

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

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

October 2008

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Theresa Ennis	Board of Accountancy	7	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	15	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	31	9:00 am-1:00 pm
Dorothy Thomas	Board of Barber and Cosmetology	6	10:00 am-4:00 pm
George Beatty	Boxing and Wrestling Commission	14	7:00-pm-9:00 pm
Dorothy Thomas	Board of Funeral Directors	2	1:30 pm-5:00 pm
Theresa Ennis	Board of Professional Engineers	23	9:30 am-1:30 pm
Leon Lewis	Board of Real Estate	14	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	16	5:30 pm-8:00 pm
	Asbestos Electrical Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

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

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS**CLOSE OF VOTER REGISTRATION**

Attention District of Columbia Residents: The DC Board of Elections and Ethics reminds you that the deadline for eligible citizens to register to vote for the November 4, 2008 Presidential General Election is Monday, October 6, 2008. To register, visit the Board's website at www.dcboee.org or call 202-727-2525 (TDD 202-639-8916).

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2008

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE., Washington, D.C., intends to issue a permit to operate one (1) 200 kW diesel emergency generators to the Catholic University of America located at 620 Michigan Avenue, N.E. Washington, D.C. 20064.

The application to construct/operate the generator and the draft permit are all available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
51 N Street, NE
Washington D.C. 20002

No written comments postmarked after November 3, 2008 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2008

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE., Washington, D.C., intends to issue a permit to operate two (2) 1500 kW diesel emergency generators at the Naval Facilities Engineering Command, United States Navy, Public Works Department, Building 485, Anacostia Annex Washington Navy Yard, D.C. 20374.

The application to construct/operate the generators and the draft permit are all available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
51 N Street, NE
Washington D.C. 20002

No written comments postmarked after November 3, 2008 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF DETERMINATION OF INCOME LIMITS AND HPAP ASSISTANCE**

The D.C. Department of Housing and Community Development, pursuant to the authority in Chapter 25, Title 14, DCMR, Section 2503 and Section 2510 of the rules for the Home Purchase Assistance Program (HPAP), hereby gives notice that it has established the income limits and homebuyer assistance for participation of very low income, low income and moderate income households in the HPAP Program.

These income limits have been determined based on the median family income of \$99,000 established by the Secretary of the U.S. Department of Housing and Urban Development for 2008, for the Washington Metropolitan Statistical Area. The amounts have been calculated based on Section 2510 of the HPAP Program rules. The First Time Homebuyer Assistance Table for Downpayment and Closing Costs shall be effective upon publication of this Notice in the D.C. Register.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (DHCD)

HOME PURCHASE ASSISTANCE PROGRAM (HPAP)

First-Time Homebuyer Assistance Table for Downpayment and Closing Costs
(Effective October 1, 2008)

NOTE:

** "Desired Purchasing Power," the purchasing power intended to be afforded to income-eligible four-person household = \$230,000.

** Closing Cost Assistance for all eligible households = 4% of purchase price or \$7,000, whichever is less. Closing Cost Assistance is provided to eligible households distinct from and in addition to Downpayment Assistance, which is shown below.

** Per Client Downpayment Assistance Cap = \$70,000.

Calculated Maximum Downpayment Assistance Available per Household Income by Household Size is as follows:

Household Size	1	2	3	4	5	6	7	8
Maximum assistance								
	per household income less than or equal to:							
Very low income households								
\$ 70,000	\$ 34,450	\$ 39,350	\$ 44,300	\$ 49,200	\$ 53,150	\$ 57,050	\$ 61,000	\$ 64,950
\$ 67,750	\$ 42,000	\$ 48,000	\$ 54,000	\$ 60,000	\$ 63,750	\$ 67,500	\$ 71,250	\$ 75,000
Low income households								
\$ 64,900	\$ 43,050	\$ 49,200	\$ 55,350	\$ 61,000	\$ 66,400	\$ 71,350	\$ 76,250	\$ 76,250
\$ 62,100	\$ 43,400	\$ 49,600	\$ 55,800	\$ 62,000	\$ 65,875	\$ 69,750	\$ 73,625	\$ 77,500
\$ 59,300	\$ 44,000	\$ 50,400	\$ 56,700	\$ 63,000	\$ 66,900	\$ 70,850	\$ 74,800	\$ 78,700
\$ 56,500	\$ 44,800	\$ 51,200	\$ 57,600	\$ 64,000	\$ 68,000	\$ 72,000	\$ 76,000	\$ 80,000
\$ 53,700	\$ 45,500	\$ 52,000	\$ 58,500	\$ 65,000	\$ 69,000	\$ 73,000	\$ 77,000	\$ 81,250
\$ 50,900	\$ 46,200	\$ 52,800	\$ 59,400	\$ 66,000	\$ 70,000	\$ 74,250	\$ 78,350	\$ 82,500
\$ 48,100	\$ 46,900	\$ 53,600	\$ 60,300	\$ 67,000	\$ 71,000	\$ 75,375	\$ 79,500	\$ 83,750
\$ 45,300	\$ 47,600	\$ 54,400	\$ 61,200	\$ 68,000	\$ 72,250	\$ 76,500	\$ 80,750	\$ 85,000
\$ 42,500	\$ 48,300	\$ 55,200	\$ 62,100	\$ 69,000	\$ 73,300	\$ 77,625	\$ 81,900	\$ 86,250
\$ 39,700	\$ 49,000	\$ 56,000	\$ 63,000	\$ 70,000	\$ 74,350	\$ 78,750	\$ 83,000	\$ 87,500
\$ 36,900	\$ 49,700	\$ 56,800	\$ 63,900	\$ 71,000	\$ 75,400	\$ 79,875	\$ 84,300	\$ 88,750
\$ 34,050	\$ 50,400	\$ 57,600	\$ 64,800	\$ 72,000	\$ 76,500	\$ 81,000	\$ 85,500	\$ 90,000
\$ 31,250	\$ 51,100	\$ 58,400	\$ 65,700	\$ 73,000	\$ 77,550	\$ 82,125	\$ 86,650	\$ 91,250
\$ 28,450	\$ 51,800	\$ 59,200	\$ 66,600	\$ 74,000	\$ 78,600	\$ 83,250	\$ 87,850	\$ 92,500
\$ 25,650	\$ 52,500	\$ 60,000	\$ 67,500	\$ 75,000	\$ 79,650	\$ 84,375	\$ 89,050	\$ 93,750
\$ 22,850	\$ 53,200	\$ 60,800	\$ 68,400	\$ 76,000	\$ 80,750	\$ 85,500	\$ 90,250	\$ 95,000
\$ 20,050	\$ 53,900	\$ 61,600	\$ 69,300	\$ 77,000	\$ 81,800	\$ 86,625	\$ 91,400	\$ 96,250
\$ 17,250	\$ 54,600	\$ 62,400	\$ 70,200	\$ 78,000	\$ 82,850	\$ 87,750	\$ 92,600	\$ 97,500
\$ 14,450	\$ 55,400	\$ 63,400	\$ 71,300	\$ 79,200	\$ 84,150	\$ 89,100	\$ 94,050	\$ 99,000
Moderate income households								
\$ 11,650	\$ 56,000	\$ 64,000	\$ 72,000	\$ 80,000	\$ 85,000	--	--	--
\$ 8,850	\$ 56,700	\$ 64,800	\$ 72,900	\$ 81,000	\$ 86,000	--	--	--
\$ 6,000	\$ 57,400	\$ 65,600	\$ 73,800	\$ 82,000	\$ 87,100	--	--	--
\$ 3,200	\$ 58,100	\$ 66,400	\$ 74,700	\$ 83,000	\$ 88,950	--	--	--
\$ 400	\$ 58,800	\$ 67,200	\$ 75,600	\$ 84,000	\$ 89,250	--	--	--
\$ 0*	\$ 76,200	\$ 87,100	\$ 98,000	\$ 108,900	\$ 115,700	\$ 115,700	\$ 115,700	\$ 115,700

* Moderate income households in this uppermost range of incomes are eligible for Closing Cost Assistance only.

Assistance levels are determined for four-person households by calculating standard mortgage qualification levels for each \$1,000 of income and subtracting each such mortgage level amount from the "Desired Purchasing Power" (as defined above). Household incomes eligible for assistance for household sizes other than four persons are adjusted as shown.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

PLEASE BE ADVISED THAT A PRE-APPLICATION CONFERENCE WILL BE HELD ON TUESDAY, OCTOBER 21, 2008, FROM 10:00 AM – 12:00 NOON AT 801 NORTH CAPITOL ST, NE, IN THE 9TH FLOOR CONFERENCE ROOM. THE APPLICATION DEADLINE IS NOVEMBER 6, 2008 AT 4:00 P.M.

Services for Housing Programs and Initiatives

The District of Columbia Department of Housing and Community Development (DHCD) hereby announces grant funding availability for District of Columbia non-profit organizations to conduct Single Family Homeownership Education, Tenant Education, and Technical Assistance and Services for Multi-Family Owner-Occupied (Cooperative and Condominium) Properties. These services will support several existing DHCD housing programs and initiatives. The Department intends to make grant funds available to non-profit organizations for these activities.

The activities to be funded under this Notice are to solicit several grantee organizations to conduct Single Family Homeownership Education, Tenant Education, and Technical Assistance and Services for Multi-Family Owner-Occupied (Cooperative and Condominium) Properties.

The Request for Applications (RFA) will include detailed descriptions of required organizational qualifications and grant-eligible activities.

The RFA will be available on Friday, October 3, 2008, at DHCD, located at: 801 North Capitol Street NE, Washington, DC 20002 – 7th Floor Reception Desk. The RFA also will be available from the DHCD website, located at www.dhcd.dc.gov, on or about October 10, 2008. For additional information about this opportunity, please contact Janice Blassingame of DHCD's Residential and Community Services Division, at (202) 442-7295.

DHCD will host a pre-application conference for potential RFA respondents on Tuesday, October 21, 2008, at 10:00 a.m. to 12:00 noon at DHCD, 801 N. Capitol Street, NE, 9th Floor. All potential applicants are encouraged to attend the conference.

The deadline for submission of grant applications is Thursday, November 6, 2008, at 4:00 p.m.

Funding under this notice is anticipated to begin on or before January 1, 2009.

IMAGINE SOUTHEAST PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Before & After Care Services**

The Imagine Southeast Public Charter School, in compliance with Section 2204 (C) of the District of Columbia School Reform Act of 1995 hereby solicits Requests for proposals for Before & After-Care services.

Email questions to tuanshanita.brown@imagineschools.com with the subject line as "Before & After-Care Services". For further information you may contact the school at 202-561-1622 and ask for Tuanshanita Brown.

Deadline for submissions is October 10, 2008.

Please mail proposals and supporting documents to the following address:

Imagine Southeast Public Charter School
Tuanshanita Brown
421 Alabama Ave. SE
Washington, DC 20032

DISTRICT OF COLUMBIA OFFICE OF PLANNING**NOTICE OF AVAILABILITY OF THE SAINT ELIZABETHS EAST
REDEVELOPMENT FRAMEWORK DRAFT PLAN FOR PUBLIC COMMENT
AND CONVENING OF PUBLIC HEARING**

ACTION: Notice of Availability of the Saint Elizabeths East Redevelopment Framework Draft Plan for Public Comment and Convening of Public Hearing.

SUMMARY: The initial planning work for Saint Elizabeths began in 2003 under the administration of Mayor Anthony Williams. By late 2005 the federal government decided to reuse the West Campus as a federal government office facility, which impacted a significant portion of the recommendations in the draft Framework Plan that included the West Campus. Soon it was clear that the federal government would undertake a separate planning process and environmental impact assessment. In response, the Office of Planning finalized the draft Framework Plan in 2006; however, the plan was not submitted to the City Council for approval as a small area plan and remained in draft form until 2008.

In 2008, under the leadership of Mayor Adrian M. Fenty, the DC Office of Planning (OP), in partnership with the Office of the Deputy Mayor for Planning and Economic Development (DMPED), initiated a community update to the initial Framework Plan. The likely relocation of the US Department of Homeland Security (DHS) on the West Campus of Saint Elizabeths, as well as a significant level of planned development in the area presents a new opportunity to catalyze development on the East Campus.

The DC Office of Planning has published for public review and comment the Saint Elizabeths East Redevelopment Framework Draft Plan. The Plan is an update of the 2006 draft plan which provides more detailed guidance on how the District should respond to current development opportunities, transportation, historic preservation, and sustainability challenges. DCOP emphasizes that the findings, conclusions and development scenarios in the Draft Small Area Plan are preliminary. Ultimately, the Draft Framework Plan requires review, consideration and, as appropriate, adoption by the District of Columbia City Council. If adopted, the project would require action by a number of DC agencies, as well as the non-governmental and private sectors. The DC Office of Planning is providing a 30-day public comment period on the Draft Saint Elizabeths East Redevelopment Framework Plan to commence on Monday, September 29, 2008. Comments must be postmarked by the close of the comment period, which is October 29, 2008. Information on how to submit comments is set forth below.

The DC Office of Planning, working in collaboration with the cooperating agencies, will consider all public comments on the Draft Plan and make its final recommendations on the project to the Mayor of the District of Columbia. Subsequently, the Mayor will submit to the District of Columbia City Council for consideration a Revised Draft Plan. The Council will provide additional opportunities for public comment, and will review

and fully evaluate the Revised Draft Plan. The Council will make its final decision regarding this project and any modifications and conditions it might impose on the plan. The Mayor, through the cooperating agencies will implement the plan.

FOR FURTHER INFORMATION CONTACT: Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 8, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at evelyn.kasongo@dc.gov.

SUPPLEMENTARY INFORMATION:

Public Availability

The DC Office of Planning has distributed the Draft Plan to several public entities, including the Advisory Neighborhood Commission 8C and asked that the entire Draft Plan be made available for the public to review. The Draft Plan is also available for public reviews at:

Petey Green Center
2907 MLK Avenue SE
Washington DC 20032

Martin Luther King Jr. Library
901 G. Street, NW
Washington DC 20001

Washington Highlands Library
115 Atlantic St SW
Washington, DC 20032

UPO/Anacostia Community Service Center
1649 Good Hope Road, S.E.
Washington, D.C. 20020

DC Office of Planning
801 North Capitol Street NE
Washington, DC 20002

Anacostia Interim Library
1800 Good Hope Road, SE
Washington, DC 20020

Advisory Neighborhood Commssion
8C
3125 MLK Jr. Avenue, SE
Washington, DC 20032

The draft plan is also available online at the DC Office Planning Web site:
www.planning.dc.gov

Public Comment

Written comments on the Draft Plan must be submitted by October 29, 2008. Comments must include the name, address and any organization for which the comments represent. Please send all comments to

Mayoral Hearing

In addition to receiving written comments on the Draft Plan, DC Office of Planning will host a Mayoral Hearing on October 28, 2008 at Saint Elizabeths Chapel (Main Sanctuary) located at 2700 Martin Luther King Jr. Avenue, SE Washington DC 20032 from 6:30 to 8:30 p.m.

At the hearing, DC Office of Planning will provide boards with visual representation pertaining to the recommendations set forth within the Draft Final Plan and respond to any questions relative to the graphic displays. Following this, members of the public will have an opportunity to offer comments.

Submitted by: Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 8, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at evelyn.kasongo@dc.gov.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after October 15, 2008.

Comments on these appointments should be submitted, in writing, to Naomi Shelton, Administrator, Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on October 3, 2008. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

**D.C. Office of the Secretary
Appointments of Notaries Public****Effective: October 15, 2008****Page 2 of 7**

Aaron	Shykenia	Jones Lang LaSalle 1300 Eye Street, NW, Suite 1020 East	20005
Abbott III	Thaddeus A.	Dept. of Mental Health 64 New York Avenue, NE, 5th Floor	20002
Abner	Yolanda Y.	Freedom House 1301 Connecticut Avenue, NW, Floor 6	20036
Allen	Marian Bailey	USDA 1400 Independence Avenue, SW	20250
Arbieto	Rosangela	GW University Law School 2000 G Street, NW	20006
Austin	Jerome	Bacon Funeral Home 3447 14th Street, NW	20010
Bell	Geraldine S.	Benjamin Banneker Development Corp. 3419 14th Street, NW	20019
Bergmann	Sarah Nellie	Legal Times 1730 M Street, NW, Suite 800	20036
Bourgoin	Marisa F.	Archives of American Art 750 9th Street, NW, Suite 2200	20001
Boyd	Stephanie	Department of Veteran Affairs 810 Vermont Avenue, NW	20420
Bryant	Barbara L.	Ingleside at Rock Creek 3050 Military Road, NW	20015
Buckhaults	Donna Q.	LAD Reporting Company 1100 Connecticut Avenue, NW, Suite 850	20036
Byrnes	Elizabeth E.	Consumer Data Industry Assoc 1090 Vermont Avenue, NW #200	20005
Carter	Willetta M.	Carter's Notary Public 749 51st Street, SE	20019
Ceglia-Greene	Simone	Federal News Service 1000 Vermont Avenue, NW	20005

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Appointments of Notaries Public****Effective: October 15, 2008****Page 3 of 7**

Chadick	Shelley L.	Holland & Knight, LLP 2099 Pennsylvania Avenue, NW #100	20006
Clarkson	Quineice W.	Bread for the World 50 F Street, NW, Suite 500	20001
Clements	Judith D.	Holiday Inn Capitol 550 C Street, SW	20024
Coley	Michele R.	734 Kenyon Street, NW	20010
Diggs	Asia	Regus Management Group 601 Pennsylvania Avenue, NW, Suite 900	20017
Ernest	Ruth S.	Fay Law 700 5th Street, NW, Suite 200	20001
Faunt	Nina E.	Royal Oak Capital Management 1101 New York Avenue, NW, Suite 801	20005
Felder	Gamini C.	IBUS Management & Development, Inc. 1899 Pennsylvania Avenue, NW, Suite 530	20006
Flowers	Sonja D.	2022 Maryland Avenue, NE, #108	20002
Foti	Molly J.	Alderson Reporting 1155 Connecticut Avenue, NW #500	20036
Friday	LeJeune	City Interests 3050 K Street, NW, Suite 205	20007
Gale	Cara L.	US Supreme Court 1 First Street, NE	20543
Gelb	Adam	Gelb & Gelb 1120 Connecticut Avenue, NW #421	20036
Gerard	Tiffany	Capitol Hill Consulting Group 499 South Capitol Street, SW #608	20003

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Appointments of Notaries Public****Effective: October 15, 2008****Page 4 of 7**

Goldsworthy	Mary F.	Amalgamated Transit Union 5025 Wisconsin Avenue, NW	20016
Good	Gwendolyn Y.	Good & Associates 405 P Sreet, NW	20001
Green	Arthur L.	Wachovia Bank 801 Pennsylvania Avenue, NW	20004
Green	Sterling	United House of Prayer Property Office 628 M Street, NW	20001
Green	Adriene D.	Bryan Cave LLP 700 13th Street, NW, Suite 700	20005
Green	Luci	Serenity Inc. 1718 5th Street, NW	20001
Gregory	Carrie H.	Personal Care Products Cnl 1101 17th Street, NW #300	20036
Grimes-Hines	Ophelia F.	2398 Elvans Road, SE	20020
Harris	Frederick B.	Harris Notary Service 708 Eastern Avenue, NE	20019
Heath	Tonya J.	Merrill Lynch 1850 K Street, NW, #700	20006
Hennessey	Stuart F.	Merrill Lynch 1850 K Street, NW, #700	20006
Hickman	Sheila	Alliance of Automobile Manufacturers, Inc. 1401 Eye Street, NW, Suite 900	20005
Hill	Ann M.	East of The River Travel 3225 Pennsylvania Avenue, SE	20020
Hines	Michelle	Chemonics International Inc. 1717 H Street, NW	20006
Holmes	Gabe	Congressional Title and Escrow co. Inc. 650 Pennsylvania Avenue, SE, #170	20003

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Appointments of Notaries Public****Effective: October 15, 2008****Page 5 of 7**

Hommer	Deborah L.	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Fl.	20036
Ingram	Trendy	Wachovia Bank 5100 Wisconsin Avenue, NW	20016
Johnson	Scharla	Portsmouth Financial Group 3201 New Mexico Avenue, NW #249	20016
Kasdan	David A.	Worldwide Reporting, LLP 529 14th Street, SE	20003
Kelly	Cornelius	PNC Bank 650 Pennsylvania Avenue, SE	20003
King	Kimberly A.	Georgia Ave./Rock Creek East Family Support Collaborative 1104 Allison Street, NW	20001
Kopperud	Judith A.	K2 Options 4611 Warren Street, NW	20016
Lanham	J.B.	Millennium Challenge Corp., A U.S. Government Corporation 875 15th Street, NW, Suite 4001	20005
Lum	Mary E.	Nixon Peabody LLP 401 9th Street NW, Suite 900	20004
Mahady	Christina A.	The Cochran Firm, DC, PLLC 1100 New York Ave., NW, #340, West	20005
Marshall	Coviece Antia	4221 Brooks Street, NW	20019
McGrady	Melinda	Harman Int'l Industries, Inc. 1101 Pennsylvania Ave., NW, Suite 1010	20004
McGuire	Kathryn	Merrill Lynch 1850 K Street, NW #700	20006
Mcilveen	John	American Institute for Cancer Research 1759 R Street, NW	20009
McKay	Lin Li	PNC Bank 833 7th Street, NW	20001

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Appointments of Notaries Public****Effective: October 15, 2008****Page 6 of 7**

Moore	Iris R.	Internal Revenue Service 1111 Constitution Avenue, NW	20224
Motley	Claire J.	Children's Nat'l Medical Center 111 Michigan Avenue, NW	20010
Parks	Corine L.	Connolly, Bove, Lodge & Hutz, LLP 1875 Eye Street, NW	20006
Patrick	Judith M.	Paul, Weiss, Rifkind, Wharton 1615 L Street, NW #1300	20036
Roberson	Cynthia V.B.	Kilpatrick Stockton LLP 607 14th Street, NW, Suite 900	20005
Runyan	Robert B.	Stewart Title Group, LLC 11 Dupont Circle, NW, Suite 750	20036
Shackleford	Deborah R.	Campaign For TFK 1400 I Street, NW #1200	20005
Shempp	Jacqueline	1910 Kalorama Road, NW, #505	20009
Sherman	John Daniel	Gore Brothers Reporting & Videoconferencing 1025 Connecticut Ave., NW, Suite 1000	20036
Shirazi	Kaveh, E.	Lyon Bakery, Inc. 135 R Street, SW	20024
Sifuentes	Jorge L.	IADB 1300 New York Avenue, NW	20577
Slovik	Monica Jean	4105 Wisconsin Avenue, NW, Apt 408	20016
Smith	Beverley P.	National Center for Children & Families 220 I Street, NE, Suite 280	20002
Smith	Gregory	CSOSA 633 Indiana Avenue, NW, Suite 1248	20004
Sobolik	Maxwell	Freedom House 1301 Connecticut Ave., NW, Floor 6	20036

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Appointments of Notaries Public****Effective: October 15, 2008****Page 7 of 7**

Steinmetz	Calvin	Law Office of Calvin Steinmetz 2141 P Street, NW, #103	20037
Sullivan	Lora A.	Mead Family Foundation 734 15th Street, NW	20005
Thompson	Kathern M.	Foley Hoag, LLP 1875 K Street, NW, Suite 800	20006
Tibbs	Charlene	Manna, Inc. 828 Evarts Street, NE	20018
Udo	Enyinnaya	Anic & Associates, CPAs, PC 6400 Georgia Avenue, NW, 11	20012
Vachon	Heather L.	US Senate Disbursing Office Hart Senate Office Bldg. Rm SH-127	20510
Walsh	Janet	McDermott Will & Emery LLP 600 13th Street, NW	20005
Watkins	Kieth A.	Alion Science & Technology 1100 New Jersey Avenue, SE #600	20003
Weinberg	Steven	Law Office of Steven Weinberg 2141 P Street, NW, #103	20001
West	Winnie A.	Merrill Lynch 1850 K Street, NW #700	20006
Williams	Marita M.	Image Matters, LLC 1389 Rittenhouse Street, NW	20011
Young	Diane T.	Merrill Lynch 1850 K Street, NW #700	20006
Zackiewicz	Marion S.	Supreme Court of the US 1 First Street, NE	20543
Zannat	Karina	Marcus and Millichap 1620 L Street, NW, Suite 600	20036
Zylinski	Ann M.	Lafayette Federal Credit Union 409 3rd Street, SW, Suite 105	20024

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT**

**ANNOUNCES A CHANGE IN MEETING DATE
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT FUND COMMITTEE**

The Office of the State Superintendent of Education hereby announces that the October meeting for the District of Columbia Public Charter School Credit Enhancement Fund Committee, originally scheduled for October 16, 2008, will be held on October 23, 2008.

The meeting will take place at 441 4th Street, NW, Suite 350 North, Conference View Room, Washington, DC 20001 from 12:30 pm to 1:30 pm. For additional information, please contact:

Vanessa Carlo-Miranda
Program Manager
Office of the State Superintendent of Education
Government of the District of Columbia
441 4th Street, N.W.; Suite 350N
Washington, D.C. 20001
Tele: 202-442-4022
Fax: 202-727-2019
vanessa.miranda@dc.gov

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

Application No. 17808 of Christopher Rodousakis, pursuant to 11 DCMR § 3104.1, for a special exception to construct a rear deck addition to an existing one-family row dwelling under section 223, not meeting the lot occupancy (section 403), rear yard (section 404), and court (section 406) requirements in the R-4 District at premises 120 Seaton Place, N.W. (Square 3107, Lot 62).

HEARING DATE: September 16, 2008

DECISION DATE: September 16, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 23 - Plans) be **GRANTED**.

BZA APPLICATION NO. 17808

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VOTE: 5-0-0 (Ruthanne G. Miller, Shane L. Dettman, Mary Oates Walker, Shane L. Dettman and Anthony J. Hood to approve)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: SEP 17 2008

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

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

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

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

BZA APPLICATION NO. 17808

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THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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

Application No. 17817 of Visitor's Service Center, Inc., pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception for a community service center under section 334, and a variance from the off-street parking requirements under subsection 2101.1, in the R-4 District at premises 1422 Massachusetts Avenue, S.E. (Square 1059, Lot 98).

Note: The Board amended the application to approve 100% variance relief from the off-street parking requirements under subsection 2101.1.

HEARING DATE: September 23, 2008
DECISION DATE: September 23, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B which is automatically a party to this application. ANC 6B submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 334, and a variance pursuant to § 3103.2 from the requirements of subsection 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 334, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 17817

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 25 - Plans) be **GRANTED**.

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

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: September 25, 2008

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

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

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

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

BZA APPLICATION NO. 17817

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DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR
CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

Application No. 17839 of D.C. Public Library, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the lot occupancy requirements under section 403, and a variance from the parking requirements under subsection 2101.1, to construct a public library (Watha T. Daniel Neighborhood Branch) in the R-5-B and C-2-B Districts at premises 1701 8th Street, N.W. (Square 420N, Lot 801).

HEARING DATE: September 23, 2008
DECISION DATE: September 23, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C which is automatically a party to this application. ANC 2C did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, from the variance requirements of section 403 and subsection 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 10 - Plans) be **GRANTED**.

BZA APPLICATION NO. 17839

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VOTE: 4-0-1 (Ruthanne G. Miller, Shane L. Dettman, Marc D. Loud and Mary Oates Walker to approve. The Zoning Commission member not present, not voting).

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: September 25, 2008

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

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

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

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

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

Application No. 17840 of D.C. Public Library, pursuant to 11 DCMR § 3103.2, for a variance from the parking requirements under subsection 2104.2, to construct a public library (Benning Neighborhood Branch) in the C-3-A District at premises 3935 Benning Road, N.E. (Square 5051N, Parcel 175/135).

HEARING DATE: September 23, 2008
DECISION DATE: September 23, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7A which is automatically a party to this application. ANC 7A did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, from the variance requirements of subsection 2104.2. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2104.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 26 - Plans) be **GRANTED**.

VOTE: 4-0-1 (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker and Shane L. Dettman to approve. The Zoning Commission member not present, not voting).

BZA APPLICATION NO. 17840

PAGE NO. 2

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: September 25, 2008

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

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

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

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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28A**

Z. C. Case No. 05-28A

**(Second-Stage Planned Unit Development [“PUD”] and Amendment to the Zoning
Map for Parkside Homes LLC and Parkside Senior Housing LLC)**

September 8, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on June 16, 2008, to consider an application of Parkside Homes LLC and Parkside Senior Housing LLC, for the review and approval of the second stage of an approved PUD and the implementation of a related map amendment from the R-5-A Zone District to the C-3-A Zone District. The property that is the subject of the second stage approval is located in Square 5041, Lots 809, 814, 815, 818, 820, 823, and 824 (“Subject Property”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At its public meeting on July 14, 2008, the Commission took proposed action by a vote of 4-0-1 to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated August 29, 2008, found that the proposed PUD is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

The Commission took final action to approve the application on September 8, 2008, by a vote of 4-0-1.

FINDINGS OF FACT

1. In November 2007, Parkside Residential LLC submitted an application for second stage PUD approval for the first phase of development implementing a first stage PUD and related map amendment. The Applicant sought approval to develop approximately 165,000 square feet of unimproved land in Ward 7 as a senior living facility and single-family townhomes. (Exhibit 3.)
2. Parkside Residential LLC subsequently transferred the Subject Property to Parkside Homes LLC and Parkside Senior Housing LLC (collectively, the “Applicant”). (Exhibit 15, p. 5.)
3. The application was set down for a public hearing at the Commission’s January 14, 2008 public meeting.

First Stage PUD Approval

4. The Commission approved the first stage PUD and related Zoning Map amendment on April 13, 2007. The first stage PUD approved a mixed-use development for Square 5041, Lots 806-809, 811, 812, 814, 815, 817, 818, 820,

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and 822; Square 5055, Lots 14-25 and 801-813; Square 5056, Lots 806, 809, 810-814, and 821 (“First Stage PUD Site”). (Z.C. Order No. 05-28.)

5. The First Stage PUD Site consisted of approximately 15.5 acres of land just north of the intersection of Minnesota Avenue and Benning Road and across Kenilworth Avenue from the Minnesota Avenue Metrorail Station. The First Stage PUD Site is in Ward 7, east of the Anacostia River. It is roughly bounded by Anacostia Avenue, Foote Street, Kenilworth Avenue, Hayes Street, Barnes Street, Roosevelt Place, Grant Place, Burnham Place, and Parkside Place. Id.
6. The First Stage PUD Site is located to the northeast of a PEPCO plant, to the southeast of Neval Thomas Elementary School and a District of Columbia Public and Assisted Housing complex, to the south of the Mayfair/Paradise multifamily rental communities and to the south of Eastland Gardens. The Kenilworth Aquatic Gardens, Anacostia Park, the Anacostia River, and the national Arboretum are located to the west of the First Stage PUD Site. Id.
7. The Commission approved a PUD-related Zoning Map amendment from the R-5-A and C-2-A Zone Districts to the C-3-A and CR Zone Districts and approximately 3,003,000 gross square feet of development during the first stage PUD application process. Specifically, it approved 1,500-2,000 dwelling units, 500,000-750,000 square feet of office space, and 30,000-50,000 square feet of retail. A maximum density of 4.4 floor area ratio (“FAR”) was approved, as was a maximum building height of 110 feet for the office buildings along Kenilworth Avenue and a maximum height of 90 feet for the residential and retail buildings. Id.
8. The first stage PUD divided the PUD site into 10 blocks: Blocks A-J. Blocks A, B, and C are the subject of the instant application. Block A was approved for residential use, a lot occupancy of 62.6%, a maximum density of 4.12 FAR, and a height range of 54 to 84 feet. Block B was approved for residential use, a lot occupancy of 41%, a maximum density of 1.26 FAR, and a maximum height of 52 feet. Block C was also approved for residential use, a lot occupancy of 78.3%, a maximum density of 3.31 FAR and a maximum height of 64 feet. Id.
9. The Commission approved Blocks A, B, and C for a PUD-related rezoning to the C-3-A Zone District. Id.

First Phase of Second Stage PUD Approval

10. The Subject Property is known as Blocks A, B, and C. Lot 817 of the Original PUD Application was subsequently subdivided to create Lots 823 and 824 (Exhibit 3, p. 1; Exhibit 15, p. 5.)

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11. The Subject Property is bound by Anacostia Avenue to the north, Grant Place to the east, Foote Street to the west, and Barnes Street and Parkside Place to the south. Block A is located at the corner of Foote Street and Anacostia Avenue and is across the street from the Neval Thomas Elementary School. Block B is located immediately to the east of Block A and is bounded by Anacostia Avenue, Grant Place, Barnes Street, and Block A and is across the street from both the Neval Thomas Elementary School and the existing Parkside Townhomes. Block C is located to the south of Block A. It is bounded by Foote Street, Roosevelt Place, Barnes Street, and Parkside Place, and is adjacent to the Parkside Townhomes. (Exhibit 3, p. 1.)
12. The Applicant is constructing a 98-unit senior living facility and 112 single-family townhomes on the Subject Property. (Exhibit 3, p. 11; Exhibit 15, pp. 12-13.)
13. The senior living facility will be located on Block A, immediately adjacent to a sustainable linear park with natural stormwater management capabilities. The facility will consist of approximately 96,900 square feet of development. The building will have a density of 2.22 FAR, it will consist of 98 units, and it will have a maximum height of 54 feet and a lot occupancy of 51.6%. It will also provide 25 parking spaces (“Senior Living Facility”). (Exhibit 15, p. 12.)
14. The Senior Living Facility will incorporate sustainable elements such as Energy Star rated appliances, energy efficient lighting, low-VOC paints and adhesives, as well as a naturally landscaped bioswale that runs along the northern edge of the building adjacent to a linear park. (Exhibit 15, p. 13.)
15. Units in the senior living facility will be available to families with an annual income below 60% of the area median income (“AMI”). (Exhibit 15, p. 12.)
16. Blocks B and C will be dedicated to townhomes that will complement the existing Parkside Townhomes. The Applicant will construct 112 townhomes. The townhomes will each be approximately 2,000-3,000 square feet in size with a maximum height of 47 feet. The development will include two-bedroom, three-bedroom, and four-bedroom models and will be three stories with an optional roof deck and an optional penthouse. One hundred four of the townhomes will include a one- or a two-car garage. In all, 136 parking spaces will be provided with the townhomes. (Exhibit 15, pp. 13-15.)
17. Block B will consist of 108,912 square feet of development and a density of 2.1 FAR. It will include 46 townhomes with a maximum height of 47 feet. (Exhibit 15, p. 14.)

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18. Block C will consist of 160,636 square feet of development and a density of 2.01 FAR. It will include 66 townhomes with a maximum height of 47 feet. (Exhibit 15, p. 14.)
19. Nearly half of the townhomes in Blocks B and C will be available to individuals with an income between 80% and 120% of the AMI. (Exhibit 15, p. 21.)
20. The facades will be constructed with hardy board and hardy plank with a masonry base and accenting bays in each string of townhomes. The facades will also include over-sized brick throughout. (Exhibit 33.)
21. The development is consistent with the standards for evaluating a PUD under Chapter 24 of the Zoning Regulations. This development will create a high-quality residential project with significant housing opportunities, both affordable and market-rate. (Exhibit 15, pp. 18-21.)
 - Urban Design, Architecture, Landscaping: the Subject Property is in close proximity to the Minnesota Avenue Metrorail Station. Locating residential uses near public transportation is good urban design. The development also supports housing needs in the community for market-rate for-sale housing, and affordable senior housing. The residential buildings will be constructed along the property line, emphasizing the urban nature of the project. They will utilize high-quality materials that compliment the existing Parkside Townhomes. The development will also include extensive landscaping of the grounds.
 - Site Planning: the development takes advantage of its location adjacent to parklands, the Anacostia River and natural grades and the major transportation corridor to the southeast. It will replace vacant land and connect the existing Parkside Townhomes with the fabric of the city.
 - Effective and Safe Vehicular and Pedestrian Access: the development will not have an adverse impact on the transportation infrastructure in the area. The development will encourage transit ridership and enhance sidewalks. A bike trail along the Anacostia River will be easily accessible to the site and adequate automobile parking will be provided for each building.

The Applicant addressed concerns raised by the Office of Planning (“OP”) regarding the need for access to the site via Benning Road. The Applicant testified that there were several issues with providing access between the Parkside PUD from Benning Road; namely: insufficient public right-of-way for road construction, physical barriers and natural barriers, and incompatible truck traffic. The Applicant’s analysis, with which the

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District Department of Transportation (“DDOT”) concurred, demonstrated that access to the site is sufficient with the existing road network.

- Affordable Housing: the development will provide 210 new housing units. Ninety-eight of the units will be affordable and 42 units will provide new opportunities for home ownership at workforce rates, as described in conditions of this Order.

- Public Benefits:

The development will bring affordable senior housing to an area that has a rapidly increasing senior population but has few options for housing for individuals on a fixed income.

It will also bring quality, market-rate options to a community that is comprised largely by subsidized housing projects.

The Applicant will also enter into a First Source Employment agreement with the Department of Employment Services to promote and encourage the hiring of District of Columbia residents.

The Senior Living Facility will be designed to meet the Green Communities criteria.

The Applicant has committed to contributing 25% of the cost of a new pedestrian bridge, not to exceed \$3 million. The bridge will improve site access as it will connect the entire PUD site to the Minnesota Avenue Metrorail Station. The Deputy Mayor’s Office of Planning and Economic Development and DDOT have committed \$5 million to the project.

22. The development is fully consistent with and fosters goals and policies stated in the elements of the District of Columbia Comprehensive Plan. The development significantly advances these goals and policies by furthering the social and economic development of the District through the construction of new residential units on underutilized land. The project serves the goals of several of the citywide elements of the Comprehensive Plan: (Exhibit 15, pp. 24-29.)

- Land Use Map: the Subject Property is designated as primarily Medium-Density Residential, with a slice of the Property fronting on Roosevelt Place as Moderate-Density Residential. The density of the proposed residential uses of the Subject Property complies with the proposed land use designation.

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- Land Use Element: the Subject Property supports transit-oriented development. The Subject Property is a short walk to the Minnesota Avenue Metrorail station, which is one-third of a mile away from the Project Site. The development also enhances and stabilizes District neighborhoods by providing new residential opportunities for existing residents in the neighborhood.
- Transportation Element: the development will capitalize its proximity to the Minnesota Avenue Metrorail Station, promotes smart growth and supports transit-oriented development.
- Housing Element: the creation of a significant residential development on the Subject Property will further stabilize the community, build upon the existing neighborhood culture and will likely serve as a catalyst to the burgeoning Anacostia River waterfront.
- Environmental Protection Element: the Subject Property will be landscaped extensively to enhance streets and public spaces and reduce stormwater runoff. The development will include rain gardens to treat runoff from impervious surfaces and a vegetative swale to treat runoff from the Subject Property. It will also make use of permeable pavers in the alleys to reduce stormwater runoff from the Subject Property. The Senior Living Facility will satisfy the standards set forth by the Green Communities program. The overall PUD will also seek to achieve the equivalent of Silver level certification under the Leadership in Energy and Environmental Design Neighborhood Development program.
- Parks, Recreation, and Open Space Element: the development will include a linear park that will serve as public passive recreation space and will abut an open park that will be enhanced through future phases of development pursuant to Zoning Commission Order No. 05-28.
- Urban Design Element: the development will reflect the beneficial architectural qualities of the surrounding residential neighborhoods. It includes an appropriate density that allows for sufficient private and public open space.
- Area Element: the development allows for a variety of housing options for individuals with varying incomes. It will also transform a vacant piece of land into an inviting, accessible and active connection to the Anacostia waterfront.

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Public Hearing

23. A public hearing was held for the application on June 16, 2008. The Commission accepted Jack McLaurin and Logan Schutz as experts in architecture; Rob Schiesel as an expert in traffic engineering; and Dennis Carmichael as an expert in landscape architecture.
24. At the close of the hearing, the Commission asked the Applicant to study the façades of the townhomes; specifically, to use different materials, simplify the façade and to modify the window design to provide a more residential appearance. It also asked for more information regarding the location, income levels and administration of the affordable housing component.
25. The Applicant filed its post-hearing submission addressing the Commission's comments on June 30, 2008.

GOVERNMENT REPORTS

26. On June 6, 2008, OP submitted its report in support of the application into the record. OP requested additional information regarding the townhomes reserved as market-rate housing. OP also asked for information regarding market-rate values in the area. OP suggested that the issue of vehicular access to the overall PUD from Benning Road should be addressed in future phases of the PUD. (Exhibit 21.)
27. OP stated that it was very supportive of the project and that the development will add new residential opportunities in the area, including affordable senior housing that will benefit the neighborhood residents and District as a whole. It further found that the application was not inconsistent with the policies of the 2006 Comprehensive Plan. (Exhibit 21.)
28. OP stated that the Applicant satisfied each of the conditions of Z.C. Order No. 05-28. (Exhibit 21.)
29. OP concluded that the development satisfied the Strategic Neighborhood Action Plan for Cluster 30 by supporting public safety through the development of vacant land and supporting the provision of improved access for new and existing residents to the Metrorail Station. It also stated that the development furthers the objectives of the Great Streets Initiative for the designed streets in the area. (Exhibit 21.)
30. DDOT filed a report on June 13, 2008, in support of the PUD. It supports the project and recommends the Applicant pursue, with the District, the construction of a new above-grade pedestrian bridge to the Metrorail Station and an access via

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Benning Road if, and when, the issue of right-of-way is resolved. DDOT also recommended that at least 10 bicycle parking spaces be provided and that approximately two parking spaces be set aside for car sharing vehicles. (Exhibit 25.)

31. DDOT found that the parking provided with the development would be more than adequate to meet the parking needs of the residents and minimize spillover into the neighborhood. (Exhibit 25.)
32. DDOT agreed with the Applicant's capacity analysis and found that most intersections leading to and from the development operate at a good level of service. (Exhibit 25.)

ANC 7D REPORT

33. ANC 7D submitted two letters of support into the record. In the letter dated June 4, 2008, the ANC indicated that at its May 13, 2008 meeting, the Commissioners voted unanimously, with a quorum present, in support of the application. In the letter dated June 6, 2008, the ANC indicated that the Applicant had presented the application to the ANC on four different occasions and that the ANC gave a "strong endorsement" of the project. (Exhibits 22, 23.)
34. Commissioner Dorothy Douglas testified on behalf of the ANC at the hearing on June 16, 2008.

PARTIES AND PERSONS IN SUPPORT

35. Councilmember Yvette Alexander submitted a letter in support of the application indicating that she was impressed with the Applicant's community outreach efforts and felt that the project was a "critical" component of the development of downtown Ward 7. (Exhibit 28.)
36. On June 3, 2008, the Watts Branch Alliance submitted a letter in support of the application into the record. It stated that the Parkside project was a "crucial opportunity for sustainable neighborhood development." (Exhibit 27.)
37. Green Communities for Enterprise Community Partners, Inc. submitted a letter in support of the application. They indicated that they were fully supportive of the project and its efforts the nation's only standard for green affordable housing. It provided the Applicant a grant to incorporate the Green Communities criteria into the project. (Exhibit 33)
38. No individual or entity was granted party status to testify in support of the application.

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PARTIES AND PERSONS IN OPPOSITION

39. No individuals or parties testified or submitted evidence into the record in opposition to the application.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR §2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a second stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested flexibility from theoretical lot requirements and the side and rear yard requirements can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.
5. The PUD is consistent with the first stage PUD, and Z.C. Order No. 05-28.
6. The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Subject Property would provide. The Commission finds that the large amount of affordable housing provided in this project is a significant public benefit.
7. The Commission concludes the impact of the project is acceptable given the quality of the public benefits of the project. The proposed massing and heights of the buildings are appropriate. The Commission agrees with the conclusions of the Applicant’s traffic and parking expert that the proposed project will not create adverse traffic or parking impacts on the surrounding community. The Commission further agrees with the Applicant that access via Benning Road is neither feasible nor necessary for the development of the PUD as a whole.

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8. Approval of the PUD and the PUD-related Zoning Map amendment is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP in this case and finds that the proposed project is consistent with and fosters numerous themes and elements of the Comprehensive Plan. Specifically, the Commission believes that the proposed project furthers the following themes: stabilizing the District's neighborhoods, increasing the quantity and quality of employment opportunities in the District, preserving and promoting natural amenities, respecting and improving their physical character, preserving and ensuring community input, providing for diversity, and promoting enhanced public safety.
9. The Commission believes that the proposed PUD-related rezoning of the Subject Property to the C-3-A Zone District is appropriate given the superior features of the PUD project, the goals, and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
10. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse affects, and concludes approval is warranted.
11. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission concurs with ANC 7D's letters of support.
12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04, to give great weight to OP recommendations. The Commission concurs with OP's view that second-stage approval should be granted.
13. Notice of the public hearing was provided in accordance with the Zoning Regulations.
14. 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 second-stage review of the first phase of an approved planned unit development ("PUD") and Zoning Map amendment application from the R-5-A Zone

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District to the C-3-A Zone District for Lots 809, 814, 815, 818, 820, 823, and 824 in Square 5041. The approval of this PUD and Zoning Map amendment is subject to the following guidelines, conditions, and standards:

1. The second-stage PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 3, 14, 15, 33, and 36 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans and materials noted above, the approved PUD shall consist of 98 senior housing units and 112 townhomes. The senior housing facility on Block A shall consist of approximately 96,900 square feet of development, a 2.22 FAR, have a maximum height of 54 feet, and a lot occupancy of 51.6%.
3. In accordance with the plans and materials noted above, the approved PUD shall consist of 46 townhomes on Block B. The townhomes on Block B shall consist of 108,912 square feet of gross floor area, a 2.1 FAR, and have a maximum height of 47 feet.
4. In accordance with the plans and materials noted above, the approved PUD shall consist of 66 townhomes on Block C. The townhomes on Block C shall consist of 160,636 square feet of gross floor area, a 2.01 FAR, and a maximum height of 47 feet.
5. Twenty-five parking spaces shall be provided for the senior living facility and at least 136 parking spaces shall be provided for the townhomes.
6. The senior living facility will consist of at least 98 units that will be reserved for individuals with an income no greater than 60% of the area median income.
7. Forty-two townhouses will be reserved for buyers earning between 80% and 120% of the area median income.
8. The owner shall pay 25% of the cost of a new pedestrian bridge to connect the PUD site to the Minnesota Avenue Metrorail Station, with its payment not to exceed \$3 million. The payment shall be made within 60 days after DDOT notifies the owner that DDOT has the legal authority to proceed with advertising a contract for the construction of the bridge, or within 60 days after the issuance of a building permit that would result in the aggregate FAR of the PUD exceeding the matter of right limit for the property, whichever is the first to occur.
9. The PUD shall: meet the sustainable criteria for LEED-ND, and the Senior Living Facility shall meet the Green Committee criteria. The owner shall submit a

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certification from the project architect that these criteria have been met prior to the issuance of a Certificate of Occupancy.

10. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services prior to the issuance of a building permit for the PUD.
11. The PUD shall be valid for a period of two (2) years from the effective date of Z.C. Order No. 05-28. Within such time, an application must be filed for a building permit for the construction of one of the buildings to be located on Blocks A, B, or C, and construction must start within three (3) years of the date of the effective date of this Order. The filing of the building permit application will vest this Order as to the building being constructed. An application for the final building permit completing the development of the PUD approved herein must be filed within three (3) years of the issuance of the final certificate of occupancy of the first building.
12. The owner shall have flexibility with the design of the 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, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and
 - 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 Construction Codes or that are otherwise necessary to obtain a final building permit.
13. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General ("OAG") and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct and use the Subject Property in accordance with this Order, or amendment thereof by the Commission. The applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

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14. The change of zoning from the R-5-A Zone District to the C-3-A Zone District for the Subject Property shall be effective upon the recordation of the covenant discussed in Condition No. 10, pursuant to 11 DCMR §3028.9.
15. The owner is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the owner to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

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

On July 14, 2008, the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Anthony J. Hood, Curtis L. Etherly, Jr., and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot; Gregory N. Jeffries, not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 8, 2008, by a vote of 4-0-1 (Anthony J. Hood, Michael G. Turnbull, Curtis, L. Etherly, Jr., and Peter G. May to adopt; Gregory N. Jeffries, not having participated, 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 on OCT 3 2008.

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 08-01****Z.C. Case No. 08-01****Southeast Federal Center Overlay Review****Forest City SEFC, LLC on behalf of the United States General Services Administration****April 24, 2008**

Pursuant to notice, the Zoning Commission of the District of Columbia (the "Commission") held a public hearing on April 24, 2008 to consider an application by Forest City SEFC, LLC (the "Applicant"), for property owned by the United States General Services Administration ("GSA"), for review and approval of a new development within the SEFC/CR Zone District that fronts M Street, S.E., pursuant to the Southeast Federal Center Overlay provisions ("SEFC Overlay District Review") set forth in § 1803.8 of the District of Columbia Zoning Regulations ("Zoning Regulations"), Title 11 of the District of Columbia Municipal Regulations ("DCMR"). In addition, the Applicant sought approval for (1) permission to construct a building that fronts M Street, S.E. at a height of 110 feet pursuant to §1803.6; (2) a special exception from the rooftop structure requirements of § 639; (3) an area variance from the rear yard requirements of § 636; and (4) a variance from the loading requirements of § 2201.1.¹

The property that is the subject of this application consists of approximately 101,376 square feet of land and is located on the south side of M Street, S.E., east of 4th Street, S.E. within the Southeast Federal Center. The property is known as "Parcel D" and also known as Lot 800 in Square 826. The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below the Commission hereby approves the application.

FINDINGS OF FACT**Application, Parties, and Hearing**

1. On January 14, 2008, the Applicant filed an application for review and approval of a new development, pursuant to the SEFC Overlay District Review, for property located in the Southeast quadrant of Washington, D.C. and generally bounded by M Street on the north, 4th Street on the west, the proposed extension of Tingey Street on the south, and the historic 202 Building on the east. Pursuant to § 1803.8 of the Zoning Regulations, the Applicant seeks review and approval of the proposed development under the SEFC Overlay District Review; permission to construct a building to a height of 110 feet; a special exception from the rooftop structure requirements; and variances from rear yard, loading, and preferred use requirements of the Zoning Regulations. The Parcel D site

¹ Applicant also sought variance relief from certain design standards for ground floor preferred uses mandated by 11 DCMR § 1803.3. At the time of the application and hearing, those provisions applied regardless of whether the preferred uses were required or, as in the case of the Applicant's project, voluntarily provided. After the hearing, but before the effective date of this Order, the Zoning Regulations were amended to no longer impose the design standards on non-required preferred uses. Therefore, the relief sought, and approved, is no longer necessary and will not be discussed in this Order.

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- consists of approximately 101,376 square feet of land (the “Subject Property” or “Property”). The Property is presently zoned SEFC/CR.
2. The purposes of the SEFC Overlay District that are relevant to the proposed development include:
 - a. Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the Comprehensive Plan and in recognition of the objectives of the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan;
 - b. Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters;
 - c. Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses;
 - d. Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station; along M Street, S.E.; near the SEFC/W-0 District; and at other key pedestrian locations; and
 - e. Encourage the design and development of properties in a manner that is sensitive to the adjacent Navy Yard and the historically significant buildings within the SEFC.
 3. The Property is also subject to Historic Preservation Design Guidelines (the “SEFC Design Guidelines”) which were prepared in consultation with the District of Columbia State Historic Preservation Officer and the Advisory Council on Historic Preservation, to provide a framework for the treatment of the historic structures, site features, street improvements, and new construction within the Southeast Federal Center site. The SEFC Design Guidelines were prepared in order to avoid, minimize, and/or mitigate any potential adverse effects that new development might have on the historic resources within the SEFC site.
 4. After proper notice, the Commission held a hearing on the application on April 24, 2008. Parties to the case were the Applicant and Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Property is located.
 5. At its duly noticed meeting held on April 14, 2008, ANC 6D voted 4-2-0 in support of the application for SEFC Overlay District review. In its April 22, 2008 report, the ANC found that the proposed mixed-use development has the potential to meet many needs in the burgeoning Southeast neighborhood. As well, the ANC found that the grocery store and the affordable housing proposed with the development will greatly enhance the livability of the new community.
 6. Expert witnesses appearing on behalf of the Applicant included: Mark Gilliland, AIA, of Shalom Baranes Associates, and Robert Schiesel, P.E. of Gorove/Slade Associates, Inc.

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7. The Commission took final action at the April 24, 2008 public hearing, by a vote of 5-0-0, to approve the plans submitted into the record and the relief requested.

Description of Surrounding Area

8. The Subject Property is located within the 42-acre site known as the Southeast Federal Center (the "SEFC Site"). The SEFC Site is a former annex of the U.S. Navy Yard and is being redeveloped into a mixed-use waterfront neighborhood to include office space, residential and commercial uses, a waterfront park, and open space. There are several historic industrial buildings located within the SEFC site, including Building 202, which is proposed for redevelopment into a residential building, and Building 167, which will be re-developed for retail uses. The SEFC Site is currently under development.
9. Immediately across 4th Street to the west of the Subject Property is the U.S. Department of Transportation headquarters buildings and Building 167. To the east of the Property is Building 202. The U.S. Navy Yard is two blocks east of the Property and the National's Baseball Stadium is approximately five blocks west of the Subject Property. To the south of, and adjacent to the Property, is the proposed extension of Tingey Street, S.E.²
10. An historic brick structure known as the "Sentry Tower and Wall" borders the northern edge of the Subject Property along M Street and a portion of the western edge of the Subject Property at the corner of 4th and M Streets. The brick wall is approximately 12 feet in height. At the corner is a guard turret. The Sentry Tower and Wall were constructed in 1901.

Project Overview

11. The Applicant proposes to develop the Subject Property with a 605,000-square-foot mixed-use development consisting of residential, office, grocery, and retail uses. The proposed development includes two towers with a shared loading pavilion between the two towers and below-grade parking. The north tower of the proposed development will be located on the southeast corner of M and 4th Streets, S.E. (the "North Tower"). The south tower of the development will be located on the northeast corner of 4th and Tingey Streets, S.E. (the "South Tower").
12. Because the two Towers are connected above the "lowest floor," the project is considered one building for zoning purposes. (11 DCMR § 199.1, definition of "Building.")
13. The North Tower will include a ground floor level grocery store with a partial mezzanine of approximately 51,300 gross square feet. An office lobby will also be located on the

² The proposed extension of Tingey Street, S.E., as well as the dedication of other streets within the SEFC Site, is the subject of Application S.O. 07-8802 for street dedications currently pending with the District of Columbia Office of the Surveyor (the "D.C. Surveyor"). As such, the Property is expected to be, but is not yet, bounded by public streets on three of its sides.

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ground floor of the North Tower. The North Tower will contain approximately 336,700 gross square feet of office space within the 10-story tower.

14. The South Tower will provide approximately 5,400 square feet of ground floor retail and a residential lobby facing the proposed extension of Tingey Street, S.E. The South Tower will also contain between 170-200 residential units within the 11-story tower.
15. Two openings are proposed in the Sentry Tower and Wall in order to provide an ADA-compliant pedestrian entry from the M Street, S.E. sidewalk to the Property, subject to historic preservation approvals.
16. The maximum non-residential density permitted in a CR zone is 3.0 FAR. The Applicant proposes a non-residential density of 3.88 FAR, which it will achieve through the entry of a combined lot development with another property located in the SEFC/CR District in accordance with § 1803.4 and the procedures set forth in § 1810. The additional non-residential development rights will not become available and cannot be utilized unless and until a combined lot development covenant is executed and recorded in accordance with the provisions of § 1810.
17. The proposed development will have two levels of below-grade parking to contain at least 325 parking spaces for the office, grocery, residential, and retail uses. The proposed development will also have a shared loading area providing two 55-foot loading berths, four 30-foot loading berths, three 20-foot service/delivery loading spaces, and two 200-square-foot and four 100-square-foot loading platforms. These shared loading facilities will serve the office, grocery, residential, and retail uses.
18. A green roof will be located on the third floor of the proposed development above the loading area between the North and South Towers. A second green roof will be located above the grocery store on the fourth floor.
19. At the hearing, the Applicant requested authorization to phase the development and construction of the South Tower for a period of five years from the date of substantial completion of the North Tower due to the current challenges in housing markets and the uncertainty in the credit markets, either or both of which may cause delays.

110-Foot Building Height

20. Section 1803.6 of the Zoning Regulations permits a height of greater than 90 feet and no more than 110 feet for sites fronting on M Street, S.E. east of 4th Street, S.E., if reviewed and approved by the Commission. In its consideration of the proposed building height, the Commission must consider the relationship of the proposed building to the Navy Yard and may require graduated height and/or design features due to the building's proximity to the Navy Yard.

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21. The Applicant requested a maximum building height of 110 feet. Both the North Tower and the South Tower have a proposed height of 110 feet.
22. The proposed height of the development is appropriate for the Subject Property. The U.S. Department of Transportation Buildings located west of the Property are constructed to heights of 110 feet and 120 feet. The properties located south of the Subject Property, across Tingley Street, are allowed a maximum height of 110 feet pursuant to the Zoning Regulations. Also, the Subject Property's position in relation to the Navy Yard is the furthest site from the Navy Yard which can be considered by the Commission for a height of 110 feet and accordingly, due to the distance, the proposed development will have no or minimal impact on the Navy Yard.
23. The height of the proposed development is therefore compatible with other buildings in the vicinity of the Subject Property, as well as with the Navy Yard, and thus, the proposed height of 110 feet is appropriate for the development.

Requested Areas of Relief: Special Exception

24. The Applicant requested special exception relief pursuant to § 639 of the Zoning Regulations to permit roof structures with walls of unequal heights. The Applicant will locate one roof structure each on both the North Tower and the South Tower. The North Tower roof structure will have enclosing walls with heights of 18.5 feet and 17 feet. The South Tower will have enclosing walls with heights of 18.5 feet and 15.5 feet. The maximum allowable height of the enclosing walls on both towers is 18.5 feet.
25. The proposed "unequal" heights of the rooftop enclosures were designed in accordance with the SEFC Design Guidelines so as to relate to the SEFC Site's historic industrial buildings' massing and structural characteristics and to provide an articulated roof line.
26. The proposed unequal heights of the rooftop enclosures will not cause objectionable conditions or adversely affect neighboring or nearby property. The unequal heights result in portions of the rooftop enclosures being at lower heights than allowed by the Zoning Regulations. The uneven heights will establish an articulated roof line for the proposed development and the enclosures' design is in harmony with the historic industrial character of the SEFC Site and the Navy Yard.

Requested Areas of Relief: Variances

27. Pursuant to §§ 1809.1 and 3103.2, the Applicant requested: (i) an area variance from the rear yard requirements of § 636; (ii) a variance from the preferred use requirements of § 1803.3; and (iii) a variance from the loading requirements of § 2201.1.

Exceptional Situation and Condition of the Property

28. The Subject Property is subject to an exceptional situation and condition due to the presence of the historic Sentry Tower and Wall along the northern and northwestern

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boundaries of the Property, its location within the 100-year flood plain and the need for flood plain retaining walls to be installed on the southeast corner of the Property, the lack of internal dedicated streets within the SEFC Site, and the presence of the WMATA Metrorail tunnel easement and zone of influence which runs beneath the Property. The Sentry Tower and Wall effectively blocks any development of the Property from M Street and forces it to be oriented towards 4th and Tingey Street. The flood plain retaining walls limit street-oriented development and potential building access on the southeast corner of the Property. The dedication application for Tingey Street, east of 4th Street [the southern boundary of the Property], is currently pending with the D.C. Surveyors Office. As such, the Property is expected to be, but is not yet, bounded by public streets on three of its sides. Thus, the Applicant has met its burden of showing of “an extraordinary or exceptional situation or condition” of the property. D.C. Official Code § 6-641.07 (g)(3) (2001).

Rear Yard Requirements of § 636

29. The Zoning Regulations require a rear yard for each residential building or structure located within a CR zone district at a minimum depth of three inches per one foot of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof (but not less than 12 feet). However, the Zoning Regulations also provide that where a lot abuts three or more public streets, no rear yard is required for any building or structure located on such a lot (§ 636.5).
30. The Property is bounded by two dedicated public streets and one proposed public street: M Street to the north and 4th Street to the east are open and dedicated public streets, and proposed Tingey Street to the south is proposed for, but has not yet been dedicated for, public use. Because the Subject Property is not currently bounded by three public streets, the proposed development is required to have a rear yard of 28.25 feet. The proposed development has provided a rear yard of 12.58 feet. Thus, the Applicant seeks a variance of 15.67 feet.
31. Strict application of the rear yard requirements of the Zoning Regulations would force the Applicant to create a setback that would inappropriately remove the building face from the property line and sidewalk along Tingey Street. Furthermore, it would result in a rear yard that eventually will not be required for the Subject Property. Although the Property is not currently bounded by three public streets, upon the dedication of Tingey Street, the Property will be bounded by three public streets, and thus will not require a rear yard in accordance with the Zoning Regulations. As well, even if Tingey Street was not dedicated for public use, the street would still exist as a private right-of-way and function in the same manner for purposes of rear yard requirements and would provide light and air for residential occupants of the Building. Additionally, the proposed South Tower, which contains the residential units in the Building, will have significant “set backs” and open space on each of its sides. Specifically, on the west of the South Tower is 4th Street, S.E., which is a 60-foot right-of-way, on the south is Tingey Street, which will be a 90-foot right-of-way, on the east is a private drive, which will be approximately 30 feet

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in width, and to the north, the South Tower will be set back from the North Tower by (i) the loading driveway, by approximately 31 feet, and (ii) the terrace over the Building's loading area, by approximately 78 feet. Thus, a variance from the rear yard requirements will not create a substantial detriment to the public good nor will it substantially impair the zone plan.

Loading Requirements of § 2201

32. The loading provisions of the Zoning Regulations require that the Applicant provide three 30-foot loading berths, one 20-foot loading space, and three 100-square-foot loading platforms for the office use; one 55-foot loading berth, one 30-foot loading berth, one 20-foot loading space, and one 200-square-foot and one 100-square-foot loading platform for the grocery store use; one 30-foot loading berth and one 100-square-foot loading platform for the retail space; and, finally, one 55-foot loading berth, one 200-square-foot loading platform, and one 20-foot loading space for the residential use. The proposed development provides two 55-foot loading berths, four 30-foot loading berths, and three 20-foot loading spaces, as well as two 200-square foot loading platforms and four 100-square-foot loading platforms. In total, the Applicant will provide nine of the 10 loading berths and spaces required by the Zoning Regulations and six of the seven required loading platforms.
33. The design and footprint of the building on the Property make strict compliance with the loading provisions of the Zoning Regulations a practical difficulty. Given the building's design, the maximum number of loading facilities that could practicably fit has been provided.
34. The building on the Property contains four distinct uses, each with its own individual loading requirements, but these individual loading requirements do not take into account the possibility of sharing the loading facilities provided, therefore, the total of the four individual requirements ends up being potentially excessive.
35. The record establishes that the number of loading berths and spaces required by the Zoning Regulations does not correspond with the potential demand in the mixed-use development. The Applicant submitted a traffic impact study with its pre-hearing filing that concluded that the Applicant's proposed loading berths and spaces should adequately meet the needs of the proposed uses. The Applicant also stated that DDOT had no objection to this relief. Thus, the modest variance relief requested from the loading requirements will not create a substantial detriment to the public good nor will it substantially impair the zone plan.

Office of Planning Report

36. By a report dated April 14, 2008, OP recommended approval of the proposed design, subject to: (i) approval by the Zoning Administrator of the permitted combined lot allocation of residential and non-residential uses needed to facilitate the use mix

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- associated with this development; (ii) provision of additional detail and assurances regarding green building initiatives; and (iii) provision of design and material details for the loading entrance from 4th Street, S.E., to ensure its potentially negative visual impacts are minimized.
37. In response to OP's first recommendation, the Applicant will file with the Zoning Administrator an instrument for the combined lot development associated with the proposed development pursuant to § 1810 prior to the issuance of a building permit.
 38. At the hearing, the Applicant responded to OP's second recommendation by providing a summary of the sustainable design features based on LEED certification categories which will likely be incorporated into the proposed development (Exhibit 35). The Applicant also committed to creating green roofs on the third floor of the proposed development above the loading area between the North and South Towers and on the fourth floor above the grocery store.
 39. As to OP's third recommendation, the Applicant provided plans at the public hearing of the loading entrance from 4th Street, S.E. including design and material details. The plans showed that any potential negative visual impacts are minimized with the loading dock door being set back approximately 80 feet from 4th Street and by the use of translucent glass panels in the overhead door. As well, the use of enhanced pavers along the sidewalk in front of the loading entrance addresses any potential safety issues for pedestrians. Finally, a pedestrian refuge area was created between the loading dock entrance and the parking entrance.

CONCLUSIONS OF LAW

1. The application was submitted, pursuant to 11 DCMR §§ 1803.8 and 1809, for review and approval by the Commission. The application, pursuant to 11 DCMR § 1809.1, requested special exception and variance relief for the proposed development.
2. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the property.
3. Pursuant to 11 DCMR § 1803.8, the Commission required the Applicant to satisfy the burden of proving the elements that are necessary to approve the overall project under § 1808 and to establish the case for Commission approval of a maximum building height of 110 feet under § 1803.6. Pursuant to 11 DCMR §§ 1809.1 and 3104, the Commission required the Applicant to establish the case for special exception relief from the roof structure requirements of §§ 639.1 and 411.11. Lastly, pursuant to 11 DCMR §§ 1809.1 and 3103, the Commission required the Applicant to satisfy the requirements for variance relief from the rear yard requirements of § 636.1 and from the loading provisions of § 2201.

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4. The Commission concludes that the Applicant has satisfied all the necessary elements for all the relief requested.
5. The proposed development is within allowable height, bulk, and density standards of the Zoning Regulations and the height and density will not cause a significant adverse effect on any nearby properties. The residential, office, grocery, and retail uses are appropriate for the site and furthers the purposes of the SEFC/CR District. The impact of the project on the surrounding area is negligible and any potential adverse impacts have been ameliorated. The proposed development has been appropriately designed to complement existing and proposed buildings adjacent to the Subject Property with respect to height and mass.
6. No person or parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.
7. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
8. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give “great weight” to the issues and concerns of the affected ANC. As reflected in the Findings of Fact, at its duly noticed meeting held on January 8, 2007, ANC 6D, the ANC within which the Subject Property is located, voted 4-2-0 in support of the application for SEFC Overlay District review.
9. Based upon the record before the Commission, having given great weight to the views of the ANC, and having considered the report and testimony OP provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808, as well as the burdens of proof for the requested special exception and variances.
10. The project that is the subject of this application for SEFC Overlay District Review will promote the development of the SEFC Site into a viable mixed-use neighborhood which is sensitive to the site’s historic resources and the Navy Yard, and which is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL**, consistent with this Order, of the application for SEFC Overlay District review, including **APPROVAL** of all special exception and variance relief requested. This approval is subject to the following guidelines, conditions, and standards:

1. The approval of the proposed development shall apply to Lot 800 in Square 826.

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2. The project shall be built in accordance with the Architectural Plans and Elevations, included in the pre-hearing filing, dated April 4, 2008, and marked Exhibit 28 in the record of the case, as modified by the guidelines, conditions, and standards below.
3. The project in its entirety shall include approximately 336,700 square feet of gross floor area of office space, approximately 51,300 square feet of gross floor area of grocery store space, approximately 5,400 square feet of gross floor area of other retail space, and approximately 211,600 square feet of gross floor area of residential space.
4. The maximum non-residential density of the proposed development may be 3.88 FAR. The additional 0.88 FAR of non-residential development rights will not become available and cannot be utilized unless and until a combined lot development covenant is executed and recorded in accordance with the provisions of 11 DCMR § 1810.
5. Except for roof structures, the maximum permitted building heights of the North and South Towers shall be 110 feet. Roof structures shall be as shown on Sheet A21 of the Architectural Plans and Elevations. (Exhibit 28.)
6. The project shall include a minimum of 325 off-street parking spaces for office, grocery, retail, and residential use.
7. The project shall provide two 55-foot loading berths, four 30-foot loading berths, and three 20-foot service/delivery spaces.
8. The treatment of the loading dock entrance shall be as shown on the PowerPoint presentation submitted by the Applicant at the public hearing (Exhibit 38).
9. A minimum floor-to-ceiling clear height of 13 feet shall be provided in those areas designated for ground floor preferred uses in the South Tower and a minimum floor-to-ceiling height of 14 feet shall be provided in those areas designated for ground floor preferred uses in the North Tower.
10. The Applicant shall provide sustainable building design features as set forth in the Applicant's PowerPoint presentation submitted by the Applicant at the public hearing (Exhibit 38).
11. The Applicant is authorized to phase the construction of the South Tower for a period of five (5) years from the date of substantial completion of the North Tower.
12. The owner 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. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or

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place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action. The failure or refusal of the owner to comply with the Act shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

At the close of the public hearing on April 24, 2008, the Zoning Commission **APPROVED** the application by a vote of **5-0-0** (Peter G. May, Michael G. Turnbull, Anthony J. Hood, Gregory N. Jeffries, and Curtis L. Etherly, Jr. to approve).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on OCT 3 2008

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION OF THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 08-08
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**(Consolidated Planned Unit Development - 3910 Georgia Avenue Associates Limited
Partnerships I and II)
July 14, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on June 12, 2008 to consider an application from 3910 Georgia Avenue Associates Limited Partnerships I and II (the "Applicant") on behalf of the District of Columbia, owner ("Owner") of Lot 91 (formerly known as Lots 848 and 849), Square 2906, located at 3910-3912 Georgia Avenue, N.W., for the consolidated review and approval of a planned unit development ("PUD") on the subject property 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. For the reasons discussed below, the Commission hereby approves the application.

FINDINGS OF FACT

1. On April 9, 2008, the Applicant filed an application for the consolidated review and one-step approval of a PUD.
2. The project site consists of Lot 91 (formerly known as Lots 848 and 849) in Square 2906, and has an address of 3910-3912 Georgia Avenue, N.W. (the "Property"). The Property is located in the Petworth neighborhood in Ward 4. The Property consists of approximately 31,000 square feet of land. The Property is located in the C-3-A Zone District and is located within the Georgia Avenue Commercial Overlay District ("GA Overlay District").
3. The Property is owned by the District of Columbia. The Applicant is authorized by the District of Columbia to prosecute the subject application.
4. On April 14, 2008, the Commission approved the application for a public hearing and authorized the immediate publication of the public hearing notice. The Commission also approved a waiver of a hearing fee for 45,300 square feet of gross floor area of the proposed building, which will be dedicated to subsidized housing, and approved a waiver of the requirements under § 2406.7 concerning the notice of intent to file. The Commission also requested that the Applicant provide additional information on the following issues: 1) the location and distribution of affordable units within the proposed development; 2) a description of the affordability plan and income levels of the affordable unit households; 3) a transportation circulation plan showing the loading and parking access through the alley; 4) axonometric and volumetric plans of the courtyard; 5) a landscape plan for the courtyard; 6) examples of similar-sized courtyards; 7) a color roof plan showing the green areas and recreation areas; 8) elevations of roof plan, including dimensions of penthouse and set backs; and 9) an explanation why the elevators are not more centrally located within the building.

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5. On May 22, 2008, the Applicant submitted supplemental materials, including revised architectural plans for the proposed project, LEED for Neighborhood Development (“ND”) Pilot Project checklist, corrected building plat, revised zoning tabulation, landscape plans, courtyard case studies, an updated traffic report with circulation plans and photographs of the alleyways, and stormwater management plans (Exhibits 40-46).
6. The Commission held a public hearing to consider the application on June 12, 2008, pursuant to the provisions of 11 DCMR § 3022.
7. As preliminary matters prior to the public hearing, the Commission determined that an affidavit of maintenance (Exhibit 56) was accepted for the record and Iain Banks, of O.R. George + Associates, was recognized by the Commission as an expert in transportation.
8. There were no requests for party status. The Advisory Neighborhood Commission (“ANC”) 4C, the ANC in which the Property is located, was automatically a party to the case.
9. At the June 12, 2008 public hearing, the Applicant presented its evidence, including testimony from three principal witnesses, Donald E. Tucker, AIA, John J. Maisto, AIA, and Iain Banks; the presentation of plans (aerial axonometric perspectives, day-lighting studies of the courtyard, green roof plan, site plan, and material samples) (Exhibit 51); and submission of a Subdivision Plat for Square 2906, recorded on June 10, 2008, showing the creation of record Lot 91 from former Lots 848 and 849 (Exhibit 52).
10. As discussed below, the Office of Planning (“OP”) and ANC 4C testified in support of the application at the public hearing.
11. At a special public meeting on June 12, 2008, the Commission took proposed action by a vote of 4-0-1 to approve the application and plans that were submitted into the record.
12. On July 3, 2008, the Applicant filed a post-hearing submission with a draft Construction Management Plan (Exhibit 58) that had been submitted by the Applicant to the ANC on July 2, 2008; a Supplemental Alleyway Memorandum (Exhibit 58), prepared by Mr. Banks, that had been submitted to DDOT for review on July 1, 2008, and which included proposed traffic control measures for the alleyways and diagrams showing the revised alignment of the east-west alleyway farthest to the north and west of the site, which does not alter the ability of trucks to access the loading berths and presents an enhanced situation where vehicle conflicts are further minimized; a fully-executed First Source Agreement with the Department of Employment Services (“DOES”) (Exhibit 58); a draft Memorandum of Understanding with the Department of Small and Local Business Development (“DSLBD”) (Exhibit 58), that has been submitted to DSLBD for approval; and revised architectural drawings of the East and South elevations and enlarged detail

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drawings of the East elevation showing the ground floor retail and second floor levels (Exhibit 58).

13. The approved Memorandum of Understanding with DSLBD was filed by the Applicant on July 14, 2008 (Exhibit 61).
14. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC's Executive Director, through a Delegated Action dated July 3, 2008, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it have an adverse impact on any federal interests. (Exhibit 60).
15. The Commission took final action to approve the Application at a public meeting on July 14, 2008 by a vote of 4-0-1.

PUD SITE AND SURROUNDING AREA

16. The Property includes approximately 30,088 square feet of land and is located in the Petworth neighborhood approximately two blocks north of the Georgia Avenue/Petworth Metro Station. The Property is trapezoidal-shaped and is located between Randolph Street and Shepherd Street, N.W. on the west side of Georgia Avenue, N.W. It is bounded by Georgia Avenue to the east, 15-foot-wide public alleys to the west and the north, and a commercially developed property to the south.
17. The Property is currently improved with a deteriorating vacant commercial structure and parking lot. The vacant structure will be razed. Commercial buildings are located across Georgia Avenue from the Property, and north and south of the Property along Georgia Avenue. A mix of single family homes and multi-family buildings are located west of the Property, within Square 2906, along both Randolph and Shepherd Streets.
18. The grade of the Property slopes approximately 10 feet from Georgia Avenue on the east to the alleyway on the west.

DESCRIPTION OF THE PUD PROJECT

19. The PUD project will create a 130-unit multi-family residential apartment building with ground floor retail, service, and/or medical uses, underground and surface parking, and loading docks ("Georgia Commons"). The residential units will consist of studios; studios with loft; one-, two-, and three-bedroom units; and one-, two-, and, three-bedrooms with loft units. Rooftop space of approximately 9,248 square feet will consist of green roof and pavers, with the latter accessible to residents of the building. A resident community room and exercise room will also be located on the rooftop.

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20. Approximately 21,838 square feet of retail/service space will be located on the ground floor. At the time of the public hearing, the Applicant indicated it was in negotiations with Mary's Center, a health care center with family medical care and supportive services, for the use of the ground floor space. In the event Mary's Center occupies the ground floor space, an additional lower-level mezzanine (of which 2,632 square feet will count toward density) will also be constructed and dedicated to its use. This will result in approximately 28,418 square feet of gross floor area dedicated to the medical clinic use. However, if Mary's Center does not occupy the ground floor space, and such space is dedicated to neighborhood retail and service uses, the lower-level mezzanine will not be constructed.
21. The building will have a height of 78 feet and a maximum density of 4.7 floor area ratio ("FAR"). In the event that the lower-level mezzanine, which would be dedicated to neighborhood retail and service uses, is not constructed, the gross floor area would be 139,861 square feet and the density would be 4.65 FAR.
22. The PUD project will include a reservation of 62 of the 130 dwelling units in the development as affordable housing. Six units will be reserved for rental to households with incomes that do not exceed 50% of the area median income; 14 of the units will be held for rental to households with incomes that do not exceed 30% of the area median income; and 42 units will be held for rental to households with incomes which do not exceed 60% of the area median income.¹ The location and distribution of the affordable units will be throughout the six-floor building.
23. One hundred twenty parking spaces will be provided at the Property. The underground parking garage will include 111 parking spaces. Nine surface parking spaces will also be located within the rear yard of the Property. Sixty-five of the parking spaces will be reserved for use by residents. The remaining 55 parking spaces will be available for use by patrons, patients, and employees of the retail, service, and/or medical uses. The loading facilities will include two 30-foot loading berths, two 100-square-foot loading platforms, and one 20-foot service/delivery space. All parking and loading facilities will be accessible from Georgia Avenue, N.W., Shepherd Street, N.W., or Randolph Street, N.W. via the two alleyways located on the north and west sides of the Property.
24. The building will include a mix of split-face masonry, cast stone, cementitious siding, corrugated metal siding, and a "green screen" (light-gauge metal and truss system). The green screen will be incorporated into the front façade of the proposed building from the second to the sixth floor. A closed court of approximately 3,412 square feet will be

¹ As a part of the New Communities Initiative, the 14 dwelling units held for rental for households with an income of 30% of area median income or less, will be held for rental by the District of Columbia Housing Authority ("DCHA") on a first right-of-refusal basis to provide a relocation resource for DCHA in connection with its changing program needs. If these units are not leased by DCHA with vouchers as they become available, the units will then be leased to households with incomes that do not exceed 60% of the area median income.

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located in the center of the building. The courtyard and the roof of the building will be improved with green roof landscaping.

25. In Board of Zoning Adjustment (“BZA”) Application No. 17636A and its Order dated July 12, 2007, the BZA approved the proposed development as a mixed-use building with ground floor retail and 115 residential units located on floors two through six with structured and surface parking. The initial plan for the development under the BZA Application was to construct a mixed-use building with 130 residential units and was based on the Inclusionary Zoning (“IZ”) regulations, which provide for greater percentage of lot occupancy and floor area ratio requirements than allowed as a matter-of-right. However, due to the delay in the implementation of the IZ program, the Applicant was forced to modify its plans so that the lot occupancy and floor area ratio did not exceed the matter-of-right limitations. Consequently, the Applicant sought approval by the BZA for the plans with 115 residential units, which met matter-of-right lot occupancy and floor area ratio requirements, and intended to request a modification for the plans for 130 residential units which met the requirements of the IZ regulations. However, because of on-going uncertainty as to the date that the IZ regulations would be legally effective, the Applicant elected to file the PUD Application in order to obtain approval for a building with 130 residential units.

ZONING RELIEF REQUESTED

26. The Applicant seeks the following relief from the Zoning Regulations:

- Height – The building will have a maximum height of 78 feet. A maximum height of 65 feet is allowed as a matter-of-right in the C-3-A Zone District by § 770 of the Regulations;
- Density – The building will have a density of 4.7 FAR. A maximum density of 4.0 FAR is permitted as a matter-of-right by § 771 of the Regulations. A maximum density of 4.5 FAR is permitted through a PUD. An additional five percent increase is permitted by § 2405.3 of the Regulations;
- Lot Occupancy – The building will have a lot occupancy of 80%. The maximum lot occupancy permitted as a matter-of-right is 75% by § 772 of the Regulations, and an additional five percent is authorized by § 2405.4 of the Regulations;
- Parking – The building will provide a total of 120 parking spaces. A total of 128 spaces is required as a matter-of-right by §§ 2101.1 and 2115.4 of the Regulations; and
- Loading Requirements – The building will have two 30-foot-deep loading berths, two 100-square-foot loading platforms, and one 20-foot-deep loading space. The

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residential component of the building requires one 55-foot-deep loading berth, one 200-square-foot loading platform, and one 20-foot-deep loading space, while the retail component requires one 30-foot-deep loading berth, one 100-square-foot loading platform, and one 20-foot-deep loading space per § 2201.1 of the Regulations.

27. The PUD project also requires special exception relief from the requirements of the GA Overlay District. Specific relief is necessary from § 1330.1(b) of the Zoning Regulations to allow the construction of a building on a lot that has 12,000 square feet or more of land area within the GA Overlay District and from the requirements of § 1330.2 with respect to the “uniform” floor-to-ceiling height and “clear” height requirements for the building’s ground floor level.

SATISFACTION OF PUD EVALUATION STANDARDS

28. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the PUD project will provide high-quality residential development on the Property with public benefits to the neighborhood and the District as a whole.
29. Housing and Affordable Housing: The Applicant has committed to reserve 62 of the 130 dwelling units in the development as affordable housing, as explained more fully in Finding of Fact No. 22.
30. Effective and Safe Vehicular and Pedestrian Access: The development is located in close proximity to several Metrobus routes, as well as the Georgia Avenue/Petworth Metrorail Station. A bus stop for many Metrobus routes is located near the intersections of Georgia Avenue and both Shepherd and Randolph Streets, N.W. Additionally, there are several Metrobus routes which run along nearby New Hampshire Avenue, N.W. The Georgia Avenue/Petworth Metrorail Station is located just two blocks south of the development. As such, excellent public transit options exist near the Property.
31. The development will provide residents and retail patrons with 120 parking spaces, two 30-foot-loading berths with two 100-square-foot loading platforms, and one service delivery space. The Applicant’s traffic and parking expert provided written documentation that the proposed parking, loading, and access elements of the site development plan should adequately meet the needs of the development.
32. The Applicant’s traffic and parking expert also provided written documentation that current traffic operational conditions at adjacent intersections are acceptable and well within the District of Columbia Level-of-Service standards and, furthermore, that the projected trip generation of the development would have a minimal impact on traffic and parking conditions within the local area.

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33. First Source Employment Program: The Applicant has entered into an agreement to participate in the DOES First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process.
34. Local, Small, and Disadvantaged Businesses: The Applicant will enter into a Memorandum of Agreement with DSLBD in an effort to utilize local, small, or disadvantaged business enterprises certified by the D.C. Local Business Opportunity Commission in the development of this project.
35. Environmental Benefits: The development is a demonstration site for the LEED Neighborhood Development (ND) certification during its pilot period. The Applicant is pursuing a LEED ND Gold certification level. LEED ND focuses on smart growth, transit-oriented, mixed-use, and pedestrian-friendly urban infill developments, such as Georgia Commons. Certification of the proposed development by the U.S. Green Building Council will occur at completion of its construction.
36. Sustainable design features of the proposed development include a “green roof” that will help reduce stormwater run-off from the Property and reduce the heat island effect of the building, as well as providing a site-amenity for the residents. As well, an energy model is being used to help design an energy efficient building envelope and to optimize natural day-lighting. In addition, the development will require recycling of on-site construction waste and will feature low-VOC (volatile organic compound) adhesives, paints, and other construction materials in order to promote indoor air quality. Finally, many of the building materials for construction will include recycled contents.
37. Neighborhood-Serving Ground Floor Retail/Services: The development will also include ground floor retail and/or services uses which will benefit the Petworth community. Mary’s Center is a likely occupant for the majority of the ground floor space (and potential lower mezzanine) with a medical clinic and supportive family services as the primary use. The Mary’s Center would function as a community health center using a model proposed by the D.C. Primary Health Care Association, providing essential family-oriented medical services at a neighborhood level. Medical services would include primary health care on an out-patient basis, including family practice, women’s health services, dental services, pharmacy services, and associated programs, such as WIC programs and Even Start programs. In the event that Mary’s Center is not the occupant of the ground floor, the Applicant will locate neighborhood-serving retail in such space.
38. Comprehensive Plan: The PUD project is consistent with and fosters many of the goals and policies stated in the District Elements of the Comprehensive Plan for the National Capital (“Comprehensive Plan”). The District of Columbia Future Land Use Map recommends moderate-density commercial and medium-density residential land use for the Property.

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39. The PUD project serves the goals of several of the citywide elements of the Comprehensive Plan:

- Consistency with the Land Use Elements – The Applicant seeks to construct a new building in a commercial corridor which is planned for revitalization by the District of Columbia government. The Property currently contains a vacant retail store and parking lot. The new development will help to prompt revitalization in the block, enhancing the vibrancy of the Georgia Avenue, N.W. corridor. The design of the building will utilize modern “green screen” façade features and fenestration to give the building a distinct presence on Georgia Avenue. Furthermore, the new building will also bring much desired retail or service uses to the neighborhood. Finally, the building will introduce 130 needed new dwelling units in the community, of which 62 will be affordable.
- Consistency with the Housing Element – The project will introduce a new concentration of both retail/service and residential uses along Georgia Avenue, N.W., bringing energy to the neighborhood. The modern design of the building is oriented towards Georgia Avenue and will help to stimulate subsequent housing development in Petworth. The residential portion of the Project will provide amenities such as a roof level community room, exercise room, and a green roof for its occupants.
- Consistency with the Community Services and Facilities Element – The development will likely include Mary’s Center, which will provide primary health care services to the community at an accessible and convenient location.
- Consistency with the Economic Development Element – The Applicant will locate new neighborhood-serving retail and service uses at the development if Mary’s Center is not an occupant. The development will establish neighborhood-serving retail and service uses for the area along Georgia Avenue, near the Georgia Avenue/Petworth Metrorail Station, as sought after by the community. As well, new retail is anticipated pursuant to the Georgia Avenue/Petworth Metrorail Station Area and Corridor Plan, in order to increase neighborhood livability and economic development along the corridor.

40. Compliance with Area Element - The PUD project also complies with priorities and policies of the Rock Creek East Elements of the Comprehensive Plan.

- Planning and Development Priorities of the Rock Creek East Area – While the Rock Creek East Elements of the Comprehensive Plan seek to protect the established neighborhoods of Rock Creek East, there is an emphasis on the need to provide a variety of housing choices that are economically integrated. As well, the importance of upgrading and expanding neighborhood-serving commercial facilities, and “enhancing neighborhood identity through façade improvements, landscaping,

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signage, and lighting” is also noted. The construction of the project will redevelop the currently underutilized commercial site along Georgia Avenue, N.W., and introduce a new housing choice as well as neighborhood-serving facilities.

- General Policies of the Rock Creek East Area Element – The development also meets several General Policies for the Rock Creek East community, as follows: first, to promote economic development around the Georgia Avenue/Petworth Metrorail Station area with improved “visual and urban design qualities in order to create a unique destination for the local community to enjoy” and to “[m]aintain and encourage the development of multi-use neighborhood shopping and services in those areas designated for commercial or mixed uses on the Future Land Use Map”; second, to “improve housing affordability ... [with] the production of new mixed income housing along Georgia Avenue ...”; and third, to “[p]rovide additional facilities to meet the mental and physical health needs of Rock Creek East residents” The development will encourage this revitalization process by promoting the re-establishment of the neighborhood-serving retail/service corridor along Georgia Avenue, providing affordable housing, and seeking to place a neighborhood serving medical facility at the site.
41. The Commission has the authority to approve an increase of not more than five percent of the density of the underlying zone district pursuant to § 2405.3, provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations. The PUD project has a density of 4.7 FAR and, therefore, requires additional relief pursuant to § 2405.3.
 42. The requested increase in density of 0.2 FAR will provide additional light and air to residential units, including the affordable units. These affordable housing and other residential units advance the purpose of the PUD regulations to promote the public welfare and meet the PUD evaluation standards by providing a level and quality of affordable and other housing that is superior to that which could be provided as a matter-of-right. Moreover, this request for increased density is also consistent with § 1331.1(a) in that the additional density will be for the residential portion of the proposed development. Thus, as required by § 2405.3, the requested increase in density is, “essential to the successful functioning of the project” and “consistent with the purpose and evaluation standards of [Chapter 24].”
 43. The Commission also has the authority pursuant to § 2405.4, to approve a lot occupancy greater or lesser than the normal requirement, depending upon the exact circumstances of the particular project. The development has a lot occupancy of 80%, and therefore requires relief for the requested five percent increase in percentage of lot occupancy.
 44. The requested five percent increase in lot occupancy is necessary to provide a substantial amount of the affordable dwelling units. The affordable units (as well as the other

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residential units) advance the purpose of the PUD regulations to promote the public welfare and meet the PUD evaluation standards, by providing a level and quality of affordable and other housing that is superior to that which could be provided as a matter-of-right. In addition, because of the courtyard, rear yard, and rooftop terraces, adequate light and air, as well as open space, will be provided at 80% lot occupancy. Thus, the circumstances of the development justify the requested lot occupancy of 80%.

45. The Commission also has the authority pursuant to § 2405.6, to reduce the amount of off-street parking spaces required under § 2101.1 and loading berths required under § 2201.1, depending on the uses and the location of the project.
46. The development will provide the number of parking spaces required under the Zoning Regulations, if the ground floor space is used for medical center purposes. In the event that Mary's Center is not the occupant of the proposed building's ground floor space, the Applicant will locate neighborhood-serving retail in the ground floor space. The number of parking spaces required for such alternative retail use is greater than that which is required for the medical center use. With the alternative retail use, the proposed development would be required to provide 65 parking spaces for the residential portion of the building and 63 parking spaces for the retail portion of the building, for a total of 128 required parking spaces. The Applicant is able to provide 120 parking spaces and thus seeks relief for eight parking spaces. The Applicant also seeks relief from the requirement that compact parking spaces be placed in groups of at least five contiguous spaces due to the location of necessary stairs, elevator core, and ramps. The uses and location of the project support the Applicant's request to reduce the parking requirement. First, the proposed retail is neighborhood-oriented and will seek its customer base from occupants of the building, as well as from the immediate neighborhood. Second, the close proximity of the Georgia Avenue/Petworth Metrorail Station and the numerous Metrobus routes in the area substantially reduce the demand for retail parking and negate any detriment to the public good, since a percentage of occupants of the building are expected to utilize Metro for transportation.
47. In accordance with the Zoning Regulations, the proposed development is required to provide one loading berth of a depth of 55 feet, one 200-square-foot loading platform, two loading berths of a depth of 30 feet, two 100-square-foot loading platforms, and two service delivery loading spaces of a depth of 20 feet. The Applicant will provide two loading berths of a depth of 30 feet, two 100-square-foot loading platforms, and one service delivery loading space of a depth of 20 feet. Thus, the Applicant seeks relief from the requirements for one 55-foot loading berth, one 200 square-foot loading platform, and one 20-foot service/delivery loading space. The uses of the project support the Applicant's request to reduce the loading requirements. The loading berths and service/delivery loading space to be provided by the Applicant are sufficient for both the residential and retail/service users and adequate to service the public. Use of the loading facilities by residents will be necessary when they move in, but will otherwise be very

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occasional. As such, resident use will be restricted to times which pose the least amount of conflict with retail/service users. Likewise, retail and service users will be restricted from the use of loading facilities to times which cause the least amount of conflict with the loading needs of the residents.

SPECIAL EXCEPTION RELIEF

48. The Applicant has requested special exception relief from the GA Overlay District's design requirement that the building have a uniform clear floor-to-ceiling height on the ground floor of 14 feet, and also seeks special exception approval to construct a building on a lot with over 12,000 square feet of land area as required by the GA Overlay District. These two special exceptions require compliance with §§ 1304, 1330, and 3104.
49. Section 1304.1(a) first states that a requested special exception must advance the stated purposes of the Neighborhood Commercial Overlay District ("NC Overlay District"), and the particular NC Overlay District, in this case the GA Overlay District. That is clearly the case here, as this project will be one of the anchors around which the revitalization of the Georgia Avenue corridor will develop. In addition, the project does advance several of the purposes stated both generally for NC Overlay Districts and specifically for the GA Overlay District. The new construction on the Property will replace a deteriorating vacant commercial building. As well, the mixed-use building will bring a significant number of new residential units and neighborhood-serving retail to the Petworth area, as envisioned by the Georgia Avenue/Petworth Metrorail Station Area and Corridor Plan. Furthermore, because the PUD site is located near a Metrorail Station, the PUD project will encourage transit use and the construction of other transit oriented development in the neighborhood along Georgia Avenue.
50. Next, both § 1304.1(a) and § 3104 state generally that the special exception must not adversely affect the use of neighboring property or the safety or welfare of people in the vicinity, and that they must be harmony with the purpose and intent of the Zoning Regulations and Map. The Applicant has successfully mitigated any serious negative impact on the use of nearby property. All the uses proposed here – residential, office, and retail – are matter-of-right uses in the C-3-A zone, and the project itself is in harmony with the purpose and intent of the Zoning Regulations, including with those of the new GA Overlay District.
51. Section 1304.1(b) requires that exceptional circumstances exist pertaining to the property or to the economic or physical conditions in the immediate area to justify the exception. In this case, the topography of the Property along Georgia Avenue slopes from a high point at the south to a low point at the north. Thus, while the ground floor ceiling height is fourteen feet or more for the majority of the ground floor along Georgia Avenue, it is only 12.5 feet on the south side of the building's front façade. Structural drops at beams and column caps are located throughout the ground floor level, dropping ceiling heights

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in various locations and resulting in a floor-to-finished-ceiling height of 12 feet, even though the height from the floor to the underside of the slab above is at 14 feet.

52. Both §§ 1304 and 1330 require that parking and traffic associated with the project not cause dangerous or objectionable conditions in the neighborhood. Vehicular ingress and egress is located and designed so as to encourage safe and efficient pedestrian movement, and does not create dangerous or otherwise objectionable traffic conditions. The development will provide sufficient parking for the proposed uses and, in addition, the close proximity of the Georgia Avenue/Petworth Metrorail Station and multiple Metrobus lines along Georgia and nearby New Hampshire Avenues will satisfy the transportation needs of many residents of and visitors to the Property.
53. Section 1330.2(a) further requires that the architectural design enhance the urban design features of the immediate vicinity. The architectural design of the project includes urban design features, including the “green screen” façade, that will enliven Georgia Avenue and give the building a distinct presence. The project’s design as whole enhances the immediate vicinity.
54. Finally, § 1330.2(d) requires that noise associated with the operation of the proposed use not significantly affect adjacent or nearby residences. There was no evidence in the record that objectionable conditions due to noise would arise from any of the uses within the project. There is no expectation of inordinate noise. Moreover, the nearest residences are set sufficiently far away and the project will be buffered with landscaping so as to prevent any possible noise disturbance.

GOVERNMENT REPORTS

55. In its June 2, 2008 report, OP recommended approval of the project. OP stated it believed that the proposal is consistent with the Comprehensive Plan, the GA Overlay District, and the standards of the inclusionary zoning regulations. OP noted that the Property is classified as a mixed-use medium-density residential and moderate-density commercial site, and that the proposed uses and development density is not inconsistent with that designation. OP also noted that the redevelopment of the site will help continue the revitalization of the Georgia Avenue corridor and would provide affordable housing and a primary care medical facility (Exhibit 48).
56. In its June 6, 2008 report, the District Department of Transportation (“DDOT”) had no objections to the project (Exhibit 49).
57. On July 1, 2008, the Applicant sent a Supplemental Alleyway Memorandum to DDOT to address a question raised by the Commission at the public hearing about traffic control at the intersections of the east-west alleyways and the north-south alley adjacent to the site

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and requested a meeting with DDOT. A copy of this memorandum was submitted to the Commission as part of the Applicant's July 3, 2008 post-hearing submission.

ANC REPORT

58. ANC 4C supported the PUD project by a vote of 6-1 in its letter dated June 12, 2008 (Exhibit 50). Commissioner Ronald Bland, SMD 4C03, ANC 4C's Vice Chair, testified in support of the project at the hearing.
59. In response to the request by the Commission at the public hearing, the Applicant prepared a draft Construction Management Plan and submitted it to the ANC for discussion. A copy of this draft Construction Management Plan was also sent to the Commission as part of the Applicant's July 3, 2008 post-hearing submission. The ANC considered this issue at the ANC meeting on July 8, 2008 and filed a supplemental ANC report on July 9, 2008 (Exhibit 59) stating that it supported the Construction Management Plan.

PERSONS IN SUPPORT

60. Anduaem S. Abatagel, who owns property at 920 and 926 Shepherd Street, N.W., originally stated he was opposed, but changed his testimony to support of the Project after he voiced concerns about construction management issues.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider the application as a consolidated PUD. The Commission is also authorized to approve design elements or uses that are only permitted by special exception, and would otherwise require approval by the Board of Zoning Adjustment. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from height, lot occupancy, parking, loading, and density requirements can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. Section 2403 provides the standards for evaluating a PUD application and § 2403.9 provides categories of public benefits and project amenities for review by the

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Commission. The objective of the PUD process is to encourage high-quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. The instant application will achieve the goals of the PUD process by providing superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project would provide. The Commission finds that the affordable residential units and the ground-floor service/retail are significant project amenities. The Commission finds that the proposed low-impact development proposed by the Applicant is an environmentally-sensitive approach to development on the Property and is a public benefit and project amenity.

4. The project benefits and amenities are commensurate to the zoning relief requested in the application and the potential adverse effects of the project. The use, height, bulk, and design are appropriate for the site and neighborhood.
 - The Applicant seeks an increase in height as permitted by § 2405.1. The Applicant's request is well within the maximum height allowed by § 2405.1. Furthermore, the additional height is being used for residential purposes as authorized by the Georgia Avenue Commercial Overlay requirement in § 1331.1.
 - The Applicant seeks an increase in density as permitted by § 2405.3. The Applicant has met the burden of proof required by § 2405.3 for approval of a five percent bonus density because the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations.
 - The Applicant also seeks an increase in lot occupancy as permitted by § 2405.4. The Applicant has met the burden of proof required by § 2405.4 for approval of an increase of five percent lot occupancy and is consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations.
 - The Applicant requests special exceptions pursuant to the requirements of § 1330.1(b) to allow the construction of a building on a lot that has 12,000 square feet or more of land area within the Georgia Avenue Commercial Overlay District and § 1330.2 for relief from the "uniform" floor-to-ceiling height and "clear" height requirements for the building's ground floor. The Applicant has met the burden of proof required by §§ 1304.1, 1330.2, and 3104.1 for the special exceptions.
 - The Applicant requests relief from the parking requirements of § 2101.1 and the loading requirements of § 2201.1, pursuant to § 2405.6. The Applicant has met the burden of proof required by § 2405.6 for such zoning relief.

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5. The Commission concludes that special exception approval of relief from the requirement of a uniform clear floor-to-ceiling height on the ground floor of fourteen (14) feet, and special exception approval to allow construction a building on a lot with over 12,000 square feet of land area as required by the Georgia Avenue Commercial Overlay District, is warranted. The project meets the applicable standards of §§ 1304, 1330, and 3104.
6. The Commission agrees with the written submissions of the Applicant, as well as the recommendations of OP, that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the PUD project is consistent with and fosters the goals of numerous citywide elements of the Comprehensive Plan, including: the Economic Development Element; Land Use Element; Community Services and Facilities Element; and Housing Element. The Commission also finds that the project furthers objectives and policies of the Rock Creek East Area Elements, including new housing and new retail/service space.
7. In accordance with D.C. Official Code § 1-309.10(d)(3)(A), the Commission must give great weight to the issues and concerns of the affected ANC expressed in its written report to the Commission. The Commission has carefully considered the ANC's written recommendation for approval of the project dated June 12, 2008, and its written recommendation in favor of the Construction Management Plan dated July 9, 2008, and concurs in its recommendations.
8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission agrees with OP's recommendation for approval of the PUD application.
9. Approval of the Application will promote the orderly development of the Property 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.
10. Notice of the public hearing was provided in accordance with the Zoning Regulations.
11. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
12. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq.). ("Act"). The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

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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 Lot 91 (formerly known as Lots 848 and 849), Square 2906. The approval of this PUD is subject to the following guidelines, conditions, and standards of this Order:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 41-43, 46, 51, 52, and 58 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. The PUD project shall not include the “temporary ad location or permanent art installation” shown in South Elevation on Sheet 2 of 3 of Exhibit 58.
3. Forty-eight percent of the residential units shall be reserved as affordable housing units.
4. The Applicant shall abide by the First Source Employment Agreement it entered into with the Department of Employment Services. (Exhibit 58)
5. The courtyard and portions of the rooftop of the PUD project shall be constructed as a green roof.
6. A “green screen” will be constructed on the front façade of the building from the second to the sixth floor.
7. The Applicant shall abide by the Memorandum of Understanding it entered with the Department of Small and Local Business Development. (Exhibit 58)
8. The Applicant shall make good faith and commercially reasonable efforts to enter into a Construction Management Plan with ANC 4C and to fulfill its commitment to ANC 4C to provide the following benefits to the Petworth neighborhood:
 - To work with Roosevelt Senior High School to develop job readiness skills and access to the workplace;
 - To work with the existing small businesses in the Georgia Avenue Corridor to help them access the District’s improvement programs and grants; and
 - To work with the neighborhood-based Petworth Action Committee to hire workers from the neighborhood as the construction of the Project moves forward.
9. The Applicant shall have flexibility with the design of the PUD in the following areas:

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- To have the option to not construct the lower level mezzanine which, if constructed, would be dedicated to neighborhood retail and service uses.
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and bathrooms, provided that the variations do not change the exterior configuration of the structures;
 - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and
 - To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
10. The consolidated PUD 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 and construction of the project must start within three (3) years of the effective date of this Order, pursuant to 11 DCMR §§ 2408.8 and 2408.9.
11. No building permit shall be issued for the PUD project until the owner of the Property has executed and recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owners and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof approved by the Commission. The owner shall file a certified copy of the covenant among the records of the Office of Zoning.
12. The Owner is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Owner to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

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On June 12, 2008, the Zoning Commission **APPROVED** the application by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to approve; Curtis L. Etherly, Jr., not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 14, 2008 by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to adopt; Peter G. May to adopt by absentee ballot; and Curtis L. Etherly, Jr., not having participated, 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* on OCT 3 2008.

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