

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

PUBLIC NOTICE OF CONSOLIDATED FINAL RULEMAKING

**TITLE 16 DCMR, CHAPTER 4  
TOWING SERVICE FOR MOTOR VEHICLES**

The Director of the Department of Consumer and Regulatory Affairs (DCRA) hereby gives notice of the adoption, incorporation and consolidation of three final rulemakings into an entirely new Chapter 4 of Title 16 of the District of Columbia Municipal Regulations (DCMR).

Notices of final rulemakings were published for each of the three rulemakings in separate volumes of the D.C. Register. Final rulemaking for a new Chapter 4 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR 4) was published in the D.C. Register on May 23, 2003 (50 DCR 3935), after approval by the Council of the District of Columbia on March 18, 2003. Final rulemaking for Section 412 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR 412) – Licensing Fees was published in the D.C. Register on June 20, 2003 (50 DCR 4942). Final rulemaking for amendments to Chapter 4 of Title 16 of the District of Columbia Municipal Regulations (16 DCMR 4) was published in the D.C. Register on April 2, 2004 (51 DCR 3428).

These rules establish: (1) licensing procedures for towing service providers, (2) rules pertaining to public tows and private tows, (3) requirements for tow truck equipment and markings, (4) prohibited acts, and (5) penalty and enforcement measures and procedures.

Title 16 DCMR (Consumers, Commercial Practices & Civil Infractions) (July 1998), Chapter 4, reads as follows:

### Chapter 4 Towing Service for Motor Vehicles

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**400 GENERAL PROVISIONS**

- 400.1 These regulations shall become effective 90 days from the date of Council approval.
- 400.2 Except as provided herein, the provisions of this chapter shall apply to every person and entity that provides, or offers to provide, towing services within the District of Columbia, and shall apply to every person and entity that provides, or offers to provide, storage facilities for towed vehicles.
- 400.3 The provisions of this chapter shall not apply to the towing of vehicles by the government agency that owns or controls them.
- 400.4 The provisions of this chapter shall not apply to the towing of vehicles by any tow truck owned or operated by an entity or agency of the federal government or the District of Columbia Government.
- 400.5 The provisions of this chapter shall not apply to the towing of vehicles by tow trucks owned by the person or entity that owns the towed vehicles, where the tow trucks are used only to tow the tow truck owner's own vehicles and tow services are not offered to the public.
- 400.6 The provisions of this chapter shall not apply to: vehicles towed into or through the District of Columbia if the tow originates in another jurisdiction and the tow truck is licensed in that other jurisdiction, or to tow trucks registered in another jurisdiction responding to a call from the owner or operator for the removal of a motor vehicle from the District into another jurisdiction, provided that the tow truck is not equipped with a radio receiver capable of being tuned to the Metropolitan Police Radio wave lengths or frequencies.
- 400.7 Nothing contained in this chapter shall preclude any entity of the Government of the District of Columbia from establishing policies and procedures governing the towing of vehicles by or for that entity, provided that such additional policies and procedures are consistent with the provisions of this chapter.
- 400.8 Upon demand by the owner or operator of a towed vehicle, a towing business shall provide the name, address, and current telephone number of the towing business's insurance carrier, and the account number of the insurance policy.

**401 INSPECTIONS AUTHORIZED**

- 401.1 The Department of Consumer and Regulatory Affairs (DCRA) and other authorized government officials shall have authority to inspect towing businesses and towing service storage lots to determine compliance with these regulations. All violations discovered during inspections shall be reported to the Director, who may fine, suspend, or revoke the licenses of

towing businesses, tow trucks, or towing service storage lots in accordance with this chapter.

- 401.2 Before licensing a towing business, a tow truck, or a towing service storage lot, and at any time while a license or endorsement is in effect, a towing-related business shall permit the Director and other authorized government officials or their agents to inspect towing equipment, tow trucks, towing service storage lots, and any logs or documents related to towing services initiated within the District of Columbia.
- 401.3 To ensure compliance with these regulations, towing service storage lots shall be subject to periodic and random unannounced inspections by officials of DCRA, and officials of other government agencies authorized to inspect towing-related businesses and vehicles in the District of Columbia.
- 401.4 No person shall interfere with an inspection authorized under this section.
- 401.5 Copies of all documents, including any Notices of Infraction, computerized data, electronic records, and log book entries regarding the towing or impounding of a vehicle by a towing business or towing service storage lot shall be maintained at the primary location of the towing business indicated on the application submitted in accordance with §402, for a period of not less than three (3) years. An owner, tow truck operator, or other employee of the towing business or towing services storage lot shall surrender or arrange the surrender of such records upon lawful demand by the Director, or his/her designated agent, or other authorized government official, within one (1) hour of the time of such demand.
- 401.6 After demand has been made for records pertaining to any particular transaction, no record may be created and submitted as evidence or explanation of any towing service that had already been provided, except as may be required by an authorized government official during legal proceedings.

**402 LICENSES REQUIRED FOR TOWING BUSINESSES AND TOWING SERVICE STORAGE LOTS**

- 402.1 No person or entity may own or operate a towing business without having first obtained a Basic Business License and a Basic Business License Endorsement for a Towing Business as required by DC Official Code 47-2851.01 *et seq.* (2001).
- 402.2 No person or entity may own or operate a towing service storage lot without having first obtained a Basic Business License and a Basic Business License Endorsement for a Towing Service Storage Lot as required by DC Official Code 47-2851.01 *et seq.* (2001).

- 402.3 Each person or entity making application for a Basic Business License Endorsement for a Towing Business shall submit relevant information requested by the Director, in a form and manner specified by the Director, which information shall include the following:
- (a) The trade name, primary location of business, and primary phone number of the towing business;
  - (b) A list of all other locations from which the towing business will operate, and the phone numbers for such locations;
  - (c) The name, address, and telephone number of each person or entity with an ownership interest in the towing business or towing service storage lot;
  - (d) The primary storage location, year, make, model, Vehicle Identification Number (VIN), and license plate number of each tow truck that will be used by the towing business;
  - (e) A list which includes the name, address, date of birth, driver's license number, and Social Security number of all tow truck operators, employees, agents, and contractors who will be involved in the towing business;
  - (f) The location and description of the towing service storage lot to be used for the storage of towed vehicles, together with a copy of a deed, lease, contract, or other proof of the right to use the space as a vehicle storage lot, a copy of the Site plan or DC Surveyor's Plat, and a copy of a valid Certificate of Occupancy permit for that use and location;
  - (g) Proof of current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00 that remains in effect or is renewable for the duration of the license period. A new certificate of insurance shall be provided whenever the coverage is changed, amended, renewed, canceled, or re-written;
  - (h) A surety bond in the minimum amount of \$25,000.00;
  - (i) Two copies of the billing form that the towing business proposes to use, which reflects current rates for private tows and storage services, trade name(s), business address(es) and business phone number(s).
  - (j) A completed Basic Business License application;
  - (k) A Certificate of Occupancy for the location of the business, if the business is not located on the same premises as the towing service storage lot;
  - (l) A Clean Hands Before Receiving License or Permit Act of 1996 certification form as required by DC Official Code 47-2861 *et seq.* (2001); and

(m) Certification that the business is registered with the Office of Tax and Revenue.

- 402.4 Each person or entity making application for a Basic Business License Endorsement for a Towing Service Storage Lot shall submit relevant information requested by the Director, in a form and manner specified by the Director, which information shall include the following:
- (a) The trade name, primary location of business, and primary phone number of the towing service storage lot;
  - (b) A list of all other locations from which the towing service storage lot owner/operator will operate, and the phone numbers for such locations;
  - (c) Any discontinuance of the availability of the towing service storage lot to the licensee during the license period shall be reported in writing to the Director at least ten (10) days prior to the expiration of the availability.
  - (d) The towing business's license shall be suspended during any period of unavailability of the towing service storage lot; and
  - (e) Proof of a current Garage Keeper's Legal Liability Insurance Policy of at least \$50,000.00 which remains in effect or is renewable for the duration of the license period. A new certificate of insurance shall be provided whenever the coverage is changed, amended, renewed, canceled, or re-written.
- 402.5 The Basic Business License, the Basic Business License Endorsement for a Towing Business, and the Basic Business License Endorsement for a Towing Service Storage Lot shall be valid for two (2) years from the date of issue, unless earlier revoked or voluntarily relinquished, as provided by DC Official Code 47-2851.09 (2001).
- 402.6 Any changes (additions or deletions) to information provided in an application for a license or endorsement shall be provided to DCRA within fourteen (14) days of the date of the change in a manner specified by the Director.
- 402.7 All persons with financial interests in towing businesses or towing service storage lots shall be identified on the applications for licenses and endorsements under these regulations, and shall be subject to all provisions of this chapter and the Business and Professional Licensing Administration of the DCRA.
- 402.8 No person may operate a tow truck, or own or operate a towing business or towing service storage lot, who has been convicted within the preceding five (5) years of a misdemeanor or felony, the elements of which involve motor vehicle theft or fraud, including but not limited to; tampering with auto, attempted unauthorized use of a vehicle and taking property without right.

402.9 Before approving any application for a license or endorsement to own or operate a towing business or towing service storage lot, the Director is authorized to conduct any investigation which the Director deems necessary to determine the applicant's qualification to own or operate a towing business or towing service storage lot without detriment to the public. The Director's investigation may include, but shall not be limited to, inquiries into driving and criminal records.

**403 TOW TRUCK LICENSES**

403.1 No person may operate or use any tow truck in a towing business unless such tow truck has been identified in the application (or amended application) for the Basic Business License Endorsement for such towing business, and unless the Director has inspected, approved, and authorized issuance of a DCRA unique alphanumeric identifier for such tow truck.

403.2 Upon approval by the Director of an application, and the payment of the prescribed fees, the Director shall issue a license authorizing the operation of each tow truck identified or described in the application.

403.3 No tow truck may be licensed unless it bears a valid inspection sticker and valid registration issued by the District of Columbia Department of Motor Vehicles.

403.4 The license shall be affixed and prominently displayed on the tow truck, in a location specified by the Director.

403.5 In case of loss, mutilation, or destruction of a license, the Director may issue a duplicate upon proof of the fact of loss and payment of the prescribed fees. A police report shall constitute proof of such loss.

**404 REQUIRED TOW TRUCK EQUIPMENT AND MARKINGS**

404.1 A towing business shall have available for its exclusive use a minimum of one (1) fully equipped and licensed tow truck.

404.2 The trade name, primary location of business and primary phone number of the towing business shall appear on both doors of the cab of the tow truck in contrasting paint or vinyl lettering not less than 3" in height.

404.3 The minimum and maximum private towing and storage fees charged by the towing business shall appear on both sides of the tow truck in contrasting paint or vinyl lettering not less than 2" in height.

- 404.4 The unique alphanumeric identifier issued by DCRA to each tow truck shall appear on both sides of the tow truck in contrasting paint or vinyl lettering not less than 1" in height.
- 404.5 Each tow truck shall be equipped with a two-way communication system capable of transmitting and receiving messages between the towing business's office and the tow truck anywhere in the District of Columbia. The towing business shall have all permits and licenses required by District of Columbia and Federal law to operate the communications system.
- 404.6 Each flat-bed tow truck shall have four (4) safety tie-down devices, chains, or straps in any combination. Chains used for light-duty tows (i.e., vehicles with a gross vehicle weight less than 4,000 pounds) shall be "grade 7" high-test chains, a minimum of 5/16" in diameter. Straps shall be 2" webbing with an 8,000 pound-per-linear-inch rating. Chains and straps shall be equipped with a "transportation cluster." Straps shall have a ratchet device.
- 404.7 If a tow truck is engaged in recovery, it shall have at least one (1) recovery chain of a minimum of "grade 8" alloy, which is a minimum of 5/16" in diameter. In addition, it shall have two (2) four-ton (manufacturer-stamped) snatch blocks with one 4" pulley equipped with locking devices.
- 404.8 Each crane tow truck shall have at least a retracted boom, rated at four-tons, with one four-ton winch equipped with a minimum of 75 feet of 3/8" wire rope. The cable must be able to support a load equal to or greater than the capacity of the winch. The boom must be able to support a load equal to or greater than the capacity of the winch or winches. Industry standards require a swage and thimble to be used when the wire rope is terminated with a fixed hook. A clip may only be used for an emergency repair. Each crane tow truck shall have dollies with securing devices.
- 404.9 Each wheel lift tow truck shall have a minimum capacity of 3500 pounds. This standard applies whether wheel lift is on a stand-alone towing vehicle or is in combination with a crane tow truck or flat bed tow truck. In addition, each wheel lift tow truck shall have straps which have 2" webbing with an 8,000 pound-per-linear-inch rating. Chains and straps shall be equipped with a "transportation cluster." Straps shall have a ratchet device.
- 404.10 All tow trucks shall have the following equipment, in good working order:
- (a) One (1) all-purpose 5-pound fire extinguisher (rated 5ABC or better);
  - (b) One (1) set of wheel blocks;
  - (c) A minimum of two (2) gallons of commercial absorbent to be used as a quick cover up for minor oil/gasoline spills;
  - (d) An air compressor and/or portable air tank equipped with hose and tire chuck for tire inflation;

- (e) A minimum of two (2) red flags not less than 12" x 12" in size;
- (f) Two (2) portable red reflectors and two (2) red flares;
- (g) A set of tools which includes a set of screwdrivers, a wrecking bar, a working flashlight, a set of lug wrenches, a jack, jumper cables, and a first-aid kit; and
- (h) At least one (1) of each of the following: broom, shovel, waste container, and axe.

404.11 It shall be unlawful for a tow truck operator to tow a vehicle without properly using equipment that meets the manufacturer's minimum specifications for the towing of a specified vehicle.

#### **405 TOWING SERVICE STORAGE LOT REQUIREMENTS**

405.1 A towing service storage lot shall be located on a secured lot in the District of Columbia, with appropriate and descriptive signage, and be in full compliance with all District of Columbia laws, regulations, including zoning regulations.

405.2 The towing service storage lot operator shall maintain a log of all vehicles towed to and from its location. The operator shall maintain the log and make it available for inspection as follows:

- (a) It shall be available to DCRA investigators and other authorized government officials whenever the lot is open for business and at other reasonable times during regular business hours;
- (b) It shall record the receipt and release of every vehicle towed to or from the lot, and for each vehicle shall include identification of the towing business responsible for the tow, the vehicle identification number (VIN), the make, model, year, color, license state, and tag number of the stored vehicle, the owner of the vehicle (if known), and, if a public tow, shall include the Department of Public Works (DPW) towing control number;
- (c) It shall also record the date and time the vehicle arrived at the towing service storage lot, a description of any damage to the vehicle upon its arrival, the date and time of removal from the lot, a description of any damage to the vehicle upon its removal, and the person or entity to whom the vehicle was released; and
- (d) It shall be maintained and available for inspection for three (3) years after the date of the last entry.

405.3 Prior to releasing a public tow vehicle, the operator of a storage lot shall contact the DPW Towing Control Center by telephone and report the date and

time of the scheduled release, the condition of the vehicle, and to whom the vehicle is to be released.

- 405.4 The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall apportion the lot into storage lot sections and clearly identify or designate the towing business responsible for each apportioned section.
- 405.5 When a towing service storage lot is used by more than one towing business, the holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall clearly designate individual storage spaces for each vehicle and shall clearly identify the towing business assigned to each space.
- 405.6 The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall employ reasonable procedures and requirements to insure that vehicles are released to rightful owners or other authorized individuals.
- 405.7 A printed "Owner's Bill of Rights for Towed Vehicles" statement, issued by the Director, shall be given to the vehicle owner or operator by the tow truck operator before initiating the tow, if either the vehicle owner or operator is on the scene of the tow. The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall conspicuously post, at each towing service storage lot, the Owner's Bill of Rights for Towed Vehicles statement and, upon release of the vehicle, shall provide a copy of this statement to the person to whom the vehicle is released.

#### **406 PUBLIC TOWS**

- 406.1 All public tows will be requested by government officials through DPW in accordance with its published central tow ordering and dispatching procedures. Any towing business to be used by the District government to conduct public tows must be licensed in accordance with these regulations, and must agree to the rules established by DPW under its central tow ordering and dispatching procedures.
- 406.2 When a public tow is required, the owner of the vehicle shall be responsible for all charges associated with towing and storing the vehicle, except as may otherwise be provided in this chapter.
- 406.3 No public tow shall be conducted in the District of Columbia until DPW has issued a towing control number for that tow, except in the case of an emergency as set forth in §406.5. After receiving a towing control number from DPW, the tow truck operator shall place the towing control number on the vehicle to be towed in a manner prescribed by DPW. The towing control number shall be used on all documents related to the tow.
- 406.4 Before initiating a public tow from private real property, or a public tow at the direction of a government entity, a towing business shall provide the following information to DPW, in a manner prescribed by DPW:

- (a) The name of the tow truck operator, the name of the towing business and the crane number;
- (b) The make, model, year, color, license state, and tag number of the vehicle to be towed;
- (c) The VIN of the vehicle to be towed;
- (d) The name, address, and phone number of the person requesting the tow, and the governmental authority of the person requesting the tow (e.g., police officer, parking enforcement official, etc.) if the tow is requested by a government entity;
- (e) The reason for towing the vehicle, including the ticket number and violation cited by the governmental authority, if any;
- (f) The current location of the vehicle;
- (g) The nature and location of any damage to the vehicle;
- (h) The address of the place where the vehicle will be towed; and
- (i) The address, in the District of Columbia, where the vehicle can be reclaimed.

- 406.5 In an emergency, a police officer may direct a tow truck operator to tow a vehicle before the towing business provides all of the information required by §406.4 In those instances, the information required by §406.4 shall be furnished and a towing control number obtained as soon thereafter as practicable, but in no event more than two (2) hours after the vehicle has been towed.
- 406.6 When a vehicle is involved in an accident, a public tow of the vehicle shall be ordered if necessary in the judgment of the governmental authority at the scene of the accident.
- 406.7 No vehicle may be towed from private real property, without the consent of the owner of the vehicle, unless that vehicle has been issued a citation by a police officer or parking enforcement official or at the direction of a police officer in an emergency. Under such circumstances, the owner of the vehicle shall be responsible for all charges associated with towing and storing the vehicle. All public tows from private real property shall be conducted in compliance with the provisions of D.C. Official Code §§50-2621 through 50-2624 (2001), which govern the disposition of vehicles left on private property in the District of Columbia.
- 406.8 Any loss or damage sustained by a vehicle as the result of a public tow by a towing business shall be the sole and entire responsibility of the towing

business and not the Government of the District of Columbia, any department or agency thereof, or any government official who requested the tow. The towing business shall assume all liability for the vehicle and the property inside the vehicle, from the point of hook-up until the vehicle is released to its owner or authorized representative. The towing business shall take all precautions necessary to protect persons or property against injury or damage, and shall provide personnel sufficiently trained and capable to perform tows in accordance with the vehicle manufacturer's directions for towing a particular vehicle.

- 406.9 When an authorized government official directs the towing of a vehicle to a towing service storage lot, the government official shall notify the vehicle owner of record in accordance with DPW procedures, of the tow and storage, the storage location of the vehicle, and all other information required to be given under applicable District law.
- 406.10 When a vehicle is towed as a public tow, the government shall notify the vehicle owner of record, in a manner prescribed by DPW, of the tow and storage, the storage location of the vehicle, and all other information required to be given under applicable District law.

**407 PRIVATE TOWS**

- 407.1 A private tow shall not be subject to the requirements of §406, but shall be subject to all other sections of these regulations.
- 407.2 Before a towing business may undertake the private tow of a vehicle in the District of Columbia, the towing business must obtain written consent for the tow from the owner, lien holder, owner's agent, or operator of the vehicle.

**408 PAYMENT FOR SERVICES**

- 408.1 The maximum rates that may be charged for all public tows initiated within the District of Columbia, and for all other services, including vehicle storage charges, related to public tows shall be as follows:
  - (a) \$50 for providing Road Service for all vehicles, including all services provided to restore and or maintain operation of a vehicle, including services such as repairing tires, recharging batteries, and delivering gasoline;
  - (b) For Standard Towing Services, which apply to any passenger vehicle or any other vehicle with a Gross Vehicle Weight of 8,000 pounds, or less:
    - (1) \$100.00 for Preparation, hoist, and tow to location within the District (Roll-back or wheel lift - use of dollies included);

(2) \$3.00 for Towing charge per mile for each mile beyond the District line (at owner's request); and

(3) \$20.00 for Storage, per 24-hour period, or part thereof.

(c) For Heavy-Duty Towing, which applies to any vehicle with a Gross Vehicle Weight over 8,000 pounds:

(1) \$275.00 for Preparation, hoist, and tow to a location within the District (Roll-back or wheel lift - use of dollies included);

(2) \$6.00 for Towing charge per mile beyond the District line (at owner's request); and

(3) \$20.00 for Storage per 24-hour period, or part thereof.

(d) \$50.00 for Discontinuance Fee ("Drop Fee") that is charged when the operator of a vehicle that is to be towed asks that the tow be discontinued and the police officer or other official who requested the tow agrees to discontinue the tow, in accordance with 16 DCMR 408.6.

408.2 No rates charged by a towing business for private tows may exceed the rates set forth in the towing business's Basic Business License Endorsement application (including amendments thereto).

408.3 The holder of a Basic Business License for a Towing Business may collect extra charges on-site for the use of cranes, winches, dollies, or other equipment or services to perform a public tow under extraordinary circumstances or for the restoration or cleaning of an accident site. Within 72 hours after collecting extra charges, the towing business must submit documentary evidence of the extraordinary circumstances to the Director along with a written request for approval of the charges. The Director shall provide a written response within 14 calendar days of receipt of the request for approval. If the Director does not approve extra charges, the licensee of a towing business must provide a refund to the customer in the amount of the disapproved charges within 72 hours of receipt of the Director's notice of disapproval.

408.4 Storage charges may accrue for any day that the facility is closed to the public so long as the facility is open for the reclaiming of vehicles for at least ten (10) hours per day, Monday through Friday, during normal business hours, and for at least five (5) hours a day, during normal business hours, on either Saturday or Sunday.

408.5 If a tow truck responds to a dispatch, and the police officer or other official who requested the public tow determines that services are no longer required, no charge shall be made by the towing business or service, except as may be authorized by a contract with a government agency. If a towing control number

has been issued, the towing business shall notify the DPW Towing Control Center by telephone.

- 408.6 If a tow truck has applied chains, a dolly, a winch, or other towing device to prepare a vehicle for public tow, and the owner or operator of the vehicle appears and asks that the tow be discontinued, upon concurrence by the police officer or other official who requested the tow (if present), the tow truck operator shall comply, upon payment by the vehicle owner or operator of the rates established for a discontinued public tow. If a towing control number has been issued, the towing business shall promptly notify the DPW Towing Control Center by telephone.
- 408.7 Unless a towing service storage lot has been notified by a governmental official that a stored vehicle is to be held for evidentiary or other legally permissible purposes, the towing service storage lot shall promptly release the vehicle to the owner or the owner's agent when presented with proof of personal identity and ownership or authorization to reclaim the vehicle, and upon payment of all towing and storage charges due.
- 408.8 Towing businesses and towing services storage lots shall accept as payment for public towing and storage charges, cash, insurance draft, certified check, bank check, money order, and at least two (2) of the most widely-used, nationally recognized credit cards.
- 408.9 The owner or operator of the towing service storage lot shall provide to the person to whom the vehicle is released the following:
- (a) The towing control number;
  - (b) The Notice of Infraction or other legal authority for removal of the car;
  - (c) An itemized statement of the charges due;
  - (d) A receipt for all monies paid; and
  - (e) A copy of the Owner's Bill of Rights for Towed Vehicles.
- 408.10 No repair work shall be done on any vehicle ordered moved by a government official unless the owner of the vehicle or the owner's authorized agent specifically authorizes repair work in writing.
- 408.11 Written authorization for repair work to any vehicle ordered moved by a government official shall be made on a separate form which clearly indicates that the form authorizes repair work. The form shall not contain any text in a font size smaller than 10 points.
- 408.12 Not less than one year after publication of this final rulemaking, the schedule of maximum rates will be reviewed upon written request, which includes a cost justification, for consideration by the Director. Subsequent written requests for

review of the schedule of maximum rates will be considered not less than 24 months after a prior rate review.

408.13 After considering a request for review of the schedule of maximum rates, the Director, in consultation with the DPW Director, shall determine if the schedule of maximum rates should be changed.

#### 409 ITEMIZED STATEMENTS AND RECEIPTS

409.1 Before commencing a private tow, the tow truck operator shall furnish to the owner or operator of the vehicle to be towed a signed and itemized estimate of charges for the tow and other services to be rendered, on a form approved by the Director. The owner or operator of the vehicle shall sign the form before commencement of the tow.

409.2 Each itemized estimate of charges, as prescribed in §409.1, shall contain the following:

- (a) The location from which and to which the vehicle is to be towed;
- (b) The name and address of the towing business and the name of the tow truck operator;
- (c) If available, the name and address of the owner or operator of the vehicle to be towed;
- (d) A brief description of the vehicle to be towed;
- (e) The license plate number and state of registration of the vehicle to be towed;
- (f) An itemized estimate of fees to be charged for towing services;
- (g) The maximum rate charged per 24 hour period or part thereof, for the storage of the towed vehicle, and a statement that the 24 hour period shall start when the vehicle enters the towing service storage lot; and
- (h) The location of the towing service storage lot or repair facility to which the vehicle will be towed.

409.3 After rendering the towing and related services, the tow truck operator shall enter upon the itemized statement the actual amount paid for services rendered, and shall sign the statement to acknowledge receipt of payment.

409.4 A copy of each statement and receipt submitted by a tow truck operator in accordance with the requirements of this section shall be retained by the towing business for three (3) years from the date of issuance, and shall be exhibited upon demand to the Chief of Police or the Director or their agents.

- 409.5 The direction to tow by an authorized official, in accordance with any section of these regulations, shall not constitute an agreement on his/her behalf, or on behalf of the agency for which he/she works, to pay any charges in connection with the tow, but shall constitute only an authorization to remove the motor vehicle.
- 409.6 The owner of a towed vehicle shall be responsible for paying all charges for a public tow, and all related towing services charges, in an amount not to exceed the charges authorized by the Director pursuant to §408.1.
- 409.7 Payment of all lawful towing and storage charges shall be made by the owner of the vehicle, an agent of the owner, or the insurer of the vehicle before the vehicle is released by the towing business, the tow truck operator, or towing service storage lot operator.

#### **410 PROHIBITED ACTS**

- 410.1 It shall be unlawful for any person or entity to offer, solicit, or engage in the towing business or to operate a towing service storage lot without holding a valid, current license or endorsement required by these regulations.
- 410.2 It shall be unlawful for any person or entity conducting a towing business, or for any person acting on his/her behalf, to represent falsely, either expressly or by implication, that the towing business represents, or is approved by, any private organization which provides emergency road service for disabled motor vehicles.
- 410.3 In any accident case requiring a report to the police, it shall be unlawful for a tow truck operator to move a vehicle involved in that accident from the position in which the vehicle came to rest after the accident until authorized to do so by a police officer, except in life threatening situations, or to the extent necessary to free person(s) who may be trapped in or by the vehicle.
- 410.4 It shall be unlawful for any person or entity conducting a towing business, or any agent for such person or entity, to require an owner/operator of a motor vehicle involved in an accident or breakdown, to sign an agreement for repair work as a condition to providing towing service for the vehicle.
- 410.5 It shall be unlawful for a tow truck operator to use any public space for the accommodation of a vehicle removed from the scene of an accident or breakdown, except as the use of that public space may be directed by a police officer.
- 410.6 It shall be unlawful for any person or entity conducting a towing business, and for any person acting on his/her behalf, to charge more than one (1) towing fee when the owner/operator of a disabled vehicle requests transport of the

vehicle to a repair facility owned or operated by the person or entity conducting the tow.

- 410.7 Tow truck operators shall not tow vehicles to a repair facility unless the owner or the owner's designated representative gives written consent before removal of the vehicle.
- 410.8 It shall be unlawful for any towing business owner or tow truck operator, and any person acting on his/her behalf, to install or maintain in a tow truck or in any other place, a radio receiver capable of being tuned to the MPD radio frequencies.
- 410.9 It shall be unlawful for any tow truck operator to stop at the scene of any accident and furnish any towing service, unless he or she has been called to the scene by the owner/operator of a disabled vehicle or authorized by DPW to provide such service at that accident scene.
- 410.10 It shall be unlawful for a tow truck operator to deposit upon public space a vehicle that is inoperable or in a state of disrepair, except temporarily and for emergency purposes at the direction of a police officer or other authorized official. It shall also be unlawful for a tow truck operator to deposit such vehicles upon private property except with the express permission of the owner of such property.
- 410.11 No towing service provider may refuse to provide to the owner or owner's agent, an itemized receipt for all lawful charges made in connection with the towing and storage of a vehicle.
- 410.12 It shall be unlawful for towing service providers to charge more for public tows than is permitted by the Director.
- 410.13 Prior to payment of fees and release of a vehicle, no towing service provider may refuse the right of physical inspection of the towed vehicle when requested by the owner, an authorized agent of the owner, the lien holder, or the insurer of the vehicle.
- 410.14 No person shall refuse to surrender to DCRA upon lawful demand, any license or endorsement that has been suspended, revoked, or canceled.
- 410.15 Failure to notify the DPW and obtain a towing control number before initiating a public tow in the District of Columbia shall be a violation of these regulations, except as provided in §406.5.
- 410.16 No towing service provider shall permit any unlawful use of a towing license or endorsement. Any act or omission by a person acting on behalf of a licensed or endorsed towing business, tow truck operator, or towing service storage lot, may be considered the act or omission of the licensed or endorsed person or entity, which act or omission, if in violation of this chapter, shall be cause for denial, suspension or revocation of a license or endorsement.

- 410.17 It shall be unlawful for any tow truck operator to tow any type of vehicle in a manner that is not in accordance with the vehicle manufacturer's instructions for the vehicle. In addition, it shall be unlawful for any tow company to utilize any tow truck or equipment in a manner that is not in accordance with the tow crane manufacturer's instructions for towing vehicles.
- 410.18 It shall be unlawful for any towing business or tow truck operator to tow vehicles in the District of Columbia without current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00.
- 410.19 It shall be unlawful for any towing business to refuse to provide a refund to customers within 72 hours of receipt of the Director's notice of disapproval, when charges described in 408.3 are not approved by the Director.

#### **411 PENALTIES AND ENFORCEMENT**

- 411.1 DCRA shall be responsible for the enforcement of regulations regarding towing businesses and towing service storage lots. Authorized officials of other government agencies may conduct inspections and issue citations for violations or refer them to DCRA for fines, suspension, or revocation of a license or endorsement.
- 411.2 Any person who believes that a violation of these regulations, or the laws of the District of Columbia on which they are based, has occurred, may file a complaint with the Director, who shall investigate the complaint and take appropriate action.
- 411.3 The Director may summon the owner of a towing business, a tow truck operator, or the owner of a towing service storage lot to appear before an administrative tribunal to respond to alleged violations of the provisions of this chapter.
- 411.4 A license or endorsement issued under these regulations may be suspended or revoked by the Director for any of the following reasons:
- (a) The application for the license or endorsement contained a false statement of a material fact, or failed to reveal a material fact which, if disclosed at the time the application for the license was filed, would have constituted just cause for denial of the application;
  - (b) Failure of the licensee to comply with the provisions of this chapter;
  - (c) Any charges for towing service or storage for public tows made in excess of the charges set forth by the Director;
  - (d) Failure of the licensee to comply with the provisions of the General License Law, D.C. Official Code §47-2851.01 (2001), *et seq.*;

- (e) Engaging in, or holding oneself out as engaging in, towing services or the operation of a towing service storage lot without having current and valid licenses or endorsements, or without having the equipment, insurance, and available storage facilities required by this chapter;
- (f) Violation of the traffic laws or regulations of the District of Columbia;
- (g) Failure to maintain qualifications and insurance required by this chapter;
- (h) Failure to compensate vehicle owners for damage to their vehicles caused by, or due to the negligence of, the operators of a tow truck or towing service storage lot, and failure to reasonably secure and protect a towed vehicle and property therein; or
- (i) Failure to pay fees, taxes, fines or other monetary obligations to the Government of the District of Columbia or the Government of the United States.

- 411.5 Any entity whose towing business or towing service storage lot license and endorsement has been revoked shall not be eligible to make application for a new towing business or towing service storage lot license and endorsement for a period of one (1) year from the date of revocation.
- 411.6 Any person or entity adversely affected by the denial, revocation, or suspension of a tow truck license, towing business or towing service storage lot license and endorsement, or who has been fined or otherwise disciplined in accordance with the provisions of this chapter, may file an appeal in writing with the Board of Appeals and Review of the District of Columbia or its successor.
- 411.7 In addition to any other penalty prescribed by law, any violation of this chapter shall be grounds for revocation or suspension of the license issued under this chapter, either before or after conviction.
- 411.8 A towing business or tow truck operator who performs towing services, and any person or entity who operates a towing service storage lot, without a license or endorsement, or with a license that has been revoked or is currently suspended, may be subject to arrest, fine and imprisonment.
- 411.9 Tow truck operators shall be responsible for removing all accident debris from the roadway before towing any vehicle involved in a collision. Failure to do so shall be grounds for disciplinary action, including suspension or revocation of the tow truck license, and suspension or revocation of the towing business's license.
- 411.10 The tow truck operator shall report the presence and the location of debris believed to contain hazardous materials to the DPW Towing Control Center by telephone. Failure to do so shall be grounds for disciplinary action, including

finer, suspension or revocation of the tow truck license, and suspension or revocation of the towing business' license.

- 411.11 Upon the request of any District government official, a towing business or a tow truck operator shall provide documentary proof of current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00. Failure to do so shall be grounds for disciplinary action, including fines, suspension or revocation of the tow truck license, and suspension or revocation of the towing business's license.
- 411.12 Failure to provide a refund as described in 410.19 shall be grounds for disciplinary action, including fines, suspension or revocation of the tow truck license, and suspension or revocation of the towing business' license.
- 411.13 If the person or entity licensed under 402.3 is unable to use the towing storage lot identified in 402.3(f) for any reason during the license period, then:
- (a) The licensee shall report this fact in writing to the Director at least ten (10) calendar days prior to the day when the towing service storage lot will become unavailable;
  - (b) The Basic Business License Endorsement for a Towing Business shall be automatically suspended by operation of law during the period that the towing service storage lot is unavailable for use by the licensee; and
  - (c) The Basic Business License Endorsement for a Towing Business may be reactivated without charge for the remainder of the license period when written evidence of the availability of a substitute towing service storage lot is supplied to the Director by the licensee and verified by the Director, or his designee.
- 411.14 Instead of any criminal sanctions authorized by law, civil fines and penalties may be imposed as alternative sanctions for any infraction of these regulations.
- 411.15 Adjudication of any civil infraction shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, (DC Official Code 2-1801.01 *et seq.* (2001)).

## 412 LICENSING FEES

- 412.1
- (a) The fee for a towing business license shall be \$775.00 per annum, payable biennially.
  - (b) The fee for a towing service storage lot license shall be \$150.00 per annum, payable biennially.

- (c) The fee for a towing vehicle license shall be \$163.00 per annum, payable biennially.
- (d) The fee for replacing a lost or damaged towing related license shall be \$25.00.

413-498 [RESERVED]

499 DEFINITIONS

499.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Authorized Government Official-** A District government official authorized by law, regulation or Mayor's order to conduct inspections and/or enforcement actions consistent with this chapter.

**Basic Business License** – the single document designed for public display issued by the business license center that certifies District agency license approval and incorporates the endorsements for individual licenses included in the Basic Business License system.

**Basic Business License Endorsement for a Towing Business** – the individual license endorsement required for the conducting of a towing business in the District of Columbia.

**Basic Business License Endorsement for a Towing Service Storage Lot** - the individual license endorsement required for the maintenance of a towing service storage lot in the District of Columbia.

**Crane service** – a form of towing service which involves moving vehicles by the use of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile ambulance, tow dolly, or any other similar device.

**Director** – the Director of the Department of Consumer and Regulatory Affairs (DCRA) of the District of Columbia, or his/her designated agent.

**Extraordinary Circumstances** – conditions or events that are beyond what is usual, regular, or customary and which require special towing functions or services to commence or complete a tow.

**Flat-bed service** – a form of towing service which involves moving vehicles by loading them onto a flat-bed or roll-back platform instead of using a crane or winch to tow a vehicle.

**Normal Business Hours** – the hours of 8:00 a.m. through 6:00 p.m.

**Owner** – the person or entity to whom a vehicle is registered, or to whom it is leased, if the terms of the lease require the lessee to maintain and repair the vehicle. The holder of a contract with a vehicle rental agency shall not be considered the owner of that vehicle.

**Police officer** – a sworn or reserve officer of the Metropolitan Police Department or any other law enforcement agency with authority to make arrests within, and enforce the laws of, the District of Columbia.

**Private tow** – the towing of a vehicle at the request of the owner or the authorized agent of the owner.

**Public tow** – the towing of a vehicle, other than a vehicle owned or controlled by a government entity, at the direction or arrangement of a government entity or, without the consent of the owner or operator of the vehicle, including relocations, repossessions, and tows from private real property.

**Relocation** – the public tow of a vehicle because it is illegally parked, or for some exigent circumstance that necessitates its removal to a nearby location, but not to a towing service storage lot.

**Towing business** – any person or entity that provides, or offers to provide, towing services.

**Towing control number** – a unique number issued by the Department of Public Works to identify and track a vehicle towed in the District of Columbia.

**Towing service** – any service that involves towing or otherwise moving motor vehicles by means of a tow truck.

**Towing service storage lot** – a property used to deposit and store vehicles that have been towed.

**Tow truck** – a motor vehicle equipped to provide either crane or flat-bed towing service.

## HYDE LEADERSHIP PUBLIC CHARTER SCHOOL

## Bathroom remodeling

The Hyde Leadership Public Charter School of Washington, DC requests sealed proposals for remodeling service of two (02) boys and two (02) girls bathrooms at 101 T Street, NE, Washington, DC location.

## SCOPE OF WORK:

**BOYS BATH ROOMS (SECOND, AND THIRD FLOORS)**

- Demo and dispose of 10 existing toilets, 8 urinals and 3 lavatories and all existing toilet partitions.
- Furnish and install five (05) new phenolic toilet partition stalls, including one handicapped accessible stall.
- Furnish and install five (05) new toilets including one ADA approved toilet.
- Re-locate all plumbing as required.
- Cap all unused lines.
- Furnish and install four (04) new urinals at new location.
- Furnish and install three (03) new phenolic urinal screens.
- Furnish and install three new wall hung lavatories with auto shut-off faucets at new location
- Furnish and install new bathroom accessories including mirrors, toilet paper dispensers, soap dispensers, towel dispensers and grab bars for the ADA stall.
- Furnish and install new bath exhaust fan at window with exposed spiral duct.
- Furnish and install eight (08) new 2x4 fluorescent light fixtures.
- Paint entire bathroom including exposed piping.
- Patch and paint existing door.
- Furnish and install new skid-resistant commercial grade ceramic tile in all bathrooms.\*
- Furnish and install new suspended 2x2 acoustical ceiling tile system in all bathrooms.\*

**GIRLS BATH ROOMS (SECOND, AND THIRD FLOORS)**

- Demo and dispose of 12 existing toilets, and 3 lavatories and all existing toilet partitions
- Furnish and install six (06) new phenolic toilet partition stalls including one handicapped accessible stall.
- Furnish and install one new phenolic private screen.
- Furnish and install six (06) new toilets including one ADA approved toilet.
- Cap all unused lines.
- Re-locate all plumbing as required.
- Furnish and install three (03) new wall hung lavatories with auto-shut off faucets at new location
- Furnish and install new bathroom accessories including mirrors, toilet paper dispensers, soap dispensers, towel dispensers and grab bars for the ADA stall.
- Furnish and install new bath exhaust fan at window
- Paint entire bathroom including exposed piping.
- Patch and paint existing floor.
- Furnish and install new skid-resistant commercial grade ceramic tile in all bathrooms.\*
- Furnish and install new suspended 2x2 acoustical ceiling tile system in all bathrooms.\*

\*Provide cost-estimate as "options."

Proposals are due July 1, 2004 to Hyde Leadership PCS, 101 T Street, NE, Washington, DC 20002, Attention: Mario A. Lopez.

## HYDE LEADERSHIP PUBLIC CHARTER SCHOOL

## Classroom/Office remodeling

The Hyde Leadership Public Charter School of Washington, DC requests sealed proposals for remodeling service of two (02) boys and two (02) girls bathrooms at 101 T Street, NE, Washington, DC location.

**SCOPE OF WORK:****Remodel Office #104**

- Demo all interior finishes and entire sub-flooring in room #104.
- Rehab entire room (16' by 16') to closely match existing facilities office on other side of school.
- Work to include all new sub-floor, drywall, paint and carpet.
- Furnish and install split A/C system unit.
- Sand/remove water damage from ceiling, and paint.
- Inspect/replace current radiator.
- Clean-up and remove all debris.
- Cost proposal must be broken down between estimated labor and material breakdown.

**SPLIT CLASSROOMS #110; #122; and #217**

- Furnish & install new 26' long partition to divide classrooms #110; #122; and #217. Split area into 1/3<sup>rd</sup> and 2/3<sup>rd</sup>.
- Partition to be built with 3-5/8" metal studs, one layer of 5/8" fire rated drywall on each side and sound batts (R-13) within the wall.
- Paint new partition to match existing color in classroom as close as possible.
- Furnish and install new cove base on either side of new partition.
- Clean-up and remove all debris.
- Cost proposal must be broken down by classroom showing estimated labor and material breakdown.

**SPLIT CLASSROOMS #211**

- Furnish and install new 17' long partition to divide room #211.
- Partition to be built with 3-5/8" metal studs, one layer of 5/8" fire rated drywall on each side and sound batts (R-13) within the wall.
- Paint new partition to match existing color in classroom as close as possible.
- Furnish and install new cove base on either side of new partition.
- Clean-up and remove all debris.
- Cost proposal must be broken down by classroom showing estimated labor and material breakdown.

**SPLIT CLASSROOMS #303; #321**

- Furnish and install new 27' long partition to divide room #303.
- Partition to be built with 3-5/8" metal studs, one layer of 5/8" fire rated drywall on each side and sound batts (R-13) within the wall.
- Paint new partition to match existing color in classroom as close as possible.
- Furnish and install new cove base on either side of new partition.
- Clean-up and remove all debris.
- Cost proposal must be broken down by classroom showing estimated labor and material breakdown.

**SPLIT CLASSROOMS #313**

- Furnish and install three new partitions to provide two new offices in room #313.
- Partition to be built with 3-5/8" metal studs, one layer of 5/8" fire rated drywall on each side and sound batts (R-13) within the wall.
- Furnish and install new 3'-0" door frame, door and door hardware in new opening.
- Close wall by adding to existing partition in between room #312 and #313.
- Paint new partition to match existing color in classroom as close as possible.
- Furnish and install new cove base on either side of new partition.
- Clean-up and remove all debris.
- Cost proposal must be broken down by classroom showing estimated labor and material breakdown.

**SPLIT CLASSROOMS #315 and #315A**

- Demo existing masonry wall, door and door frame in room #315A.
- Removal of wall assuming wall is not load-bearing.
- Patch floors with VCT in areas where wall is removed.
- Make new door opening into Room 315A from hallway.
- Furnish and install new 3'-0" door frame, door and door hardware in new opening.
- Furnish and install new 27' long partition to divide rooms #315 and #315A.
- Partition to be built with 3-5/8" metal studs, one layer of 5/8" fire rated drywall on each side and sound batts (R-13) within the wall.
- Paint new partition to match existing color in classroom as close as possible.
- Furnish and install new cove base on either side of new partition.
- Clean-up and remove all debris.
- Cost proposal must be broken down by classroom showing estimated labor and material breakdown.

Cost proposal must be broken down by classroom showing estimated labor and material breakdown.  
Proposals are A.S.A.P to Hyde Leadership PCS, 101 T Street, NE, Washington, DC 20002, Attention:  
Mario A. Lopez.

## HYDE LEADERSHIP PUBLIC CHARTER SCHOOL

## Special Education Support Service Request for Proposals

The Hyde Leadership Public Charter School of Washington, DC requests sealed proposals to establish a contract through competitive negotiations for providing special education support services at its 101 T Street, NE, Washington, DC location. Services would be provided to assist Hyde staff in developing a special education system that complements the Hyde mission and philosophy and complies with IDEA. Educational support services for a 105 students, would include:

- Record tracking and retrieval as needed to make sure all students identified as disabled have IEPs on file.
- Determining the number of instructional hours and related services needed to address needs on existing IEPs.
- Helping identify related service providers.
- Conducting Building Level conferences in collaboration with Hyde staff to review records, discuss teacher input, determine need for IEP or revised IEP, referral for initial evaluation, and/or referral for re-evaluation.
- Conducting classroom observations on students referred to for IEP revision and/or evaluation/re-evaluation.
- Identifying evaluation team (Multi-Disciplinary Team or MDT) and referring students to evaluation team members.
- Administering evaluation, eligibility, and IEP development processes in conjunction with MDT chairperson and Hyde staff.
- Developing a handbook individualized for the Hyde Leadership PCS program and service delivery model.
- Advising Hyde Leadership PCS in cases involving parents/guardians of special education students who question and/or disagree with Hyde interventions, programming, and/or service delivery prior to mediation or due process action. This includes advising Hyde staff of IDEA rules and requirements; ways to comply with IDEA while maintaining program philosophy; and ways to improve administrative functions, such as the intake and application process, to protect Hyde from unreasonable claims of failure to provide special education and related services.
- Training staff in areas relating to special education on an as needed basis.

Proposals are due June 19, 2004, to Hyde Leadership PCS, 101 T Street, NE, Washington, DC 20002, attention: Mario A. Lopez.

## DISTRICT OF COLUMBIA PUBLIC LIBRARY

## NOTICE OF CLOSING

Notice is hereby that the following holiday hours will be in effect for the District of Columbia Public Library ("DCPL"):

Martin Luther King Jr. Memorial LibraryFourth of July Holiday Weekend:

During the week of June 28 through July 3, 2004, the Martin Luther King, Jr. Memorial Library (MLKML) will be open Monday – Friday, during the regularly scheduled hours;

MLKML will be closed during the Fourth of July weekend: Saturday, July 3, Sunday, July 4 and Monday, July 5, 2004.

Labor Day Weekend:

During the week of August 30 through September 4, 2004, the Martin Luther King, Jr. Memorial Library will be open Monday – Friday, during its regularly scheduled hours;

MLKML will be closed during the Labor Day weekend: Saturday, September 4; Sunday, September 5; and Monday, September 6, 2004.

Neighborhood LibrariesFourth of July Holiday Weekend:

During the week of June 28 through July 3, 2004, all Neighborhood Libraries will operate a Monday – Friday schedule;

Please Note: On the weekday that a branch is regularly closed, it will open to the public during the scheduled hours of 9:30 – 5:30 p.m. For example, the Georgetown branch that is regularly closed on Thursdays will open for business on Thursday, July 1, 2004, 9:30 a.m. – 5:30 p.m.

During the week of August 30 through September 4, 2004, all Neighborhood Libraries will operate a Monday – Friday schedule;

Please Note: On the weekday that a branch is regularly closed, it will open to the public during the hours of 9:30 – 5:30 p.m.. For example, the Georgetown branch that is regularly closed on Thursdays will open for business on Thursday, September 2, 2004, 9:30 a.m. – 5:30 p.m.

**ZONING COMMISSION ORDER NO. 03-04**  
**Z.C. Case No. 03-04**  
**Consolidated Planned Unit Development**  
**for 1437-1451 Belmont Street, N.W.**  
**January 12, 2004**

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on October 9, 2003, to consider an application from Belmont Partners, LLC for consolidated review and approval of a Planned Unit Development ("PUD") (the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The Public Hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Application subject to conditions.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On January 17, 2003, Belmont Partners, LLC, on behalf of Bozzuto Holdings, LLC and George H. Purcell (collectively, the "Applicant") submitted an application to the Zoning Commission for the consolidated review and one-step approval of a PUD for the subject property located at the north side of Belmont Street, N.W. between 14<sup>th</sup> Street, N.W. and 15<sup>th</sup> Street, N.W. and consisting of Lots 54, 215, 216, and 860 in Square 2661. On April 14, 2003, the Zoning Commission decided to set down the Application for public hearing.
2. A description of the proposed development, including a description of the subject property, and Notice of Public Hearing were published in the *D.C. Register* on August 22, 2003, and were mailed to all property owners within 200 feet of the property as well as Advisory Neighborhood Commission ("ANC") 1B.
3. The parties in the case were the Applicant and ANC 1B. The Zoning Commission opened the public hearing on October 9, 2003. At the public hearing, the Commission heard testimony and received evidence from the Applicant and the Office of Planning. ANC 1B submitted a letter in support of the proposed PUD dated August 22, 2003. Members from Association of Community Organizations for Reform Now ("ACORN"), who expressed concern that the project did not provide enough affordable housing units and that it would raise property taxes in the area, testified in opposition to the PUD.

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4. At the conclusion of the hearing on the PUD application on October 9, 2003, the Commission requested the submission of certain additional materials and information by the Applicant. The additional materials requested by the Commission at the hearing include the following:
  - a. Revised architectural drawings including a landscape plan with a detailed list of plants, colored renderings, roof plan showing recreational space, alley traffic plan, and bicycle parking in the garage area;
  - b. More specific information about the value of services rendered in lieu of monetary donations to the Garnet-Patterson Middle School and the Metropolitan Police Boys and Girls Club;
  - c. Additional details on the sale of parking spaces to project residents and surrounding neighbors;
  - d. Additional details regarding the assurance that the majority of units will be owner-occupied; and
  - e. Samples of materials to be used in the project.
5. The Applicant submitted the requested materials and information in its Post-Hearing Submission dated October 30, 2003.

**Office of Planning Report**

6. By report dated September 29, 2003, and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the Application, subject to certain conditions.
7. OP identified several key public benefits and project amenities of the PUD, including urban design, architecture, landscaping, and creation/preservation of open spaces; site planning and efficient and economical land utilization; effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts; employment and training opportunities; housing and affordable housing; social services and facilities; environmental benefits, such as stormwater runoff controls and preservation of open spaces or trees; uses of special value to the neighborhood or District of Columbia as a whole; and other public benefits and project amenities by which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan. OP further stated that the PUD is "not inconsistent" with the Comprehensive Plan, noting compliance with the Generalized Land Use Map of the Land Use Element and various policies in major elements of the Plan as well as consistency with several major themes of the Plan.

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8. OP's recommendation for approval was conditioned by provisions, some of which were complied with by the time of the Zoning Commission hearing on October 9, 2003, including the provision of a signed DOES Agreement, the provision of signed agreements with the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School, and the provision of a signed construction management plan. The other conditions that OP sought will be complied with at the time the condition arises, including providing a service contract for the computers to be donated to the Garnet-Patterson Middle School (in lieu of a warranty on the computers), providing the proposed donations to the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School prior to the granting of the first Certificate of Occupancy, and installing the off-site landscaping prior to the issuance of the last Certificate of Occupancy. The Applicant will provide covenant provisions to ensure compliance with the expressed conditions.

#### Reports of Other Agencies

9. The District Department of Transportation ("DDOT") submitted a report to OP dated September 29, 2003. The report stated that the proposed PUD will generate far less traffic than the Applicant calculated, and DDOT does not expect that the PUD will significantly impact the current level of service on the surrounding intersections. DDOT also noted that the number of parking spaces for the PUD more than adequately accommodates the parking needs of the development and minimizes the parking spillover to the adjacent neighborhood parking, which DDOT noted as having a "chronic deficit of off-street parking facilities." DDOT recommended that the Applicant provide at least ten (10) bicycle parking spaces and revise the plan for the loading berth and secondary access to the rear entrance to the parking garage.

#### The Site and Surrounding Area

10. The subject property consists of Lots 54, 215, 216, and 860 in Square 2661. The subject property is situated in Ward 1 on the north side of Belmont Street, N.W. between 14<sup>th</sup> Street, N.W. to the east, and 15<sup>th</sup> Street, N.W. to the west, and has a land area of approximately 42,750 square feet. Its rectangular configuration extends along Belmont Street for 280 feet and along the alley 150 feet north of Belmont Street. The topography of the site is highest at the northwest corner and slopes down approximately fifteen (15) feet to the southeast.
11. The subject property is currently improved with a vacant and dilapidated structure, formerly known as the Pitts Motel, on Lots 860 and 54. Lots 215 and 216 are each occupied by a vacant three-story brick row house.

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12. The site is located in the Columbia Heights neighborhood and is one-half block east of Meridian Hill Park. The immediately surrounding neighborhood contains a mix of single-family and multi-family residential structures. There is a six-story apartment building, Garden Tower Apartments, immediately west of the site. The site is within one block of 14<sup>th</sup> Street, N.W. and one and one-half blocks of 16<sup>th</sup> Street, N.W., where there is a mix of residential and commercial uses. The site is six (6) blocks from the Columbia Heights and U Street Metrorail Stations and is one block from Metrobus lines on 14<sup>th</sup> Street and 15<sup>th</sup> Streets.
13. The site is neither a designated historic landmark nor is it within a historic district.
14. The site is zoned R-5-B, as are the majority of the lots to the north and south of the site between 14<sup>th</sup> Street and 15<sup>th</sup> Street. Both the immediate east and west sides of 14<sup>th</sup> Street are zoned C-2-B between Florida Avenue and Columbia Road. Land to the immediate east of 15<sup>th</sup> Street and proceeding north from Chapin Street is located in the R-5-B District. Meridian Hill Park, to the west of the intersection of 15<sup>th</sup> Street and Belmont Street is federal government property and is under the jurisdiction of the National Park Service.
15. The Applicant is not requesting a zoning map amendment in conjunction with this PUD.
16. The R-5 Districts are designed to permit all types of urban residential development that conforms to applicable height, density, and area requirements. The R-5-B District is a moderate height and density residential zone that allows multi-family dwellings on the site. With a PUD, the maximum permitted building height is 60 feet and the maximum permitted density is 3.0 floor area ratio ("FAR").

#### The PUD Project

17. The proposed PUD, known as the Meridian Hill Condominiums, consists of a U-shaped building oriented along Belmont Street. The development borders an open courtyard facing north and contains garden space along both the east and west side yards of the site. The site will be further landscaped with trees along the Belmont Street facade of the building. The Applicant also proposes to landscape the opposite side of Belmont Street for the length of the proposed project.
18. The proposed PUD contains 103 residential units, comprised of forty-one (41) one-bedroom, fourteen (14) one-bedroom plus den, thirty-two (32) two-bedroom, and sixteen (16) two-bedroom plus den units. The unit sizes range from 705 square feet to 1559 square feet.
19. The proposed PUD also contains a two-level below-ground parking garage, which will accommodate 136 automobile parking spaces and twelve (12) bicycle parking spaces, and

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above-ground parking at the rear of the building that will accommodate 18 automobile parking spaces for visitors. Parking spaces in the garage will be offered for sale to unit owners and residential neighbors within one block of the development. Each unit owner may purchase no more than two spaces. Neighbors may purchase no more than one space.

20. The Applicant proposes to raze the Pitts Motel and the two vacant row houses and replace them with the proposed development.
21. The proposed PUD is designed to incorporate the architecture of the surrounding neighborhood. The Belmont Street facade is designed to make a transition from the higher scale of the Garden Tower Apartments to the west, to the townhouse scale of the eastern end of the site and on the south side of Belmont Street. Thus, the western portion of the Belmont Street facade will read as a unified building located along the property line, while the eastern portion of the Belmont Street facade reflects the neighboring townhouses by being set back an extra six (6) feet from the property line and utilizing private entrances for the first floor units, mansard roofing, and bay windows.
22. In its Post-Hearing Submission, the Applicant provided a detailed policy to ensure that the project will continue to be an owner-occupied building. The Applicant intends to limit purchase of units for investment purposes to no more than fifteen percent (15%) and encourage sales to those persons who will reside in the condominiums. This policy will be included in all purchase agreements, deeds, and condominium registration documents generated by the Applicant.
23. The Applicant's plans include a rooftop recreational space so that the residents of the development can take advantage of views of the Washington, DC skyline. The roof plan is shown in Exhibit 38, and it incorporates a roof deck for residents surrounded by planters. There are two means of egress from the roof deck. A 17-foot tall structure in the middle of the roof houses the elevators and stairwell to the roof, a second 10-foot tall structure on the northwest part of the roof houses a second stairwell. Additional HVAC platforms that are four feet in height are also located in groups on the roof.
24. Automobiles will gain ingress to and egress from the development through a garage door at the middle of the Belmont Street facade. Service trucks, including garbage trucks, will have access to the development through the entrance at the rear off of the 20-foot alley behind the site. Trucks that cannot maneuver through the 20-foot alley in the back will be able to make deliveries or otherwise provide services through the front of the development.

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25. The Applicant requests that the Zoning Commission grant the following relief:
- a. A waiver of the one acre minimum area required under § 2401.1 of the Zoning Regulations;
  - b. An increase in lot occupancy from the maximum permitted sixty percent (60%) to sixty-three percent (63%) as may be allowed under 11 DCMR § 2405.4;
  - c. A decrease in the side yard setback on the east and west from thirteen (13) feet, nine (9) inches, as required under 11 DCMR § 405.6, to twelve (12) feet, as may be allowed under 11 DCMR § 2405.5.
  - d. A smaller loading berth than required under 11 DCMR § 2201.1. 11 DCMR § 2405.5 allows the Zoning Commission to reduce the size of a loading berth based on the use and location of the project. The loading berth as planned is thirty-five (35) feet deep, twenty (20) feet less than required under the Zoning Regulations.
  - e. A special exception for varying heights of the roof structure and roof setback as allowed under 11 DCMR § 2405.7 to accommodate a roof structure that houses a second means of egress at the northwest corner of the roof that is ten (10) feet tall and is set back seven (7) feet and seven and one-half (7.5) inches from the northern roof edge. The roof penthouse that encompasses the main stairwell and the elevators is 17 feet tall.

**Public Benefits from the PUD**

27. The proposed PUD provides public benefits and project amenities in accordance with 11 DCMR § 2403.9. These include the following:
- a. Housing and Affordable Housing. The proposed PUD offers new high-quality housing to replace a dilapidated and underutilized property. The Applicant proposes to provide four (4) affordable housing units in the PUD – two 2-bedroom units, one 1-bedroom plus den unit, and one 2-bedroom unit, in accordance with Exhibit 38.
  - b. Urban Design, Architecture, Landscaping or Creation or Preservation of Open Spaces. This proposed PUD was designed with the primary intent of creating a building that conforms with the architectural characteristics of the neighboring buildings. The proposed building transitions from the large-scale apartment style of the Garden Towers Apartments, to the west of the site, to the small-scale single-family townhouses, to the east and south of the site. Building elements—such as the brick facade, mansard roofs, bay windows, and private entrances for

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first floor units—ensure that the proposal reflects the neighborhood's characteristics. The proposed PUD also contains landscaped street frontage and a landscaped courtyard, side yards, and rooftop deck.

- c. Transportation Issues. The traffic impact study conducted by Gorove/Slade Associates, Inc. and DDOT's report show that there are no adverse traffic impacts to the surrounding area due to an increase in traffic to and from the site. The Applicant's proposal provides enough parking for its residents. The proposed project provides additional parking to mitigate existing parking shortages in the immediate area.
  - d. Employment and Training Opportunities. The Applicant seeks to employ local contractors to work of the construction on the proposed development. The Applicant has executed a memorandum of understanding with the Local Business Opportunity Commission and has executed a First Source Employment Agreement with the Department of Employment Services ("DOES") as shown in Exhibit 33.
  - e. Social Services/Facilities. In accordance with Exhibits 30 and 31, the Applicant has pledged donations of cash, services, and equipment to the Garnet-Patterson Middle School and the Metropolitan Police Boys and Girls Club.
  - f. Environmental Benefits, Such as Preservation of Open Space or Trees. The Applicant proposes to add open space to the site and enhance both sides of Belmont Street with landscaping as shown in Exhibit 38. Currently, Belmont Street is primarily residential but does not have street landscaping. The landscape plan proposed by the Applicant is a direct public benefit of the PUD.
28. The Applicant has proffered a Construction Management Plan, as shown in Exhibit 32, to ensure responsible construction on the site and to mitigate any adverse impacts from construction on the surrounding neighborhood.
  29. The Commission credits the testimony of OP that this proposed PUD is "not inconsistent with the recommendation of the Generalized Land Use Plan" or "other sections of the Comprehensive Plan" including stabilizing and improving district neighborhoods, respecting and improving the physical character of the District, and preserving and ensuring community input. OP further notes that the proposed PUD is consistent with the following Ward 1 policies: housing, urban design, and land use.
  30. ANC 1B has submitted a letter in support of the proposed PUD, as shown in Exhibit 19. The Applicant has consistently worked with the ANC and with the immediate neighbors of the site to come up with a responsible development that takes into account factors that are important to the surrounding community.

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### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.01. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare and convenience.” 11 DCMR § 2400.02.
2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this Application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The proposed PUD does not meet the minimum area requirements of § 2401.1 of the Zoning Regulations. The proposed PUD is 810 square feet less than the required one acre minimum area requirement. The Zoning Commission may waive not more than 50% of the minimum area requirement under certain circumstances with the requirements of § 2401.2, the Commission finds that the proposed PUD is of exceptional merit in that the project will provide new housing, including some affordable units on a dilapidated, underutilized site in a residential neighborhood, is in the best interest of the city, and will devote at least eighty percent (80%) of the gross floor area of the development exclusively for dwelling units and uses accessory thereto.
5. The PUD is within the applicable height and bulk standards of the Zoning Regulations. The height and density will not cause a significant adverse effect on any nearby properties. The proposed residential use is appropriate for this site, which is served by minor arterial streets, bus lines, and a nearby Metrorail station. As set forth in the Findings of Fact, the proposed PUD is appropriately designed to respect the surrounding areas, including the lower density residential areas to the east and south of the site and the higher density residential building to the west of the site.

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6. The Applicant seeks an increase in lot occupancy as permitted by 11 DCMR § 2405.4. The project benefits and amenities, particularly the provision of housing and affordable housing, the landscaping plan, and the donations to the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School, are a reasonable trade-off for the requested development flexibility.
7. Approval of the Application is appropriate, because the proposed PUD is consistent with the present character of the area.
8. Approval of the PUD is not inconsistent with the Comprehensive Plan.
9. In accordance with D.C. Official Code § 1-309.10(d) (2001), the Zoning Commission must give great weight to the issues and concerns of the affected ANC. The Commission notes that ANC 1B submitted written recommendations in this proceeding in support of the Application.
10. Approval of the Application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
11. Notice of the public hearing was provided in accordance with the Zoning Regulations.
12. The Applicant is subject to compliance with D.C. Law 2-38, The Human Rights Act of 1977.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Application for consolidated review of a Planned Unit Development for Square 2661, Lots 54, 215, 216, and 860. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by SK&I Architectural Design Group, LLC dated October 30, 2003, marked as Exhibit 38 in the record (the "Plans") as modified by the guidelines, conditions, and standards herein.
2. The PUD shall be a residential building consisting of approximately 115,260 square feet of gross floor area, with no more than 103 dwelling units. The Project shall not exceed a density of 2.7 FAR. The building shall not exceed a height of 55 feet, as measured in accordance with the Zoning Regulations. The project may include a roof structure with a height not to exceed 17 feet as indicated in the Plans and in accordance with the Zoning Regulations.

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3. The Applicant shall provide affordable housing as described in Exhibit 38. To the extent that minor modifications are needed in the execution of the program to conform to District or Federal housing programs, the Applicant shall work with the Department of Housing and Community Development to make such changes to comply with the same.
4. The proposed PUD shall include a minimum number of parking spaces in the amount of 1.5 parking spaces per dwelling unit. The proposed PUD shall include 136 parking spaces in the below-ground garage and 18 parking spaces behind the building in an above-ground surface lot. At least twelve (12) bicycle parking spaces shall be provided in the garage. All of the parking spaces behind the building shall be devoted to visitor parking and shall be free of charge to visitors. Parking spaces shall be offered for sale to owners of dwelling units in the proposed PUD and to residents within a one block radius of the proposed project. There is no requirement for any dwelling unit owner to purchase a parking space. Ownership of the parking spaces in the below-ground garage shall be limited to two per person.
5. The proposed PUD shall include one 15-foot by 35-foot loading berth, with a 200-square-foot loading platform as shown on the Plans.
6. The proposed PUD shall include open, green space that is accessible to residents of the building and has gating as depicted in the Plans. Landscaping improvements shall be in accordance with the Plans. The Applicant or its successors shall maintain all landscaping improvements in good condition.
7. The Applicant shall include landscaping improvements as indicated on the Plans along both sides of Belmont Street for the length of the building. The off-site landscaping shall be installed prior to the issuance of the last Certificate of Occupancy for the PUD. The Applicant or its successors shall maintain all landscaping improvements in good condition.
8. The Applicant shall create a recreational roof structure in accordance with the Plans.
9. The Applicant shall have flexibility with the design of the proposed PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, kitchens and toilet rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, but with no reduction in quality, based on availability at the time of construction; and

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- c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit.
10. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, a goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.
11. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.
12. The Applicant shall abide by the terms of the executed Construction Management Plan in order to achieve the goal of constructing the PUD in a reasonable manner and to minimize any adverse effect the construction of the PUD may have on the immediate surrounding neighborhood.
13. The Applicant shall abide by the executed Contribution Agreements entered into with the Metropolitan Boys and Girls Club and the Garnet-Patterson Middle School and shall provide these donations prior to the granting of the first Certificate of Occupancy for the PUD.
14. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the Land Records of the District of Columbia, between owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.
15. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

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16. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this order.
17. Pursuant to the Human Rights Act of 1977, D.C. Law 2-38, as amended, codified at D.C. Official Code § 2-1402.67 (2001), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.

On December 18, 2003, the Zoning Commission approved the Application by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Peter G. May to approve; James H. Hannaham, not present, not voting).

The Order was adopted by the Zoning Commission at its public meeting on January 12, 2004, by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Peter G. May to approve; James H. Hannaham, not present, not voting).

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 \_\_\_\_\_.

**ZONING COMMISSION ORDER NO. 03-29**  
**Z.C. Case No. 03-29**  
**(Consolidated Planned Unit Development for**  
**The George Washington University – Square 103 Residence Hall )**

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on February 19, 2004 to consider an application from the George Washington University for consolidated review and approval of a planned unit development pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

**FINDINGS OF FACT**

1. On July 30, 2003, the George Washington University (“Applicant” or “University”) filed an application for consolidated review and one-step approval of a planned unit development (“PUD”) and related Zoning Map amendment for the property consisting of Lot 817 in Square 103. The Applicant requested approval of a map amendment from R-5-D to C-3-C to construct a 530-bed residence hall with 125,000 square feet of gross floor area and a height of 120 feet.
2. During its meeting on November 12, 2003, the Commission expressed concern about the proposed height and decided to set down the application for a hearing within the framework of the existing R-5-D zoning. As a result, the maximum height of the building was reduced to 90 feet, and the number of proposed beds was reduced to 379. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the D.C. Register on December 26, 2003 (50 D.C. Reg. 11067), and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission (“ANC”) 2A.
3. Parties in this proceeding were the Applicant and ANC 2A. The Foggy Bottom Association (“FBA”) withdrew its request for party status at the hearing. At the public hearing on February 19, 2004, the Commission heard testimony and received evidence from the Applicant, ANC 2A, and the Office of Planning, as well as from persons in support of or in opposition to the application.
4. The University’s Foggy Bottom campus is bounded generally by 19<sup>th</sup> Street to the east, 24<sup>th</sup> Street to the west, Pennsylvania Avenue to the north, and E Street to the south. As of the Fall of 2002, the University enrolled approximately 8,066 undergraduate students,

4,526 of whom had on-campus housing. The Board of Zoning Adjustment ("BZA") conditionally approved the University's 2000 Campus Plan in BZA Application No. 16553 ("Campus Plan"; *see* BZA Order No. 16553-I, April 26, 2004). As stated during the 2000 Campus Plan process, the University is committed to housing more of its students on campus. During that process, ANC 2A, FBA, several tenant associations, and the Office of Planning ("OP") requested that the BZA require the University to provide more student housing within the Campus Plan boundaries. OP testified that it would support the concept of using flexible zoning guidelines with regard to building height and density to maximize housing on campus. The proposed PUD responds to the University's commitment to increase on-campus housing on an expedited basis, thereby addressing the issue that dominated the Campus Plan process. The use of the PUD process to maximize beds is consistent with OP's suggested use of flexible zoning tools.

5. The site of the proposed PUD (the "PUD Site") is located at 2025 F Street, N.W. (Square 103, Lot 817). The PUD Site is mid-block between 20<sup>th</sup> and 21<sup>st</sup> Streets in the southeastern portion of the University's campus in the Foggy Bottom neighborhood of Ward 2, within the boundaries of ANC 2A.
6. The PUD Site has frontage of approximately 238.7 feet along F Street and a depth of approximately 120.79 feet. The land area of the PUD Site is approximately 28,669 square feet. The PUD Site thus exceeds the applicable minimum area requirement of 15,000 square feet set forth in 11 DCMR § 2401.1 for a PUD in the R-5-D district.
7. The PUD Site, and the surrounding campus, are designated in the Institutional land use category on the District of Columbia Generalized Land Use Map. The areas immediately to the north and to the east of the campus are designated for high-density commercial use, and the area immediately to the south is designated for high-density residential use.
8. The PUD Site is zoned R-5-D. The R-5-D district permits a maximum height of 90 feet, a maximum lot occupancy of 75 percent, and a maximum density of 3.5 FAR. The PUD guidelines for the R-5-D district allow a maximum height of 90 feet and a maximum density of 4.5 FAR. The FAR aggregation rule that applies to residentially zoned property subject to a campus plan would permit greater density on the PUD Site provided that the overall campus density did not exceed 3.5 FAR. *See* 11 DCMR §§ 210.3, 402.4. The R-5-D district requires a rear yard of 30 feet for a 90-foot building, and a minimum width of an open court of 3 inches per foot of height, but not less than 10 feet. A penthouse structure on the roof of a building must be set back from all exterior walls a distance at least equal to its height above the roof, and must not exceed 18 feet, 6 inches in height.
9. The proposed PUD includes an existing building and a new residence hall to be constructed on portion of the site currently used for parking. The existing building, known as the Support Building, has a height of 46 feet and approximately 150 feet of frontage along F Street. The Support Building is located on the western portion of the PUD Site and occupies approximately 17,956 square feet of the land within the PUD Site. The Support Building functions as the center for facilities operations for the University,

housing the Offices of Facilities Management; Facilities Development; Housekeeping; Residential Property Management; Mail Services; Risk Management; Institutional Auxiliary Services; Construction Programs; and Architecture, Engineering, and Construction. The service area behind the Support Building serves as the central receiving area for deliveries to the University.

10. The eastern portion of the PUD Site, with an area of approximately 10,713 square feet and frontage of approximately 88 feet, is currently improved with a surface parking lot. The Applicant proposes to construct a new residence hall on this portion of the PUD Site.
11. The parking lot provides 60 parking spaces, some of which are stacked. Although the parking lot will be removed when construction on the new residence hall begins, the University will maintain the minimum 2,800 total parking spaces required on-campus by the approved Campus Plan.
12. The proposed project has been designed to maximize on-campus housing under the existing zoning, and will allow approximately 100 more beds than would be allowed under matter-of-right zoning. The residence hall will consist primarily of two-bedroom dormitory units planned for use by freshmen. Generally, each unit will house four students, with two students per bedroom; the residence hall will also accommodate a community director and approximately eight student facilitators. The PUD will also contain approximately 1,300 square feet of ground-floor retail space, which the Applicant intends to devote to food service, provisions, or similar uses of convenience to students and other community residents. The retail space will be predominantly for student use, but will be open to the public. The proposed new residence hall will contain approximately 90,000 square feet of gross floor area.
13. In its order conditionally approving the Applicant's campus plan, the Board of Zoning Adjustment required the University to make available beds for at least 5,600 full-time undergraduate students on campus by August 31, 2006, and to make available one bed on campus for each full-time undergraduate in excess of the base number (*i.e.*, 8,000) whenever the head count of full-time undergraduate enrollment exceeds 8,000 (*see* BZA Order in Application No. 16553-I, April 26, 2004).
14. Since approval of the 2000 Campus Plan, the University has been engaged in the process of constructing more dormitory beds on campus. The bed count has been increased by approximately 668 since 2001. With the addition of a new residence hall in Square 43, scheduled for completion in the Fall of 2004, the total number of beds added since 2001 will be 1,396. Completion of the PUD project will result in a total of 1,775 new beds since 2001.
15. The Campus Plan identified several preferred sites for on-campus housing, including a parcel at the southeast corner of Square 103. Development of a residence hall on the PUD Site will supplement, rather than replace, student housing developed on the sites identified in the Campus Plan as preferred locations for on-campus housing.

16. In the proposed PUD, the combined gross floor area of the Support Building and the new residence hall will be 114,281 square feet. The PUD Site will have a total density of 3.98 FAR, which is less than the 4.5 FAR allowed for a PUD in the R-5-D district. The additional density (*i.e.* the difference between 3.98 and 3.5 FAR) will be aggregated as part of the total density for the entire campus, as permitted under 11 DCMR § 210.3.
17. To provide 100 more beds than would be possible under matter-of-right zoning, the proposed residence hall requires relief from the rear yard, penthouse setback, lot occupancy, and court requirements of the R-5-D district. The Commission finds that the requested zoning relief will not create objectionable impacts.
- (a) To maximize the capacity to house students, the residence hall will abut the alley at the rear of the PUD Site; no rear yard will be provided. The lack of a rear yard will not be objectionable, because the 16-foot-wide alley will provide for adequate light and air, and the residence hall building has been designed so that none of the units faces the alley. The University owns the abutting properties on F Street, and the University and University-related fraternities own the properties abutting the rear alley. Any adverse impact would affect only the University.
  - (b) The open courts do not conform with strict zoning requirements but are wide enough to provide ample light and air to the residence hall and the abutting buildings. The new residence hall will be separated from the court of the adjacent building to the east by a distance of 25 feet, and the adjacent portion of the Support Building is constructed only to the second floor level.
  - (c) For the same reasons, the slightly increased lot occupancy will not be objectionable to neighboring properties. The minor relief regarding the penthouse setbacks will have no impacts.
18. The proposed PUD will provide the following project amenities and public benefits:
- (a) Housing. The project will create approximately 379 new beds within the Campus Plan boundaries that will be in addition to student housing constructed by the Applicant on the preferred sites for on-campus housing identified in the Campus Plan.
  - (b) Uses of Special Value. The Comprehensive Plan indicates that the provision of additional on-campus housing for students of the George Washington University will be particularly beneficial to the Foggy Bottom neighborhood. The project will also provide approximately 1,300 square feet of retail space on the ground floor of the residence hall and a new food service facility at Quigley's, an existing building located at the northwest corner of Square 103 at 619 21<sup>st</sup> Street N.W.
  - (c) Urban Design, Architecture, and Landscaping. The project provides an environmentally sensitive building with attractive landscaping, including a new, more attractive streetscape for the portion of F Street along the front of the new building. The residence hall has been designed carefully to ensure that the design

complements the area. The façade along F Street is articulated with bays that will add visual interest and relate well to the Support Building and townhouses to the northwest. The building design involves high-quality materials such as brick and superior detailing.

- (d) Site Planning. The project provides efficient and economical land utilization through new development on an underused site that will create desirable infill development with an attractive urban design and streetscape. The renovation of Quigley's will further the overall development of Square 103.
  - (e) Effective and Safe Vehicular and Pedestrian Access. The project will provide a positive impact on the overall transportation infrastructure in the area near the site, because the students residing in the residence hall will be able to walk to classes and other activities on campus.
  - (f) Furthering the Comprehensive Plan. The project will further the goals and objectives of the Comprehensive Plan by guiding the development of institutional uses in the District and stabilizing the Foggy Bottom neighborhood by housing more students on campus.
  - (g) Environmental Benefits. The building will be designed in an environmentally sensitive manner. The University will engage an independent commissioning authority to verify the installation, functional performance, training, and documentation of the building's systems. In addition, no CFC-based refrigerants or halon will be specified in this project, and major equipment, such as main chillers, will be specified not to contain HCFC. The indoor environmental quality will be superior, because tobacco smoke will not be allowed in the building, and the interior surfaces will be finished with low-emitting materials to the extent possible. The materials and resources used in the project will, to the extent possible, be manufactured, extracted, harvested, or recovered locally or regionally. The site also features sustainable aspects such as an exterior lighting design that will limit light trespass from the building site and an interior lighting design that will limit direct-beam illumination from the building site. The elimination of the surface parking lot and the location of the site in proximity to public transportation provide additional environmental benefits.
19. The Commission finds that the PUD project is acceptable in all proffered categories of project amenities and public benefits, and qualifies for approval by being particularly strong in the categories of housing, furthering the Comprehensive Plan, and environmental benefits.
20. By report dated February 9, 2004, and by testimony at the public hearing, the Office of Planning recommended approval of the application. OP stated that the proposed PUD meets the standards of the PUD regulations in chapter 24 of the Zoning Regulations, provides significant public benefits, is consistent with the intent and purpose of the Zoning Regulations and Map and with the University's Campus Plan, and is not inconsistent with the Comprehensive Plan.

21. According to OP, the zoning flexibility requested by the Applicant would allow the University to provide approximately 100 additional beds on the site, which is a benefit and the main amenity of the PUD. OP further found that the retail space on the ground floor of the residence hall is an amenity that will serve the residents of the project as well as some members of the adjacent community. OP also concluded that replacing a parking lot with an attractive new building is an amenity. OP determined that the streetscape improvements proposed by the Applicant will contribute to the larger sense of place for the block and are a step in the continuing effort to improve the streetscape throughout the campus. In addition, OP observed that the renovation of Quigley's will further the overall development of Square 103. OP concluded that the proposed project's impacts on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD.
22. The Commission credits the testimony of OP that the project offers superior amenities and benefits to the community and the District. The Commission agrees with OP that expediting and increasing the housing of undergraduate students on campus is a benefit. The Commission also agrees with OP that the provision of public, ground-floor retail on the PUD Site is an amenity that will benefit both the residents of the new residence hall and members of the adjacent community.
23. The District Department of Transportation ("DDOT"), by memorandum dated February 11, 2004, recommended approval of the proposed PUD. DDOT determined the additional on-campus housing would have a positive impact on traffic and parking conditions on streets surrounding the campus. DDOT found that off-street loading facilities located in the Support Building adjacent to the proposed new residence hall will accommodate the service and delivery needs of the new residence hall. DDOT determined the proposed PUD would increase on-campus housing in compliance with the DDOT recommendations in the Campus Plan proceeding.
24. DDOT filed a supplemental report on February 23, 2004, in which it reiterated its support for the proposed PUD. DDOT conducted a site visit with a representative of ANC 2A on February 17, 2004 that reinforced its earlier determination that additional on-campus housing would reduce overall traffic congestion in Foggy Bottom. DDOT encouraged the University to stagger move-in times and to make space available at the Support Building during student move-in and move-out times to reduce congestion along F Street and adjacent streets. DDOT further recommended that the University coordinate with the Metropolitan Police Department and Department of Public Works parking enforcement staff to enforce prohibitions on double parking and other traffic violations, and that the University consider imposing restrictions on automobile use by residents of the new residence hall.
25. The Commission credits DDOT's conclusion that the proposed PUD will have a positive impact on traffic and parking conditions in and around the campus. The Commission also credits DDOT's testimony that a separate off-street loading area for the residence hall is not necessary because it is located adjacent to the central loading and receiving area for the University.

26. Three residents of Foggy Bottom, including one University student, testified in support of the application. They noted the benefits of the construction of additional on-campus beds as well as the advantages of the proposed retail use, and complimented the design of the building and the enhanced streetscape.
27. The Foggy Bottom Association indicated its opposition to the application through letters submitted to the record and through testimony at the hearing. By letter dated November 11, 2003, FBA contended that any development on the PUD Site should be reviewed as a special exception request for further processing under the Campus Plan; the location of the proposed residence hall is objectionable because it will concentrate a large number of students in a small area; a nearby PUD at 1957 E Street N.W. has created objectionable impacts such as increased noise and pedestrian traffic in the area; and the proposed residence hall will adversely affect the residential community east of 23<sup>rd</sup> Street. By letter dated February 9, 2004, FBA asserted that the University has exceeded its enrollment cap and houses students at the Mount Vernon Campus; the University develops its undergraduate residential housing on an "ad hoc" basis without developing a cohesive plan; the University will not be required to count the proposed PUD as part of its aggregate FAR; and the project requires an environmental impact statement.
28. The Commission concurs with the Applicant's architect with respect to the requested areas of relief, and finds that the lot occupancy, court width, penthouse setback, and rear yard relief will not diminish the quality of the project or result in adverse impacts to its residents or to neighboring properties.
29. ANC 2A, by resolution dated January 27, 2004, recommended against approval of the proposed PUD. The ANC's issues and concerns were that: (a) the Zoning Regulations do not permit use of the PUD process in an area regulated by a campus plan; (b) the campus plan process already provides universities with significant flexibilities; (c) the additional flexibility allowed under the PUD process would set negative precedents and create negative consequences for neighborhoods bounding an approved campus plan area; (d) the Applicant could construct the residence hall without a PUD by obtaining variances, and the flexibility of development allowed under the PUD process could result in unforeseen future development on the site; (e) elimination of the rear yard would not provide adequate light and air to the building and the university-related fraternity buildings to the rear of the site; (f) the reduced court width would not provide adequate light and air to the residence hall; (g) the Applicant miscalculated the lot occupancy, so that the requested flexibility with regard to lot occupancy is greater than proposed by the Applicant; (h) the Applicant might not continue to provide the loading facilities available in the adjacent service building; (i) the proposed ground-floor retail space is objectionable because it is too vague, is unnecessary, and would be noisy; and (j) the Applicant's proposed amenities are inadequate.
30. The Commission accorded ANC 2A the "great weight" to which it is entitled. In doing so, the Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed residence hall on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that

- would cause the Commission to find that the residence hall is contrary to the Zoning Regulations and would adversely affect the use of neighboring property.
31. The Commission is not persuaded by ANC 2A's assertions that the PUD process is not available to properties subject to a campus plan, or would result in negative consequences. The filing of a PUD application for a property within the boundaries of an approved campus plan may be made pursuant to 11 DCMR § 2405.7. The PUD process is appropriately used to encourage high-quality developments that provide public benefits, and offers flexibility of development for projects that offer a commendable number or quality of public benefits. 11 DCMR §§ 2400.1, 2400.2. The PUD process offers flexibility that is not otherwise available under the campus plan process.
  32. With regard to the ANC's issues and concerns pertaining to rear yard, court width, and lot occupancy, the Commission credits the testimony of the Applicant's architect and the Office of Planning that the requested zoning relief was correctly calculated and will not adversely affect the use of neighboring property or create adverse impacts for the proposed residence hall.
  33. With regard to the loading dock, the Commission concurs with DDOT that the residence hall does not require a separate off-street loading area in light of the University's central loading facility, and is not persuaded by the ANC's concern that the University might not continue to provide the adjacent loading facility in the future. Nor does the Commission agree with the ANC's assertions that the Applicant's proposed amenities are inadequate or that the project's ground-floor retail space is objectionable, for reasons discussed above in Finding of Fact No. 18.
  34. The proposed PUD is consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods and respecting and improving the physical character of the District. The construction of additional on-campus student housing on the site of an existing surface parking lot is a significant improvement to the physical character of the District, and will help stabilize the surrounding neighborhood by providing housing for approximately 379 students in an on-campus dormitory setting. The project is also consistent with the District's goals for reducing traffic; because the residence hall is located on campus, the residents will be able to walk to school and to University-sponsored events. In addition, the residence hall is within walking distance of Foggy Bottom and Farragut West Metrorail Stations. Despite the loss of the current parking lot, the University will continue to provide parking elsewhere on campus consistent with the approved Campus Plan.
  35. The proposed PUD also furthers the objectives and policies of several of the Major Elements of the Comprehensive Plan.
    - (a) The proposed project is consistent with sections of the Housing Element that encourage the private sector to provide new housing to meet the needs of present and future residents, that encourage housing on suitably located public or private properties that are underutilized, and that view housing as a key part of the total urban living system.

- (b) The environmentally sensitive design of the PUD project is consistent with the goal of the Environmental Protection Element to protect the environment; to resist threats to its overall quality; to act to maintain and enhance its positive features in the interests of residents, workers, and visitors; and to protect residential communities from identified environmental hazards by implementing controls that prevent adverse impacts from incompatible uses.
  - (c) The project is consistent with the goal of the Urban Design Element because it has been designed to include the use of appropriate arrangements of building materials, height scale, mass, and buffering to complement the immediate region.
  - (d) With regard to the Land Use Element, the project is consistent with the objective to achieve stability in residential neighborhoods, and complies with objectives for public and institutional land uses, such as assuring neighborhood stability as non-government institutions grow and promoting the continued contributions by private institutions toward the economic and cultural vitality of the District. The project is also consistent with the objective of recognizing the specialized land use needs and unique economic and human development opportunities presented by colleges, universities, and other institutional users of large tracts.
  - (e) The project is consistent with the goal of the Ward 2 Element that the University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the Campus Plan.
36. The University presented the project to the Commission of Fine Arts for review on July 17, October 16, and December 18, 2003. CFA favorably reviewed the University's revised design for the PUD project, which lowered the proposed height from 120 feet to matter-of-right height requirements in the R-5-D zone.

#### CONCLUSIONS OF LAW

The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia. The development of this PUD project will carry out the purposes of chapter 24 of the Zoning Regulations to encourage well-planned developments that offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development.

The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, penthouse setback, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. The Commission finds that this PUD project will provide significant public benefits and community amenities providing superior features that will benefit the surrounding neighborhood to a greater extent than a matter-of-right development on

the PUD Site would provide. The approval of this PUD is not inconsistent with the Comprehensive Plan or with other adopted policies and programs related to the site, including the University's approved Campus Plan.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for Consolidated Review of a Planned Unit Development for the property located at 2025 F Street, N.W. (Lot 817 in Square 103) **SUBJECT** to the following **CONDITIONS**:

1. The PUD shall be developed in accordance with the plans prepared by Ayers/Saint/Gross, dated February 19, 2004, and marked as Exhibit 40 in the record, as modified by the guidelines, conditions, and standards herein.
2. The project shall include a residence hall consisting of approximately 90,000 square feet of gross floor area and constructed to a maximum height of 90 feet. The entire PUD Site shall be constructed to a maximum density of 3.98 FAR. Because the PUD Site is located on the George Washington University campus, the project shall be subject to the aggregation rule set forth in § 210.3.
3. The project shall provide approximately 379 beds for undergraduate students of the University.
4. The PUD shall not include any parking spaces or loading berths. Parking and loading shall be accommodated as prescribed in the approved Campus Plan.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - (a) To vary the exterior design, signage, and landscaping in response to changes to the final plans requested by the Commission of Fine Arts.
  - (b) To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms.
  - (c) To vary final selection of the exterior materials, within the color ranges and materials types as proposed, based on the availability at the time of construction, provided that the quality of the exterior materials is not diminished.

- (d) To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Construction Codes or that are otherwise necessary to obtain a final building permit.
6. No certificate of occupancy shall be issued to the planned unit development unless the Applicant has filed an application for any zoning approval required for the renovation or expansion of Quigley's to provide the food service called for in this Order. If the application for zoning approval is granted, the University shall use its best efforts to construct the renovation of the Quigley's building and to contract with a vendor to operate the food service. If for any reason the University is unable to secure the required zoning approval within one (1) year of the issuance of the certificate of occupancy for the PUD, or is unable to contract with a vendor for the operation of the food service within eighteen (18) months of the zoning approval for the renovated Quigley's, then the University shall file an application with the Zoning Commission to modify this Order to substitute an amenity of comparable value.
  7. The University shall use its best efforts to fill the retail space called for in this Order. In the event that the University, despite its best efforts, is unable to rent the space within one (1) year of the issuance of the certificate of occupancy for the PUD, the University shall commence operation of the retail establishment in the space under its own authority within 24 months of the issuance of the certificate of occupancy pursuant to any required District approvals.
  8. The University will coordinate the move-in and move-out procedures for students residing in the PUD with the University Police Department, the Metropolitan Police Department, the District Department of Transportation, and neighboring residents. These procedures will be designed to provide for an efficient means for moving the students in and out of the residence hall at the beginning and end of the academic year so as to minimize the adverse impact on surrounding residents. These procedures shall require use of the existing loading dock of the adjacent Support Building, as well as the use of a separate back entrance on the northeast side of the subject property, to the maximum extent feasible in order to minimize the disruption of traffic along F Street.
  9. No building permit shall be issued for this Planned Unit Development until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on or use the property in accordance with this order and any amendment thereof by the Zoning Commission.
  10. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

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11. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this order.
  
12. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (Act). The District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, 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.

At a public meeting on March 8, 2004 the Commission took preliminary action to approve the application by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons (by absentee vote) in favor; third mayoral appointee not present, not voting).

This order was **ADOPTED** by the Zoning Commission at its public meeting held on May 10, 2004 by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons in favor; Gregory N. Jeffries not voting, not having heard the case).

In accordance with the provisions of 11 DCMR § 2038, this order shall become final and effective upon publication in the D.C. Register; that is, on \_\_\_\_\_.

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