray Place	77	3044	1
416 Luray Place-Rear	77	3044	1
37 Missouri Avenue	39	3393	4
39 Missouri Avenue	40	3393	4
1824 Monroe Street	813	2614	1
1320 North Capitol Street	154	617	5
1424 North Capitol Street	10	616	5
1424 North Capitol Street-Rear	10	616	5
1426 North Capitol Street	836	616	5
405 O Street	802	511	2
509 O Street	479	2001/2002	2
1427 Q Street	9	208	2
1001 Quebec Place	63	2902	4
930 Quincy Street	95	2901	4
936 Quincy Street	92	2901	4
1000 Rhode Island Avenue	19	337	2
3620 RCC Road	121	2831	1
719 S Street	38	417	1
423 Shepherd Street	38	3238	4
423 Shepherd Street-Rear	38	3238	4

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Cont'd)</u>			
1355 Shepherd Street	45	2823	4
201 T Street	832	3088	1
815 T Street	23	393	1
613 Upshur Street	72	3226	4
613 Upshur Street-Rear	72	3226	4
1505 Varnum Street	25	2698	4
215 Whittier Street-Rear	820	3363	4
1329 Wisconsin Avenue	68	1232	2
1333 1 <sup>st</sup> Street	193	617	5
1401 1 <sup>st</sup> Street	814	616	5
1202 3 <sup>rd</sup> Street	837	523	2
5311 3 <sup>rd</sup> Street-Rear	6	3328	4
1215 4 <sup>th</sup> Street	813	523	6
1221 4 <sup>th</sup> Street	848	523	2
1425 5 <sup>th</sup> Street	511	817	2
1427 5 <sup>th</sup> Street	818	511	2
1555 9 <sup>th</sup> Street	819	397	2
1905 8 <sup>th</sup> Street	802	416	1
1905 8 <sup>th</sup> Street -Rear	802	416	1
1301 9 <sup>th</sup> Street	801	399	2
1303 9 <sup>th</sup> Street	62	399	2
1305 9 <sup>th</sup> Street	63	399	2
1307 9 <sup>th</sup> Street	803	399	2
1309 9 <sup>th</sup> Street	804	399	2
1513-1515 11 <sup>th</sup> Street	815	337	2
1715 11 <sup>th</sup> Street	10	335	2
2208 14 <sup>th</sup> Street	30	202	1
3718 14 <sup>th</sup> Street	34	2692	4
3350 17 <sup>th</sup> Street	93	2612	1
3350 17 <sup>th</sup> Street-Rear	93	2612	1
3222 19 <sup>th</sup> Street	817	2604	1
3222 19 <sup>th</sup> Street-Rear	817	2604	1
<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
1033-39 Bladensburg Road	807	4473	5
3027 Channing Street	54	4360	5
3042 Clinton Street	826	4319	5
5918 Dix Street	821	5262	7

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast cont'd</u>			
2001-R Gales St-Rear #1	800	4525	7
2001-R Gales St-Rear #2	800	4525	7
2001-R Gales St-Rear #3	800	4525	7
2001-R Gales St-Rear #4	800	4525	7
2001-R Gales St-Rear #5	800	4525	7
2001-R Gales St-Rear #6	800	4525	7
2001-R Gales St-Rear #7	800	4525	7
2001-R Gales St-Rear #8	800	4525	7
2001-R Gales St-Rear #9	800	4525	7
2001-R Gales St-Rear #10	800	4525	7
1511 Isherwood Street	176	4544	6
303 K Street	804	775	6
5243 Karl Place	802	5205	7
4502 Lee Street	148	5155	7
4510 Lee Street	144	5155	7
1227 Meigs Place	106	4055	5
1659 Montello Avenue	21	4055	5
4915 NHB Avenue	42/43	5182	7
1524 Olive Street	34	5165	7
1524 Olive Street-Rear	34	5165	7
1243 Owen Place	188	4060	5
115 Riggs Road	85	3701	5
1741 Trinidad Avenue	26	4082	5
234 V Street	11	3561	5
415 W Street	41	3601	5
1020 3 <sup>rd</sup> Street	34	749	6
1022 3 <sup>rd</sup> Street	33	749	6
819 8 <sup>th</sup> Street	28	911	6
1003 8 <sup>th</sup> Street	44	909	6
1012 9 <sup>th</sup> Street	807	909	6
150 11 <sup>th</sup> Street	965	27	6
1012 9 <sup>th</sup> Street	807	909	6
214 15 <sup>th</sup> Street	106	1055	6
3721 30 <sup>th</sup> Place	814	4304E	5
226 47 <sup>th</sup> Street	805	5137	7
1136 47 <sup>th</sup> Place	137	5155	7
1227 47 <sup>th</sup> Place	39	5160	7
832 48 <sup>th</sup> Street	812	5150	7
1017 48 <sup>th</sup> Street	10	5153	7

OCT 28 2005

## DISTRICT OF COLUMBIA REGISTER

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southeast</u>			
1816 Bay Street	88	1112	6
10 Brandywine Street	804	6170	8
3333 Brothers Place	39	6003E	8
4915 C Street	28	5336	7
4926 Call Place	33	5336	7
4930 Call Place	32	5336	7
5000 Call Place	35	5323	7
1425 Congress Place	48	5889	8
1107 D Street	50	992	6
3326 Ely Place	807	5444	6
647 G Street	139	878	6
3009 G Street	807	5480	7
1239 Goodhope Road	89	3033	8
1400 K Street	800	1065	6
1909 Martin Luther King Jr	829	5770	8
1911 Martin Luther King Jr	829	5770	8
1913 Martin Luther King Jr	829	5770	8
2228 Martin Luther King Jr	810	5802	8
2234 Martin Luther King Jr	811	5802	8
2238 Martin Luther King Jr	978	5802	8
2412 Martin Luther King Jr	243	5806	8
2629 Martin Luther King Jr-East	192	5867	8
2629 Martin Luther King Jr-West	192	5867	8
3600 Martin Luther King Jr	42	5331	7
917 New Jersey Avenue	15	738	6
919 New Jersey Avenue	16	738	6
921 New Jersey Avenue	17	738	6
923 New Jersey Avenue	18	738	6
1008 South Carolina Avenue	23	970	6
1225 Sumner Road	980	5865	8
1242 W Street	99	5782	8
1518 W Street	814	5779	8
1708 W Street	154	5778	8
4010 3 <sup>rd</sup> Street	806	6167	8
4014 3 <sup>rd</sup> Street	804	6167	8
1012 7 <sup>th</sup> Street	11	906	6
1014 7 <sup>th</sup> Street	10	906	6
3020 7 <sup>th</sup> Street	50	5953	8
102 9 <sup>th</sup> Street	801	943	6
2525 33 <sup>rd</sup> Street	803	5690	7

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southwest</u>			
78 Darrington Street-Rear	23	6223S	8
71 Forrester Street	67	6240	8
10 N Street	60	653	6

**D.C. OFFICE OF PERSONNEL****NOTICE CONCERNING COVERAGE UNDER THE  
PERFORMANCE MANAGEMENT PROGRAM****OFFICE OF THE CITY ADMINISTRATOR  
AND  
OFFICE OF THE DEPUTY MAYOR FOR SAFETY AND JUSTICE**

Sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2001), established a comprehensive performance management system for the District government. Chapter 14, *Performance Management*, of Title 6 of the District of Columbia Municipal Regulations, implements the guidelines and procedures for the Performance Management Program pursuant to sections 1351 through 1353 of the CMPA.

As of the date of this notice, the majority of non-unionized, non-managerial and non-supervisory Career Service employees in agencies under the personnel authority of the Mayor are not covered under the Performance Management Program. However, section 1400.1 (e) of Chapter 14 of the regulations provides that the Director, D.C. Office of Personnel, may, on an agency-by-agency basis, authorize coverage under the Performance Management Program for this category of employees.

Further, section 1400.2 of the regulations provides that, upon authorizing an agency for coverage pursuant to section 1400.1 (e) of the chapter, the Director, D.C. Office of Personnel, shall publish a notice in the *D.C. Register* concerning such authorization.

Accordingly, the purpose of this notice is to announce that on **August 30, 2005**, Lisa R. Marin, SPHR, Director, D.C. Office of Personnel, authorized coverage under the Performance Management Program for:

All non-unionized, non-managerial and non-supervisory Career Service employees in the Office of the City Administrator and the Office of the Deputy Mayor for Safety and Justice.

Coverage for these employees began on **September 1, 2005**.

**District of Columbia  
Police Officers Standards and Training Board**

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NOTICE OF PUBLIC MEETING

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The District of Columbia Police Officers Standards and Training Board will hold an open meeting on Monday, December 5, 2005. The meeting will begin at 5:00 p.m. and end no later than 7:00 p.m. The meeting will be held in Room #1117, 441 4<sup>th</sup> Street, Northwest, Washington, D.C. 20001. You must present picture identification in order to enter the building.

Copies of the materials to be voted on by the Board at the meeting may be obtained in advance through Wednesday, November 30, 2005, at 5:00 p.m. Typed written comments on the materials may be submitted in advance of the meeting to the Office of the Board through Monday, November 21, 2005. Written comments received via e-mail or postmarked after November 21, 2005, will not be accepted.

Anyone interested in the work of the District of Columbia Police Officers Standards and Training Board may attend the meeting. Citizens may make oral comments during a thirty-minute comment period at the end of the meeting. The comments will be limited to three minutes. Anyone interested in making oral comments may sign up in advance. Slots will be allotted on a "first come-first served" basis.

Anyone interested in obtaining written materials or participating in the open comments portion of the meeting may contact:

Ms. Sharon Barbour on (202) 727-1516 or at [mail.post@dc.gov](mailto:mail.post@dc.gov).

Written comments may be mailed to:

District of Columbia Police Officers Standards and Training Board  
300 Indiana Avenue, Northwest, Room 5031  
Washington, D.C. 20001  
Attn: Ms. Sharon Barbour

Or E-Mailed to:  
[mail.post@dc.gov](mailto:mail.post@dc.gov)

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

NOTICE

FORMAL CASE NO. 1044, IN THE MATTER OF THE EMERGENCY APPLICATION OF  
THE POTOMAC ELECTRIC POWER COMPANY FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY TO CONSTRUCT TWO 69KV OVERHEAD  
TRANSMISSION LINES AND NOTICE OF THE PROPOSED CONSTRUCTION OF TWO  
UNDERGROUND TRANSMISSION LINES

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Code Section 34-302<sup>1</sup> and Chapter 21, Title 15 District of Columbia Municipal Regulations ("DCMR"),<sup>2</sup> of its consideration of the Emergency Application of the Potomac Electric Power Company ("PEPCO") for a Certificate of Public Convenience and Necessity ("CPCN") to Construct Two 69kV Overhead Transmission Lines and Notice of the Proposed Construction of Two 230kV Underground Transmission Lines.<sup>3</sup>

2. On October 12, 2005, PEPCO filed an Emergency Application for a Certificate of Public Convenience and Necessity to Construct Two 69kV Overhead Transmission Lines and Notice of the Proposed Construction of Two 230kV Underground Transmission Lines ("Emergency Application"). PEPCO asserts the emergency conditions described in the application warrant that the Commission establish an expedited review process, which includes: 1) issuing an Order, not later than December 31, 2005, granting PEPCO a CPCN for the construction of two overhead 69kV transmission lines; 2) incorporating and consolidating into the Commission's community hearings process the Community Advisory Group process anticipated by Rule 2107 for the overhead 69kV lines;<sup>4</sup> 3) waiving the six-month prior to construct notice filing requirement for the two underground 230kV transmission lines; 4) reducing the 90-day intervention period in Rule 2111.4 to 10 or fewer

<sup>1</sup> D.C. Code, 2001 Ed. § 34-302(2001 Ed.).

<sup>2</sup> 15 DCMR § § 2100-2199.

<sup>3</sup> *Formal Case No. 1044, In the Matter of the Emergency Application of the Potomac Electric Power Company for a Certificate of Public Convenience and Necessity to Construct Two 69kV Overhead Transmission Lines and Notice of the Proposed Construction of Two Underground 230kV Underground Transmission Lines* ("F.C. 1044"), Emergency Application of the Potomac Electric Power Company for a Certificate of Public Convenience and Necessity to Construct Two 69kV Overhead Transmission Lines and Notice of the Proposed Construction of Two Underground 230kV Underground Transmission Lines ("PEPCO Emergency Application"), filed October 12, 2005. Although filed as one Emergency Petition, PEPCO has actually filed two notices. Under the Commission's rules, there are several different procedural requirements for the two different types of constructions.

<sup>4</sup> 15 DCMR § 2107.

days for the 230kV lines;<sup>5</sup> and 5) issuing an Order notifying PEPCO that the Commission shall not take any action to initiate a formal investigation of PEPCO's proposed construction of the two underground 230kV lines.<sup>6</sup>

3. PEPCO has filed a proprietary and a non-proprietary version of the Emergency Application with the Commission. The non-proprietary version of the Emergency Application can be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Seventh Floor, East Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the Emergency Application are also available upon request, at a per-page reproduction cost.

4. Persons wishing to intervene in this proceeding must file a request with Freda A. James, Acting Commission Secretary, at the above address within 10 days of the date of publication of this Notice in the *D.C. Register*. In their petitions for intervention, interested persons should comment on the appropriateness of the Commission altering some of our procedural requirements for the construction of transmission facilities in accordance with PEPCO's requests. After the expiration of the 10-day intervention period, the Commission will issue an Order establishing a procedural schedule, and addressing any other procedural matters, if necessary.

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<sup>5</sup> Specifically, this rule states: "[t]he Commission shall entertain petitions filed by any interested person within ninety (90) days of the date of a formal notice provided under § 2111.4 for the Commission to investigate the reasonableness, safety and need for the underground transmission line or substation." 15 DCMR § 2111.4. Although PEPCO calls this rule a "90-day intervention period," it is actually not a request to intervene but a petition to investigate the reasonableness of, safety of, or need for the underground transmission lines.

<sup>6</sup> *F.C. 1044*, Emergency Application at 1. The Commission is unsure whether PEPCO wishes us to issue an Order stating that we will forgo investigation of the reasonableness, safety and need for the construction of the two 230kV underground transmission lines as outlined in 15 DCMR § 2111.5 or whether the company wishes us to forego an investigation pursuant to the Commission's general investigatory powers.

**District of Columbia  
Workforce Investment Council  
Meeting Schedule  
Fiscal Year 2005-2006**

Mayor Williams established the District of Columbia Workforce Investment Council (DC WIC) in compliance with the federal Workforce Investment Act of 1998. The Council was directed to provide the leadership and oversight required to develop a more effective and integrated workforce development system to meet the needs of District employers and residents. The DC WIC is a policy board that act as a clearinghouse to gather and disseminate useful information and best practices; convenes and engages stakeholders, and work toward improving the alignment of resources, programs and services to the District's workforce needs.

The DC WIC will focus this year's meetings on the Growing a Greater Workforce System for Today and Tomorrow.

All of the DC WIC general meetings are open to the public and employers, stakeholders, and residents are welcome to attend and provide their comments.

<b>Meeting Date:</b>	<b>September 16, 2005</b>
<b>Location:</b>	Catholic University of America Edward J. Pryzbła University Center Michigan Avenue, NE Washington, D.C. 20002
<b>Time:</b>	8:30 a.m. – 11:00 a.m.
<b>Agenda Topic:</b>	This meeting will focus on review of strategic planning issues.
<b>Meeting Date:</b>	<b>December 16, 2005</b>
<b>Location:</b>	Potomac Electric and Power Company (PEPCO) 1701 9 <sup>th</sup> Street, NW – Second Floor Conference Room Washington, DC 20068
<b>Time:</b>	8:30 a.m. – 11:00 a.m.
<b>Agenda Topic:</b>	This meeting will focus on finalizing strategic policies and strategies and welcoming newly appointed members.
<b>Meeting Date:</b>	<b>March 17, 2006</b>
<b>Location:</b>	(To be announced) Washington, D.C.
<b>Time:</b>	8:30 a.m. – 11:00 a.m.
<b>Agenda Topic:</b>	This meeting will focus on _____.

**Meeting Date:** June 16, 2005

**Location:** To be announced  
Washington, D.C.

**Time:** 8:30 a.m. – 11:00 a.m.

**Agenda Topic:** This meeting will focus on \_\_\_\_\_.

**\*\* Please contact the DC WIC at 202.698.5826 for meeting locations.**

**District of Columbia  
Workforce Investment Council  
Sub-Committee Meeting Schedule  
Fiscal Year 2005-2006**

Executive Committee	<u>First Wednesday of every month</u>
Universal Access Committee	bi-monthly meetings
Performance Oversight Committee	bi-monthly meetings
Employer Workforce Demands Committee	bi-monthly meetings
Training and Education Committee	quarterly meetings
Youth Investment Council	bi-monthly meetings

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

**Application No. 17354 of Steven Hopkins**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, not meeting the open court width requirements (section 406), to allow a third floor addition to a flat (two unit dwelling) in the R-4 District at premises 1201 Harvard Street, N.W. (Square 2853, Lot 139).

Note: The Applicant withdrew an area and use variance request to convert the subject property to a three (3) unit apartment house. The Board amended the application to a special exception from section 223.

**HEARING DATE:** September 20, 2005, October 11, 2005  
**DECISION DATE:** October 11, 2005

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1A, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 1A. The ANC submitted a report in support of the application. The OP submitted a report in support of the open court variance needed for the third floor addition. OP however opposed the variance to allow the conversion of the building into a three unit apartment house.

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 special exception under section 223. 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 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested

OCT 28 2005

relief will not tend to affect adversely the use of neighboring property in accordance with 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:** 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, John A. Mann II to approve; Kevin L. Hildebrand not present, not voting).

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

Each concurring Board member has approved the issuance of this order.

**FINAL DATE OF ORDER:** October 13, 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.

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.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE

OCT 28 2005

§ 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**

**Application No. 17358 of Safe Haven Outreach Ministry**, pursuant to 11 DCMR § 3103.2, for a variance from the extension of nonconforming uses within structures provisions under subsection 2002.3, and a variance from the off-street parking requirements under subsection 2101.1, to allow the renovation of two multi-family buildings comprising of 48 units, in the R-3 District at premises 2352, 2356 and 2360 High Street, S.E. (Square 5799, Lot 976).

**HEARING DATE:** September 20, 2005

**DECISION DATE:** October 4, 2005

**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) 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The Board opened the record and accepted, by unanimous consent, three filings from ANC 8A. The Board accepted the documents into the record; however, the correspondences did not meet the requisite requirements to be given great weight. The Office of Planning submitted a report in support of the application.

Based upon the record before the Board, and having given great weight to the Office of Planning report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with §§ 2002.3 and 2101.1 of 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**.

OCT 28 2005

**VOTE:**       **5-0-0**       (Geoffrey H. Griffis, Curtis L. Etherly, Jr. and John A. Mann II to grant; Ruthanne G. Miller and Kevin Hildebrand to grant by absentee ballot)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** OCT 05 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. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON

OCT 28 2005

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

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

**Application No. 17364 of CIH/VMS Restorations LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of five (5) single-family row dwellings and two (2) single-family semi-detached dwellings under section 353, and pursuant to 11 DCMR § 3103.2, for a variance to allow one parking space in the front yard of each dwelling under subsection 2116.2, in the R-5-A District at premises 2300 block of Skyland Terrace, S.E. (Square 5740, Lot 852).

**HEARING DATE:** October 11, 2005

**DECISION DATE:** October 11, 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) 8B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not participate in the hearing. 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 section 353, and a variance pursuant to § 3103.2 from the requirements of subsection 2116.2. 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 report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, 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 and 2116.2, that 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** subject to the following **CONDITION**:

1. The out parcel shall be retained in its natural state and shall preclude the sale of timber, cutting of trees (other than dead, diseased or downed trees), alteration of the topography, or construction of any kind.

**VOTE:**        5-0-0        (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, John A. Mann II, and John G. Parsons 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:** OCT 13 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 § 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 § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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

**Application No. 17371 of Nathan and Sharon Bovellev**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two car garage addition to an existing single-family detached dwelling under section 223, not meeting the rear yard requirements (section 404), in the R-1-B District at premises 1470 Roxanna Road, N.W. (Square 2768, Lot 11).

**HEARING DATE:** October 11, 2005

**DECISION DATE:** October 11, 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) 4A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. ANC 4A 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 special exception under section 223. 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 223, that the requested relief can be granted as 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.

OCT 28 2005

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, Curtis L. Etherly, Jr., John G. Parsons,  
Ruthanne G. Miller and John A. Mann, II 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:** OCT 13 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.

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BZA APPLICATION NO. 17371

PAGE NO. 3

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.

twr

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

**Application No. 17372 of Leatrice C. Lane**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two-story rear addition to an existing single-family detached dwelling under section 223, not meeting the side yard requirements (section 405), in the R-4 District at premises 708 Shepherd Road, N.W. (Square 3154, Lot 817).

**HEARING DATE:** October 11, 2005

**DECISION DATE:** October 11, 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) 4B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. ANC 4B did not submit a report or otherwise participate in this application. The Office of Planning 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 section 223. 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 report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as 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.

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 G. Parsons, John A. Mann, II 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:** OCT 13 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.

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OCT 28 2005

BZA APPLICATION NO. 17372

PAGE NO. 3

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

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

**Application No. 17386 of the D.C. Department of Parks and Recreation**, pursuant to 11 DCMR § 3104.1, for special exceptions to allow the percentage of lot occupancy to exceed 20% (§ 403.3), and public recreation and community center to exceed 40,000 square feet (§ 408.1), and pursuant 11 DCMR § 3103.2, for area variances to allow a height of building to exceed 45 feet (§ 400.14), from the requirement that one parking space be provided for each 2000 feet of gross floor area of building (§ 2101.1) and from the requirement that automobile parking spaces be a minimum of nine (9) feet in width and nineteen (19) feet in length (§ 2115.1) for a public recreation and community center in the D/R-5-B and R-5-B Districts at premises 2809 15<sup>th</sup> Street and 1480 Girard Street, N.W. (Square 2667, Lot 74).

**Note:** The case was originally advertised for special exception and area variance relief and, in the alternative, for use variance relief. The Board determined that the use variance was not necessary and eliminated the use variance request.

**HEARING DATE:** October 11, 2005  
**DECISION DATE:** October 11, 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 special exception relief under sections 403.3 and 408.1. 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, 403.3 and 408.1, that the requested relief can be granted as 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 and having given great weight to the OP and ANC and reports filed in this case, the Board concludes that the applicant has also met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with sections 400.14, 2101.1 and 2115.1 of 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**            (Curtis L. Etherly, Jr., John G. Parsons, John A. Mann, II,  
Ruthanne G. Miller and Geoffrey H. Griffis 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:** OCT 13 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. 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

**ZONING COMMISSION ORDER NO. 02-32A**  
**Order on Reconsideration**  
**Z.C. Case No. 02-32**  
**(Georgetown University Campus Plan – Further Processing of**  
**Performing Arts Center)**  
**October 20, 2003 and**  
**November 12, 2003**

This Order arises from an application by the President and Directors of Georgetown College, also known as Georgetown University, (“Applicant” or “University”) requesting special exception approval under the campus provisions of the Zoning Regulations at 11 DCMR §§ 3104.1 and 210 for further processing of the University’s approved campus plan to allow construction and use of a performing arts center. Following a public hearing, the Commission voted on April 14, 2003 to grant the requested special exception; Order No. 02-32 was issued August 26, 2003.

Parties in this proceeding, in addition to the Applicant, are Advisory Neighborhood Commission 2E, the Citizens Association of Georgetown (“CAG”), the Burleith Citizens Association, and Cloisters in Georgetown, Inc. On September 15, 2003, CAG filed a motion for reconsideration of Order No. 02-32 or, in the alternative, for clarification of Board of Zoning Adjustment Order No. 16566.<sup>1</sup> The Applicant filed an opposition to CAG’s motion. On September 23, 2003, the University filed a motion for reconsideration or, in the alternative, for stay of Paragraph 26 of Order No. 02-32. CAG opposed the Applicant’s motion.

CAG’s motion. The Citizens Association of Georgetown sought reconsideration of the Commission’s finding that the University was in substantial compliance with certain conditions of approval of its campus plan<sup>2</sup>; specifically Conditions No. 3, 9, and 14. CAG also sought clarification of the term “substantial compliance” in Condition No. 19 so that, to obtain any future special exception approvals under the campus plan, the University would be required to “more rigorously comply” with each condition in Order No. 16566. The University argued that

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<sup>1</sup> BZA Order No. 16566, issued March 29, 2001, conditionally approved the University’s campus plan for a term ending December 31, 2010.

<sup>2</sup> Since the Commission’s public vote on this, the Order approving the Campus Plan, including the conditions that CAG claims to have been violated, was vacated in its entirety by the District of Columbia Court of Appeals. *President and Directors of Georgetown College v. District of Columbia Board of Zoning Adjustment*, 837 A.2d 58 (D.C. 2004).



OCT 28 2005

CAG's motion should be denied, in part because the motion "largely repeats evidence and argument that the Commission heard, assessed, and factored into its decision" that the Applicant was in substantial compliance with the conditions of approval of the campus plan.

The Commission concurs with the Applicant that CAG does not present any new information or argument in its motion that was not already considered by the Commission in deliberating on the application to allow construction and use of the performing arts center. Accordingly, the Commission denies CAG's motion for reconsideration or clarification.

Applicant's motion. The Applicant's motion for reconsideration sought to strike Paragraph 26 from Order No. 02-32, which states that, for purposes of determining the University's compliance with the conditions of approval of its campus plan, the Commission would consider the enrollment cap the "maximum permitted enrollment of undergraduate students at any given time," and would not permit the University to demonstrate compliance with the cap using an average of fall and spring enrollment figures.<sup>3</sup> Alternatively, the Applicant requested a stay of enforcement of Paragraph 26. The University argued that Paragraph 26 represented a new methodology for measuring its future compliance with its undergraduate enrollment cap, contrary to the University's practice of computing its traditional full-time undergraduate enrollment by averaging fall and spring numbers. According to the University, Paragraph 26 appeared to amend the approved campus plan by effectively decreasing the existing cap on traditional full-time undergraduate enrollment by hundreds of students, a result that would have "severe and inequitable implications" for the University.

In opposing the Applicant's motion, CAG asserted that the enrollment cap adopted by the BZA was the maximum number of students permitted to be enrolled at any one time, not an average. CAG stated it was unaware that the University was using averaging to measure its compliance with the enrollment caps imposed in the 1990 and 2000 campus plans, and that CAG would have opposed that procedure in the campus plan proceedings.

The Commission is not persuaded by the Applicant that the use of average enrollment during an academic year to determine compliance with the cap on undergraduate enrollment is consistent with the intent of the Board of Zoning Adjustment in adopting the enrollment cap. This conclusion is reinforced by a review of the record in the Board's proceeding, in which the cap was apparently considered a fixed number, and by the Board's adoption of a reporting requirement that obligates the Applicant to submit a statement of enrollment, not average enrollment, on the date 30 days prior to any application for further processing under the

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<sup>3</sup> Finding of Fact No. 26 of Z.C. Order No. 02-32 states:

The Commission does not agree with the Applicant that the use of average enrollment during an academic year is appropriate for purposes of determining compliance with the cap on undergraduate enrollment established in the Campus Plan. With respect to further processing applications that may be filed in the future, the Commission will not assess compliance with the enrollment cap on the basis of an average of the fall and spring semesters of the academic year, but will consider the enrollment cap to be the maximum permitted enrollment of undergraduate students at any given time during the academic year.

OCT 28 2005

approved plan. Accordingly, the Commission denies the University's motion for reconsideration of Paragraph 26.

The Commission also concludes that a phase-in of the enforcement of Paragraph 26 is appropriate in light of the University's past practice of computing its traditional full-time undergraduate enrollment by averaging fall and spring numbers. Accordingly, the Commission stays enforcement of Paragraph 26, to the extent, if any, that it has not been made moot by the Court of Appeals decision referenced in footnote 2, for one year from the effective date of this Order.

Accordingly, it is ordered that (i) the **MOTION** of the Citizens Association of Georgetown for reconsideration is **DENIED**; and (ii) the **MOTION** of Georgetown University for reconsideration or stay is **DENIED** in part and **GRANTED** in part.

**VOTE:**       **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Peter G. May to deny the motion of CAG for reconsideration or clarification of the order; James Hannaham and John G. Parsons not present, not voting).

**VOTE:**       **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Peter G. May to deny in part and grant in part the motion of Georgetown University for reconsideration and stay; James Hannaham and John G. Parsons not present, not voting).

**VOTE:**       **4-0-1** (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Peter G. May to grant the motion of Georgetown University for stay for a period of one year; James Hannaham not present, not voting).

**BY ORDER OF THE D.C. ZONING COMMISSION**

**Each concurring member approved the issuance of this order.**

**FINAL DATE OF ORDER:** OCT 13 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.

9756

**ZONING COMMISSION ORDER NO. 03-03A**  
**Z.C. Case No. 03-03A**  
**(Minor Modification to the Consolidated Planned Unit Development**  
**for Capitol Gateway Estates)**  
**March 14, 2005**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on March 14, 2005. At the meeting, the Zoning Commission approved an application from the District of Columbia Housing Authority and the associated private development team of A&R/THC LLC and East Capitol Gateway LLC (the "Applicant") for a minor modification to an approved planned unit development ("PUD") for specified properties located in Square 5281, bounded by 56<sup>th</sup> Place, Central Avenue, Southern Avenue, 57<sup>th</sup> Street and A Street, all S.E., pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The specific properties affected are Square 5281, Lots 88-91 and 113-122. Because the modification was deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

**FINDINGS OF FACT**

By Zoning Commission Order No. 03-03/02-05, dated May 10, 2004, the Commission approved a PUD for multiple properties in Squares 5246, 5272, 5279, 5280 and 5281, being the site of the former East Capitol public housing complex plus additional property. The Order approved the construction of a large, HOPE VI community redevelopment project that comprises a total of 226 new residences including: 14 detached houses, 122 new semi-detached dwellings, 62 row dwellings, and 7 grand houses with four units in each building. The redevelopment plan also provides for closing and realigning several existing streets and alleys and creating new streets and alleys. The zoning adopted as part of the PUD is R-5-A.

The Application stated that the requested modification to Zoning Commission Order No. 03-03 was derived from meetings conducted by members of the Applicant's team with representatives of the District Department of Transportation ("DDOT") in conjunction with the street and alley closing and dedication process as well as the building permit process. At those meetings, DDOT officials identified two groups of lots in the site plan where DDOT recommended elimination of curb cuts and driveways because of proximity to two "T" intersections, as opposed to full, four-way intersections. DDOT informed the Applicant that traffic safety necessitates the elimination of curb cuts and driveways within close proximity to such intersections.

Specifically, the two (2) affected intersections are: (1) Ayers Place, S.E. and 56<sup>th</sup> Place, S.E. and (2) 57<sup>th</sup> Street, S.E. and 57<sup>th</sup> Place, S.E. In the first location (Square 5281, Lots 88-91), the curb cuts and associated driveways and garages will be eliminated from four proposed row houses fronting on 56<sup>th</sup> Place.

In the second location (Square 5281, Lots 113-122), the approved site plan amendment eliminates the originally approved driveways located along 57<sup>th</sup> Place that would lead to 14 dwellings (semi-detached and row) fronting on 57<sup>th</sup> Place. However, the Applicant's modified plans provide a new alley segment off an existing alley from 57<sup>th</sup> Street, which will provide access to off-street parking spaces for each house from the rear of the affected lots. Thus, the number of off-street parking spaces provided will be maintained in this location.

The third modification is a reduction of four (4) spaces from the total number of required parking spaces in the PUD. This derives from the first location indicated above, where the elimination of curb cuts results in the elimination of off-street parking spaces as well. This requires an amendment to Condition No. 5 in Order No. 03-03 so as to reduce the number of required parking spaces from 226 to a total of 222 parking spaces resulting from this modification.

There was no opposition to this minor modification request. Advisory Neighborhood Commissions 7C and 7E were served by the Applicant with the requested modification but did not submit written reports. The Office of Planning ("OP") was not requested to and did not submit a written report to the Commission.

On March 14, 2005, at its regular monthly meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD. The Zoning Commission concurs with the Applicant that approving the modification is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

The Zoning Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

### **CONCLUSIONS OF LAW**

Upon consideration of the record in this application, the Zoning Commission finds that the proposed modification is minor and consistent with the intent of the previously approved Zoning Commission Order No. 03-03. Further, the Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification resolves important transportation safety matters raised by DDOT while not adversely affecting the site plan. The reduction in off-street parking from 226 to 222 spaces

OCT 28 2005

is very minor, especially considering the numerous on-street as well as off-street parking spaces provided by the PUD plan.

The modifications are minor and consideration as a Consent Calendar item without a public hearing is appropriate.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a minor modification of an approved PUD. Condition No. 5 of Z.C. Order No. 03-03 is hereby revised to read, "There shall be a minimum of 222 on-site parking spaces plus curbside spaces as depicted in the plans."

The approved site plan as regards Lots 88-91 and 113-122 in Square 5281 is modified as specified under Findings of Fact of this Order and as indicated in the Applicant's submission.

Pursuant to the intent of 11 DCMR § 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs (DCRA) for the minor modification until the applicant has recorded a "Notice of Modification" of Zoning Commission Order No. 03-03A in the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 03-03 and this Order (Zoning Commission Order No. 03-03A), which the Director of the Office of Zoning has certified. The recordation of the Notice of Modification shall bind the Applicant and any successors in title to construct on and use the site in accordance with this Order and any amendments thereof by the Zoning Commission.

This application was approved by the Zoning Commission at its public meeting on March 14, 2005, by a vote of 5-0-0 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, Kevin L. Hildebrand and Gregory N. Jeffries).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the D.C. Register; that is, on OCT 28 2005.

**ZONING COMMISSION ORDER NO. 03-29A**  
**Z.C. Case No. 03-29A**  
**(PUD Modification – The George Washington University –**  
**Square 103 Residence Hall )**  
**March 14, 2005**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public meeting on March 14, 2005. At the meeting, the Zoning Commission approved an application from The George Washington University (the "University") for a minor modification to a planned unit development ("PUD") pursuant to Chapter 24 the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. Because the modification was deemed minor, a public hearing was not conducted.

The Zoning Commission determined that this modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

**FINDINGS OF FACT**

By Zoning Commission Order No. 03-29, dated June 18, 2004, the Zoning Commission approved the University's application for consolidated review and one-step approval of a PUD for the property located in Square 103, Lot 817. The Zoning Commission Order approved the development of a new residence hall to provide approximately 379 undergraduate student beds and ground floor retail space.

The approved plans for the proposed residence hall included an enhanced streetscape plan in front of the new building. The enhanced streetscape plan provided for the construction of two planters flanking the building's main entrance on F Street, both of which were to be planted with white crepe myrtle trees and other plantings.

By letter dated January 11, 2005, the University requested a minor modification to Zoning Commission Order 03-29 pursuant to § 3030 of the D.C. Zoning Regulations. The letter stated that PEPCO had notified the University of their requirement for construction of three electrical vaults in conjunction with the new residence hall. As shown on Attachment A to the letter, the design approved in Zoning Commission Order 03-29 included only two vaults, located to the east of the building's main entrance on F Street. The University, therefore, requested a modification of the streetscape plan to allow placement of the additional vault adjacent to the original two vaults. As shown on Attachment B to the letter, the proposed modification entails

OCT 28 2005

the elimination of the center portion of the planter east of the entrance, resulting in the elimination of one of the white crepe myrtle trees and some additional plantings. The University proposes to preserve the low wall featured in the original design and to construct one small planter at each end of the transformer vault.

Pursuant to § 3030.11, the Director of the Office of Zoning placed the request for a minor modification on the Commission's Consent Agenda for its public meeting of March 14, 2005. During that meeting, the Commission voted 5-0-0 to approve the request for minor modification.

### **CONCLUSIONS OF LAW**

Upon consideration of the record of this application, the Zoning Commission concludes that the University's proposed modification is minor and consistent with the intent of the consolidated one-step PUD approval made in Zoning Commission Order No. 03-29. The Zoning Commission concludes that the proposed modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan, and is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

### **DECISION**

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of a minor modification to permit the construction of an additional electrical vault adjacent to the original two vaults proposed in the approved plans. The streetscape plan shall be modified as shown on the "Proposed Front Streetscape to Accommodate 3<sup>rd</sup> PEPCO Vault" plan prepared by Ayers/Saint/Gross and dated December, 20, 2004, which is "Attachment B" to the letter marked as Exhibit 1 in the record. All other provisions and conditions of Zoning Commission Order 03-29 remain in effect.

The University shall record a "Notice of Modification" of Zoning Commission Order No. 03-29 in the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 03-29 and this Order (Zoning Commission Order No. 03-29A), which the Director of the Office of Zoning has certified. Such covenant shall bind the University and all successors in title to the requirements of this Order or amendment thereof by the Zoning Commission.

Vote of the Zoning Commission taken at the public meeting on March 14, 2005: 5-0-0 (Carol J. Mitten, Anthony J. Hood, Kevin Hildebrand, John G. Parsons and Gregory N. Jeffries to approve).

OCT 28 2005

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become final and effective upon publication in the D.C. Register; that is, on OCT 28 2005.



**ZONING COMMISSION ORDER NO. 04-23**  
**Z.C. Case No. 04-23**  
**(George Washington University – Amendment of Approved**  
**Campus Plan to Modify Condition No. 10)**  
**January 13, 2005**

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on December 2, 2004 to consider an application from the George Washington University to amend its approved campus plan to modify Condition No. 10 so as to permit use of the Hall on Virginia Avenue as a residence hall for freshman students, pursuant to §§ 210 and 3135 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. Pursuant to 11 DCMR §§ 210 and 3035, the Commission heard the case under the rules of the Board of Zoning Adjustment set forth in 11 DCMR Chapter 31. At a public meeting on January 13, 2005, the Commission voted 5-0-0 to deny the application, but to stay enforcement of Condition No. 10 until August 2006.

On September 17, 2004, the George Washington University (“Applicant” or “University”) filed a self-certified application for special exception relief to amend Condition No. 10 of its approved campus plan so as to permit use of the Hall on Virginia Avenue (“HOVA”) for freshman students. After the modification proposed by the Applicant, amended Condition No. 10 would compel the University to require all full-time freshman and sophomore students to reside in University housing located within the campus boundary or within the HOVA, to the extent that such housing is available and with certain exemptions.<sup>1</sup>

At the public hearing, the University amended the application to request permission to house freshmen in HOVA until August 2006. According to the Applicant, allowing the use of HOVA by freshmen through August 2006 would align Condition No. 10 with Condition No. 9(a) of the approved campus plan, which requires the University to make beds available on-campus for at least 5,600 full-time undergraduate students beginning no later than August 31, 2006, and would give additional time for the University to continue discussions with the Office of Planning on broader land-use and student housing issues related to the Foggy Bottom campus.

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<sup>1</sup> The Applicant proposed to make the following changes to Condition No. 10:

Commencing in the Fall ~~2003~~ **2005** semester, the University shall require all full-time freshmen and sophomore students to reside in University housing located within the campus boundary established by the Board, **or within the Hall on Virginia Avenue (“HOVA”)**, to the extent that such housing is available. The University may exempt students who commute, are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life. ~~Prior to the Fall 2003 semester, housing commitments made to current University students may be taken into account when determining the amount of housing available.~~

OCT 28 2005

The Applicant asserted that the requested amendment would have no adverse impacts on the abutting and nearby property owners due to noise, traffic, number of students or other objectionable conditions, and that precluding the University from counting beds in HOVA, an off-campus residence hall, would not further the District's or the community's objectives. The Applicant stated that the University was not presently seeking to count freshman beds in other off-campus properties or to amend the 70 percent on-campus housing requirement adopted by the Board in Condition No. 9(a).

By memorandum dated November 23, 2004, the Office of Planning ("OP") recommended against approval of the University's request to add the phrase "or within the Hall on Virginia Avenue" to that portion of Condition No. 10 directing the University to require all full-time freshman and sophomore students to reside in University housing located within the campus boundary, so as "to retain the main concept of Condition 10 that all full-time freshman and sophomore students reside within the Campus boundary established by the Board." OP disagreed with the University's assertion that the proposed change would not be objectionable to neighboring property, and instead suggested that the University could use HOVA to house upperclassmen.

OP noted that, during the campus plan process, the University had indicated its intent to require freshman and sophomore students to live on campus, acknowledging the greater need for guidance and potential for behavior problems associated with the younger, relatively immature students. OP also noted its continuing concern about the impact of University activities on the adjacent Foggy Bottom/West End communities. OP did not oppose the University's revised proposal to use HOVA to house freshmen through August 2006, noting that a planning effort was underway to address some broader campus plan issues, but reiterated its support for the policy of requiring freshman and sophomore students to live on campus in the longer term.

By letter dated November 26, 2004, ANC 2A indicated that, at a regularly scheduled and properly noticed public meeting held November 10, 2004 with a quorum present, a majority of the ANC voted to oppose the application for several reasons, in particular "the ANC's long-standing views that the University is in ongoing violation of the Comprehensive Plan, as well as its own Campus Plan." The ANC also asserted that "there is an extensive history of behavior issues at the Hall on Virginia Avenue."

The Commission denied an untimely request for party status in opposition to the application submitted by the Foggy Bottom Association.

The Commission received letters and heard testimony in support of the application from several University students and residents living near HOVA. The letters and testimony generally cited the lack of objectionable conditions currently created by freshmen living in HOVA, a desire to localize the student population in efficiently utilized residence halls rather than spread throughout the community and the configuration of the interior of the building that made HOVA suitable for freshmen and unattractive to upperclass students, who might opt out of University housing and choose to live off-campus to avoid living in HOVA.

The Commission received several letters and heard testimony from persons in opposition to the application. Persons in opposition generally cited the continuing encroachment by University uses into the surrounding residential neighborhood, although some did not oppose use of HOVA to house upperclass students. The Foggy Bottom Association indicated its agreement with the recommendation of the Office of Planning not to modify Condition No. 10. Watergate East, a cooperative 240-unit apartment building on Virginia Avenue across from HOVA, submitted a letter indicating that its board of directors had voted 10-1 on October 20, 2004, with all members present, in opposition to the Applicant's proposal to continue to house freshman students in HOVA, citing "efforts to reduce the negative effect of so many students infiltrating our residential community."

### **FINDINGS OF FACT**

1. The University's campus plan was originally approved, subject to conditions, by the Board of Zoning Adjustment by order issued March 29, 2001 (BZA Application No. 16553).<sup>2</sup> Condition No. 10 of the approved campus plan states that: "Commencing in the Fall 2001 semester, the University shall require all full-time freshmen and sophomore students to reside in University housing located within the campus boundary established by the Board, to the extent that such housing is available. The University may exempt students who commute, are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life. Prior to the Fall 2003 semester, housing commitments made to current University students may be taken into account when determining the amount of housing available."
2. The Hall on Virginia Avenue is located outside the campus plan boundaries at 2601 Virginia Avenue, N.W., approximately two blocks west of the campus. The 10-story building, formerly a hotel, was purchased by the University in 1998, and now contains a lobby on the first floor, a parking deck on the second level, and eight floors of student residential units.
3. HOVA is located on a narrow lot (Square 6, Lot 825) containing 20,407 square feet in area. The irregularly-shaped parcel is bounded by Virginia Avenue, a freeway (Interstate 66) and a ramp to the freeway. HOVA occupies the entire square with the exception of a small gas station at the western edge of the square near the intersection of Virginia Avenue, 27<sup>th</sup> Street and the freeway ramp.
4. The Applicant testified that HOVA was acquired specifically to house freshmen, because the building was designed as a dormitory-style residence and did not provide kitchens or cooking facilities, while upperclass students generally prefer to live in apartment-style housing. Freshmen have been the only occupants of HOVA since its purchase by the

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<sup>2</sup> Some conditions of approval – not including Condition No. 10 – were subsequently modified by the Board following an appeal by the University to the District of Columbia Court of Appeals and its filing of a civil action in the United States District Court for the District of Columbia. See the Board's Final Order on Remand (16553-E; issued December 21, 2001) and Order on Second Remand (16553-I; issued April 26, 2004).

OCT 28 2005

University, other than a residence hall administrator and eight upperclass students who serve as "community facilitators."

5. During the 2004-2005 academic year, 453 freshmen were assigned to HOVA, living in 195 units. Most units have two beds; some have three beds.
6. The Applicant indicated that, for so long as the University was permitted to house freshmen in HOVA, the University would continue to operate the residence hall on the same general basis as it had in the past. Specifically, the University would give early-decision students priority in the selection of HOVA to facilitate the continuation of early-admit students as the majority of the HOVA population; provide a variety of "living and learning communities" designed to attract socially and politically conscientious students to live and study at HOVA; provide a full-time professional staff member for HOVA as well as a live-in community facilitator for each of the eight floors; and provide professional security personnel on the ground floor on a 24-hour basis, with additional security to routinely patrol the building and grounds.
7. The Commission credits the testimony of OP that a concentration of freshman and sophomore students outside the campus boundary, even in University-controlled housing, has the potential for adverse impacts on the neighboring residential communities in light of the greater need for guidance and potential for behavior problems associated with the younger, relatively immature students.

#### CONCLUSIONS OF LAW

The Applicant is seeking special exception approval, pursuant to §§ 210 and 3104 of the Zoning Regulations, of a modification to its approved campus plan so as to permit use of the Hall on Virginia Avenue as a residence hall for freshman students, under the same conditions as it is currently used, through August 2006. The Commission is authorized to grant a special exception where, in the judgment of the Commission 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, subject to certain conditions specified in § 210. D.C. Official Code § 6-641.07(g)(2) (2001), 11 DCMR § 3104.1.

The Commission concurs with OP that the requested modification of Condition No. 10 should not be approved. As OP noted, the Applicant's proposal is inconsistent with the "main concept" of the Campus Plan – that is, that all full-time freshman and sophomore students should be required to reside within the approved campus boundary – a condition previously found necessary to avoid the creation of any objectionable conditions associated with a university use in a Residence zone. As described by OP and by ANC 2A, the use of off-campus residence halls for freshman students has a potential for adverse impacts in light of the greater need for guidance and possible behavior problems associated with the younger, relatively immature students. The

OCT 28 2005

Commission notes as well that OP expressed a continuing concern about the impact of University activities on the adjacent Foggy Bottom/West End communities.

Although the Commission declines to modify Condition No. 10 to permit the University to house freshmen off-campus in HOVA, the Commission concludes that a stay of the enforcement of Condition No. 10 until August 2006 is appropriate in light of obligations the University has made to provide housing for current students on campus, such that beds are not immediately available on-campus for the freshmen presently in HOVA.

### DECISION

At a public meeting on January 13, 2005, the Commission voted 5-0-0 to deny the application but to stay enforcement of Condition No. 10 until August 2006 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, Kevin L. Hildebrand and John G. Parsons voting in favor of the motion).

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **DENIAL** of this application for modification of an approved campus plan so as to permit use of the Hall on Virginia Avenue as a residence hall for freshman students, with enforcement of Condition No. 10 of the approved campus plan **STAYED** until August 31, 2006.

**VOTE: 5-0-0** (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, Kevin L. Hildebrand and John G. Parsons).

### **BY ORDER OF THE D.C. ZONING COMMISSION**

**Each concurring member approved the issuance of this order.**

**FINAL DATE OF ORDER:** OCT 14 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.

OCT 28 2005

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

**and**

**Z.C. ORDER NO. 04-31**

**Z.C. Case No. 04-31**

**(Text Amendments to Definitions Section, 11 DCMR § 199)**

**July 11, 2005**

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

**ZONING COMMISSION ORDER No. 05-13****Z.C. Case No. 05-13****(*Sua Sponte* Review of the Board of Zoning Adjustment Order Application No. 17271)****June 20, 2005**

This Order arises from the *sua sponte* review by the Zoning Commission of the District of Columbia of the Board of Zoning Adjustment's ("BZA") Order dated April 6, 2005 ("Order"), granting Application No. 17271 of JBG/Louisiana Avenue, L.L.C. ("Applicant") for a height variance. For the reasons stated below, the Commission terminates its review of that decision.

**STATEMENT OF FACTS**

1. On April 6, 2005, the BZA issued a written decision and order granting Application No. 17271 of JBG/Louisiana Avenue, L.L.C. for a variance from the height limitation in the C-3 District to allow an addition to an existing office building at premises 51 Louisiana Avenue, N.W. (Square 631, Lot 17).
2. At a special public meeting held on April 11, 2005, the Zoning Commission timely decided to invoke the authority set forth in 11 DCMR § 3128.1 to "determine to review any final decision or order of the Board." In doing so, the Commission identified two grounds for undertaking the review: (1) the record underlying the BZA's decision did not include testimony regarding the security concerns raised by the Capitol Police Board and (2) the Board's conclusion that strict compliance with the Zoning Regulations would result in practical difficulties was not supported in the decision.
3. After receipt and review of the record, the Commission, at a special public meeting held on May 16, 2005, authorized the Applicant to submit a memorandum addressing the issues identified by the Commission.
4. On June 7, 2005, the Applicant filed its Opposition to *Sua Sponte* Review and Motion to Disqualify Commissioner Kevin Hildebrand.
5. At a special public meeting held on June 20, 2005, the Commission considered final action on its *sua sponte* review. Prior to the Commission beginning its deliberation, Commissioner Hildebrand recused himself from further participation in the proceeding<sup>1</sup>. This left four Commissioners able to participate.

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<sup>1</sup> Commissioner Hildebrand's decision made the Applicant's motion for disqualification moot.

6. Following discussion by the Commission, Chairman Carol J. Mitten made a motion to remand the BZA's decision. The basis for her motion was that the BZA's conclusion that strict compliance with the Zoning Regulations would result in practical difficulties was not justified in the Order or by the evidence in the record. This motion did not receive a second by another Commissioner.

7. Commissioner John G. Parsons then made a motion to remand the case to the BZA with instructions to add conditions to its Order requiring certain security measures to the building needed as a result of the additional height granted and the building's proximity to the Capitol grounds. Although the motion was seconded, it received only two affirmative votes, which is less than a majority of the full membership of the Commission.<sup>2</sup>

8. The Commission then ended its deliberations on the case.

### CONCLUSIONS OF LAW

Section 4 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 799; D.C. Official Code, § 6-641.04), provides that ("[a]ny amendment of the regulations or any of them or of maps or any of them shall require the favorable vote of not less than a majority of the full membership of the Zoning Commission" (restated in the Zoning Regulations at 11 DCMR § 102.12). Similarly, a majority of the full Commission is required to deny or dismiss an application or petition without a hearing. 11 DCMR § 3011.4. Although the Commission's rules are silent as to the number of votes necessary to take final action in other proceedings that do not involve text or map amendments, such as this *sua sponte* review<sup>3</sup>, the Commission concludes that the "majority voting of the full Commission" rule of § 4 of the Zoning Act of 1938, 11 DCMR §§ 102.12 and 3011.4, also applies to its *sua sponte* review actions.

Having had one motion to remand fail for want of a second<sup>4</sup> and a subsequent motion to remand fail for want of the minimum number of affirmative votes, the Commission concluded that this proceeding had ended. See e.g. *Hubbard v. District of Columbia Bd. of Zoning Adjustment*, 366 A.2d 427, 428 (D.C. 1976) (failure to achieve number of votes required by BZA rule operated as denial of motion for rehearing). 2 *Rathkopf's The Law of Zoning and Planning* § 32:3 (4<sup>th</sup> ed. 2004) ("Failure of a zoning measure to pass, due to lack of the required number of affirmative

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<sup>2</sup> The vote as recorded was 2-1-2 (John G. Parsons, Gregg Jefferies to grant; Carol J. Mitten opposed; Kevin Hildebrand, not voting; and Anthony J. Hood, abstained.)

<sup>3</sup> Other such proceedings include a PUD without a related map amendment, an air rights development, and a request to extend the time for construction of a PUD.

<sup>4</sup> Although the Zoning Commission's procedural rules are silent on the procedures for motion making, the Commission may rely upon *Robert's Rules of Order* for guidance. See 59 Am Jur 2d, *Parliamentary Law* § 4 (2002). According to that source, all motions require a second. *Robert's Rules of Order Newly Revised* (4<sup>th</sup> ed.), § 4 Handling Motions, p. 29 (1970).



OCT 28 2005

votes, even if due to abstentions or tie vote, has been considered a final denial of relief requested by courts for purposes of judicial review.”).

Accordingly, it is **ORDERED** that review of the BZA’s final decision in BZA Application No. 17271, Zoning Commission Case No. 05-13 is **TERMINATED**.

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register, that is, on **OCT 28 2005**.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES  
PUBLICATIONS PRICE LIST

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS (DCMR)

TITLE	SUBJECT	PRICE
1	DCMR MAYOR AND EXECUTIVE AGENCIES (JUNE 2001).....	\$16.00
3	DCMR ELECTIONS & ETHICS (JUNE 1998) .....	\$20.00
4	DCMR HUMAN RIGHTS (MARCH 1995).....	\$13.00
5	DCMR BOARD OF EDUCATION (DECEMBER 2002).....	\$26.00
6A	DCMR POLICE PERSONNEL (MAY 1988).....	\$8.00
7	DCMR EMPLOYMENT BENEFITS (JANUARY 1986).....	\$8.00
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