

**OFFICE OF THE CHIEF FINANCIAL OFFICER**  
**Office of Revenue Analysis**

**NOTICE of INCREASES in the 2009 STANDARD DEDUCTION,**  
**PERSONAL EXEMPTION, HOMESTEAD DEDUCTION**  
**and TRASH COLLECTION CREDIT**

**I. Standard Deductions**

Per D.C. Code §§ 47-1801(26) and 47-1803.03(c), the annual Standard Deduction (pertaining to the Individual Income Tax) for calendar year 2009 is adjusted in the following manner:

The Washington Area CPI value for July 2007:	134.442
The Washington Area CPI value for July 2008:	142.065
The percent change in the index during the above time period:	5.7%

**Therefore, effective January 1, 2009:**

- **the Standard Deduction for all filers (except for a married person filing separately) will be (rounded down to the nearest \$50.00)** **\$4,200.00**
  
- **the Standard Deduction for a married person filing separately will be (rounded down to the nearest \$50.00)** **\$2,100.00**

**II. Personal Exemption**

Per D.C. Code § 47-1806.02(i), the annual Personal Exemption (pertaining to the Individual Income Tax) for calendar year 2009 is adjusted in the following manner:

The Washington Area CPI value for July 2007:	134.442
The Washington Area CPI value for July 2008:	142.065
The percent change in the index during the above time period:	5.7%

**Therefore, effective January 1, 2009:**

- **the Personal Exemption will be (rounded down to the nearest \$50.00)** **\$1,750.00**

**III. Homestead Deduction**

Per D.C. Code §§ 47-850(a)(1) and 47-850.01(a)(1), the annual Homestead Deduction (pertaining to Real Property Tax) for tax year 2009 is adjusted in the following manner:

The Washington Area CPI value for September 2007:	134.678
The Washington Area CPI value for September 2008:	142.036
The percent change in the index during the above time period:	5.5%

**Therefore, effective October 1, 2008:**

- **the Homestead Deduction will be (rounded down to the nearest \$50,00) \$67,500.00**

**IV. Condominium and Cooperative Trash Collection Credit**

Per D.C. Code §§ 47-872 and 47-873, the annual Trash Collection Credit amount (pertaining to Real Property Tax) for tax year 2009 is adjusted in the following manner:

The Washington Area CPI value for November 2007:	135.1
The Washington Area CPI value for November 2008:	Data not yet available

The Washington Area CPI information for November 2008 will not be available until December 2008. When the U.S. Bureau of Labor Statistics releases this information, the Condominium and Cooperative Trash Collection Credit for Tax Year 2009 will be established soon thereafter. The established Credit for Tax Year 2009 will be published in the District of Columbia Register no later than January 12, 2009.

<b>A Summary of CPI-Adjusted Deduction and Exemption Amounts for 2009</b>			
	<b>2008 Amounts</b>	<b>CPI Adjustment Factor*</b>	<b>2009 Amounts</b>
Standard Deduction	\$4,000.00	1.057	\$4,200.00
Married Filing Separate	\$2,000.00	1.057	\$2,100.00
Personal Exemption	\$1,675.00	1.057	\$1,750.00
Homestead Deduction	\$64,000.00	1.055	\$67,500.00
Trash Collection Credit	\$92.00	Data not yet available	To be determined

\* Source: U.S. Bureau of Labor Statistics, data accessed November 3, 2008.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****BOARD FOR****THE CONDEMNATION OF INSANITARY BUILDINGS****NOTICE OF PUBLIC INTEREST**

The Director of the Department of Consumer and Regulatory Affairs, in accordance with section 742 of the District of Columbia Home Rule Act of 1973, as amended, D.C. Code section 1-1504 (1999 Repl.), hereby gives notice that the Board for the Condemnation of Insanitary Buildings' (BCIB) regular meetings will be held on the dates listed below for calendar year 2008, (the second and fourth Wednesday of each month). The meetings will begin at 10:00 a.m. on the 11<sup>th</sup> Floor, South Side of 441 4<sup>th</sup> Street, NW, Washington, D.C. 20001. These regularly scheduled meetings of the BCIB are open to the public. Please call the Building Condemnation Division on (202) 442-4408 for further information or for changes in this schedule.

The BCIB is charged with examining the sanitary condition of all buildings in the District of Columbia, determining which buildings are in such insanitary condition as to endanger the health or lives of its occupants or persons living in the vicinity, and issuing orders of condemnation requiring the owners to remedy the insanitary condition. Should the owner fail to remedy the cited conditions, the BCIB shall, cause the building to be made habitable, safe and sanitary or razed and removed. The cost of work performed by the District of Columbia Government shall be, assessed to the property.

Calendar Year 2008 Meeting Dates

- November 26<sup>th</sup> - Room 1112
- December 10<sup>th</sup> - Room 1112

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
**BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING****NOTICE OF PUBLIC INTEREST  
LIST OF CONDEMNED BUILDINGS**

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of **October 1, 2008**. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

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

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

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

For further assistance, contact the Support Staff of the BCIB on 481-3543.

THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING

Enclosure:

**BOARD FOR  
THE CONDEMNATION OF INSANITARY BUILDINGS**

**LIST OF CONDEMNED BUILDINGS**

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest</u>			
6412 Barnaby Street	0091	2352	4
1417 Belmont Street	0824	2661	1
1442 Belmont Street	0192	2660	1
4334 Bladgen Avenue	0800	2659	4
7100 Blair Road	0800	3189	4
41 Bryant Street	0099	3127	5
41 Bryant Street-Rear	0099	3127	5
811 Butternut Street	0006	2967	4
2158 California Street	0101	2530	2
5109 Connecticut Avenue	0048	1989	3
5109 Connecticut Avenue-Rear	0048	1989	3
5233 Connecticut Avenue	0041	1874	3
321 Elm Street	0082	1111	1
1212 Euclid Street	0077	2865	1
410 Florida Avenue	0040	0507	5
1461 Florida Avenue	0147	2660	1
3003 Georgia Avenue	0111	3052	1
4419 Georgia Avenue	0815	3020	4
4607 Georgia Avenue	0016	3015	4
6925 Georgia Avenue	0811	2967	4
723 Girard Street	0214	2886	1
1327 Girard Street	0803	2855	1
527 Irving Street	0063	3048	1
1301 Kalmia Road	0001	2771	4
806 Kennedy Street	0812	2994	4
4334 Klinge Street	0811	1622	3
508 M Street	0071	0482	2
1002 M Street	0056	0341	2
1227 Madison Street	0805	2935	4
1824 Monroe Street	0813	2614	1
212 Morgan Street	0083	0555	6
216 Morgan Street	0018	0555	6
3642 New Hampshire Ave.-Rear	0032	2898	1
447 Newton Place	0027	3035	1
1424 North Capitol Street	0010	0616	5
1426 North Capitol Street	0836	0616	5
1428 North Capitol Street	0835	0616	5

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Cont'd)</u>			
509 O Street	0479	2001/2002	2
340 Oakdale Place	3085	0051	1
1344 Otis Place	0118	2835	1
1346 Otis Place	0117	2835	1
1346 Otis Place-Rear	0117	2835	1
1350 Otis Place	0115	2835	1
310 P Street	0037	0553W	5
605 P Street	0154	0445	2
1433 Parkwood Place	0064	2688	1
1427 Q Street	0009	0208	2
423 Shepherd Street	0038	3238	4
423 Shepherd Street-Rear	0038	3238	4
1237 Shepherd Street	0014	2908	4
5136 Sherrier Place	0826	1415	3
1754 Swann Street	0130	0152	2
321 T Street	0065	3089	1
511 U Street	0807	3079	1
901 U Street	0100	0360	2
613 Upshur Street	0072	3226	4
613 Upshur Street-Rear	0072	3226	4
1943 Vermont Avenue	0011	0361	1
1943 Vermont Avenue-Rear	0011	0361	1
909 W Street	0066	0357	1
911 W Street	0067	0357	1
1202 3 <sup>rd</sup> Street	0837	0523	2
1859 3 <sup>rd</sup> Street	0810	3096	1
1922 3 <sup>rd</sup> Street-Rear	0010	3089	1
1209 4 <sup>th</sup> Street	0810	0523	6
1211 4 <sup>th</sup> Street	0502	2026	6
1828 4 <sup>th</sup> Street	0074	3094	1
1314 5 <sup>th</sup> Street	0042	0480	2
1417 5 <sup>th</sup> Street	0054	0511	2
1425 5 <sup>th</sup> Street	0511	0817	2
2206 6 <sup>th</sup> Street	0033	3065	1
5124 7 <sup>th</sup> Street	0110	3149	4
5232 7 <sup>th</sup> Street-Rear	0032	3150	4
1905 8 <sup>th</sup> Street	0802	0416	1
1905 8 <sup>th</sup> Street -Rear	0802	0416	1
6216 8 <sup>th</sup> Street	2980	0031	4
1218 9 <sup>th</sup> Street	0896	0368	2
4622 9 <sup>th</sup> Street	0039	3015	4

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Cont'd)</u>			
2105-07 10 <sup>th</sup> Street	0802	0358	1
3571 10 <sup>th</sup> Street	0337	0809	1
1107 11 <sup>th</sup> Street	0066	0341	2
1521 11 <sup>th</sup> Street	0809	0337	1
2226 13 <sup>th</sup> Street	0075	0234	1
5113 13 <sup>th</sup> Street-Rear	0019	2929	4
2208 14 <sup>th</sup> Street	0030	0202	1
3509 14 <sup>th</sup> Street	0053	2827S	1
4024 14 <sup>th</sup> Street	0053	2694	4
5209 14 <sup>th</sup> Street	0105	2804	4

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
224 Adam Street	0031	3557	5
5212 Cloud Street	0801	5235	7
4226 Dix Street	0017	5089	7
4226 Dix Street-Rear (North)	0017	5089	7
4226 Dix Street-Rear (South)	0017	5089	7
4403 Dix Street	0892	5803	7
4335 Douglas Street	0060	5115	7
4710 Eads Street	0011	5144	7
635 Emerson Street	0008	3788	5
2800 Ewart Street	0009	4346	5
1369 Florida Avenue-Rear	0129	1026	6
4236 Gault Place	0130	5093	7
1309 H Street	0088	1027	6
1311 H Street	0089	1027	6
1264 Holbrook Terr.	0840	4055	5
1826 I Street	0032	4488	5
1830 I Street	0031	4488	5
5069 Just Street	0305	5176	7
1308 L Street	0064	1047	6
1854 L Street	0806	4470	5
5119 Lee Street	0038	5200	7

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast (Cont'd)</u>			
1414 Montello Avenue	0807	4059	5
1712 Montello Avenue	0029	4053	5
1712 Montello Avenue-Rear	0029	4053	5
5706 NHB Avenue	0010	5214	7
1243 Owen Place	0188	4060	5
22 P Street	0057	0668	5
24 P Street	0056	0668	5
2621 Queens Chapel Road	0023	4213	5
115 Riggs Road	0085	3701	5
2925 South Dakota Avenue	0028	4339	5
21 T Street	0029	3510	5
19 U Street	0070	3509	5
215 Warren Street	0809	1033	6
2322 2 <sup>nd</sup> Street	0038	3540	5
915 3 <sup>rd</sup> Street	0801	0775	6
1811 3 <sup>rd</sup> Street	0007	3570	5
619 4 <sup>th</sup> Street	0092	0810	6
621 4 <sup>th</sup> Street	0093	0810	6
3215 7 <sup>th</sup> Street	0010	3650	5
704 16 <sup>th</sup> Street	0085	4509	6
3114 16 <sup>th</sup> Street	0041	4014	5
3300 18 <sup>th</sup> Street	0019	4143	5
4310 22 <sup>nd</sup> Street	0012	4232	5
2921 26 <sup>th</sup> Street	0029	4342	5
2924 26 <sup>th</sup> Street	0026	4287	5
2617 31 <sup>st</sup> Street	0032	4553E	5
1121 46 <sup>th</sup> Street	0070	5155	7
1123 46 <sup>th</sup> Street	0111	5155	7
1227 47 <sup>th</sup> Place	0039	5160	7
1055 48 <sup>th</sup> Place	0098	5153	7
717 50 <sup>th</sup> Street	0021	5179	7
730 51 <sup>st</sup> Street	0061	5197	7
808 51 <sup>st</sup> Street	0193	5177	7
109 53 <sup>rd</sup> Street	0091	5243	7
220 56 <sup>th</sup> Street	0026	5249	7
421 61 <sup>st</sup> Street	0009	5260	7

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southeast</u>			
1523 A Street	0816	1072	6
5010 Benning Road	0068	5340	7
3401 Brothers Place	0803	6006	8
5100 Call Place	0016	5312	7
612 E Street	0814	0876	6
1525 E Street	0087	1076	6
3326 Ely Place	0807	5444	6
1500 Galen Street	0048	5795	8
4324 Halley Terrace	0018	6214	8
2256 High Street-Rear East	0850	5799	8
1812-16R Independence Ave-Rear (East)	0095	1111	6
1812-16R Independence Ave-Rear (West)	0095	1111	6
2309 Irving Street	0010	5846	8
2839 Jasper Road	0917	5875	8
1220 Maple View Place	0811	5800	8
1303 Maple View Place	0892	5803	8
1311 Maple View Place	0883	5803	8
1354 Maple View Place	0922	5804	8
1909 MLK Jr. Avenue	0829	5770	8
1911 MLK Jr. Avenue	0829	5770	8
1913 MLK Jr. Avenue	0829	5770	8
2228 MLK Jr. Avenue	0810	5802	8
2234 MLK Jr. Avenue	0811	5802	8
2238 MLK Jr. Avenue	0978	5802	8
2629 MLK Jr. Avenue-East	0192	5867	8
2629 MLK Jr. Avenue-West	0192	5867	8
2666 MLK Jr. Avenue, East bldg	1014	5868	8
1354 Penn. Avenue	0051	3565	8
643 Raleigh Place	0804	5954	8
1005 Savannah Street	0804	5938	8
1225 Sumner Road	0980	5865	8
1326 Valley Place	0849	5799	8
1242 W Street	0099	5782	8
104 Xenia Street	0037	6128N	8
535 9 <sup>th</sup> Street	0830	0926	6
535 9 <sup>th</sup> Street-Rear	0830	0926	6
321 18 <sup>th</sup> Street	0801	1100	6
1427 22 <sup>nd</sup> Street	0812	5564	8
1401 22 <sup>nd</sup> Street	0812	5564	8
1401 22 <sup>nd</sup> Street-Rear	0812	5564	8

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

### NEIGHBORHOOD INVESTMENT FUND (NIF)

#### NOTICE OF FUNDING AVAILABILITY

#### NIF GOVERNMENT PROJECTS

The District's Office of the Deputy Mayor for Planning and Economic Development (ODMPED) invites submissions from DC Government Agencies, Boards or Commissions for the NIF Government Projects authorized under Resolution 17-824 "Neighborhood Investment Act Spending Plan for Fiscal Year 2009 Emergency Approval Resolution of 2008."

The purpose of the NIF Government Projects fund is to provide funding for projects proposed by DC Government Agencies, Boards or Commissions ("Eligible Applicants") that fulfill the goals of the Neighborhood Investment Act of 2004 of promoting economic development and revitalization in the NIF Target Area. There is \$2.7 million dollars available for this round of funding; project funds must be encumbered in fiscal year 2009 ("FY2009").

#### Use of the Funds

Eligible projects must fall into one the following five categories: (1) Vocational training and job placement for youth and adults, focusing on trade development; (2) Senior or youth oriented programming; (3) Affordable housing preservation; (4) Small business technical assistance. Funds can be used to directly implement projects by Eligible Applicants or make grants, provided the Eligible Applicant has grant making authority.

#### Target Area

Proposed projects must be physically located within the boundaries of one of the NIF target areas: Anacostia, Bellevue, Bloomingdale/Eckington, Brightwood/Upper Georgia Ave., Brookland/Edgewood, Columbia Heights, Congress Heights, Deanwood Heights, H Street, Logan Circle, Shaw, Washington Highlands. Detailed target area maps and boundaries are available on the Neighborhood Investment Fund page at [www.dcbiz.dc.gov](http://www.dcbiz.dc.gov).

#### Additional Requirements

Proposed projects must meet the objectives of the NIF program of stimulating economic development and revitalization in the targeted neighborhoods. Additionally, projects shall provide a public benefit that addresses a recognized need. ***NIF funds can not supplant operating and capital dollars already appropriated to agencies for similar purposes.*** Proposed projects that leverage other resources or provide gap funding shall be given special consideration.

#### Review Process & Award

Eligible Applicants will be objectively reviewed against the following selection criteria: Project Feasibility (25pts); Applicant Track Record and Relevant Experience (20pts); Need and Public Benefit (20pts); Synergy with the NIF program and other government initiatives (15pts); Resource Leveraging Factor (15 pts); Neighborhood Involvement and Partnerships (5pts). Selected applicants shall be required to execute a Memorandum of Understanding (MOU) with the ODMPED. The MOU requires selected applicants to submit quarterly expenditure and

progress reports to ODMPED. ODMPED intends to make awards within 20 days of the response deadline. If all available funds are not awarded, additional rounds of funding will be released.

#### Format of Response

Responses to this NOFA shall take the form of a Statement of Interest submitted in writing on agency letterhead with an authorizing signature from the director or designee. The statement shall not exceed 4 single-spaced typed spaces. The statement shall include the following:

1. Proposed use of funds, including the project scope, implementation timeline, staffing capacity, intended outcomes and relationship to the Applicant's core mission;
2. Budget, including proposed sources and uses;
3. Discussion of the applicant's experience in implementing projects of similar size and scope;
4. Discussion of the project's public benefit;
5. Discussion of the project's synergy with NIF program goals and other DC Government initiatives (Great Streets, New Communities, etc.); and
6. Discussion of community involvement and/or partnership in the project.

***Please be aware that all Government Project funds awarded that are not expended and returned by Grantees at the end of the FY09 (September 30, 2009) impact the NIF budget for the following year and hinder our ability to provide funding for agency projects prepared to move forward.***

***Please provide a project description and implementation plan and project budget for project(s) requiring funding in ("FY09"). A complete list of projected projects can be provided but note that only projects reasonably certain to be completed or substantially completed in FY09 will be considered for funding. For projects that will not be completed in FY08 please indicate the amount of funds, out of the total project budget, that is reasonably certain to be expended in FY09.***

Statement of interest should be submitted to Eric Scott, NIF Program Manager, Office of the Deputy Mayor of Planning & Economic Development. Submissions may be hand delivered to 1350 Pennsylvania Ave., NW, Suite 317, or emailed to [Latrena.Owens@dc.gov](mailto:Latrena.Owens@dc.gov)

The Notice of Funding Availability is released on Friday, November 28, 2008 and the deadline for submission is Friday, December 19, 2008 at 12 noon.

Additional information about the NIF Program and Target Area boundaries can be found on the ODMPED website: [www.dcbiz.gov](http://www.dcbiz.gov).

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

**NEIGHBORHOOD INVESTMENT FUND (NIF)**

**NOTICE OF FUNDING AVAILABILITY**

**NIF Target Area Project Grant**

The District's Office of the Deputy Mayor for Planning and Economic Development (ODMPED) invites the submission of applications for the NIF Target Area Project Grant authorized under Resolution 17-433 "Neighborhood Investment Act Spending Plan for Fiscal Year 2009 Emergency Approval Resolution of 2008". There is \$3.9 million dollars available for this round of funding.

The purpose of the NIF Target Area Project Grant (TAPG) is to provide not for profit organizations with grants up to a maximum of \$200,000 to complete major projects in the 12 target areas of the Neighborhood Investment Fund. The goal of the TAPG is to fund initiatives that will revitalize target areas by strengthening economic opportunities and improving the quality of life.

Eligible applicants include not-for-profit 501 (c) 3 organizations that can demonstrate a commitment to the NIF target area where the project is proposed through a successful track record of offering and operating programs, projects, services, or facilities. Eligible projects must fall into one of the following four categories: (1) Vocational Job Training and Direct Job Placement for youth and adults, focusing on trade development; (2) Senior or Youth oriented programming; (3) Affordable housing preservation; (4) Small Business technical assistance. Proposed projects must be physically located within the boundaries of one of the NIF target areas and provide a public benefit to the target area that addresses a recognized need. Proposed projects that leverage other resources for shall be given special consideration. Additional applicant and project eligibility requirements and evaluation criteria are detailed in the Request for Applications (RFA).

The Request for Applications will be released on Friday, November 28, 2008 and the deadline for submission is Monday, January 12, 2009 at 4pm. ODMPED will hold two informational sessions at the Office of the Deputy Mayor for Planning and Economic Development, 2025 M Street, NW, Suite 600, Washington, DC 20036 on Monday, December 8, 2008 at 10am and Thursday, December 11, 2008 at 1pm. All questions and answers from the information session will be documented and posted on the ODMPED website prior to the due date. No questions are allowed after the information session, to ensure all applicants have access to the same information. The RFA will be available for pick up at 1350 Pennsylvania Avenue, NW, Suite 317, Washington, DC 20004 and 2025 M Street, NW, Suite 600, Washington, DC 20036. Applicants can complete a fillable application form at the ODMPED website: [www.dcbiz.dc.gov](http://www.dcbiz.dc.gov) or on the Office of Partnerships and Grants Development website [www.opgd.dc.gov](http://www.opgd.dc.gov) Inquires should be directed to (202) 724-8111.

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

**NIA COMMUNITY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Accounting Services**

The mission of the Nia Community Public Charter School is to foster a nurturing community-centered, environment, as well as to provide a rigorous, comprehensive academic pre-k through 8th grade program designed to prepare students with life-long academic skills and success.

We have a current request for proposals for Accounting Services.

To get the full text of the proposal, please call Mr. Wuhan Dansby at 202-562-5440.

Email questions to [drepartners@hotmail.com](mailto:drepartners@hotmail.com) with the subject line as "Accounting Services RFP". Presentations for finalist will be scheduled after the submission date.

**Deadline for submissions is December 8, 2008.**

Please mail proposals and supporting documents to the following address:

Nia Community Public Charter School  
Mr. Wuhan Dansby, Interim Executive Director  
Executive Director  
100 - 41th Street. NE  
Washington, DC 20019

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

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

Comments on these appointments should be submitted, in writing, to Naomi Shelton, Administrator, Office of Notary Commissions and Authentications, 441 4<sup>th</sup> 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 November 28, 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](http://www.os.dc.gov).

D.C. Office of the Secretary  
Appointments of Notaries PublicEffective: December 1, 2008  
Page 2

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Cooper	Deborah T.	The National Bureau of Asian Research 1301 Pennsylvania Avenue, NW, #305	20004
Day	Darryl E.	Adams National Bank 1130 Connecticut Avenue, NW, #200	20036
Doyle	Saundra M.	Department of Justice 601 D Street, NW	20004
Ford	Melodie K.	Squires, Sanders & Dempsey, LLP 1201 Pennsylvania Avenue, NW, #500	20017
Gabriel Lovick	Kathy Y.	Hogan & Hartson, LLP 555 13th Street, NW, 9E 3-6	20004
Glick	Mark K.	Burka & Engle, PLLC 601 Pennsylvania Avenue, NW, #900S	20004
Graham	Virginia C.	Self 730 24th Street, NW, #319	20037
Greene	Barbara L.	Self 1700 40th Street, SE	20020
Hurd	Alva M.	Simpson, Thacher & Bartlett, LLP 601 Pennsylvania Avenue, NW, North Building, 10th FL	20004
Jankowski	Thomas M.	Self 1772 Hobart Street, NW	20009
Joshlyn	Gay L.	National Security Council 625 17th Street, NW, EEOB Room 330	20504
Kass	Brian L.	Kass, Mitek & Kass, PLLC 1050 17th Street, NW, #1100	20036
Lasso	Jilma M.	Lasso & Lasso, Counselors at Law 4530 Wisconsin Avenue, NW, #220	20016
Lonas	Coleen D.	Cassidy & Associates 700 13th Street, NW, #400	20005

**D.C. Office of the Secretary  
Appointments of Notaries Public****Effective: December 1, 2008  
Page 3**

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McSears	Denice	DC Retirement Board 900 7th Street, NW, 2nd Floor	20001
Oxley	Pamela R.	Communications Workers of America 501 Third Street, NW	20001
St. Cyr	Viva Elan	O'Melveny & Myers LLP 1625 Eye Street, NW	20006
Swanson	Lois J.	Ballard Spahr Andrews & Ingersoll LLP 601 13th Street, NW, Suite 1000 South	20005
Taylor	B C	Taylor's Funeral Home 1722 North Capitol Street, NW	20001
Toran	Marilyn	Howard University School of Law 2900 Van Ness Street, NW	20008
Watkins	Melissa	Baker & McKenzie LLP 815 Connecticut Avenue, NW	20006

## DC STATE BOARD OF EDUCATION

## DECEMBER 2008 CALENDAR

The State Board of Education is releasing all meeting dates for December 2008.

The topics of each meeting can additionally be found on the State Board of Education website at [www.sboe.dc.gov](http://www.sboe.dc.gov)

DECEMBER 2008 CALENDAR				
Date and Time			Type of Meeting	Topic
Wed	Dec 3	5.30 P.M	Public Hearing	21 <sup>st</sup> century education framework
Tue	Dec 9	6.00 P.M	Public Hearing	Truancy Regulations
Wed	Dec 10	6.00 P.M	Public Hearing	Teacher Preparation Standards
Wed	Dec 17	5.30 P.M	Regular Meeting	Vote on Early Learning Standards, Truancy Regulations, 21 <sup>st</sup> century education framework, and Teacher Preparation Standards

If you are interested in testifying, contact:

Beverley Wheeler  
 Executive Director  
 202-741-0888  
 Fax: 741-0879, or via  
 Email: [Beverley.Wheeler@dc.gov](mailto:Beverley.Wheeler@dc.gov)

Please provide your name, address, telephone number, organizational affiliation and title (if any) by 4:00pm on the Monday prior to each meeting. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on the Monday prior to each meeting, the testimony will be distributed to SBOE members before the hearing.

**THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL****Notice of Request for Proposals****Venue for Annual Gala Fund-Raising Event**

**Thurgood Marshall Academy**—a nonprofit, college-preparatory, public charter high school—seeks a venue to host its Shining Star Gala. This annual event raises funds that support the school's rigorous curriculum and youth development services, as well as honoring supporters and raising public awareness about the school's work.

Ideal venues will have, but are not limited to, the following characteristics:

- Elegant, formal appearance in all rooms
- Unique, prestigious, and central location
- Available one of the following Thursdays in 2009: April 2, April 16, April 23, April 30, or May 7
- Ability to host 300–450 guests for both a reception and a sit-down dinner
- Space for silent auction to occur during the cocktail reception
- A stage or the ability to set one up
- Music allowed
- Parking close by (on-site parking a plus)
- Metro accessible
- High-quality in-house catering or ability to work with distinguished local catering companies
- If the venue requires the use of in-house catering, it must provide:
  - Liquor License
  - High quality food
  - Elegant presentation
  - Competitive pricing
  - Pricing options

Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at [www.thurgoodmarshallacademy.org](http://www.thurgoodmarshallacademy.org)

Submit proposals—including unsigned contract and website address—no later than **12 pm EST on Monday, December 8, 2008**, via e-mail to [amacbride@tmapchs.org](mailto:amacbride@tmapchs.org).

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

**Appeal No. 17675 of the Reed-Cooke Neighborhood Association (“RCNA”)**, pursuant to 11 DCMR §§ 3100 and 3101, from a decision of the Zoning Administrator, to allow off-premises alcoholic beverage sales as an accessory use to a Harris-Teeter grocery store in the RC/C-2-B District, at premises 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

**HEARING DATE:** November 6, 2007

**DECISION DATE:** March 4, 2008

**ORDER**

On May 17, 2007, the Reed-Cooke Neighborhood Association (“RCNA”) filed this appeal alleging that the Zoning Administrator (“ZA”) had erred in concluding, in a letter dated March 21, 2007, that the prohibition of off-premises alcoholic beverage sales in 11 DCMR § 1401.1(b), applied to “principal uses only and not to accessory sales within a grocery store.” The ZA determined in that letter that “the subordinate sale of beer and wine for off-premises consumption is an allowable accessory use for a retail grocery store” in the Reed Cooke Overlay District. *See*, Exhibit No. 1, Attached Letter.

The Board of Zoning Adjustment (“BZA” or “Board”) held a hearing on the appeal and, at its Public Decision Meeting on March 4, 2008, concurred with the Zoning Administrator and denied the appeal by a vote of 3-0-2.

**PRELIMINARY MATTERS**

Notice of Appeal and Notice of Hearing. By memoranda dated May 21, 2007, the Office of Zoning provided notice of the appeal to the D.C. Office of Planning, the Zoning Administrator, at the Department of Consumer and Regulatory Affairs (“DCRA”), the Councilmember for Ward 1, Advisory Neighborhood Commission (“ANC”) 1C, the ANC in which the subject property is located, and Single Member District/ANC 1C07. Pursuant to 11 DCMR § 3113.13, the Office of Zoning published notice of the hearing date in the *D.C. Register*, and sent such notice to the Appellant, the ZA, ANC 1C, and the owner of the property that is the subject of the appeal (“Property Owner”).

Party Status. The automatic parties in this proceeding were RCNA (the “Appellant”), DCRA (the “Appellee”), the Property Owner, and ANC 1C. There were no requests for party status.

**BZA APPEAL NO. 17675****PAGE NO. 2**

Motions to Dismiss. As will be discussed later in the conclusions of law, both the Appellee and the Property Owner moved to dismiss the appeal as untimely. The Property Owner also moved to dismiss on the grounds of lack of standing, estoppel, and laches (Exhibits Nos. 15 and 16). The motions were denied because a majority of the Board did not vote in favor of granting or denying either. That being the case, this order will not include any findings of facts or conclusions of law relevant to the issues raised in the motions.

**FINDINGS OF FACT****A. The Property**

1. The subject property is located at address 1631 Kalorama Road, N.W. (Square 2572, Lot 36), and is zoned C-2, but is also within the Reed-Cooke Overlay District (“Overlay”).
2. The Property Owner desires to redevelop the subject property with a mixed-use project that will include a grocery store, retail or service uses, and office space.
3. The new mixed-use project could not proceed under matter of right zoning, but required zoning relief, granted by this Board in Order No. 17395 of Jemal’s Citadel LLC, issued on June 12, 2006.
4. That order did not address the issues raised and resolved in this appeal.

**B. Events Leading to the Filing of this Appeal**

5. On September 11, 2006, the Property Owner and the operator of the grocery store (“store operator”) applied to DCRA for a building permit to construct the interior layout of the grocery store.
6. According to the plans submitted with the building permit application, the area to be devoted to the sale of beer and wine would comprise approximately 4% of the store’s total floor area and would be located within, and therefore on the same lot as, the grocery store.
7. On November 13, 2006, DCRA issued Building Permit No. 98040, permitting the construction of the interior of the grocery store.
8. The issuance of the permit has never been appealed.
9. On August 18, 2005, the store operator filed its application for a Class B Off-Premises Retail License with the D.C. Alcoholic Beverage Control Board.
10. An Off-Premises Retail License authorizes a licensee to sell alcoholic beverages “and to deliver the same in the barrel, keg, sealed bottle, or other closed container in which the

**BZA APPEAL NO. 17675****PAGE NO. 3**

same was received by the licensee.” D.C. Official Code § 25-112 (a). A Class B license authorizes the sale of wine and beer, but not “spirits”. D.C. Official Code § 25-112 (d).

11. RCNA filed a protest of the application on September 25, 2005, and again, on January 7, 2006.
12. Among other things, RCNA argued that the sale of alcoholic beverages for off-premises consumption is prohibited at the subject property by 11 DCMR § 1401.1 (b).
13. The Property Owner asserted that § 1401.1 (b)’s prohibition of off-premises sales of alcoholic beverages only extended to the principal form of the use, and did not also prohibit such sales as were accessory to a permitted use, such as a grocery store.
14. Subsection § 1401.1 does not state whether its prohibitions apply only to the principal form of the uses listed or to accessory uses as well.
15. On March 21, 2007, the ZA issued a letter to the representatives of the Property Owner stating that “the restrictions in § 1401.1 (b) applies [sic] to principal uses only and not to accessory sales within a grocery store”.
16. RCNA appealed the ZA’s letter to this Board on May 17, 2007.

**C. The Sale of Beer and Wine within Grocery Stores**

17. It has become a common practice for grocery stores to sell beer and wine as an incidental part of their business.
18. Sixty-four grocery stores in the District hold Class B liquor licenses, authorizing the sale of beer and wine for off-premises consumption. Exhibit No. 29.
19. When established as a principal use, the sale of alcohol beverages for off-premises consumption takes the form of a liquor store, which historically has had some adverse external impacts, such as loitering, on a neighborhood.
20. The sale of alcoholic beverages for off-premises consumption by a large grocery store, such as is being constructed by the Property Owner, does not have a history of similar adverse effects.

**CONCLUSIONS OF LAW****Motions to Dismiss**

Both the Appellee and the Property Owner moved to dismiss the appeal as untimely. The Property Owner also moved to dismiss on the grounds of lack of standing, estoppel, and laches

**BZA APPEAL NO. 17675****PAGE NO. 4**

(Exhibits Nos. 15 and 16).

Upon completion of the portion of the Board's hearing devoted to the motions arguments, the Board decided to vote on the motions. There were, however, only three Board members participating in this appeal, which affected the outcome of the vote. Chairperson Miller moved to deny the motions to dismiss, but her motion failed for lack of a majority, with a vote of two members to deny, and one member to grant. Board member Dettman then moved to grant the motions to dismiss, but his motion also failed for a lack of a majority, with a vote of one member to grant, and two members to deny.

This Board has previously held that:

A vote that fails to generate at least three affirmative votes operates to deny the relief that was the subject of the motion, unless the Board decides to defer consideration of the matter until a new vote can be taken at a later time. *See Hubbard v. District of Columbia Bd. of Zoning Adjustment*, 366 A.2d 427, 428 (D.C. 1976) (failure to achieve number of votes required by Board rule operated as denial of motion for rehearing). See also Webster's New World Robert's Rules of Order: Simplified and Applied 62-65, 278-82 (1999) (majority vote, motions to reconsider the vote).

*Application No. 16566-B of the President and Directors of Georgetown College*, 49 DCR 834, 835 (2002).

The Board did not defer consideration of the motion following the two votes. Therefore, the motions to dismiss were deemed denied and the Board heard the merits of the appeal.

**The Merits of the Appeal**

The subject property is zoned RC\C-2-B, which means that it is located in both the C-2-B zone district and the Reed Cook Overlay district. The regulations that govern the districts constitute the zoning regulations for the geographic area where their boundaries overlap. 11 DCMR § 1400.3. Any inconsistency between the two sets of provisions is resolved in favor of the most restrictive. 11 DCMR § 1400.4.

The particular Overlay provision that the Board is called upon to interpret is 11 DCMR § 1401.1 (b), which provides:

The following uses shall be prohibited in the RC Overlay District:

...

(b) Off-premises alcoholic beverage sales.

The questions on appeal are: (1) whether the sale of beer and wine is accessory to a grocery store

**BZA APPEAL NO. 17675****PAGE NO. 5**

use and, if so; (2) whether the prohibition of § 1401.1(b) extends to that accessory use.

1. The Sale of Beer and Wine for Off-Premises Consumption is Accessory to a Grocery Store Use.

An accessory use is one that is not permitted as of right within a zone district as a principal use, but is “so necessary or commonly to be expected [in relation to a principal use] that it cannot be supposed that the ordinance was intended to prevent it.” *Zahn v. Board of Adjustment of City of Newark*, 45 N.J. Super. 516, 133 A.2d 358 (App. Div. 1957). The Zoning Regulations define “accessory use” as “a use customarily incidental and subordinate to the principal use, located on the same lot with the principal use.” 11 DCMR §199.1, definition of “Use, accessory.”

Because an accessory use must be “incidental and subordinate” to the principal use, the magnitude of the principal use must be greater than that of the accessory use. The principal use must be proportionally larger, or more important, or more functionally central, than the accessory use. There is no “bright line” standard as to when an accessory use becomes so large or so important as to veer into the territory of “principal uses.” *See, National Cathedral Neighborhood Ass’n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000). However, in this case the D.C. Council has essentially recognized that up to 15% of a grocery store’s gross sales receipts may come from sales of alcoholic beverages without such sales losing their character as “incidental” to the primary purpose of selling groceries. *See, D. C. Official Code § 25-332 (2001) (moratorium on class B liquor licenses inapplicable to new or newly renovated full service grocery stores if, among other things, sale of alcoholic beverages constitutes no more than 15% of the total volume of gross receipts)*

The fact that this incidental use is “customarily” incidental is supported by the evidence in the record that sixty-four grocery stores in the District of Columbia hold Class B liquor licenses, authorizing the sale of beer and wine for off-premises consumption. Exhibit No. 29. *See also, Sevilla and Board of Adjustment II of the City of Phoenix, Arizona v. Sweat*, 450 P. 2d 424, 426-427 (Ariz. App. 1969). (“[C]ontrary to historical usage, the ordinary understanding of present day business practices is that package beer and wine are included in the term ‘groceries’ and that grocery stores normally sell package beer and wine along with other groceries.”)

The grocery store use in this case is clearly a principal use on the subject property. It will be operated as a large supermarket, part of a nationally recognized chain, and will occupy the entire main floor of the building on the subject property. The store will sell a full line of grocery items, with only approximately 4% of the store’s total floor area used for displays of beer and wine and sales of alcoholic beverages limited to no more than 15% of the total volume of gross receipts on an annual basis.

The Board therefore readily concludes that the sale of alcoholic beverages for off-premises consumption is customarily incidental and subordinate to the grocery store use, and is therefore an accessory use.

**BZA APPEAL NO. 17675****PAGE NO. 6****2. Off-Premises Sale of Alcoholic Beverages as an accessory use is not prohibited within the RC Overlay.**

Title 11 DCMR §1400.3 provides that “[t]he RC Overlay district and the underlying commercial and residential districts shall together constitute the zoning for the geographic area identified in § 1400.1 [the Reed-Cooke Overlay].” 11 DCMR § 1400.4 provides that “[w]here there are conflicts between this chapter and the underlying zone district, the more restrictive regulations shall govern.”

Appellant argues that because the prohibition against off-premises alcoholic beverages sales set forth at §1401.1(b) does not distinguish between principal and accessory uses, that its “plain language” prohibits all off-premises alcoholic beverage sales. However, this provision is not to be read in isolation, but in conjunction with the regulations underlying the C-2 commercial zone. 11 DCMR § 1400.3. Moreover, it is a basic tenet of statutory construction that the plain language of a statute (and similarly, a regulation) must be determined in the context of the regulations as a whole. *See, K Mart Corp. v Cartier, Inc.*, 486 U.S. 281, 291 (1988) (courts should look “to the particular statutory language at issue, as well as the language and design of the statute as a whole” to ascertain statute’s “plain meaning), cited by Appellant at Exhibit 35 at 10.

The regulations underlying the C-2 commercial zone are set forth in pertinent part at 11 DCMR §§ 701.4 (l) & (u), §§ 721.1 and 722.3. A grocery store and the off-premises sale of alcoholic beverages are both permitted as of right in a C-2 zone by virtue of §§ 701.4 (l) & (u) and 721.1. Uses not permitted as of right are nevertheless allowed as “accessory uses customarily incidental and subordinate to the uses permitted in C-2 Districts.” 11 DCMR § 722.3. Since both uses are permitted as of right within a C-2 district, neither use falls under the purview of § 722.3. However, even if the sale of alcoholic beverages for off-premises consumption were not permitted as a matter of right use in a C-2 zone, it would be permitted as an accessory use to a grocery store because it is “customarily incidental and subordinate” to that principal use.

As directed by §1400.3, the Board must read Chapter 14 together with the regulations governing the underlying commercial and residential districts. Accordingly, in interpreting §1401.1’s prohibition of off-premises sale of alcoholic beverages, the Board looks at the prohibition in the context of what is allowed in the underlying commercial district, set forth in relevant part, at §§ 701.4 and 721.1.

Subsection 721.1 provides that “[a]ny use permitted in C-1 Districts under § 701 shall be permitted in a C-2 District as a matter of law.” Subsection 701.4 sets forth uses allowed as a matter of right in the C-1 District that by the above provision apply as well to the C-2 District, including both (l) food and grocery store and (u) Off-premises alcoholic beverage sales.

By virtue of the fact that both sets of regulations are to be read together, those uses permitted under § 701 remain permitted in the Reed-Cooke Overlay unless prohibited under Chapter 14. Neither the use as a grocery store permitted under § 701.4(l) nor “other accessory uses customarily incidental and subordinate to the uses permitted in the C-2 Districts,” permitted

**BZA APPEAL NO. 17675****PAGE NO. 7**

under § 722.3, are prohibited by §1401.1 or any other provision in Chapter 14. Accordingly, the Board concludes that off-premises sale of alcoholic beverages as an accessory use to a grocery store is not prohibited under § 1401.1 or any other regulation under Chapter 14.

The Board also finds significant that § 701.4 characterizes all the uses listed under this provision as “retail establishments.” This description leads to the conclusion that “off-premises alcoholic beverages sales” under § 701.4 refers to a standalone liquor store, reinforcing the conclusion that the same words used in § 1401.1, but under the category of prohibited “uses, is intended to apply to the principal use as a liquor store and not to accessory uses to a matter of right use.

For guidance in interpreting the prohibited uses provision set forth in § 1401.1, the Board has also examined “prohibited uses” in other chapters of the Zoning Regulations, and finds that there is no uniform manner in which prohibited uses in the various chapters address accessory uses.

The Board notes that in some instances in the Zoning Regulations a list of prohibited uses does specifically distinguish principal uses. *See e.g.* § 602.1 (Commercial Residential Districts) in which five prohibited uses are specifically limited to principal uses and §902.1 (Waterfront District) where two prohibited uses are specifically limited to principal uses. However, there is no pattern of this format throughout the regulations that would lead to the conclusion that if the regulations are silent, that accessory uses are to be determined to be prohibited as well. Notably, the regulations governing overlays do expressly identify accessory uses when they are intended to be prohibited. *See e.g.* § 806.4(b) regarding the Langdon Overlay District, which expressly prohibits outdoor materials storage or outdoor processing, fabricating, or repair “whether a principal or accessory use” (emphasis added) and, §§ 1303.1, 1505.1 and 1901.3, specifically prohibiting a drive-through accessory to any use permitted in the Overlay.

It bears noting that a list of prohibited uses is but one of two ways that the zoning regulations disallow uses. The other (and most common) means is to exclude a particular use from a list of uses permitted within a zone district. As noted, the disallowance of a principal use through exclusion does not act to disallow the accessory form of the use. Yet, Appellant argues that when a use is disallowed through express prohibition, the accessory form of the use is forbidden as well. Appellant’s position is contrary to the generally accepted rule that when an ordinance disallows uses through express prohibition “accessory uses not specifically prohibited may be engaged in.” Vol. 2 § 33:2 (4th ed.) *Rathkopf’s The Law of Zoning and Planning* and cases cited therein.

Finally, interpreting § 1401.1(b) – “off-premises alcoholic beverage sales” as applying only to a liquor store - a stand-alone principal use - is consistent with the Zoning Commission’s intent as set forth in 11 DCMR § 1400.2(c), to “[p]rotect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts.” The impact of a liquor store on a residential neighborhood is different from that of a full-service, national-chain supermarket selling beer and wine as an accessory use. While liquor stores have historically been accompanied by such adverse impacts as loitering, full-service grocery stores selling beer and wine as an accessory use have not.

**BZA APPEAL NO. 17675****PAGE NO. 8***Great Weight*

The Board is required to give "great weight" to issues and concerns raised by the affected ANC. D.C. Official Code § 1-309.10(d) (2001). Great weight means acknowledgement of the ANC's issues and concerns and an explanation of why the Board did or did not find its views persuasive. ANC 1C filed two resolutions with the Board that were voted on, at duly-noticed public meetings with a quorum present. In the first resolution, dated December 6, 2007, the ANC asserted that § 1401.1 and § 1400.4 require the store operator/Property Owner to request a special exception pursuant to 11 DCMR § 1403 in order to properly engage in the sale of alcoholic beverages for off-premises consumption. In the second resolution, dated February 6, 2008, the ANC expanded on this assertion, and argued that § 1401.1 may be ambiguous with respect to whether it includes or does not include the accessory uses allowed in the underlying C-2 zone district, but that § 1400.4 requires the Board to interpret § 1401.1 restrictively to prohibit accessory uses. § 1400.4 states: "Where there are conflicts between this chapter and the underlying zone district, the more restrictive regulations shall govern."

For the reasons set forth above, the Board does not find a conflict between § 1401.1(b) and the regulations of the underlying C-2 District. Because the Board finds that the sale of off-premises alcoholic beverages as an accessory use is not prohibited by § 1401.1(b) and is therefore allowed as a matter of right, no relief is required.

For the reasons stated, the Board concludes that the Zoning Administrator did not err in permitting the store operator/Property Owner to engage in the sale of alcoholic beverages for off-premises consumption as a matter-of-right accessory use to a matter-of-right grocery store use, notwithstanding the prohibition stated in 11 DCMR § 1401.1(b). Therefore, it is hereby **ORDERED** that this appeal is **DENIED**.

**VOTE:**       **3-0-2** (Ruthanne G. Miller, Marc D. Loud, Shane L. Dettman, to deny; Mary Oates Walker not participating or voting. No Zoning Commission member participating or voting.)

Each concurring Board member has approved the issuance of this Decision and Order and authorized the undersigned to execute the Decision and Order on his or her behalf.

**FINAL DATE OF ORDER: NOVEMBER 13, 2008**

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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

**Application No. 17724-A of Francis Fabrizio and Glen Thomas**, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of eight (8) row dwellings under section 353, in the R-5-A District at premises northwest corner of the intersection of 50<sup>th</sup> Street and Fitch Place, N.E. (Square 5181, Lots 40-43, 55, and 803).

**HEARING DATE:** February 26, 2008

**DECISION DATE:** April 1, 2008

**DECISION ON MOTION  
FOR RECONSIDERATION:** May 6, 2008

**ORDER DENYING RECONSIDERATION AND REHEARING**

On April 15, 2008, the Advisory Neighborhood Commission (ANC) 7C submitted a motion requesting reconsideration and rehearing of the Board of Zoning Adjustment's (Board's) April 7, 2008 order granting a special exception to Francis Fabrizio and Glen Thomas (the Applicant) (Exhibit 35). The special exception allowed the Applicant to build eight row dwellings at the northwest corner of the intersection of 50<sup>th</sup> Street and Fitch Place, NE, in the R-5-A zone. At a decision meeting on May 6, 2008, the Board denied the ANC's motion, finding that the ANC had not stated a basis for reconsideration or rehearing under the Zoning Regulations.

**Procedural Background**

The underlying application was filed with the Board on August 31, 2007. (Exhibit 1). In accordance with §§ 3112.7 and 3113.7 of the Zoning Regulations, ANC 7C (the ANC) was notified of the filing and was sent a copy of the application. (Exhibit 12). The ANC was also advised to file a written report detailing its issues and concerns, in accordance with 11 DCMR 3115. (Exhibit 12). On or about December 11, 2007, the Board advised the ANC that a public hearing would take place on February 26, 2008. (Exhibit 19).

The ANC did not appear at the public hearing on February 26. Instead, the ANC indicated its opposition to the application in a letter dated January 18, 2008 (Exhibit 25) and requested a postponement of the hearing for "sometime in March 2008" in a letter dated February 14, 2008 (Exhibit 29). Neither the January 18 letter nor the February 14 letter explained why the ANC opposed the application, only that the ANC wished to discuss other possible development with the applicant.

**BZA APPLICATION NO. 17724-A****PAGE NO. 2**

Nor did either letter meet the requirements of Section 13 (d)(3)(A) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (the ANC Act), as restated in § 3115 of the Board's rules. Section 3115.1 of the Regulations enumerates the information required for ANC reports to be afforded great weight by the Board, notably if and when the ANC meeting was held, if the meeting was publicly noticed, a vote on a motion to adopt the report to the Board, and whether a quorum of commissioners was present at the meeting. Except for identifying the application and public meeting date, neither of the ANC's letters met these requirements. As a result, neither letter was afforded great weight. However, as explained above, no specific issues or concerns were addressed in the letters. Therefore, even were the Board to have waived its rules and afforded the letters great weight, there were no specific issues or concerns to which the Board could give great weight.

Accordingly, the Board deliberated on the application without the benefit of written advice from the ANC, and granted the application for special exception relief in an order dated April 7, 2008. The ANC filed a timely motion for reconsideration and rehearing on April 11, 2008 (Exhibit 35). The motion was heard at the Board's decision meeting on May 6, 2008.

**Request for Reconsideration**

The Board's rules of practice and procedure provide that a "motion for reconsideration shall state specifically all respects in which the final decision is claimed to be erroneous, the grounds of the motion and the relief sought." 11 DCMR § 3126.4. Although the ANC submission contained alleged "grounds" for reconsideration, it contained no explanation as to why the Board's decision granting special exception approval was erroneous.

The ANC stated three grounds for reconsideration, namely: (1) the Applicant did not schedule a meeting with the ANC to continue discussions of the project (Exhibit 35); (2) as a result of a misunderstanding, the ANC mistakenly believed the proposed project was in Lincoln Heights instead of the actual location at 50<sup>th</sup> Street and Fitch Place, NE.; and (3) the ANC did not receive notice of the February 26, 2008 public hearing date (Exhibit 35). As will be explained below, none of these grounds constitute an error in the Board's final decision or a basis for reconsideration or rehearing.

The first and second ground relate to a dispute and/or misunderstanding between the Applicant and the ANC. They do not relate to a specific error in the Board's decision. With respect to the third ground alleging lack of notice, the record indicates that, contrary to the ANC's assertion, the ANC was notified of the February 26 hearing date. As stated, in a letter dated December 11, 2007, the Board notified the ANC that the application would be heard on February 26, 2008 between 1:00 and 4:00 in the afternoon. (Exhibit 19). Even assuming this letter was not received by the ANC, there is no doubt that the ANC had actual notice of the hearing date because the ANC requested a postponement from that date. (Exhibit 29). Thus, the application should not be reconsidered due to a lack of notice.

**BZA APPLICATION NO. 17724-A****PAGE NO. 3**

To recapitulate, a party seeking reconsideration must allege with specificity why the Board's decision was issued in error. Here, the ANC has made no showing of error whatsoever. Therefore, the Board denies the motion for reconsideration.

**Request for Rehearing**

Subsection 3126.6 provides that a request for rehearing shall be considered only where new evidence is submitted that could not reasonably have been presented at the original hearing. 11 DCMR § 3126.6. The ANC has not alleged or made any showing that it possesses any new evidence that would warrant a rehearing. As such, the Board also denies the motion for rehearing.

In conclusion, the ANC has not identified any legal or factual errors, or any other basis upon which the Board could reconsider its decision. Nor has the ANC identified any new evidence in support of its request for a rehearing. For these reasons, it is hereby **ORDERED** that the Motion for Reconsideration and Rehearing is **DENIED**.

**VOTE:**       **4-0-1** (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, and Shane L. Dettman to deny, no Zoning Commissioner participating)

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

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

**FINAL DATE OF ORDER:**    **NOVEMBER 17, 2008**

PURSUANT TO 11 DCMR 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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

**Application No. 17826 of Maret School Inc.**, pursuant to 11 DCMR § 3104.1, for a special exception to permit an increase in faculty, staff and student enrollment for a private school under section 206, in the R-1-B/R-3 Districts at premises 3000 Cathedral Avenue, N.W. (Square 2113, Lot 843).

**HEARING DATE:** October 21, 2008  
**DECISION DATE:** November 5, 2008

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under section 206. 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 206, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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

**BZA APPLICATION NO. 17826****PAGE NO. 2**

and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT to the following CONDITIONS:**

1. The maximum number of students shall not exceed 635, and the number of faculty and staff shall not exceed 129.
2. The applicant shall submit a report every other year to ANC 3C and the District Department of Transportation. The report shall provide enrollment and staffing figures and a description of the school's performance related to the transportation management plan from the preceding year.
3. The applicant shall provide a total of 139 parking spaces onsite, of which a minimum of 10 shall be dedicated to visitor parking.
4. The applicant will prohibit vehicles from making a left-hand turn onto campus from Cathedral Avenue during school drop-off and pick-up times.
5. The applicant will instruct parents not to park on, or queue on, Cathedral Avenue to wait for their children at school drop-off or pick-up times.
6. The applicant will continue to provide traffic control personnel at both ends of its driveway during school drop-off and pick-up times to facilitate on-campus traffic flow and enforce drop-off and pick-up procedures.
7. The applicant will encourage carpooling by establishing an online system to help parents identify other families along their travel route and distributing information regarding the location of other families in the area to parents at the start of each academic year.
8. The applicant will distribute a policy manual to all families prior to the start of the academic year that explains all relevant policies and procedures regarding parking, pick-up, drop-off and penalties for non-compliance. This information shall also be posted on the school's website.
9. The applicant shall subsidize students, faculty and staff in the use of public transportation.

**BZA APPLICATION NO. 17826**

**PAGE NO. 3**

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

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:**                 NOV 18 2008          

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****12-Month Schedule of Monthly Meeting Dates**

The Zoning Commission of the District of Columbia, in accordance with subsection 3005.1 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled the following meetings. Meetings are held in Suite 220 South of 441 4<sup>th</sup> Street, N.W., #1 Judiciary Square, beginning at 6:30 p.m.

The dates of the Regular Monthly Meetings for the following year of the Zoning Commission of the District of Columbia are as follows:

January 12, 2009

February 9, 2009

March 9, 2009

April 13, 2009

May 11, 2009

June 8, 2009

July 13, 2009

September 14, 2009

October 19, 2009

November 9, 2009

December 14, 2009

There are no hearings held in the month of August.

Please note that these dates are subject to change.

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

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