

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST**Raze Permit Applications**

The following is a listing of raze permit applications filed with the Permit Operations Division of the Department of Consumer and Regulatory Affairs:

Application Date	Address	Lot	Square	Use
February 11, 2009	2335 Champlain Street, NE	816	2563	2 story commercial
February 19, 2009	1101 L Street, NW	69	341	Church
February 19, 2009	1500-1504 Galen Street, NE	800	5795	3 story apartment building
February 19, 2009	310-320 Kennedy Street, NE	4	3766	3 story apartment building

For further information, please contact Mr. Joseph Bembry at the Permit Operations Division via email at Joseph.Bembry@dcra.gov or Ms. Cheryl Randall Thomas, Manager of the Permit Center, at (202) 442-4534.

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

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

March 2009

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
John McFarland	Board of Accountancy	3	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	18	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	13	9:00 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	2	10:00 am-4:00 pm
Sheldon Brown	Boxing and Wrestling Commission	10	7:00-pm-9:00 pm
Sheldon Brown	Board of Funeral Directors	5	1:30 pm-5:00 pm
John McFarland	Board of Professional Engineers	26	9:30 am-1:30 pm
Leon Lewis	Board of Real Estate	10	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	17	5:30 pm-7:00 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 PUBLIC SCHOOLS
NOTICE OF COMMUNITY MEETINGS
ON PROPOSED SCHOOL CLOSINGS AND CONSOLIDATIONS

on

Wednesday, March 4, 2009

Draper Elementary School, 908 Wahler Place, S.E., Washington, DC, 6:00 p.m.

Birney Elementary School, 2501 Martin Luther King Ave, S.E., Washington, DC, 6:30 p.m.

Webb Elementary School, 1375 Mt. Olivet Road, N.E., Washington, DC, 7:30 p.m.

The Chancellor of the District of Columbia Public Schools (DCPS) announces three community meetings for the public to provide input and comment on proposed actions to close and/or consolidate three DCPS school buildings pursuant to Title 5, Section 3607 of the District of Columbia Municipal Regulations.

All three meetings will take place on Wednesday, March 4, 2009. They will be held pursuant to Title 5, Sections 400 and 3608 of the District of Columbia Municipal Code at the following locations and will begin at the times indicated:

Draper Elementary School, 908 Wahler Place, S.E., Washington, DC, beginning at 6:00 p.m.

Birney Elementary School, 2501 Martin Luther King Avenue, S.E., Washington, DC, beginning at 6:30 p.m.

Webb Elementary School, 1375 Mt. Olivet Road, N.E., Washington, DC, beginning at 7:30 p.m.

Members of the public are invited to testify at the community meetings. Testimony may be limited to five minutes per witness. Those wishing to testify should contact Jennifer Nguyen in the Office of the Chancellor via email at Jennifer.Nyuyen@dc.gov or by telephone at (202) 442-5191 by 5:00 p.m. on Tuesday, March 3, 2009. Witnesses should bring three (3) copies of their written testimony to the community meeting. Persons needing child care, disability accommodations, and/or language interpretation services (Spanish, Chinese, Vietnamese, Amharic, French and American Sign Language) may call or email Ms. Nguyen.

Members of the public may submit written testimony which will be made part of the official record. Copies of written statements may be submitted at www.k12.dc.us (click on “send us your feedback or questions”), or by mail addressed to: Ms. Jennifer Nguyen, Office of the Chancellor, District of Columbia Public Schools, 825 N. Capitol Street, N.E., 9th Floor, Washington, DC 20002.

After considering all public feedback, the Chancellor will make final recommendations to the Mayor.

The proposed actions involve (1) closing one elementary school, Draper Elementary, which has fewer than 90 students, and consolidating the Draper program with Ferebee-Hope Elementary School; (2) relocating Webb/Wheatley Elementary School from the current Webb Elementary School building to the modernized Wheatley Elementary School building, and maintaining the Webb building in DCPS inventory pending assessment of needs for DCPS administrative or special programs space; and (3) relocating the Birney Elementary School program and the Savoy Elementary School program from the current Birney building to the modernized Savoy building, consolidating both programs in the Savoy building, and maintaining the Birney building in DCPS inventory pending assessment of needs for DCPS administrative or special programs space.

These proposed actions are intended to reduce inefficiencies in managing the administration, staffing and facilities of the affected schools and programs, and to accommodate the Webb/Wheatley and Birney/Savoy programs in improved, updated facilities that are superior to the current buildings those programs occupy

The primary criteria for DCPS’s assessment of whether to close Draper Elementary School are the same primary criteria used to identify schools for closing in December of 2007, namely (1) an enrollment decline greater than the median change for DCPS elementary schools and (2) total enrollment less than the median for DCPS elementary schools. See <http://edreform.dc.gov>. Supporting criteria, findings, and recommendations for all of the proposed actions are explained below.

CRITERIA, FINDINGS, AND RECOMMENDATIONS FOR CLOSURE AND CONSOLIDATIONS FOR 2009-2010 SCHOOL YEAR

Draper Building

Background

- The Draper building was identified for closure in the 2006 Master Facilities Plan. It also met the first level criteria for closings in 2007, with a five-year enrollment decline at that time of 59%. Enrollment dropped an additional 33% from School Year 2007 to School Year 2008, to 84 students.
- Draper is within one-half mile of Ferebee-Hope, Simon, and M.C. Terrell Elementary Schools.

- To better utilize space in the Draper building, DCPS entered into a lease with a charter school incubator project to share the space with a charter middle school, beginning in the 2008-2009 school year. The charter school incubator occupies 12,000 square feet of 54,000 total square feet in the Draper building.

Recommendation

- Consolidate the Draper Elementary School program into Ferebee-Hope, as recommended in the 2006 Master Facilities Plan.
- Explore alternative uses for the space in the Draper building not currently leased.
- The lease with the charter school incubator project in the Draper building is unaffected by this proposed action.

Rationale

- With an enrollment of 84 students in grades PK-6, it is very difficult to allocate adequate resources to maintain a full DCPS program in the Draper building. By consolidating the Draper and Ferebee-Hope programs in one school, students will have access to a comprehensive school program.
- Ferebee-Hope and Draper are 0.3 (three-tenths) miles from each other. Closing Draper will not result in any additional students' having to walk more than 0.5 miles to school.

Draper

Bldg Sq Ft	Capacity	Enrollment October 2008
54,000	352	84 (PK-6)

Ferebee-Hope

Bldg Sq Ft	Capacity	Enrollment October 2008
193,800	521	271 (PS-5)

Webb Building

Background

- In August 2006, the Wheatley Elementary School program moved into the Webb Elementary School building, joining the existing Webb program.
- The 2006 Master Facilities Plan (MFP) called for a modernized Wheatley building that would house the Webb/Wheatley unified school program beginning in the fall of 2009.
- Webb/Wheatley currently operates as one school program, with a single principal.

- The modernized Wheatley building will be ready for occupancy in August of 2009.

Recommendation

- Upon the completion of the modernization of the Wheatley building, move the entire Webb/Wheatley program, staff, and students to the modernized facility. This recommendation aligns with the plans laid out in the 2006 MFP.
- Maintain the Webb building in DCPS inventory pending assessment of needs for administrative or special programs space. If no DCPS needs are identified, transfer the building to the City’s Office of Property Management.

Rationale

- The new Wheatley building will provide ample space for the Webb/Wheatley student population, and all students will benefit from the modernized facility.
- The Wheatley building is 0.6 (six-tenths) miles southwest of the Webb building. Because the Webb building is flanked by the Mt. Olivet cemetery to the north and the Arboretum to the northeast, students who are walking to school are largely coming from the south and the west. The move to the Wheatley building will, therefore, reduce the average walking distance for students.

Webb Building (currently houses Webb/Wheatley):

Bldg Sq Ft	Capacity	Enrollment October 2008
103,700	625	367 (PS-7 th)

Wheatley Building (when modernized)

Bldg Sq Ft	Capacity	Anticipated Enrollment 2009
87,000	540	373 (PS-8 th)

Birney Building

Background

- The Savoy program has been co-located with the Birney program in the Birney building since the fall of 2007. The two schools have separate principals and staff, but have been coordinating their professional development and other school activities.
- The 2006 Master Facilities Plan called for a modernized Savoy building that would house the Birney/Savoy unified school program.
- The modernized Savoy building will be ready for occupancy in August of 2009.

Recommendation

- Upon the completion of the Savoy building, merge the two schools into one program and move the entire Birney/Savoy program, staff, and students to the modernized facility. This recommendation aligns with the plans laid out in the 2006 MFP.
- Maintain the Birney building in DCPS inventory pending assessment of needs for administrative or special programs space. If no needs are identified, transfer the building to the City’s Office of Property Management.

Rationale

- The new Savoy building will provide ample space for the Birney-Savoy student population, and all students will benefit from the modernized facility.
- The two buildings are 0.1 (one-tenth) mile from each other. Walkability is not an issue.

Birney Building (currently houses Birney and Savoy)

Bldg Sq Ft	Capacity	Enrollment October 2008
86,800	560	379 (Savoy and Birney)

Savoy Building (when modernized)

Bldg Sq Ft	Capacity	Anticipated Enrollment 2009
99,795	450	325

EDUCATION LICENSURE COMMISSION

NOTICE OF EDUCATION LICENSURE COMMISSION PUBLIC SESSIONS

The Education Licensure Commission (the" Commission"), pursuant to the Advisory Neighborhood Commission Act, CODE Ann., § 1-261 (1987), AND THE ADMINISTRATIVE PROCEDURE ACT, D.C. CODE ANN., § 1-1506 (1987), hereby gives notice that the Commission's public meetings are going to take place as follows

Meeting Dates	Sessions	Time
Thursday, March 26, 2009	PS-03-09	2:00pm – 7:00pm
Thursday, April 23, 2009	PS-04-09	9:30am - 2:30pm
Thursday, May 21, 2009	PS-05-09	2:00pm – 7:00pm
Tuesday, June 23, 2009	PS-06-09	9:30am – 2:30pm
Thursday, July 23, 2009	PS-07-09	2:00pm – 7:00pm
August Recess	Recess	Recess
Thursday, September 24, 2009	PS-09-09	9:30am – 2:30pm
Thursday, October 22, 2009	PS-10-09	2:00pm – 7:00pm
Thursday, November 19, 2009	PS-11-09	9:30am – 2:30pm
Thursday, December 17, 2009	PS-12-09	2:00pm – 7:00pm

Unless otherwise noted, meetings are held monthly at:

441 4th Street, NW
 One Judiciary Square
 Citywide Conference Center
 Suite 1114
 Washington, DC 20001

Please visit our website at www.osse.dc.gov to confirm times as it varies from month to month.

Should you have any questions regarding the public sessions, please contact Ms. Robin Jenkins, Program Manager, at (202) 724-2095.

BOARD OF ELECTIONS AND ETHICS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in two (2) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1A11, 3G03

Petition Circulation Period: **Monday, March 2, 2009 thru Monday, March 23, 2009**

Petition Challenge Period: **Thursday, March 26, 2009 thru Wednesday, April 1, 2009**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

**FRIENDSHIP PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR PROPOSAL FOR
SPORTS MEDICINE TRAINER/CONSULTANT**

Friendship Public Charter School is seeking bids from prospective candidates to provide training in basic skills for preventing, diagnosing, treating, and rehabilitating minor injuries related to sports or exercise, to Coaches, Athletic Directors and students at Friendship Public Charter School in accordance with requirements and specifications detailed in the Request for Proposal.

An electronic copy of the full Request for Proposal (RFP) may be requested by contacting:

Valerie Holmes
vholmes@friendshipschools.org
202-281.1722

**HEALTH REGULATION AND LICENSING ADMINISTRATION
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

**Notice of Regularly Scheduled Public Meetings
Calendar Year 2009-2010**

Health Professional Boards Monthly Meetings

MARCH

Board	Day	Date	Time
Nursing	Wednesday	4	8:00 am
Pharmacy	Thursday	5	9:30 am
Respiratory Care	Monday	9	9:00 am
Chiropractic	Tuesday	10	1:00 pm
Social Work	Wednesday	11	9:00 am
Nursing Home Administration	Thursday	12	1:30 pm
Professional Counseling	Friday	13	9:00 am
Physical Therapy	Tuesday	17	3:00 pm
Dentistry	Wednesday	18	10:00 am
Veterinary Examiners	Thursday	19	10:00 am
Massage Therapy	Thursday	19	1:30 pm
Psychology	Friday	20	10:00 am
Audiology & Speech Therapy	Monday	23	9:00 am
Medicine	Wednesday	25	9:00 am

MEETING LOCATION

717 14th Street, NW
10th Floor
Washington, DC 20005

The locations, dates and/or dates may vary. To confirm attendance and location please contact:

Deborah Y. Barnes
Executive Assistant
Government of the District of Columbia
Health Regulation and Licensing Administration
717 14th Street, NW 10th Floor
Washington, DC 20005
Phone: (202) 724-8819 | Fax: (202) 724-8677
deborah2.barnes@dc.gov

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF CHANGE OF VENUE FOR THE HOUSING PRODUCTION TRUST
FUND ADVISORY BOARD MEETINGS**

The DC Department of Housing and Community Development (DHCD), announces a change of venue for the following scheduled Housing Production Trust Fund Advisory Board 2009 meetings:

March 11, 2009
June 10, 2009
September 9, 2009

The meetings will be held at DHCD office, **1800 Martin Luther King Avenue (3rd Floor), SE Washington, DC 20020, at 9:30 am.**

For additional information please contact Oke Anyaegbunam at 202-442-7200.

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 March 15, 2009.

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 March 6, 2009. 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.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

February 19, 2009

I hereby recommend that the following named persons be appointed as Notaries Public in and for the District of Columbia, effective on or after March 15, 2009.

45979	Aguiar	Ester De	New Fee	K & M Engineering and Consulting, LLC 1875 K Street, NW, Suite 600	20006
45980	Anderson	Tania	New Fee	Exponent, Inc. 1150 Connecticut Avenue, NW, Suite 1100	20036
45981	Baxter	Jennifer	New Fee	Coldwell Banker Residential Brokerage 5028 Wisconsin Avenue, NW, Suite 100	20016
45982	Beacoat- Williams	Patricia	New Fee	Law Offices of Attorney Leroy M. Fykes 6665 13th Street, NW	20012
45983	Beidler	Michael Lee	New Free	District of Columbia, Office of Historic Preservation in the Office of Planning 801 North Capitol Street, NW, Suite 300	20002
45984	Briggs	Joe D.	New Fee	NFL Players Association 1133 20th Street, NW	20036
45985	Brown	Lucille F.	Rpt Fee	Self 4825 10th Street, NE	20017
45986	Brown, Jr.	LeRoy Thomas	New Fee	Wachovia Bank 1310 G Street, NW	20005
45987	Brunson	Bernice	Rpt Fee	NBC 4001 Nebraska Avenue, NW	20016
45988	Bullock- Broadus	Shekiya	Rpt Fee	PRM Consulting, Inc. 1814 13th Street, NW	20009
45989	Cartegena	Jackeline	New Fee	Providence Hopsital 1150 Varnum Street, NE	20017
45990	Cheek	Dorothy	Rpt Fee	NLC Mutual Insurance Company 1301 Pennsylvania Avenue, NW, Suite 550	20004

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

February 19, 2009

I hereby recommend that the following named persons be appointed as Notaries Public in and for the District of Columbia, effective on or after March 15, 2009.

45991	Daniels	Kristopher Terrell	New Fee	Suntrust Bank 2929 M Street, NW	20007
45992	Daughtry	Jamarice Antwon	New Fee	Washovia 1501 K Street, NW	20005
45993	Derk	Sandra A.	New Free	US Coast Guard 2100 2nd Street, SW	20593
45994	Dewey	Judith	New Fee	Wachovia Bank 5701 Connecticut Avenue, NW	20015
45995	Dickens	Avis M.	New Fee	Navigant Consulting 1801 K Street, NW, Suite 500	20006
45996	Dickey	Trenita	New Fee	Alexander Graham Bell, Association for the Deaf and Hard of Hearing 3417 Volta Place, NW	20007
45997	Dunn, Jr.	Willie F.	New Fee	Medical Faculty Associates- The George Washington University 2150 Pennsylvania Avenue, NW	20039
45998	Eads	Clyde	New Fee	Mandarin Oriental Hotel 1330 Maryland Avenue, SW	20024
45999	Fuentes- Servellon	Rosa A.	New Fee	VIKA Capitol, LLC 4900 Massachusetts Avenue, NW, Suite 110	20016
46000	Ham	Doris F.	Rpt Fee	Leftwich & Ludaway, LLC 1400 K Street, NW, Suite 1000	20005
46001	Hamilton	Hazel A.	New Fee	Self 2055 38th Street, SE, #202	20020
46002	Harris	Rhonda R.	New Fee	LAD Reporting & Digital Videography 1325 G Street, NW, Suite 200	20005
46003	Harrison	R. Dwayne	New Fee	Gore Brothers Reporting & Videoconferencing 1025 Connecticut Avenue, Suite 1000	20036
46004	Heard	Caroline	New Free	US Office of Special Counsel 1730 M Street, NW, Suite 300	20036

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

February 19, 2009

I hereby recommend that the following named persons be appointed as Notaries Public in and for the District of Columbia, effective on or after March 15, 2009.

46005	Heckman	Fawn Donna	New Fee	Silverberg Goldman & Bikoff 1101 30th Street, NW, Suite 120	20007
46006	Hendricks	Louise G.	Rpt Fee	Martell, Donnelly, Girmaldi & Gallagher 1900 L Street, NW, Suite 401	20036
46007	Holland	Kyla D.	New Fee	Pact, Inc. 1828 L Street, NW, Suite 300	20036
46008	Johnson	Dietrich B.	Rpt Fee	La Clinica del Pueblo 2831 15th Street, NW	20009
46009	Kirimlis	Stelios A.	New Fee	Courtesy Title and Escrow Corp. 1737 H Street, NW, Suite 100	20006
46010	Kirimlis	Valli X.	New Fee	Courtesy Title and Escrow Corp. 1737 H Street, NW, Suite 100	20006
46011	Kouda	Moumoumi N.	New Fee	Global Electronics & Shipping Inc 7838 C Eastern Avenue, NW	20012
46012	Kozak	Jeffery J.	New Fee	Escrow Experts, LLC 1716 New Jersey Avenue, NW	20001
46013	Law, Jr.	Michael J.	New Fee	TD Bank, NA 901 7th Street, NW	20001
46014	Lawrence	Danae	New Fee	Arnold & Porter LLP 555 12th Street, NW	20004
46015	Lawson	Sharon A.	Rpt Fee	Law Offices of George R. Salem PLLC 500 8th Street, NW	20004
46016	Lawson	Terrell D.	New Fee	Williams, Adley & Company, LLP 1250 H Street, NW, Suite 1150	20005
46017	Massey	Joy A.	New Fee	STTG Incorporated 1150 18th Street, NW, Suite 350	20036
46018	McDonald	Megan	New Fee	National Association of State Departments of Agriculture 1156 15th Street, NW, Suite 1020	20005
46019	Monaco	Timothy J.	New	Cleary Gottlieb Steen & Hamilton LLP	

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

February 19, 2009

I hereby recommend that the following named persons be appointed as Notaries Public in and for the District of Columbia, effective on or after March 15, 2009.

			Fee	2000 Pennsylvania Avenue, NW	20006
46020	Monroe, Jr.	Kirk D.	New Fee	Debevoise & Plimpton, LLP 555 13th Street, NW, Suite 1100 E	20004
46021	Moore, Esq.	Yonelle A.	Rpt Fee	The Jonathan Rutherford Realty Team 4818 MacArthur Blvd, NW	20007
46022	Murdock	Vicki L.	New Fee	Suntrust Bank INC. 1369 Connecticut Avenue, NW	20036
46023	Murray	Ayesha S.	New Fee	Lincoln Property Company 810 First Street, NE, Suite 520	20002
46024	Oliver	Robin L.	Rpt Fee	Bethesda Baptist Church 1808 Capitol Avenue, NE	20002
46025	Overton	Lisa	Rpt Fee	Stewart Title and Escrow Inc. 1050 17th Street, NW, Suite 600	20036
46026	Pinckney	Dorothy M.	Rpt Fee	Jackson & Campbell, P.C. 1120 20th Street, NW, Suite 300, South Tower	20036
46027	Purdey	Carol	New Fee	Self 3001 Stephenson Place, NW	20015
46028	Reid	Deborah B.	Rpt Fee	Kriegsfeld Corporation 415 Butternut Street, NW, Suite T-1	20012
46029	Roberts	Elliot J.	New Fee	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Floor	20036
46030	Rones	Stephanie K.	New Fee	Premier Community Development Corporation 1309 Rhode Island Avenue, NE	20018
46031	Rossick	Paul	Rpt Fee	Eckert Seamans Cherin Mellott, LLC 1747 Pennsylvania Avenue, NW, 12th Floor	20006
46032	Ryan	Kathleen E.	New Fee	General Services Administration 301 7th Street, SW, Suite 7048	20407
46033	Scott	Valerie L.	Rpt Free	Attorney General for the District of Columbia 1350 Pennsylvania Avenue, NW,	20004

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

February 19, 2009

I hereby recommend that the following named persons be appointed as Notaries Public in and for the District of Columbia, effective on or after March 15, 2009.

					Suite 409
46034	Shelton	Terah M.	New Fee	Broydrick & Associates, Inc. 44 North Capitol Street, NW, #837	20001
46035	Souza	Joy Ann	New Fee	Silverberg Goldman & Bikoff 1101 13th Street, NW, Suite 120	20007
46036	Spells	Jean Fleming	New Free	Department of Justice 1400 New York Avenue, NWM Suite 12100	20530
46037	Spicer	William E.	New Fee	Enterprise Settlement Services, LLC 2132 Wisconsin Avenue, NW	20007
46038	Trusso	Shim	Rpt Fee	Bernstein Management Corporation 5301 Wisconsin Avenue, NW, Suite 600	20015
46039	Vidal	Nils	New Fee	Wachovia NA 1100 Connecticut Avenue, NW	20036
46040	West	Jacqueline M.	New Fee	The Human Society of the United States 519 C Street, NE	20002
46041	Williams	Eugene Bobby	New Fee	Self 621 Fourth Street, SW	20024
46042	Williams	Risha K.	New Fee	St. Paul Senior Living at Wayne Place 114 Wayne Place, SE	20032
46043	Wright	Ayeshah	New Fee	GraphicCommunication Conference/ IBT 1900 L Street, NW, 8th Floor	20036
46044	Wright- Smith	Vickey A.	New Fee	Robinson & Geraldo, P.C. 1316 Pennsylvania Avenue, SE	20003
46045	Yelicie	Fedor A.	New Fee	K & M Engineering and Consulting, LLC 1875 K Street, NW, Suite 600	20006
46046	Zamora	Katy M.	New Fee	LAD Reporting Company 1325 G Street, NW	20005

DC STATE BOARD OF EDUCATION**NOTICE OF PUBLIC MEETING**

DC State Board of Education

The DC State Board of Education will hold a public hearing to receive public input on the proposed Residency Verification Regulations.

Should anyone wish to testify before the DC State Board of Education, they should notify the State Board of Education office by close of business March 2, 2009. They should also bring fifteen (15) copies of their testimony to the meeting.

Wednesday, March 4, 2009

6 p.m.

First Floor Chambers

441 4th Street, NW

Washington, DC 20001

Contact: Beverley R. Wheeler (202) 741-0884

Beverley.wheeler@dc.gov

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

Application No. 17787 of the Republic of Uganda, pursuant to 11 DCMR § 1002, to permit the location of a chancery in the SSH/R-1- B Zone District, at premises 5909 16th Street, N.W., Square 2724, Lot 4.

NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (Board), pursuant to the authority set forth in section 206 of the Foreign Missions Act (FMA), approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2001)), and Chapter 10 of the Zoning Regulations of the District of Columbia, DCMR Title 11, hereby gives notice of the adoption of its determination not to disapprove the application of the Republic of Uganda (Applicant) to use the building located at 5909 16th Street, N.W., as a chancery.

PRELIMINARY MATTERS

The Application

On February 14, 2008, the Applicant filed a chancery application with the Board. (Exhibit 2) The application was filed by Stephen N. Gell, Esq., who was authorized to represent the Applicant before the Board. (Exhibit 6). Pursuant to 11 DCMR § 3134.7, the application was accompanied by a letter from the United States Department of State certifying that the Applicant had complied with the FMA and that the application could be submitted to the Board. (Exhibit 1)

Notice of Proposed Rulemaking

Notice of the filing of the application and a notice of proposed rulemaking were published in the *D.C. Register* on March 8, 2008 (53 DCR 682). In accordance with the Zoning Regulations, the Board provided written notice to the public more than 40 days in advance of the public hearing. 11 DCMR §§ 3113.13 and 3134.9(c). On February 14, 2008, the Office of Zoning provided notice of the filing of the application to the District of Columbia Office of Planning (“OP”), Advisory Neighborhood Commission (ANC) 4A, in which the subject property is located, the Single Member District member for ANC 4A07, the D.C. Councilmember for Ward 4, the District Department of Transportation (“DDOT”), and the United States Department of State. The Office of Zoning scheduled a public hearing on the application for June 24, 2008, and mailed a copy of the notice of hearing to the Applicant, ANC 4A, and all property owners within 200 feet of the subject property. In addition, on June 9, 2008, the Applicant posted notice on the property in plain view of the public in accordance with 11 DCMR § 3113. (Exhibit 33)

BZA APPLICATION NO. 17787**PAGE NO. 2****Government Reports****State Department**

The State Department submitted a favorable report regarding the application (Exhibit 29), and Richard Massey appeared at the hearing on the Department's behalf. Mr. Massey testified that no security issues were associated with the establishment of a chancery at the property, and that the Republic of Uganda had been supportive of the United States when its embassy was built in Uganda.

Office of Planning (OP)

OP also submitted a favorable report (Exhibit 31), and Karen Thomas appeared at the hearing as OP's representative. During her testimony, Ms. Thomas reversed the position espoused in the OP report that the Applicant needed a use variance. She testified that the Applicant was required to meet applicable criteria under the FMA, but that a use variance was not required. She testified further that approval of the chancery would not result in any adverse impacts to neighboring property owners, and that approval of the application would be in the municipal interest.

Advisory Neighborhood Commission (ANC)

As stated above, ANC 4A was notified of the filing and was sent a copy of the application. (Exhibit 16). The ANC was also advised to file a written report detailing its issues and concerns, in accordance with 11 DCMR 3115 (Exhibit 16). The ANC did not appear at the public hearing and did not file a written report concerning the application.

Persons in Support

No persons appeared at the hearing in support of the application. However, the record contains a petition in support of the application that was signed by 13 nearby neighbors. (Exhibit 30, Tab B). The record also contains a copy of an email from the Sixteenth Street Heights Civic Association which, likewise, indicated support for the application. (Exhibit 30, Tab C).

Other Testimony

Ronald Mlotek presented testimony to the Board concerning the history of the FMA and the Zoning Commission proceedings that implemented its provisions, particularly those that resulted in the issuance of Zoning Commission Orders 509 and 509A. Mr. Mlotek is a retired attorney from the State Department who has 25 years of experience working in the Office of Foreign Missions. Mr. Mlotek made it clear that he was not taking any position as to the merits of the application itself. Rather he expressed his opposition to any Board decision to not disapprove a chancery application for a property located in an R-1 through R-5-C zone that was not also mapped in the Mixed Use Diplomatic (D) Overlay. It was his view that the determination of the suitability of "other areas" for chancery uses under Section 4306(b)(2)(B) of the FMA could only

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be made by the Zoning Commission and that the Commission made that determination only as to those properties mapped in the D overlay. He also indicated that any such determination could only be made using the same methodology set forth in Zoning Commission Order No. 509. As will be explained later, that Order arose from a map amendment proceeding that added certain properties to the D overlay.

Closing of the Record

The record closed at the conclusion of the public hearing on the application, except for additional material requested by the Board; namely, filings from the Applicant and OP as to whether a suitability determination by the Board must use the same methodology employed by the Zoning Commission in 1987 when it added properties to the D overlay through Order No. 509.

Post-Hearing Submissions

The Board accepted filings from the Applicant (Exhibit 37) and from OP (Exhibit 36). The Applicant argued that the Board is not bound by the methodology referenced in Zoning Commission Order No. 509. OP's submission stated that the question presented was a legal question, and that it would defer to the Office of the Attorney General and to the Board. Although the Board had not requested additional filings from the State Department, the Board waived its rules to accept a filing from the Department in which it asserted that the formula set forth in Zoning Commission Order No. 509 is advisory, but not determinative in chancery location cases.

THE PROPOSED CHANCERY USE

The Republic of Uganda proposes to use the building located at 5909 16th Street, N.W. for chancery purposes. The history of this building is unusual in that it was used as a chancery by the Republic of Uganda beginning in 1963, but since that time the use has lapsed. In 1994, chancery operations were consolidated in the adjacent building at 5911 16th Street. However, it was determined sometime in 1995 that the 5909 building was no longer needed for chancery purposes and, since then, the 5909 building has either been held for residential use or has been vacant. At this time the 5911 building is overcrowded, and the Applicant wishes to again use the 5909 building for its current employees. Thus, the present application was filed for approval for a new chancery at the 5909 building.

The application also sought a use variance. (Exhibits 2, 4, 30, and 31), but such relief is inapplicable to this application. A use variance may be granted to permit a use other than that prescribed by a zoning regulation in a particular district. Location of a chancery is specifically permitted in this zone district in areas determined to be suitable under the FMA, subject to the Board's disapproval. As will be explained later, even where a chancery is not permitted by right in a particular location, the Board has the authority to "not disapprove" the chancery use, either because the property is located in the D Overlay, or because the Board has determined that the surrounding area is suitable for the use.

BZA APPLICATION NO. 17787**PAGE NO. 4****DETERMINATION****I. Authority of the Board to Not Disapprove a Chancery Application for an “Other Area” Property not Mapped in the D Overlay**

Based upon Zoning Commission Orders 509 and 509A, Mr. Mlotek challenges the Board’s authority to “not disapprove” the location of this chancery. He notes that the proposed chancery site is zoned R-1-B, but is not located in the D overlay. This status signifies that no determination has been made as to the suitability of the surrounding area for chancery uses pursuant to § 206 (b)(2)(B) of the FMA. In his testimony, Mr. Mlotek points out that the word “determined” is “in the passive voice unfortunately, it doesn't say who is to determine it.” Tr. at 51.¹ However, according to Mr. Mlotek, “the Zoning Commission expressly said that ‘determined’ meant determined by the Zoning Commission in promulgating the map.” Tr. at 52.

Mr. Mlotek also asked the Board to consider

what does "area" mean[?] So ... even if ...one were correct in saying "determined" is vague and it's therefore the FMBZA's² job to make the determination, you still would have [to] try to get around the word "area." And there the Zoning order [No. 509] by your Zoning Commission is explicitly clear ... that "area" meant zoning square....

Tr. at 63.

He further asserts that in accordance with Order No. 509, a square may only be deemed suitable if more than 1/3 of its land area is occupied by non-residential uses. Although Mr. Mlotek stated that he was not opposed to this particular application, he did concede, in response to a Board member’s question that the “problem in this case” was that he did not think “this site could meet that definition, because that square is just solidly residential”. Tr. at 80-81.

For the reasons stated below, and consistent with past precedent, the Board finds that it can both make the FMA suitability determination for this property, and that its analysis of area suitability can extend beyond the property’s square.

Background

¹ The pagination references are as shown on the transcript available through the Office of Zoning website (www.docoz.dc.gov) and may differ from the hard copy version.

² The acronym FMBZA stands for “Foreign Missions Board of Zoning Adjustment”. There is no such legal entity identified in the FMA, but it has been customary to refer to the Board of Zoning Adjustment with the membership as set forth in 4306 (i) of the FMA as the FMBZA when it hears chancery applications.

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The D overlay was first mapped through Order Nos. 236 and 237, which were combined into a "Statement of Reasons" dated September 14, 1978. The D overlay was created in response to a request by the National Capital Planning Commission that the Zoning Commission adopt regulations consistent with the recently adopted Foreign Missions and International Agencies Element of the Federal Elements of the Comprehensive Plan. NCPC also provided recommended criteria and maps, which were not based upon the 1/3 – 2/3 methodology discussed later in this order. The Commission adopted these criteria and mapped squares within the D District if located in

the city's two traditional "Embassy Row" areas along portions of Sixteenth Street, N. W., and its immediate adjacent vicinity, and along portions of Massachusetts Avenue, N. W. and its vicinity. Some of the (D) District areas were mapped along side of existing R-5-C District areas where chanceries are permitted in accordance with the Chancery Act of 1964 and the zoning text. Location is also based upon the presence in or near the affected areas of existing chanceries, embassies, and other institutional and commercial uses which demonstrate an existing mixed-use character of the mapped area.

Statement of Reasons at 29.

The regulations adopted by the Commission in the same proceeding "provided that chanceries could be located in the D District after a careful review by the Board of Zoning Adjustment to assure compatibility with affected neighborhoods" Statement of Reasons at 1. Chanceries were matter of right uses in all other areas.

The Foreign Missions Act was enacted by Congress in 1982. Among other things, the Act restricted the BZA inquiry to the consideration of six factors and mandated that its hearings be conducted as rulemakings. As to the actual location of chanceries, section 206 (b)(2)(1) of the Act continued to permit chancery uses "as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR)."

Section 206 (b)(2) made the location of a chancery subject to the disapproval of the BZA

- (A) ... [I]n any area which is zoned medium-high or high density residential; and
- (B) *in any other area*, determined on the basis of existing uses, which includes office or institutional uses, including, but not limited to, any area zoned mixed-use diplomatic or special purpose.

(Emphasis added).

Using the list of zone districts and corresponding densities set forth at 11 DCMR § 105, there is no dispute that the reference to "any other areas" means what is now the R-1 through R-5-C zone districts.

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Thus, in order for properties located in an R-1 through R-5-C zone (“other area properties”) to be eligible to be not disapproved, it must first be determined that the area surrounding the proposed chancery use is suitable based upon the extent to which it is already occupied by office and institutional uses. The more such uses exist, the more likely it is that the area would be considered suitable.

As noted by Mr. Mlotek, the FMA did not specify who should make that determination or how that determination should be made. And, as will be explained below, neither has the Zoning Commission.

In May of 1983, the Zoning Commission adopted Order No. 400. Among other things, Order No. 400 revised the provisions of the D overlay to be consistent with the FMA and permitted chanceries subject to disapproval by the BZA in R-5-C, R-5-D, SP, and D overlay Districts.³ This still left one other aspect of the “not disapproval” process to be determined. In Order No. 509 (effective April 1987) the Commission noted:

The key portion of the Foreign Mission Act which was not implemented at that time was Section 206 (b) (2) (B). Section 206 (b) (2) (B) permits chanceries, subject to BZA disapproval, "in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose".

Order No. 509 at 2.

The Commission already knew which properties were zoned mixed use diplomatic (D) and special purpose (SP). The question became how the “other areas” were to be determined. As explained in pages 2 and 3 of the Order, the Commission decided to use a city square as the “area unit” for analysis purposes. A District computer system was used to ascertain the “average mixed-use ratio for the city squares containing lots zoned ‘Diplomatic’.” This was found “to approximate a ratio of 2/3 residential-type land uses and 1/3 office, institutional and other land uses.” This ratio was then applied to all other city squares zoned R-1 through R-5-B.⁴ Any squares that exceeded this ratio “were determined to be consistent with the provisions of Section 206 (b)(2)(B) of the Act, and included as chancery areas subject to disapproval by the Board of Zoning Adjustment.” The Commission also decided to include any portion of an institution that was zoned R-1 through R-5-C. As a result of this analysis, 26 institutional areas and five squares (or portions thereof) were added to the overlay.

The State Department challenged the Commission’s authority to make this suitability determination, believing that this analysis was subsumed within the “not disapproval” process in the FMA. In response, the Commission concluded that “it was not the intent of Congress to

³ Although R-5-C properties are now included with the “other area” category, at the time the Order was issued, an R-5-C district was equivalent to what an R-5-D district is now.

⁴ See footnote number 2.

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require that the BZA consider such applications without the *guidance* of the Zoning Commission which this rulemaking will provide.” Order No. 509 at 7 (emphasis added).

The BZA first considered its authority to hear a chancery application concerning “other area properties” not included in the D overlay in *Application No. 14820 of Defense Procurement Division on behalf of the Coordinating Council for North American Affairs*. Based upon an opinion from the Office of the Corporation Counsel (now the Office of the Attorney General) the Board concluded that such authority existed. Since then, the Board has continued to hear applications to locate new chanceries on “other area properties” not mapped in the D overlay. See *Application No. 16620 of the Embassy of the Republic of Azerbaijan* (2000). The Board’s most recent exercise of this authority occurred as part of its decision to not disapprove *Application No. 17481 of the Republic of Hungary*, 53 DCR 9740, 9745 (2006).

Merits of Procedural Arguments

The arguments advanced by Mr. Mlotek question the Board’s existing authority to determine the suitability of the location of chanceries for properties located in R-1 through R-5-C properties that are not also mapped within the D-Overlay. Mr. Mlotek’s position is exactly opposite to the position he took in *Application No. 16620 of the Embassy of the Republic of Azerbaijan*, in which he went so far as to suggest that the Zoning Commission had no authority to map the D Overlay at all. According to the Board’s order, Mr. Mlotek contended that under the FMA:

[T]he authority to determine whether existing uses in an area make that area appropriate or inappropriate for chancery location rests solely with this Board, to be exercised on a case-by-case basis. Such authority could not, he contended, be exercised by the Zoning Commission or any other body, through promulgation of a map or otherwise.

BZA Order No. 16620 at 8.

With respect to how the determination of suitability is to be made, the Board concludes that Order No. 509 did not and could not establish a city square as the “area unit” to be used in all future suitability determinations or require that the 1/3 - 2/3 test be used in all such instances. The mere fact that the Commission utilized this approach as part of a map amendment proceeding did not create binding precedent. A mandate of that kind would be considered a “rule” under the District of Columbia Administrative Procedure Act because it would represent an “agency’s statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the ... agency.” D.C. Code § 2-502 (6)(A). Pursuant to the DCAPA, the “Mayor and each independent agency shall, prior to the adoption of any rule ... publish in the District of Columbia Register ... notice of the intended action.” D.C. Official Code § 2-502. And no non-emergency rule may become effective unless published in the Register. D.C. Official Code § 2-558 (b). Neither of these prerequisites to establishment of the 1/3 - 2/3 test occurred.

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Nor did the Commission suggest in Order No. 509 that its one-time use of the test was to be binding upon the Board but rather, as noted, characterized its mapping exercise as providing “guidance only. The Commission provided further guidance in Commission Order No. 509A [effective February 23, 1990] in which it concluded that Congress intended the word “area” under the FMA “to indicate an area of sufficient size to have significance and import for the purposes of land use regulation.” Order No. 509A at 2.

The Commission also acknowledged the non-binding effect of Order No. 509 for future mapping cases when, in Case No. 04-21, it declined to utilize the 1/3 – 2/3 test in considering a petition to eliminate properties from the D overlay. Instead, it deferred consideration of the petition until the Office of Planning provided a proposed text amendment to identify how the Commission, the BZA, or both should make the general suitability determination. The Commission expressed no preference for any particular approach including the use of a formula to be used in all instances or the utilization of a case-by-case approach. Transcript of Zoning Commission October 17, 2005 public meeting at 50-52.

The Board has used such a case-by-case approach in the past, looking to the nature and extent of office and institutional uses within the “surrounding area” of the proposed chancery use. *See Application No. 17481 of the Republic of Hungary*, 53 DCR at 9746 (2006). For the instant application, the Board considered the surrounding area to include the square occupied by the property (*i.e.* square 2724), the closest square (2724W), and other properties in nearby squares on 16th Street.

II. The Surrounding Area is Suitable for Chancery Use

As stated, the proposed location for the chancery use is at 5909 16th Street, N.W., Lot 4 in Square 2724. Under § 206 (b)(2)(B) of the FMA, the Board must decide whether the surrounding area is suitable for chancery use, “determined on the basis of existing uses, which includes office or institutional use.” The Board concludes that the area contains a sufficient amount of non-residential uses to allow for the addition of this new one.

Although the immediate area is mostly residential, there are many institutional uses in the surrounding area (within a few blocks), including two in the subject square 2724, six in square 2724W, and several in nearby squares. Those non-residential uses include:

- The Chancery of the Republic of Uganda, 5911 16th Street, N.W., Square 2724;
- City Gate, 5917 16th Street, N.W., Square 2724 – a religious institution operating church programs;
- Sufism Reoriented, Inc., Square 2724W including buildings at: 1615 Manchester Lane, N.W., 5916 16th Street, N.W., 5906 16th Street, N.W., 1630 Missouri Avenue, N.W., 1612 Missouri Avenue, N.W., and 1608 Missouri Avenue, N.W.;
- Iglesia Evangelica Apostoles y Profestas, 1409 Manchester Lane, N.W.;

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- The Baha'is of Washington D.C. Centre, 5713 16th Street, N.W.;
- Associated Mechanical, Inc., 5716 16th Street, N.W.;
- Property of the Royal Thai Embassy, 5600 16th Street, N.W.;
- Carter Barron Fourth Church of Christ, Scientist, 5510 16th Street, N.W.;
- Office of Procurement, Embassy of Egypt, 5500 16th Street, N.W.;
- The Embassy of Liberia, 5201 16th Street, N.W.

(See, Exhibit 37)

Based upon the existing institutional uses in the surrounding area, including the adjacent chancery use at 5911 16th Street, N.W., the Board concludes that the area is suitable for the location of a chancery use.

III. The Proposed Chancery Use Should not be Disapproved

The FMA § 206 (d) establishes six exclusive criteria upon which the Board must base its determination regarding the specific merits of a particular chancery location. As will be explained below, the Board has determined that the Project should not be disapproved because it meets all of these criteria.

Criteria 1 -- International Obligation of the United States

As asserted by the State Department, favorable action on the application will fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure facilities by the Republic of Uganda for its diplomatic mission in the Nation's Capital. (Exhibit 29).

Criteria 2 -- Historic Preservation (as determined by the BZA)

The Property is not located in an historic district and it is not a historic landmark. Accordingly, District and federal regulations governing historic preservation are not applicable in this case.

Criteria 3 -- Adequacy of Parking (subject to such special security requirements as may be determined by the Secretary)

Parking at the chancery will not technically comply with the Zoning Regulations. However, the Board finds that the parking will be adequate. The chancery has operated at the adjacent building (5911 16th Street) since the early 1960s with no adverse impact on parking in the area. This application contemplates only use of the 5909 building to alleviate the overcrowded conditions in the 5911 building, with no anticipated increase in activity, and staffing levels remaining roughly the same. (Exhibit 30). The State Department has determined that no special security requirements exist relating to parking. (Exhibit 29).

BZA APPLICATION NO. 17787**PAGE NO. 10****Criteria 4 -- The Extent to which the Area is Capable of being adequately Protected (as determined by the Secretary)**

The Department of State has determined that the Property is capable of being adequately protected. (Exhibit 29).

Criteria 5 -- The Municipal Interest (as Determined by the Mayor)

The Office of Planning, on behalf of the Mayor, has determined that approval of the project will be in the municipal interest. As noted above, OP concluded that the chancery would result in no adverse impacts to neighboring property owners. While the proposed chancery will not comply with parking requirements in the Zoning Regulations, OP concluded that the deviation would not be detrimental.

Criteria 6 -- The Federal Interest (as determined by the Secretary)

The State Department has determined that approval of this application would serve the federal interest because the Government of Uganda has assisted with the zoning and land-use needs of the U.S. Embassy in Uganda. This cooperation allowed the State Department to successfully complete the construction of a new embassy compound in February of 2001 and most recently, the construction of a new facility for the U.S. Agency for International Development.

Accordingly, it is hereby **ORDERED** that this application is **NOT DISAPPROVED**.

Vote of the Board of Zoning Adjustment constituted in accordance with the Foreign Missions Act taken at its special public meeting on July 28, 2008, not to disapprove the application:

VOTE: **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Peter G. May and Marcel A. Acosta, Acting Executive Director of the National Capital Planning Commission, all voting to not disapprove)

BY THE BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: FEBRUARY 23, 2009

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.

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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.

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.

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

Application No. 17868 of Georgetown Day School, pursuant to 11 DCMR § 3104.1, for a special exception to increase the student enrollment cap from 465 to 500, and to increase the number of faculty and staff from 95 to 100 for an existing private school, under section 206, in the R-2 District at premises 4200 Davenport Street, N.W. (Square 1673, Lot 824).

HEARING DATE: January 27, 2009

DECISION DATE: January 27, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

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) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted an approved resolution not opposing the application, attached to which was an agreement entered into by the ANC and the Applicant. Both the resolution and agreement were approved at the ANC's special meeting on January 26, 2009. (Exhibit 31) The Office of Planning (OP) also submitted a report in support of the application. (Exhibit 26).

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 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 report, 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 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

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

1. Approval shall be limited to the High School, grades 9-12.
2. The number of enrolled students at the High School shall not exceed 500.
3. The High School shall have a maximum of 100 full-time equivalent faculty and staff members.¹
4. The southeast portion of the site located at the northwest corner of the intersection of 42nd and Chesapeake Streets shall be landscaped and maintained as open space. No parking shall be permitted on this portion of the site.
5. At the beginning of each school year, but in no event later than October 15th, the School shall provide to the ANC and to the District Department of Transportation documentary evidence to demonstrate its enrollment figures and compliance with the terms and conditions of this Order, including the Transportation Management Plan ("TMP") referenced in Condition No. 10 of this Order.
6. The School shall be available, at the request of Advisory Neighborhood Commission 3E, during the fall and spring of each year to discuss any issues of concern to the community. The School shall attend any additional meetings deemed necessary by the School and/or the ANC to address issues and concerns raised by the community.
7. All vehicular traffic to and from the site shall use the Davenport Street entrance. Pedestrian access only will be permitted at the 42nd Street entrance, which shall be monitored from 7:45 a.m. to 8:15 a.m.
8. All pick-up and drop-off of students shall occur on the School grounds. During drop-off and pick-up, caregivers may not park in the neighborhood to wait or walk their student(s) to the school.

¹ Condition number 3 is expressed in "full-time equivalents," also known as "FTEs," which does not reflect the total number of full time and part-time faculty and staff that may be employed by the High School. Pursuant to 11 DCMR § 2118.3, the maximum number of individual faculty and staff members employed by the High School for any one period of the day is limited by the parking requirements set forth at 11 DCMR § 2101.

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9. The site shall continue to provide one emergency access point on 43rd Street, which shall be secured by a 6.5-foot gate. The gate shall be locked at all times except for access by emergency vehicles.
10. The Transportation Management Plan instituted pursuant to Order 17170 shall continue to be maintained and monitored by the School. The TMP shall continue to include the following elements:
 - (a) The School shall encourage the use of public transportation as the primary means of accessing the School by the faculty, staff, and students.
 - (b) The School shall make available to all students reduced fare Metrorail passes to encourage use of public transportation.
 - (c) No student shall drive a vehicle to School unless there is an on-site parking space for that vehicle.
 - (d) At the beginning of each school year, all students must register their vehicles with the School.
 - (e) The School shall strictly prohibit students from parking on the residential streets surrounding the campus during all hours that the School's on-site parking is available for use.
 - (f) School employees will be trained at the beginning of each year to implement and enforce the TMP.
 - (g) The School will instruct parents not to park on, or queue on, Chesapeake Street to wait for their children at school drop-off or pick-up times.
 - (h) The School will continue to provide traffic control personnel at the driveway during the school drop-off and pick-up times to facilitate on-campus traffic flow and enforce drop-off and pick-up procedures.
 - (i) The School will encourage carpooling by establishing an online system to help parents identify other families along their travel route by distributing information regarding the location of other families in the area to parents at the start of each academic year.
 - (j) The School will distribute a policy manual to all families prior to the start of the academic year that explains all relevant policies and

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procedures regarding parking, pick-up, drop-off and penalties for non-compliance. This information shall also be posted on the School's website.

- (k) Faculty and staff will be encouraged to use mass transit and those living beyond 15 miles will be subsidized in their use of mass transit.
 - (l) The TMP shall become a part of the enrollment contract between the School and parents, by which the parents shall agree to be bound by its fines and punishments.
11. The surface parking area shall be secured by a chain gate, cable, or similar device during all hours that the lot is not in use. When the parking area is open during non-school hours, the School shall provide security to prevent unauthorized parking.
 12. The parking garage shall be available for use at all times that the School is open. The School shall have security personnel on duty at the School and monitoring the garage at all hours that the garage is open. The garage shall be secured during all hours that it is not in use.
 13. During special events which increase the demand for parking beyond the number of spaces available on the site, the School shall provide shuttle bus service to minimize potential overflow parking on neighborhood streets by visitors to the School. Adequate notice of such service shall be provided by the School to all invited participants in the special event.
 14. All extracurricular or inter-scholastic activities held on site shall be concluded by 11:30 p.m.
 15. All interscholastic athletic events utilizing the athletic field shall be scheduled to conclude no later than 7:30 p.m. In situations where an event goes into overtime, is subject to weather delays, or is subject to other conditions that force the event past 7:30 p.m., the event must be concluded no later than 8:00 p.m.
 16. There shall be no artificial lighting of the athletic field.

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17. The bell system within the school shall not be audible in the neighborhood except for standard emergency alarm systems.
18. Students parking cars on either the surface lot or in the garage are to stay on campus during the hours that classes are in session except for trips off-campus for the following purposes: (a) work or internship related activities; (b) community service events; (c) school or extracurricular-related activities; or (d) approved leave.
19. The School may make its High School facilities and grounds available to organized community groups.
20. During any period of time when the existing campus parking spaces are reduced, the School shall provide the same number of parking spaces elsewhere and shall fully enforce the school's existing parking restrictions.

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

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: February 23, 2009

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

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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.

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 09-03

(Consolidated PUD and Related Map Amendment @ Squares 5632, 5633, 5641, and 5641N; Parcels 213/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196)

February 23, 2009

THIS CASE IS OF INTEREST TO ANCs 7B and 8B

On February 17, 2009, the Office of Zoning received an application from Skyland Holdings, LLC (the "Applicant") for approval of a consolidated PUD and a related map amendment for the above-referenced property.

The property that is the subject of this PUD application consists of Square 5632 (Lots 1, 3-5, and 802); Square 5633 (Lots 800 and 801); Square 5641 (Lots 10-13 and 819); Square 5641-N (Lots 12-31 and 33); Parcel 213/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196 in southeast Washington, D.C. (Ward 7) at the intersection of Naylor Road, Good Hope Road, and Alabama Avenue, S.E. The property is currently zoned R-1-B, R-5-A, R-5-B, and C-3-A. The Applicant proposes a related map amendment to rezone Square 5633 (Lots 800-801); Square 5641 (Lots 10-13 and 819); and Parcels 213/52 and 213/60 to C-3-A.

The Applicant proposes to develop a Town Center mixed-use retail and residential project at where what is currently the Skyland Shopping Center. The project will consist of four building blocks (containing five buildings), along with 20 townhouses. The project will contain approximately 450-500 residential units, with approximately 20% of the units affordable to households earning up to 80% of the Area Median Income ("AMI") and 10% earning up to 120% of AMI. The project will also include approximately 315,000 square feet of retail and service-related uses. The proposed project will have an overall density of 1.61 FAR (floor area ratio); a maximum height of 55-60 feet, and 1,867 parking spaces.

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

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