

**ACHIEVEMENT PREPARATORY ACADEMY**  
**REQUEST FOR PROPOSALS**

Achievement Preparatory Academy Public Charter School, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals for the following services for the 2008-2009 academic year:

**Accounting and Business Services**

1. Provide general accounting services to the school in accordance with Generally Accepted Accounting Principles (GAAP).
2. Complete weekly Accounts Payable and Accounts Receivable entries and attendant filing.
3. Record monthly payroll from payroll reports provided by commercial payroll service provider.
4. Prepare the following monthly reports:
  - Accounts and bank reconciliations
  - Closing journal entries
  - Income statement
  - Balance sheet
  - Statement of Cash Flows and forecasts
  - Budget versus Actual report (BVA)
  - Departmental BVA
5. Prepare quarterly and final grant reports
6. Prepare an annual budget, with the assistance of pertinent school personnel.
7. Provide financial reporting documents as required by the DC Public Charter School Board
8. Provide financial reporting documents on a monthly basis, including balance sheets and income statements, as requested by the Board of Trustees.
9. Report on the school's financial operations at the regular and annual meeting of the Board of Trustees and be prepared to answer questions from the board regarding reports.
10. Notify the Board of Trustees and applicable school personnel of significant financial trends.
11. Train applicable school personnel to implement and monitor accounting systems
12. Prepare the school's finances and recording systems for the annual audit.
13. Prepare all audit schedules and assist with the annual audit as requested by applicable school personnel.
15. Prepare annual tax documents for the school.
16. Notify the Head of School and/or the Board of Trustees of the failure of school personnel to follow established internal control procedures.

**Deadline for submission for proposals is Monday, July 14, 2008 at 5:00 P.M.** Please send two copies of proposals via US mail, fax, or e-mail to the attention of Shantelle Wright, Founder and Head of School at:

**Achievement Preparatory Academy Public Charter School**

P.O. Box 63744

Washington, DC 20029

(202) 457-1980 fax

[info@apreacademy.org](mailto:info@apreacademy.org) email

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**July 2008**

<b>CONTACT PERSON</b>	<b>BOARDS AND COMMISSIONS</b>	<b>DATE</b>	<b>TIME/ LOCATION</b>
Theresa Ennis	Board of Accountancy	1	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	16	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	25	9:00 am-1:00 pm
Dorothy Thomas	Board of Barber and Cosmetology	14	10:00 am-4:00 pm
George Beatty	Boxing and Wrestling Commission	RECESS	7:00-pm-9:00 pm
Dorothy Thomas	Board of Funeral Directors	3	1:30 pm-5:00 pm
Theresa Ennis	Board of Professional Engineers	24	9:30 am-1:30 pm
Leon Lewis	Board of Real Estate	8	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	15	9:00 am-1:00 pm
	Asbestos Electrical Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 941 North Capitol Street, NE., Suite 7616, Washington, DC 20001. For further information on this schedule, please contact the front desk at 202-442-4320.

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC  
DEVELOPMENT**

**NEIGHBORHOOD INVESTMENT FUND (NIF)**

**NOTICE OF DEPLETION OF FUNDING**

**THIS SUPERSEDES THE NOTICE POSTED IN THE DC REGISTER ON  
FEBRUARY 22, 2008, VOL. 55 – NO. 8**

**NIF Predevelopment Grant and Project Grant Fund**

The District's Office of the Deputy Mayor for Planning and Economic Development (ODMPED) invites the submission of applications for the NIF Predevelopment Grant and Project Grant Fund authorized under Resolution 17-433 "Neighborhood Investment Act Spending Plan for Fiscal Year 2008 Emergency Approval Resolution of 2007". There is \$2 million dollars available for this round of funding. The application process will be managed by a fund manager; The Local Support Initiative.

The purpose of the NIF Predevelopment Grant and Project Grant (PDG) is to provide grants to support predevelopment and project financing activity for the construction and rehabilitation of affordable housing, mixed use and community-based facility projects in one or more of the 12 NIF target neighborhoods.

Eligible applicants include non-profit developers that are a 501(c) (3) non-profit corporation and joint ventures, partnerships, and limited liability arrangements with for-profit developers where the non-profit developer has at least 51% management control of the project. The non-profit developer must materially participate in the development project by being involved in the operations of the development and the development process on a basis that is regular, continuous and substantial.

Eligible projects are: (1) Affordable Housing: (Rental and for-sale projects with a minimum of 10 units per project). This includes: (a) Rental units for the general population; (2) Rental units for those with special needs; (b) Cooperatives; (c) Condominiums; (d) Single family homes. (2) Community-based Facility Projects: Defined as projects that will provide a public service or benefit to a diverse constituency with a strong commitment to one or more of the 12 NIF target neighborhoods. (3) Mixed Use Projects: Defined as projects that combine two or more of the following types of development: residential (minimum of 3 units), commercial, office or community facility.

Funds can be used to pay for third party professional services for determining project feasibility or pursuing a property acquisition. The use of funds includes, but is not limited to: Development analysis; Due diligence services; Accounting fees; Environmental assessment; Finance consultants; Market studies; Soil testing; Tax credit Consultants and Legal fees and Surveys.

Additional applicant and project eligibility requirements and evaluation criteria are detailed in the Request for Applications (RFA).

**The Request for Application period is closed, due to the depletion of grant funds.**

**NIF Target Areas:** Anacostia, Bellevue, Bloomingdale/ Eckington, Brightwood/Upper Georgia Ave., Brookland/Edgewood, Columbia Heights, Congress Heights, Deanwood Heights, H Street, Logan Circle, Shaw, Washington Highlands.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT****NOTICE OF FILING OF  
VOLUNTARY CLEANUP COMPLETION REPORT**

Pursuant to § 601 (b) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001(D.C. Law 13-312; D.C. Official Code § 8-636.01(b) (Supp. 2005)), the Voluntary Cleanup Program (VCP) in the District Department of the Environment (DDOE), is informing the public that it has received a cleanup completion report in the Voluntary Cleanup Program for a property located at 100 I (Eye) Street, S.E., in case VCP2005-005. The VCP applicant is Eye Street, L.P., c/o JPI, 8300 Greensboro Drive, Suite 600, McLean, Virginia 22102, Attn. Mr. Aaron Liebert, Authorized Representative. The primary environmental contaminants of concern were moderate levels of Total Petroleum Hydrocarbons (TPH) and Polycyclic Aromatic Hydrocarbons (PAHs) in soil and limited amounts of TPH and methyl tertiary butyl ether (MTBE) in the groundwater. Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission for the area in which the property is located.

The DDOE is required to consider all public comments it receives before issuing a certificate of completion. Interested persons may submit written comments on the issuance of a certificate of completion to the Voluntary Cleanup Program at the address listed below. The Cleanup Completion Report will be available for public review at the following location:

Voluntary Cleanup Program  
District Department of the Environment (DDOE)  
51 N Street, N.E., 6th Floor, Room 6011  
Washington, DC 20002

Interested parties may also request a copy of the report for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1337.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

**EXCEL ACADEMY PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**  
**FOR**  
**THE FURNISHING OF MEALS**

Excel Academy Public Charter School will be receiving bids until July 21, 2008 at 5:00 pm for the delivery of breakfast, lunch and snack to 125 children (PK 3, PK 4 and K) enrolled at the school for the 2008-2009 school year with a possible extension of (4) one year renewals. All meals must meet, but are not restricted to, minimum National School Breakfast, Lunch, and Snack meal pattern requirements. Meal pattern requirements and all necessary forms may be obtained, beginning July 4, 2008, from:

**Excel Academy PCS**  
**(In the Covenant Baptist Church)**  
**3845 South Capitol Street, SW**  
**Washington, DC 20032**  
**Contact Person: Caroline John, (202) 373-0097**

**Proposals are due July 21, 2008 by 5:00 pm EST at the address above.**

Submission and proposal requirements will **not** be mailed, faxed or emailed. Please arrange to pick up a copy between the hours of 9:30 am – 4:30 pm, Monday – Friday at the address above.

**EXCEL ACADEMY PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**  
**FOR**  
**CLEANING SERVICES**

Excel Academy Public Charter School, 3845 South Capitol Street, SW, Washington, DC 20032, is soliciting proposals from qualified vendors for Cleaning Services at Excel Academy PCS.

The Cleaning Services description, expectations and submission requirements can be picked up or emailed beginning July 4, 2008 at:

**Excel Academy PCS**  
**(In the Covenant Baptist Church)**  
**3845 South Capitol Street, SW**  
**Washington, DC 20032**  
**Contact Person: Caroline John, (202) 373-0097**

**Proposals are due July 21, 2008 by 5 pm EST at the address above.**

Submission and proposal requirements will **not** be mailed or faxed. Please arrange to pick up a copy between the hours of 9:30 am – 3:30 pm, Monday – Friday at the address above. In order to receive a copy via email write to [cjohn@excelpcs.org](mailto:cjohn@excelpcs.org) with RFP Cleaning Services in the subject heading.

**NIA COMMUNITY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Catering Invitation to Bid**

The Nia Community Public Charter School will receive bids until Thursday, July 24, 2008 at 4:00 pm for the delivery of meals to children enrolled at the school.

All meals must meet, but are not restricted to, minimum National School Breakfast, Lunch, and Snack Program meal pattern requirements. Meal pattern requirements and all necessary forms may be obtained from:

Monique Murdock  
4645 Nanny Helen Burroughs, Avenue N.E  
Washington, DC 20019  
(202) 562-5440

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE AND REQUEST FOR COMMENTS

**FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE, MARKET COMPETITION, AND REGULATORY PRACTICES**

1. By letter dated April 22, 2008, the Potomac Electric Power Company ("Pepco" or "Company") notified the Public Service Commission of the District of Columbia ("Commission") that certain issues related to Pepco's divestiture sharing plan are now ripe for Commission decision as a result of the issuance of final regulations of the Internal Revenue Service ("IRS") pertaining to the treatment of excess deferred income taxes ("EDIT") and accumulated deferred investment tax credits ("ADITC").<sup>1</sup> By this Notice, the Commission requests comments from interested persons in response to Pepco's letter.

2. Pepco asserts in its letter that, pursuant to various Commission-approved settlement agreements in this proceeding in December 2000 and January 2001 respectively, the Company divested substantially all of its generation assets resulting in gross proceeds of over \$2.9 billion for assets having a net book value of \$1.85 billion. Pepco states that, under the settlement agreements, the District of Columbia-allocated portion of the proceeds above the net book value was to be shared with customers in accordance with a divestiture sharing formula. Pepco also states that by Order No. 12159 dated September 19, 2001, the Commission approved the Company's divestiture proceeds sharing plan, directed Pepco to credit \$50.1 million to its customers' bills, and requested the parties to submit comments as to whether there were additional divestiture proceeds to share.<sup>2</sup>

3. The Company continues in its letter that, as a result of the comments filed, the Commission conducted further proceedings and that issues relating to the deductibility of certain expenses and the proper allocation of the gain were fully litigated and, briefed and are ripe for a Commission decision. However, Pepco asserts, the issue relating to the treatment of EDIT and ADITC is not ripe for decision because of the IRS's evolving policy as to whether the return of these amounts would constitute a violation of normalization requirements. Pepco's position is that the return of EDIT and ADITC would, under previous IRS letter rulings, constitute a violation, and thus these amounts may not be shared with customers.<sup>3</sup> Pepco notes that on two occasions, March 5, 2003,

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<sup>1</sup> *Formal Case No. 945, In the Matter of the Investigation into Electric Service, Market Competition, and Regulatory Practices* ("FC 945"), Pepco letter filed April 22, 2008 ("Pepco Letter").

<sup>2</sup> Pepco Letter at 1.

<sup>3</sup> *Id.* at 1-2.

and January 12, 2006, Pepco notified the Commission that the IRS had published notices of proposed rulemaking concerning the application of normalization accounting rules to balances of EDIT and ADITC and requested the Commission to continue to defer any decision on those issues until the issuance of final regulations.<sup>4</sup>

4. The Company now submits that on March 6, 2008, the IRS approved final regulations, effective March 20, 2008, which allow utilities whose assets cease to be utility property after December 21, 2005, to return to its utility customers the normalization reserve for EDIT and part or all of the normalization reserve for ADITC related to the divested assets on a prospective basis. As for utility property divested on or before December 21, 2005, Pepco maintains that the IRS will follow the holdings set forth in its private letter rulings prohibiting the flow-through of EDIT and ADITC associated with the divested assets.<sup>5</sup>

5. Pepco contends that because it sold its generating plants in December 2000 and January 2001, if Pepco were required to share EDIT and ADITC and the normalization rules were violated, as a result, the Company would be unable to use accelerated depreciation on District-allocated or assigned property. Pepco claims that it would also have to pay the IRS an amount equal to Pepco's District of Columbia jurisdictional generation-related ADITC balance (\$5.8 million as of March 31, 2008), as well as its jurisdictional transmission and distribution-related ADITC balance (\$4 million as of March 31, 2008), as those balances exist as of the date the Commission's Order becomes operative.<sup>6</sup>

6. In light of the above, Pepco requests that the Commission issue a decision on the EDIT and ADITC issues consistent with the Department of the Treasury final regulations. The Company also requests the Commission to issue a decision on the remaining issues concerning the deductibility of certain costs from the asset sale proceeds and the jurisdictional allocation of the net gain, which are also ripe for decision at this time.<sup>7</sup>

7. The Commission hereby gives notice that all parties in Formal Case No. 945 may express written views regarding Pepco's letter and its request for a Commission decision on the aforementioned issues. Interested parties shall file comments with the Commission within thirty (30) days and replies within forty-five (45) days of publication of this Notice in the *D.C. Register*. The Notice and the documents referenced herein may be viewed on the Commission website at [www.dcpsc.org](http://www.dcpsc.org) or in person at the Office of the

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<sup>4</sup> *Id.* at 2. The March 2003 proposed regulations were never made final and were withdrawn by the IRS at the time it published new proposed regulations in December 2005.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington DC, 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the letter are also available from the Commission Secretary at a per page reproduction cost. Comments and reply comments shall be in writing and addressed to Dorothy Wideman, Commission Secretary, at the same address.

8. Any interested member of the public wishing to file comments or otherwise participate in this proceeding, and is not already a party, must file a Petition for Intervention pursuant to the Commission's Rules at 15 DCMR § 106.1, *et seq.*, within fifteen (15) days of publication of this Notice in the *D.C. Register*. Such Petition shall be in writing, addressed to Dorothy Wideman, Commission Secretary.

## OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

June 23, 2008

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after July 1, 2008.

Adu	Rita R.	3730 Burnham Pl,NE	20019
Aitken	Miles	The UPS Store 5505 Conn Ave,NW	20015
Alexander	Gentry	PNC Bank 1913 Mass Ave,NW	20036
Apps	Lisa A.	The Israel Project 2020 K St,NW #7600	20006
Askew	Elizabeth	MissionFirst Development 1330 N H Ave,NW #116	20036
Bogges	Robin E.	Alderson Reporting 1111 14th St,NW	20005
Boyles, III	John H.	Orrick Herrington Suttcliffe 1152 15th St,NW	20005
Brightaupt	Gwendolyn E.	Youth Now 814 Alabama Ave,SE	20032
Brooks	Teresa L.	Jacobson Holman 400 7th St,NW	20004
Brown	Yolanda	Acon Investments,LLC 1133 Conn Ave,NW #700	20036
Chowdhry	Najmul H.	Dept/Youth Rehabilitation Serv 1000 Mt Olivet Rd,NE	20002
Christian	Naomi E.	Bryant Miller Olive 1775 I St,NW #700	20006
Colgate	Verna R.	Wshington Capitol Partners 1101 30th St,NW	20007
Collier-Mullin	Kamilla	OMP 1133 19th St,NW #300	20036

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Davis	Cherie	Law Office/J. Kenneth Kruvant 1875 Conn Ave,NW #732	20009
Davis	Debra	1308 27th St,SE	20020
Davis	Wanda	U.S. Dept of Education 400 Maryland Ave,SW #2C127	20202
Dixon	Ava M.	McKenna Long & Aldridge 1900 K St,NW	20006
Domnitz	Jessica N.	The Ritz-Carlton 1150 22nd St,NW	20037
Dudley	Laura L.	AMIDEAST 1730 M St,NW #1100	20036
Dunn	Ryan K.	Premiere Painting 5125 MacArthur Blvd,NW #13	20016
Eren	Songul	Moda Hair Salon 2818 Pa Ave,NW	20007
Faddegon	Katherine	Redbrick Partners 1616 H St,NW #600	20006
Felder	Corlis B.	Cafritz Company 1825 K St,NW #1200	20006
Fischer	Jessica	Williams & Connolly 725 12th St,NW	20005
Fisher	Christopher K.	Cuneo Gilbert LaDuca 507 C St,NE	20002
Ford	Alicia	Smith Barney 1050 Conn Ave,NW #800	20036

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Foster	Ruth E.	Kotz Partnership 2828 Conn Ave,NW #215	20008
Franklin	Wanda C.	5015 South Dakota Ave,NE	20017
Gbala	Doris Swanson	Thrivent Financial 2001 12th St,NW #210	20009
Grisham	Timothy	WDCW-TV 2121 Wisc Ave,NW #350	20007
Hartung	Kaylee	CBS News 2020 M St,NW	20036
Hedgepeth	Aisha	CitiBank 1901 Wisc Ave,NW	20007
Hobson	Frances A.	Spiegel & McDiarmid 1333 New Hampshire Ave,NW	20036
Hurley	James	Wachovia Bank 5701 Conn Ave,NW	20015
James, IV	Fletcher	Chevy Chase Bank 1717 Pa Ave,NW	20006
Jimenez-Iyow	Evelyn M.	U.S. Dept/Health&Human Serv 200 Indep Ave, SW	20201
Johnson	Cynthia M.	1313 Belmont St,NW	20009
Kabre	Jean R.	Lincoln Property Company 101 Const Ave,NW #L140	20001
Kelly	Kim	Washington Hospital Center 110 Irving St,NW	20010

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Kight	Patricia C.	Goulston & Storrs 2001 K St,NW 11th Fl	20006
Kurlovich	Alena M.	CitiBank 1901 Wisc Ave,NW	20007
Lopez	Bertha A.	Travel Document Systems 925 15th St,NW	20005
Love	Michael A.	Hotel George 15 E St,NW	20001
Lucas	Nichelle M.	Sidley & Austin 1501 K St,NW	20005
Lynch	Renee D.	CFSA/Grandparent Caregivers 400 6th St,SW #5068	20024
McCleary	Michael S.	Willard InterContinental 1401 Pa Ave,NW	20004
McGee	Kimberly J.	5361 Ames St,NE	20019
Mallari-Cowen	Cornelia	Wachovia 1300 I St,NW 12th Fl	20005
Mattingly	Joan H.	Powell Goldstein 901 N Y Ave,NW 3rd Fl	20001
Monnig	Emilia	Metro Offices 1250 Conn Ave,NW	20036
Muse	Agnes M.	Gallaudet University 800 Florida Ave,NE	20002
Nelson	Sherry A.	Caplin & Drysdale 1 Thomas Circle,NW #1100	20005
O'Donnell	Kara	O'Donnell Construction 3329 8th St,NE 2nd Fl	20017

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Ortiz-Olivencia	Aida S.	Holland & Knight 2099 Pa Ave,NW	20006
Osborne	Daphne	Bryant Miller Olive 1775 I St,NW	20006
Panizo	Randolph B.	Capitol Paving of D.C. 2211 Channing St,NE	20018
Prather	Stephanie L.	U.S. Dept of Education 400 Maryland Ave,SW	20202
Redfern	Patricia	R A P, Inc 1949 4th St,NE	20002
Reed	Tracy B.	1620 V St,SE #3	20020
Rivera-Cruz	Janet	Agriculture Federal C U 14th & Indep Ave,SW	20250
Rodriguez	Lori J.	Economists Inc. 1200 N H Ave,NW #400	20036
Romero	Justin	Wachovia 1300 I St,NW 12th Fl	20005
Ruiz-Sierra	Rebecca J.	RTKL Associates 1250 Conn Ave,NW #400	20036
Sampson	Wanda	The Courts Apts/Rental Officre 2306 Hartford St,SE	20020
Sanborn	Richard M.	Alderson Reporting 1155 Conn Ave,NW	20036
Sarpolis	Lauren M.	CitiBank 1901 Wisc Ave,NW	20007
Scott	Catherine L.	Stinson Morrison Hecker 1150 18th St,NW #800	20036

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Severson	Helen I.	Natl Breast Cancer Coalition 1101 17th St,NW #1300	20036
Shedd	Diane	Kenyon & Kenyon 1500 K St,NW #700	20005
Shiple	Ruby C.	S.C. Herman & Associates 1120 Vt Ave,NW #900	20005
Sisco	Lydia D.	SunTrust Bank 1275 K St,NW	20005
Smith	Nicole P.	Law Office/Patrick Merkle 2120 L St,NW #210	20037
Spire	Stephanie M.	Cassidy & Pinkard 2001 Pa Ave,NW #800	20006
Usual	Delshonia L.	G M M B 1010 Wis Ave,NW #800	20007
Vactor	Brenda J.	William C. Smith & Company 1100 N J Ave,SE	20003
Verzella	Yanik	Commerce Bank 1753 Conn Ave,NW	20009
Vidal	Sylvia Castro	World Bank 2121 Pa Ave,NW	20433
Walker	Terry M.	D.C. Primary Care Assoc 1411 K St,NW #300	20005
Ward	Ellen Brewster	Cornerstone 1400 20th St,NW #G3	20036
Wright	Tinesha	Agriculture Federal C U 14th & Indep Ave,SW	20250
Young	Joyce Olivia	Morrison Foerster 2000 Pa Ave,NW	20006

Zhang	Qingwen	S E A F 1050 17th St,NW	20036
Moody	Ann M.	Shapiro Lifschitz & Schram 1742 N St,NW	20036
Reilly	Wendy A.	Bou & Bou 1001 Conn Ave,NW	20036
Scott	Stephanie	Office of the Secretary, D.C. 1350 Pa Ave,NW #419	20004
Shelton	Naomi N.	Notary Commissions & Authen 441 4th St,NW #810a South	20001

**DC SPORTS & ENTERTAINMENT COMMISSION**

**NOTICE OF CHANGE IN MEETING SCHEDULE**

The July 2, 2008 regularly scheduled meeting of the D.C. Sports & Entertainment Commission has been rescheduled to Wednesday July 9, 2008.

**WILLIAM E. DOAR, JR. PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

The William E. Doar, Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (C) of the District of Columbia School Reform Act of 1995 hereby solicits expressions of interest in the form of proposals with references from qualified vendors for any of the services listed below.

1. Food Service for School Year 2008-2009 at NW campus for 150 students. Must be familiar with State Education Office and FDA standards for school food service under National School Lunch Program for Breakfast, Lunch and Snack.

Questions may be e-mailed to [wedjpcs@wedjschool.us](mailto:wedjpcs@wedjschool.us) with the subject line as the type of service. Deadline for submissions is July 18, 2008. Appointments for presentations can be arranged by calling school office at 202 269-4646.

Please mail proposals and supporting documents to the following address:

William E. Doar, Jr. Public Charter School  
Julie S. Doar-Sinkfield, Executive Director  
705 Edgewood St. NE  
Washington, DC 20017

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

**Application No. 17446A of Pauline S. Ney**, pursuant to 11 DCMR § 3103.1,<sup>1</sup> for variances from lot occupancy requirements under § 403, and nonconforming structure provisions under §§ 2001.3 and 2002.4, and for a special exception pursuant to § 2003,<sup>2</sup> to construct four residential units above existing one-story, predominantly retail, structures in the R-5-B District at premises 2160-2162 California Street, N.W. (Square 2530, Lots 99 and 100).

<b>HEARING DATES:</b>	March 13, 2006, April 18, 2006
<b>DECISION DATE:</b>	June 6, 2006
<b>EFFECTIVE DATE OF ORDER 17446:</b>	May 14, 2007
<b>DATE OF RECONSIDERATION:</b>	July 3, 2007
<b>DATE OF FIRST LIMITED HEARING:</b>	July 24, 2007
<b>DECISION DATES FOR RECONSIDERATION AFTER FIRST LIMITED HEARING:</b>	September 4, 2007, September 25, 2007, October 2, 2007
<b>DATE OF SECOND LIMITED HEARING:</b>	November 20, 2007
<b>DECISION DATE FOR RECONSIDERATION AFTER SECOND LIMITED HEARING:</b>	December 18, 2007
<b>DATE OF FINAL DECISION ON RECONSIDERATION:</b>	February 5, 2008

**COMBINED ORDER GRANTING RECONSIDERATION AND REHEARING,  
DENYING STAY, AFFIRMING RELIEF GRANTED BY ORDER NO. 17446,  
AND GRANTING SPECIAL EXCEPTION RELIEF PURSUANT TO § 2003**

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<sup>1</sup>Order No. 17446 erroneously cited 11 DCMR § 3104.1 in the caption of the case. The correct citation is 11 DCMR § 3103.1.

<sup>2</sup>The Board determined that this relief was necessary, added it to the application, and granted it, at the February 5, 2008 decision meeting, as well as, at the same meeting, affirming the relief originally granted by Order No. 17446.

**BZA APPLICATION NO. 17446-A**  
**PAGE NO. 2**

On May 14, 2007, the party-opponent, The Woodrow Cooperative Association, (“movant”), representing the residents of the Woodrow Building, adjacent to the property at 2160-2162 California Street (“subject property”), filed a motion for reconsideration and rehearing in Board of Zoning Adjustment (“Board” or “BZA”) Case No. 17446. The movant alleged that, after the closing of the record in the case, new evidence had come to light which would require a change in the type of relief needed by the Applicant, and therefore would change the analysis engaged in, and possibly the decision rendered by, the Board. The movant also requested a stay of the effectiveness of Order No. 17446, but did not present any arguments to support this request.

On July 3, 2007, the Board denied the stay, but granted the reconsideration and decided to hold a limited hearing to address the new evidence, and what effect, if any, it had on the relief granted by Order No. 17446. This limited hearing was held on July 24, 2007 (“first limited hearing”), but did not enable the Board to make a decision on the issue before it. A second limited hearing (“second limited hearing”) was therefore held on November 20, 2007 to further address the effect, if any, of the new evidence on the relief granted by Order No. 17446

Because of the protracted nature of the proceedings in this case, the Board will first set out the chronology of those proceedings, then will set forth the necessary facts and conclusions of law.

Except as otherwise specifically noted, the Board incorporates herein by reference Order No. 17446 in its entirety.

**Procedural History**

1. The Woodrow Cooperative Association, movant herein, had been granted party-opponent status in Case No. 17446.
2. Except for certain documents requested by the Board, the record in Case No. 17446 was closed at the close of the hearing, on April 18, 2006.
3. The decision of the Board was set for, and was made on, June 6, 2007. It was on that date that the Board granted the application, resulting in Order No. 17446 (“Order”).
4. The day before the decision meeting, however, on June 5, 2007, the movant filed with the Board a letter explaining that it had discovered new evidence relevant to the Board’s decision in the case, and which might actually go to the heart of the case by changing the nature of the relief required by the Applicant. *See*, Exhibit No. 95, Second Attachment.
5. The Board declined to consider the new evidence during the June 5, 2007 decision meeting, and instead, deliberated and granted the application, but also invited the movant to, at the appropriate time, file for rehearing and/or reconsideration of the decision.

**BZA APPLICATION NO. 17446-A****PAGE NO. 3**

6. Order No. 17446 was issued on May 4, 2007 and granted the relief requested by the applicant, Pauline S. Ney (“Applicant”), *to wit*: three variances pursuant to 11 DCMR § 3103, one from § 403, to permit an over-maximum lot occupancy of the first floor of the addition proposed to be added to the building on the subject property, one from § 2001.3, to permit an addition to the building even though the existing building is nonconforming as to lot occupancy, and one from § 2002.4, to permit structural alterations to the building, even though it is nonconforming.
7. Pursuant to 11 DCMR § 3126.2, on May 14, 2007, the movant filed its motion for reconsideration, rehearing, and stay of the order (“motion”).
8. The movant alleged that it had uncovered evidence of a conforming residential use in the basement of the building on the subject property, the existence of which had not been known at the time of the hearing in this case. The movant alleged that the presence of this conforming residential use, when the Applicant had erroneously indicated that the subject building housed only nonconforming uses, necessitated use variance relief, and not only area variance relief, as had been requested and granted by Order No. 17446. Exhibit No. 99.
9. The Applicant filed an opposition to the motion (“opposition”) on May 21, 2007. In its opposition, the Applicant did not deny or refute the allegation of a residential use in the basement. Exhibit No. 103.
10. On May 23, 2007, the Sheridan-Kalorama Historical Association, also a party-opponent in the case, filed a letter in which it stated that it “supports and joins” in the motion for reconsideration. Exhibit No. 104.
11. On June 1, 2007, the movant filed a response to the Applicant’s opposition to the motion (“movant’s response to opposition”). Exhibit No. 105.
12. On June 28, 2007, the Applicant filed a supplemental response in opposition to the motion (“Applicant’s 6/28/07 supplemental opposition”). In this filing, the Applicant alleged that the new evidence of a basement residential use is irrelevant because it has no bearing on the approval of the relief granted in Order No. 17446. Exhibit No. 107.
13. On July 3, 2007, Advisory Neighborhood Commission (“ANC”) 2D, the ANC within which the subject property is located, and automatically a party to this case, filed a letter recommending that the Board grant the motion and reconsider the case. Exhibit No. 108.
14. On July 3, 2007, the Board deliberated on the motion and denied the stay, but granted reconsideration and a further limited hearing, which was set for July 24, 2007 (“first limited hearing”).

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15. The first limited hearing was limited to the issues of whether there was a conforming residential use in the basement, and if it existed, what, if any, bearing it would have on the relief granted by the Board in Order No. 17446.
16. On July 10, 2007, in response to questions raised by the Board at the July 3, 2007 decision meeting, the Applicant filed its second supplemental response in opposition to the motion (“Applicant’s 7/10/07 supplemental opposition”). Exhibit No.109. In this filing, the Applicant admitted that part of the basement, at 2162 California Street, was given over to a residential use, but explained more thoroughly why, in its opinion, this fact had no effect on the relief granted by the Board in Order No. 17446.
17. On July 20, 2007, ANC 2D filed a letter with the Board reiterating its opposition to the application. Exhibit No. 111.
18. On July 23, 2007, the day before the first limited hearing, the movant filed a response to the Applicant’s 7/10/07 supplemental opposition (“movant’s second response”), in which it again alleged that the existence of the basement residential use did affect the Board’s approvals granted in Order No. 17446. Exhibit No. 112.<sup>3</sup>
19. The first limited hearing took place as scheduled on July 24, 2007, and a decision on the substance of the reconsideration, *i.e.*, on the issues addressed at the first limited hearing, was set for September 4, 2007.
20. Due to the unexpected absence of a Board member, no quorum could be established on September 4, 2007 in order to decide the reconsideration, so the decision was re-set for a Special Public Meeting on September 25, 2007.
21. At the September 25, 2007 Special Public Meeting, the Board did not decide the substance of the reconsideration. Instead, it re-set the decision date for October 2, 2007 and requested a clear and accurate plan and textual description of the basement, depicting the uses therein and the areas they occupy.
22. The Board again did not decide the substance of the reconsideration on October 2, 2007. Still dissatisfied with the clarity of the evidence presented, the Board set a date of November 20, 2007 for a second limited hearing (“second limited hearing”), to address the specific issue of what use currently exists in the portion of the basement at 2162 California Street that was not known to have been used for residential purposes.
23. On November 19, 2007, ANC 2D filed a letter of the same date reiterating its opposition to the application and also requesting its dismissal, because, in the opinion of the ANC, the application had become so confused as to make “moving forward on [it] meritless.” The ANC suggested dismissal and re-application by the Applicant.

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<sup>3</sup>The filings mentioned in this chronology do not constitute all the filings made during these proceedings.

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24. The second limited hearing was held as planned on November 20, 2007, and a decision date set for a Special Public Meeting on December 18, 2007.
25. At the second limited hearing, the Applicant submitted a revised plan showing that the only area to remain non-residential, and therefore nonconforming, in the basement, had been moved to a part of the basement at 2160 California Street, which is currently used for, and has always been used for, a commercial, nonconforming, use. Exhibit No. 131. The Applicant requested that the Board accept, in lieu of any earlier plan, this new basement plan as the plan on which relief be granted/affirmed in this application. *See*, 11 DCMR §§ 3125.7 and 3125.8.
26. At the Special Public Meeting on December 18, 2007, the Board declined to make a decision and instead, asked the parties to brief the question of whether special exception relief pursuant to 11 DCMR § 2003 was required. The question arose because the deli/grocery, currently on the ground floor of 2160 California Street, will be moved to the ground floor of 2162 California Street, and although the ground floor of 2162 was continuously devoted to commercial use in the past, it was devoted to the real estate office use – a *different* commercial use from the grocery to which the area will be devoted in the future.
27. The Board afforded the parties the opportunity to file submissions addressing the necessity of relief pursuant to § 2003.
28. The Applicant filed a pleading addressing § 2003, in which it opined that special exception relief pursuant to § 2003 was unnecessary, but in which it also requested the Board's permission to amend its application to seek such relief if the Board deemed it necessary. Exhibit No. 135.<sup>4</sup>
29. At the Public Meeting held on February 5, 2008, the Board decided that special exception relief pursuant to § 2003 was necessary and added that relief request to the application.
30. At the Public Meeting on February 5, 2008, the Board then made its final decision on the substance of the reconsideration. The Board found that the new evidence did not affect the relief granted in Order No. 17446, and voted to affirm that relief. The Board specified that it did not find that a use variance was necessary, but it did find that special exception relief pursuant to § 2003 was necessary. After analyzing the provisions of § 2003, the Board granted relief pursuant to that section. The Board also specified that certain facts set forth in Order No. 17446 would need to be modified to reflect the reality of the past residential use in the basement.

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<sup>4</sup>The movant and allied parties did not file anything with the Board regarding the necessity for § 2003 relief. They, instead, filed requests for an extension of time to file and for a continuance because one of their representatives had been taken ill. Exhibits Nos. 136 and 138. These requests were denied.

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**Revisions to Findings of Fact set forth in Order No. 17446**

1. Finding of Fact No. 5 is replaced by the following new Finding of Fact No. 5: Both buildings will be retained by the Applicant and both are nonconforming as to structure. Both buildings also house a principal use that is commercial, and therefore, nonconforming, but a small portion of the basement in 2162 California Street has been used for residential purposes.
2. New Finding of Fact 7a. is inserted between Finding of Fact No. 7 and Finding of Fact No. 8: For approximately the last 10 years, there has been a small area devoted to conforming residential use in the south half of the basement of the building at 2162 California Street.
3. Finding of Fact No. 35 is replaced by the following new Finding of Fact No. 35: This R-5-B zone permits, as a matter-of-right, only residential uses (with a few exceptions not relevant here), but the past use of the existing building for primarily commercial purposes means that there are no existing "core" elements, such as elevators or stairways, which are necessary for a residential use.
4. Finding of Fact No. 42 is replaced by the following new Finding of Fact No. 42: The retention of the deli/grocery further undermines the economics of the project because part of the basement must be maintained as its storage area, at an estimated monthly rent of only \$.50 per square foot.
5. The following new headings and Findings of Fact are added:

**Basement Residential Use Does Not Affect Variances Granted**

56. The deli/grocery is currently located on the ground floor of the building at 2160 California Street.<sup>5</sup>

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<sup>5</sup>The Board reiterates that, as set forth in Finding of Fact No. 14, 2160 and 2162 California Street will be combined into one building with one basement, because, as a result of the Applicant's development project, the building will NOT be "separated from the ground up or from the lowest floor up." 11 DCMR § 199.1, definition of "Building." Moreover, as the Applicant has pointed out throughout these proceedings, the building on the subject property houses a "combination of commercial occupancies separated in their entirety, ...[and] maintained in a single ownership," and is therefore considered one structure. 11 DCMR § 3202.3.

However, to facilitate the clear discussion of the conforming vs. nonconforming uses within the basement of 2160 and the basement of 2162, these basements will be treated as separate in the new Findings of Fact set forth herein. The Board would like to make clear, however, that it finds that, notwithstanding the two address numbers, the two structures are one building for zoning purposes and that treatment of the basement areas as separate solely for the purpose of clarity should not be interpreted to mean or to imply that the Board finds that these two structures are separate buildings.

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57. The real estate office/occasional art gallery is currently located on the ground floor of the building at 2162 California Street.
58. The office use is being terminated and the deli/grocery is replacing it on the ground floor of the 2162 building.
59. The approximate total square footage of the combined basements of 2160 and 2162 California Street is 2,935 square feet.
60. The total square footage of the basement of 2160 California Street, approximately 1,511 square feet, has always been devoted to commercial uses.
61. The approximate total square footage of the basement of 2162 California Street is 1,424 square feet, of which approximately one-half – about 700 square feet – has, for approximately 10 years, been devoted to a conforming residential use.
62. This approximately 700 square feet in the south half of the 2162 basement was built out as a small living space for occasional use, with a bedroom, shower, and partial kitchen, not including any cooking facilities.
63. The remaining approximately 724 square feet of the 2162 basement appears to contain maintenance equipment for the building, as well as the building's utilities, such as the boiler. It also appeared to be partially empty and partially used for commercial storage of art and framing supplies.<sup>6</sup>
64. A revised basement plan submitted by the Applicant on November 20, 2007, shows that the same 700-square-foot area will remain devoted to a conforming residential use. *See*, Exhibit No. 131.
65. The only remaining area of nonconforming commercial use in either basement will be placed in the southeast corner of the basement of 2160 California Street, which has always been devoted to only commercial use. *Id.*
66. The Applicant is not changing any area that was in the past used for a conforming residential use to a nonconforming commercial use. *See*, 11 DCMR § 2003.4.
67. Nor is the Applicant expanding a commercial use into an area of the 2160 building that was not used for a commercial use in the past because the southeast corner of the basement of 2160 has been, and will continue to be, used for commercial storage. *See*, 11 DCMR § 2002.3.
68. The existence of the approximately 700-square-foot residential use area in the basement of 2162 California Street does not impact the lot occupancy of the ground

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<sup>6</sup>The Board was invited by the opposition to “infer” or “assume” that, because part of the basement of 2162 was previously used for residential purposes, the entire basement of 2162 was previously used for residential purposes. However, the Board may not assume facts not in evidence and the evidence presented was not sufficient to persuade the Board that such an inference was warranted, particularly in light of the fact that there was evidence presented which tended to refute any such inference.

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or upper floors of the building in any way, and therefore, does not impact the lot occupancy relief from § 403 granted by Order No. 17446.

69. Nor does the existence of the basement residential use impact the relief granted pursuant to § 2001.3(a), which was necessitated only because of the nonconforming lot occupancy of the existing building.
70. The existence of the approximately 700 square-foot residential use area in the basement of 2162 California Street does not impact the relief granted pursuant to § 2002.4, which permitted the internal structural alteration of the building.

**Special Exception Relief**

71. The Applicant is changing the nonconforming use on the ground floor of the 2162 building from the real estate office/occasional art gallery use to the deli/grocery use.
72. Subsection 2003 permits the replacement of one nonconforming use (here, real estate office) with another (here, deli/grocery), by special exception if the replacement use is permitted in the most restrictive zone district in which the existing use is permitted.
73. The most restrictive district in which the grocery use is permitted is a C-1 (Commercial) district. 11 DCMR § 701.4 (l). An office is also permitted in that same zone district, 11 DCMR § 701.6 (c).
74. As stated in Finding of Fact No. 55, the deli/grocery has operated at the subject property for approximately 90 years.
75. The deli/grocery does not produce any untoward noise, traffic, parking or loading issues, illumination, vibrations, or odors.
76. The slight relocation and continued operation of the deli/grocery will not create any new negative impacts.
77. The deli/grocery is patronized by members of the local community, many of whom reach it on foot.
78. The deli/grocery storage area will remain out-of-sight, in the basement of the 2160 building, where it has traditionally been located.

**CONCLUSIONS OF LAW**

After reconsidering the matter and opening the record for the limited purposes described above, the Board finds no reason to alter its determination to grant the variance relief requested. The variance analysis set forth in the Conclusions of Law in Order No. 17446 is not changed or discredited in any way by the fact that a small portion of the basement of 2162 California Street has been used for a conforming residential use. Nor does the existence of that use necessitate any new variance relief in order for the Applicant to proceed with its development project. The only new relief needed is special exception relief pursuant to § 2003, to permit the relocation of

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the deli/grocery to the ground floor of the 2162 building, currently occupied by the real estate office/occasional art gallery use.

However, in view of the fact that the Board has added Findings of Fact to Order No. 17446 that concern the grounds for which reconsideration was sought, as well as the addition of the special exception relief granted, the Board also adds the following Conclusions of Law to that Order to be inserted on page 14 after the paragraph that begins with the phrase "Several individuals in opposition also alleged ...."

**"No Use Variance Needed"**

The movant claims that a use variance is needed from § 2003.4 in order to permit the conforming residential use in the basement to be changed into a nonconforming commercial use. Exhibit No. 131 shows, however, that the Applicant is not planning to change the 700-square foot area of residential use back to a nonconforming use. Instead, that plan makes clear that this 700-square foot area will remain devoted to a conforming residential use. Therefore, the residential use area is to remain dedicated to conforming uses. Section 2003.4 protects the conforming residential use, providing that "[w]hen an existing nonconforming use has been changed to a conforming ... use, it shall not be changed back to a nonconforming use." Since the continuation of the residential use is consistent with § 2003.4, no relief from that provision is needed by the Applicant.

**Special Exception Relief**

*The additional relief is needed*

Subsection § 2003.1 provides that that "a nonconforming use may be changed to a use that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right," if approved by the Board pursuant to § 3104 and the specific conditions set forth in § 2003. The Applicant proposes to do just that. The plans show that the nonconforming deli/grocery use will be relocated to an area of the building that was devoted to a different nonconforming use in the past.

Although the application initially did not request relief pursuant to § 2003, it was later amended to do so. The Board will therefore determine whether the requirements of §§ 3104 and 2003 are met.

*Analysis of special exception criteria*

Pursuant to § 3104 of the Zoning Regulations, the Board is authorized to grant special exceptions where, in the judgment of the Board, the relief will be in harmony with the

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general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. Certain special exceptions must also meet the conditions enumerated in the particular sections pertaining to them. In this case, along with the general requirements of § 3104, the Applicant also had to meet the requirements of § 2003.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If an applicant meets its burden, the Board must ordinarily grant the application. *Id.*

As noted, § 2003 states that the Board may grant a special exception to change one nonconforming use to another nonconforming use "that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right," subject to the listed conditions. This first restriction is met here because both a grocery and an office are first permitted as matter-of-right uses in a C-1 (Commercial) District. *See*, 11 DCMR §§ 701.4(l) and 701.6(c). *See also*, 11 DCMR § 2003.6 (for order of decreased use restriction).

Echoing the general requirements set forth in § 3104, section 2003.2 states that the proposed use shall not adversely affect the present character or future development of the surrounding area, and § 2003.3 extends this idea by prohibiting any deleterious external effects from the proposed use. The deli/grocery use, with its storage, has existed at the subject property for approximately 90 years and is being retained to serve the local community. There is nothing in the record to show that a slight change in its location will have any effect on the surrounding area or will result in any deleterious effect whatsoever. Moving the deli/grocery from one part of the building to another has no effect on the exterior aspects of the building, other than perhaps the relocation of the grocery's sign, and will not cause any new noise, traffic, parking or loading considerations, illumination, vibrations, or odors.

The other provision of § 2003 relevant here states that, in a Residence District, the proposed use must be either a residential use or a "neighborhood facility." "Neighborhood facility" is not defined in the Zoning Regulations or in Webster's Unabridged Dictionary. Nevertheless, the Board readily concludes that this deli/grocery constitutes such a use. It is a small, corner grocery which has been in the same location

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for many years. It provides no parking, and most of its patrons reach it on foot. It is not designed to attract customers from any distance and primarily serves the basic needs of residents of the local community. *See*, Board of Zoning Adjustment Order No. 15412 (Application of Florida Avenue Partnership). *See also*, Board of Zoning Adjustment Order No. 15119 (Application of Ho Chae). The deli/grocery is a focal point of the community and has been variously described as “an essential part of the social and economic fabric and the prosperity of the community” (Exhibit No. 46) and “a great community gathering spot ... [and] the primary grocer for many community residents.” (Exhibit No. 65).

The Board concludes that the deli/grocery is a “neighborhood facility” and further concludes that the proposal to relocate it to a part of the building which was previously occupied by the real estate office meets the conditions set forth in § 2003.”

**Great Weight**

The Board is required to give “great weight” to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-523.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive. The Office of Planning recommended approval of the final version of the application and did not change this recommendation in any way during the proceedings on reconsideration. The Board agrees with OP’s recommendation of approval.

ANC 2D, as explained in Order No. 17446, recommended denial of the application for several reasons, all of which were addressed in that Order. In a letter dated July 2, 2007, the ANC supported the re-opening of the hearing in this case to address the new evidence of basement residential use. Exhibit No. 108. The Board, obviously, agreed with this position. In a subsequent letter, received by the Board on July 20, 2007, the ANC reiterated its opposition to the application. Exhibit No. 111. In its last letter, dated November 19, 2007, the ANC, after restating its opposition to the application, requested that the Board dismiss the application, which it characterized as “marred by ... discrepancies” making it impossible “to ascertain fact from fiction in the present state of the case.” Exhibit No. 127.

The Board did not dismiss the application, but, agreeing with the ANC that possible factual discrepancies existed, instead chose to resolve any such discrepancies through a second limited hearing, and by adding and addressing further relief. Although the ANC may not agree with the Board’s ultimate resolutions of these questions, the Board has endeavored to articulate the ANC’s position and describe with particularity why it did or did not find the ANC’s viewpoint persuasive. In doing so, the Board has afforded the ANC the great weight to which it is entitled.

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Based on the record before the Board and for the reasons stated in Order No. 17446, *incorporated by reference herein*, as well as those reasons stated above, after reconsidering the case and holding further hearings, the Board affirms the relief granted by Order No. 17446, and concludes that the Applicant has also met the burden of proof with respect to a special exception pursuant to §§ 3104 and 2003. It is therefore **ORDERED** that **THE RELIEF GRANTED BY ORDER No. 17446 IS AFFIRMED** and **RELIEF PURSUANT TO §§ 3104 AND 2003 IS GRANTED.**

**VOTE: 3-0-2** (Ruthanne G. Miller, Curtis L. Etherly, Jr. and Shane L. Dettman<sup>7</sup> to affirm and to grant. No fourth member and no Zoning Commission member participating or 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:**         JUN 19 2008        

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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<sup>7</sup>Mr. Dettman, the Board's representative from the National Capital Planning Commission ("NCPC"), replaced the former NCPC member, Mr. John A. Mann II, whose tenure with the Board expired during the course of these proceedings.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

LM

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

Application No. 17772 of Bishop George F. Haskins, Jr. and Dianne M. Haskins, pursuant to 11 DCMR § 3104.1, for a special exception to establish a child development center (15 children and 3 full time staff) under section 205, in the R-2 District at premises 4605 Kane Place, N.E. (Square 5154, Lot 901).

**HEARING DATE:** June 17, 2008  
**DECISION DATE:** June 17, 2008 (Bench Decision)

**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 the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. ANC 7C submitted a report in support of the application. The Office of Planning (OP) 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 205. 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 205, 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** pursuant to the following **CONDITIONS**:

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1. Approval shall be for a period of SEVEN (7) years.
2. The hours of operation shall be weekdays from 6:00 AM to 6:00 P.M.
3. The student enrollment shall not exceed fifteen (15) children.
4. The center shall have three (3) full time staff persons.
5. Drop off of students shall take place at the front of the center from 6:00 AM to 9:00 AM and pick up from 3:00 PM to 6:00 PM.

**VOTE:** 5-0-0 (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Shane L. Dettman and Michael G. Turnbull 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:** JUN 18 2008

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.

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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. 17777 of Bread for the City Inc.**, pursuant to 11 DCMR § 3104.1, for a special exception from the historic resource parking requirements under subsection 2120.6, to allow the expansion of an existing medical clinic in the C-2-A District at premises 1525 7<sup>th</sup> Street, N.W. (Square 445, Lots 198, 199, 200 and 217).

**HEARING DATE:** June 17, 2008  
**DECISION DATE:** June 17, 2008 (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) 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a report in support of the application. The Office of Planning (OP) 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 subsection 2120.6. 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 2120.6, 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**.

BZA APPLICATION NO. 17777

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**VOTE:** 5-0-0 (Marc D. Loud, Ruthanne G. Miller, Mary Oates Walker, Shane L. Dettman and Michael G. Turnbull 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:** JUN 18 2008

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. 17777  
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**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. 17781 of John E. Myles, Jr., pursuant to 11 DCMR § 3103.2, for variances from the lot area and lot width requirements under section 401.3, to construct a new one-family detached dwelling in the R-1-A District at premises 4613 Colorado Avenue, N.W. (Square 2659, Lot 836).

**HEARING DATE:** June 17, 2008

**DECISION DATE:** June 17, 2008

**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 public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4A, the Office of Planning (OP) and to owners of property within 200 feet of the site. The OP submitted a report and testified at the public hearing in support to the application. The ANC submitted a letter in support of the case.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the 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 filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 401.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship 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. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED**.

BZA APPLICATION NO. 17781

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**VOTE: 5-0-0** (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Shane L. Dettman and Michael G. Turnbull to Approve)

**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:** JUN 17 2008

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.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. *rsn*

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

**Application No. 17782 of Jeff Moore**, pursuant to 11 DCMR § 3104.1, for a special exception to construct a two story rear addition to an existing one-family row dwelling under section 223, not meeting the lot occupancy (section 403) open court (section 406) and nonconforming structure (subsection 2001.3) requirements, in the R-4 District at premises 903 North Carolina Avenue, S.E. (Square 943, Lot 31).

**HEARING DATE:** June 17, 2008

**DECISION DATE:** June 17, 2008 (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) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) 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.

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

BZA APPLICATION NO. 17782

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conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 10 – Plans) be **GRANTED**.

**VOTE:** 5-0-0 (Ruthanne G. Miller, Mary Oates Walker, Marc D. Loud, Shane L. Dettman and Michael G. Turnbull 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:** JUN 18 2008

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.

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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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**Z.C. ORDER NO. 05-03A**  
**Z.C. CASE NO. 05-03A**  
**Time Extension**  
**Consolidated Planned Unit Development and Map Amendment**  
**Anacostia Gateway Government Center**  
**September 10, 2007**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on September 10, 2007. At the meeting, the Commission approved a request from the District of Columbia Office of Property Management (the "Applicant") for a time extension for an approved planned unit development and related zoning map amendment for property located at 1800 Block Martin Luther King, Jr. Avenue, S.E. (Parcel 224/31; Square 5600, Lot 17; and Square 5601, Lots 54, 858, 859, 860, and part of 857) (collectively, the "Property") pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The Commission determined that the request was properly before it under the provisions of § 2408.10 of the Zoning Regulations and that an extension of time of the validity of the PUD is in the best interest of the District of Columbia and consistent with the intent and purposes of the Zone Plan.

**FINDINGS OF FACT**

1. By Order No. 05-03, effective August 19, 2005, the Commission approved a consolidated planned unit development and related map amendment (from C-M-1, C-3-A, and R-3 to C-3-A) to allow construction on the Property of an office building having a total gross floor area of approximately 335,270 square feet, building density of 2.93 FAR, and maximum building height of 80 feet. The District of Columbia Department of Transportation ("DDOT") is intended to be the primary occupant of the building, along with other retail and service uses.
2. On July 27, 2007, prior to the expiration of the PUD, the Applicant filed a request to extend the validity of the PUD approval for a period of two years, such that an application must be filed for a building permit no later than August 19, 2009 and construction must start no later than August 19, 2010. The request indicated three bases for extension of the validity of the PUD, based upon conditions outside the Applicant's reasonable control: (1) difficulties with property assemblage; (2) delays in selection of a project developer; and (3) changes in administrative leadership.

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- (a) With respect to property assemblage, the Applicant stated it used its eminent domain powers to take control of one parcel, which was previously occupied by a gasoline service station. As a result, the Applicant was required to assume significant unanticipated environmental remediation responsibilities. The Applicant removed the underground storage tanks from the site, and is establishing a regular monitoring protocol for the Property. These responsibilities required extensive attention and resources from the Applicant, which in turn led to re-study and delays in the implementation of the Project.
  - (b) As to developer selection, the Applicant stated that this project was one of the first public projects in the District awarded through a newly implemented two-stage developer selection process involving a Request for Qualifications followed by a Request for Proposals from those developers qualified in the first round of reviews. This two-stage review process has not been widely implemented by the District government, requiring significant internal legal and contractual review prior to its implementation. This internal review included such matters as revisions needed to base building performance standards and specifications to ensure the adequacy of the Request for Proposal review.
  - (c) Finally, the Applicant indicated that the inauguration of a new District Mayor resulted in the appointment of a new Office of Property Management ("OPM") Director and other personnel changes. The new OPM leadership desired input into the implementation of the new two-step developer selection process.
3. ANC 8A, the ANC in which the Property is located, was automatically a party in the case. There were no other parties. The Applicant served a copy of the extension request on ANC 8A. ANC 8A had at least thirty (30) days to respond to the Application. No response was received.
  4. Zoning Commission Order No. 05-03 expired on August 19, 2007.
  5. On September 10, 2007, at a properly noticed special public meeting, the Commission reviewed and approved the two-year time extension.

### CONCLUSIONS OF LAW

The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties and all parties are allowed thirty (30) days to respond; (b) there is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) substantial evidence there is good cause for the extension based on the criteria established in § 2408.11. (11 DCMR

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§ 2408.10.) The three criteria are: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order. (11 DCMR § 2408.11.)

The Commission concludes the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(c) because of the existence of factors beyond the Applicant's reasonable control which renders the Applicant unable to comply with the time limits of the PUD order. The Commission concludes the difficulties with property assemblage and related environmental remediation, the delays in developer selection, and changes in administrative leadership justify the extension.

The Commission concludes the Application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the Application and allowing them thirty (30) days to respond.

Section 2408.12 of the Zoning Regulations provides that the Commission shall hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11. The Commission concludes that there is no material factual conflict in issue and that consideration of the request for extension is appropriate without need for a public hearing.

The Commission further concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.

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 time extension is not inconsistent with the Comprehensive Plan for the National Capital: District Elements ("Comprehensive Plan"), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300).

### **DECISION**

In consideration of the reasons set forth in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS** that the validity of Zoning Commission Order No. 05-03 be

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extended for a period of two years, that is, until August 19, 2009, within which time application for a building permit shall be filed. Construction shall start not later than August 19, 2010.

The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For the reasons stated above, the Commission concludes that the Applicant has met the burden, it is hereby **ORDERED** that the request be **GRANTED**.

The Zoning Commission **APPROVED** this application at its public meeting on September 10, 2007, by a vote of 5-0-0 (Anthony J. Hood, John G. Parsons, Carol J. Mitten, and Michael G. Turnbull; Gregory N. Jeffries to approve by absentee ballot).

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 ~~JUL 4 2008~~.