

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

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

November 2009

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
John McFarland	Board of Accountancy	17	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	18	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	No Meeting	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 Engineering	19	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	10	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	17	2:00 pm-5:00 pm
	Asbestos Electrical Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

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

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

NOTICE OF FUNDING AVAILABILITY

New Communities Youth Development and Wellness Grants

The District's Office of the Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of applications for the New Communities Youth Development and Wellness Grants pursuant to Section 2(j)(4) of the Neighborhood Investment Act of 2004, effective October 15, 2009 (D.C. Act 18-207). There is \$645,000 available for this round of funding.

The purpose of New Communities Youth Development and Wellness Grants is to provide not for profit organizations with grants to conduct programs in the four New Communities target areas: Park Morton (Ward 1), Northwest One (Ward 6), Lincoln Heights/Richardson Dwellings (Ward 7) and Barry Farm (Ward 8). The goal is to fund programs that will improve the quality of life of New Communities residents by expanding youth development and community wellness opportunities.

Eligible applicants include not-for-profit 501 (c) 3 organizations that can demonstrate a commitment to New Communities sites through a successful track record of offering and operating programs, projects, services, or facilities. Eligible projects must fall into one of the following two categories: (1) Youth Development and (2) Community Wellness. Proposed programs must be physically located within the boundaries of one of the New Communities target areas. Proposed projects that leverage other resources 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, October 23, 2009 and the deadline for submission is Monday, December 7, 2009 at 12 pm. 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. Inquires should be directed to (202) 724-8111.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS**NOTICE OF PROPOSED ACTION****School Closing and Consolidation**

The Chancellor of the District of Columbia Public Schools (DCPS) announces a proposed action to close and/or consolidate school programs and buildings, pursuant to Title 5, Section 3607 of the District of Columbia Municipal Regulations.

The proposed action involves closing one currently unused building, the McGogney Elementary School Building, and transferring that building to the District's Office of Property Management; permanently consolidating the McGogney Elementary School program and the M.C. Terrell Elementary School program at the M.C. Terrell building, where both programs currently operate on a consolidated basis; and rescinding a 2006 decision to close M.C. Terrell.

This proposed action is intended to reduce inefficiencies in managing the administration and facilities of the affected schools and programs. Supporting criteria, findings, and recommendations for the proposed action are explained below.

This proposed action will be the subjects of a special community meeting. Notice of this meeting will be issued separately.

CRITERIA, FINDINGS AND RECOMMENDATIONS FOR CLOSURE FOR 2010-2011 SCHOOL YEAR

McGogney Building

Background

- In June of 2006, following a special community meeting, the Board of Education took final action to close the M.C. Terrell Elementary School building. The actual closure was delayed until students could move to the McGogney Elementary School building, which was to be modernized.
- Following the Board's action, the McGogney Elementary School program moved into the M.C. Terrell building, consolidating with the M.C. Terrell Elementary School program. The McGogney building has not been modernized.
- M.C. Terrell/McGogney Elementary School currently operates as one school program, with a single principal.
- The Ward 8 DCPS Parent Resource Center, which had been housed at McGogney, has moved to the M.C. Terrell building.
- There are no programs operating in the McGogney building at this time.

Recommendation

- Keep the McGogney/Terrell students, staff, and program at M.C. Terrell.
- Rescind the 2006 decision close M.C. Terrell, which was not implemented, so that the Terrell building remains open, while the McGogney building officially closes.
- Adapt the Master Facilities Plan to direct modernization dollars to the M.C. Terrell site, rather than to McGogney.
- Transfer the McGogney building to the District's Office of Property Management.

Rationale

- The two student bodies have been successfully consolidated at the M.C. Terrell site for three academic years. Maintaining the program at the M.C. Terrell site would minimize disruption for students, families, and staff.
- M.C. Terrell has received facilities upgrades more recently and is currently designed and fitted for the student population. The M.C. Terrell building has a full-size gym; collaborative planning, meeting, and working space for teachers and students; and a separate early childhood education wing. Further modernization investments will provide a more immediate and more substantial impact for the current student population than utilizing those same investments at McGogney, a building that has more fundamental systems issues, and has been unoccupied and received lesser maintenance over the past two years.

- While M.C. Terrell is partially open space, many of the classrooms have received enclosure upgrades. With the remaining open space design, DCPS/OPEFM will have the flexibility to modernize the site to the specifications of the school.
- Further modernization of M.C. Terrell can be accomplished over a summer, without necessitating a move.

Building	Bldg Sq Ft	Capacity	Enrollment October 2009
McGogney	67,600	504	NA
M.C. Terrell	112,000	457	273 (PK-6)

A special community meeting on this proposed action will be held prior to the taking of any final action on these proposals. Notice of such meeting will be given in accordance with Title 5, Section 3608 of the District of Columbia Municipal Regulations.

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUESTS FOR PROPOSALS****For Civil Engineering Services**

E.L. Haynes Public Charter School invites all interested and qualified civil engineers to submit proposals to provide site demolition, utility, storm water management, erosion control, and public space plans as well as EISF and construction administration services for a gymnasium addition project. Proposals are due no later than 5:00 PM November 9, 2009. The RFP with bidding requirements can be obtained by contacting:

Patrice Griffin

E.L. Haynes Public Charter School

Phone: 202.460-8918

Email: pgriffin@elhaynes.org

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 five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 3D07, 6B11, 8C05, 8C06, 8E01

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

Petition Challenge Period: **Friday, November 27, 2009 thru Thursday, December 3, 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**.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE, Washington, D.C., intends to issue permits to construct/operate the following diesel generators owned by United States of America, acting by and through the Architect of the Capitol: Two (2) identical 1000 kW Detroit diesel generators with model number 16V-2000 G84. The generators are located at Constitution & Delaware Avenue, NE, Washington, DC.

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

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

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
51 N Street, NE, 5th Floor
Washington D.C. 20002

No written comments postmarked after November 30, 2009 will be accepted.

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

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

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

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

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FISCAL YEAR 2010

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

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DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF PUBLIC MEETING ON CHESAPEAKE BAY TMDL**

Monday November 16, 2009, 10:00 A.M. – 12:30 P.M.
Metropolitan Washington Council of Governments
777 North Capitol Street, N.E, Training Center, 1st Floor
Washington, DC 20002-4239

This notice announces the intent of the US Environmental Protection Agency Region 3 (USEPA) to establish a Chesapeake Bay-wide total maximum daily load (TMDL) for nutrients and sediment for all impaired segments in the tidal portion of the Chesapeake Bay watershed. This action is being taken pursuant to § 303(d) of the Clean Water Act (CWA). The District Department of the Environment is cooperating with EPA to hold an initial public meeting to provide information to the public regarding the process, approach, and implications of this action. USEPA, in coordination with Bay watershed state jurisdictions, will establish a TMDL pollution budget consistent with CWA requirements to guide and assist Chesapeake Bay restoration efforts. This action is designed to identify needed reductions of pollutant loads to the impaired waters in order to meet the appropriate water quality standards.

Additional information: Further information on this process, and how the public can provide input can be found at the following USEPA website: <http://www.epa.gov/chesapeakebaytmdl>

DEPARTMENT OF HEALTH**NOTICE OF CERTIFICATION**

The Director of the Department of Health, pursuant to the authority set forth in Reorganization Plan No 4 of 1996, hereby gives notice of certification of a drug for inclusion in the formulary of the District of Columbia Acquired Immunodeficiency Syndrome Drug Assistance Program (ADAP). The HIV/AIDS Drugs Advisory Committee at a meeting held on October 21, 2009, certified Tamiflu (oseltamivir phosphate) for inclusion in the ADAP program. The U.S. Food and Drug Administration approved Tamiflu in two versions, an oral capsule and an oral suspension. The oral capsule was approved on October 27, 1999, and the oral suspension version of the drug was approved on December 14, 2000.

ADAP is designed to assist low income individuals with Acquired Immunodeficiency Syndrome or related illnesses to purchase certain physician-prescribed, life-sustaining drugs that have been approved by the U.S. Food and Drug Administration for the treatment of AIDS and related illnesses. Rules for this Program may be found at 29 DCMR § 2000 *et seq.*

For further information, please contact Gunther Freehill, Chief, Care, Housing, and Support Services Bureau, HIV/AIDS Administration on (202) 671-4900.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY****Funding Availability for Small Business Assistance Program**

The DC Department of Housing and Community Development (DHCD) is soliciting applications from Community Development Corporations (CDCs) and non-profit organizations to provide technical assistance to businesses in the District of Columbia.

The purpose of this Request for Applications (RFA) is to solicit applications for the delivery of business support services, to revitalize targeted commercial corridors in the District. Funding under this notice will be available on January 1, 2010.

Applications under this RFA can be obtained at 1800 Martin Luther King, Jr. Avenue, SE, Washington, DC 20020 – 3rd Floor Reception Desk, or via the internet through the DHCD website, at www.dhcd.dc.gov, on or about September 25, 2009.

The extension deadline for submission of the application is Friday, November 6, 2009, at 4:00 p.m.

For additional information, please contact the Department of Housing and Community Development, Mr. Charles Lindsay, Division Manager, Residential Community Services at (202) 442-7294.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY****Funding Availability for the Storefront Façade Improvement Program**

The DC Department of Housing and Community Development (DHCD) is soliciting applications from Community Development Corporations (CDCs) and non-profit organizations for the Storefront Façade Improvement Program.

The purpose of this Request for Applications (RFA) is to solicit applications for the delivery of storefront façade improvement services to revitalize targeted commercial corridors in the District of Columbia. Funding under this notice will be available on January 1, 2010.

Applications under this RFA will be available for pick-up at DHCD's Housing Resource Center located at 1800 Martin Luther King, Jr. Avenue, SE, and via the Internet through the DHCD website at www.dhcd.dc.gov, beginning Friday, October 30, 2009. The application closing date will be November 25, 2009.

A pre-application conference will be held at 10 a.m. on Thursday, November 12, 2009 at DHCD's Housing Resource Center, Conference Room 100. Attendance at the conference is encouraged for all potential applicants. A Certificate of attendance will be issued as "proof" for additional points in the selection criteria scoring process.

For additional information, please contact Mr. Lamont Lee, Manager, Neighborhood Based Activities, at (202) 442-7200.

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

Application No. 17942 of Asian American LEAD, pursuant to 11 DCMR § 3104.1, for a special exception to allow the continued operation of a community center under § 209 in the R-4 district at premises 1323 Girard Street, N.W. (Square 2855, Lot 828).

HEARING DATE: July 14, 2009

DECISION DATE: July 28, 2009

DECISION AND ORDER

This application was submitted March 2, 2009 by Asian American LEAD (“Applicant”), the owner of the property that is the subject of the application. The self-certified application was filed pursuant to 11 DCMR § 3104.1 for a special exception under § 209 to continue operation as a community center in the R-4 district at 1323 Girard Street, N.W. (Square 2855, Lot 828). Following a public hearing, the Board voted 3-0-2 on July 28, 2009 to grant the application subject to conditions.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated March 6, 2009, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation; the Councilmember for Ward 1; Advisory Neighborhood Commission (“ANC”) 1B, the ANC for the area within which the subject property is located; and the single-member district ANC 1B08.

A public hearing was scheduled for July 14, 2009. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on April 24, 2009 mailed notice of the hearing to the Applicant, the owners of property within 200 feet of the subject property, and ANC 1B. Notice was published in the D.C. Register on May 1, 2009 (56 DCR 3480).

Requests for Party Status. In addition to the Applicant, ANC 1B was automatically a party in this proceeding. The Board granted a request for party status in opposition to the application from Dorothy Brizill and Gary Imhoff, who live in the residence immediately abutting the subject property to the west.

Applicant’s Case. The Applicant presented evidence and testimony from Rosetta Lai, executive director of AA LEAD; Ellen McCarthy, an expert in planning and zoning; and Kendra Lee, the Applicant’s program director. The Applicant described its activities at the community center and asserted that the application should be granted because the center has been operating for the past five years without causing any adverse impacts on neighboring property due to noise, traffic, parking, or other objectionable conditions.

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Government Reports. By report dated July 7, 2009 and through testimony at the public hearing, the Office of Planning recommended approval of a special exception to continue the existing community center use for five additional years, subject to conditions requiring the Applicant to stripe the required on-site parking spaces in accordance with the Zoning Regulations, and to place in the record an updated agreement allowing the Applicant to use two parking spaces in the parking lot of the Easter Seals child development center, which is located immediately east of the subject property. According to OP, the application satisfied the requirements of § 209.

ANC Report. By letter dated July 6, 2009, ANC 1B indicated that, at a public meeting on July 2, 2009 with a quorum present, the ANC voted 7-0 to support the Applicant's request for a five-year extension of its special exception. The letter stated that ANC 1B had "received extensive oral and written testimony from the applicant ... and neighboring residents," leading to the ANC's conclusion that "the applicant has been an asset to the neighborhood and is performing an important public service of benefit to the residents of ANC 1B."

Party in opposition. The party in opposition stated that they did not oppose approval of the application. However, the party expressed concern about the lack of an exterior egress from the building, which the Applicant had proposed to construct as part of its application for a special exception in 2004, and complained about students congregating on the front porch of the community center as well as playing in the abutting street and sidewalk, noise and accumulations of trash associated with unsupervised gatherings of students outside the building, and the Applicant's staff members driving in the rear yard of the party's residence while exiting the parking area on the subject property.

Persons in support. The Board received a number of letters and a petition in support of the application, which commented favorably on the services provided by the Applicant.

FINDINGS OF FACT**The Subject Property and Surrounding Area**

1. The subject property is a rectangular parcel located on the north side of Girard Street between 13th and 14th Streets, N.W. at 1323 Girard Street, N.W. (Square 2855, Lot 828). The lot is 40 feet wide and approximately 150 feet deep, with a lot area of 6,000 square feet.
2. The subject property is improved with a three-story plus basement detached brick building. The building is located close to the property line to the west; on the east, a driveway provides access from the street to a paved parking area at the rear of the building.
3. A public alley abuts the subject property along the rear lot line, although vehicular access to the alley is unavailable due to a difference in elevation between the alley and the lot.

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The rear yard of the subject property is bounded by a wooden fence approximately six feet high.

4. The subject property is located approximately three blocks from the Columbia Heights Metrorail station.
5. Before its acquisition by the Applicant in 2002, the subject property was owned by Sojourners, which had a certificate of occupancy to use the property as a church.
6. The abutting property to the east is occupied by the Easter Seals child development center, which operates from 7:00 a.m. until 6:00 p.m., Monday through Friday. The Easter Seals property contains a parking lot immediately abutting the subject property.
7. Properties in the vicinity of the subject property are generally improved with one-family and multi-family row dwellings to the north across the alley, one-family row dwellings to the south across Girard Street, and one-family detached dwellings to the west. The surrounding neighborhood is characterized by predominantly moderate-density residential development.

The Applicant's Project

8. The Applicant is a § 501(c)(3) non-profit organization founded in 1998, whose mission is to help low-income Asian-American youth and families in the Washington area through education, leadership development, and community building.
9. The Applicant proposed to continue to use the subject property as a community center for Asian-American youth and families in the Columbia Heights, Mount Pleasant, and Chinatown neighborhoods. In 2004, the Applicant was authorized to establish the community center by special exception valid for a term of five years (*see* Application No. 17080; order issued March 5, 2004). The Applicant did not propose any changes to the current community center use, or to the improvements on the property.
10. The Applicant offers after-school academic enrichment and tutoring for students in kindergarten through 12th grade, a mentoring program, and a family strengthening program. The community center is used primarily for the Applicant's program for secondary school students, ages 14 through 18, and for staff offices. Other programs are conducted off-site at various locations.
11. The number of students at the community center on average ranges from 10 to 30 per day, and does not exceed 60. Most students arrive at the center on foot or via public transportation.

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12. The hours of operation of the community center are 10:00 a.m. to 7:00 p.m., Monday through Friday. The Applicant also uses the subject property occasionally in the evening or on weekends to host board and staff meetings, special events, and training.
13. The community center has a staff of 11, whose offices are on the second and third floors of the community center. The staff supervise the activities at the community center, indoors and outside, during program hours.
14. The majority of the center's program activities take place inside the building. The use of the outside grounds is limited to a few annual events, such as a volunteer appreciation day for the Applicant's volunteers and guests.
15. The first floor of the building houses a main gathering space for student activities, as well as a kitchen; the second floor houses a computer lab and staff offices; the third floor is used exclusively for staff offices. The basement is used for storage.
16. No commercial sales are conducted at the subject property.
17. The subject property contains five parking spaces. The Applicant currently has an agreement with the Easter Seals child development center that makes two parking spaces in the Easter Seals parking lot available for the Applicant's use.

Zone Plan

18. The subject property is located in the R-4 zone district, which "is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families." 11 DCMR § 330.1.

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks the renewal of a special exception under § 209 to allow the continued operation, for another five-year term, of a community center in the R-4 district at 1323 Girard Street, N.W. (Square 2855, Lot 828). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001), to grant a special exception as provided in the Zoning Regulations where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific provisions. 11 DCMR § 3104.1. In accordance with the Zoning Regulations, use as a community center may be permitted by special exception in the R-4 District provided that the center is organized not for profit but for the promotion of the social welfare of the neighborhood where the center is located, the center does not offer articles of

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commerce for sale and is not likely to become objectionable because of noise or traffic, and the use of the community center is reasonably necessary or convenient to the neighborhood where it is located. 11 DCMR § 209.

The Board concludes that the Applicant has satisfied the requirements of the Zoning Regulations and that the application should be granted, subject to certain conditions intended to ensure that the use of the subject property as a community center will not tend to create adverse impacts on the use of neighboring property. The Board was not persuaded that the community center use is creating objectionable conditions in its current operation that would require denial of the application, but adopts conditions in this order to address concerns expressed by the party in opposition about the upkeep of the subject property as well as noise potentially caused by students outside the community center, and to ensure that no objectionable conditions are likely to result from the community center use in the future.¹

The Board concludes that the community center use will not tend to create objectionable conditions due to noise, in light of the relatively small number of students in attendance daily, the center's hours of operation, the types of activities offered at the community center, and the supervision of those activities by the center's staff. In addition, most of the center's programs occur inside the building. The Board also concludes that the community center use will not tend to create objectionable conditions due to traffic. The subject property is well served by public transportation, and most students attending the center arrive by public transportation or on foot, since the use of the community center is reasonably necessary and convenient to its neighborhood. The community center therefore does not generate a substantial amount of traffic

¹ The Board was not persuaded by the party in opposition's contention that the Applicant had failed to comply with the 2004 order that initially authorized the community center use by failing to construct an exterior staircase originally planned for the building. Findings of fact in the 2004 order reflected the testimony by the Applicant in that proceeding regarding certain improvements to the building that were planned at that time, but the Applicant testified in this proceeding that not all the planned improvements had been made due to budget constraints. The 2004 order granted the requested special exception subject to a five-year term but the approval was not otherwise conditioned; the findings of fact cited by the party in opposition described the Applicant's then plans but did not create a condition of approval of the special exception adopted by the Board. The party in opposition did not allege in this proceeding that the Applicant's decision not to build the exterior staircase was inconsistent with any provision in § 209 or any other zoning regulation.

The Board's discretion in reviewing an application for a special exception to establish or continue operation of a community center use is limited to a determination of whether an applicant has complied with the requirements of §§ 209 and 3104.1 of the Zoning Regulations. If an applicant meets its burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981). The scope of the Board's authority is defined by statute. See D.C. Official Code § 6-641.07 (2001). Where permitted by the Zoning Regulations, the Board may grant a special exception "subject to appropriate principles, standards, rules, conditions, and safeguards *set forth in the regulations*." D.C. Official Code § 6-641.07(d) (emphasis added). Even if the party in opposition had presented evidence of noncompliance with the prior order, the Board lacks the legal authority to deny an application for a special exception solely on the ground that the applicant had failed to comply with provisions of a prior grant of zoning approval. By statute, the authority to enforce the Zoning Regulations, including compliance with special exceptions granted by the Board, rests in the Mayor. D.C. Official Code § 6-641.10 (2001).

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or demand for parking. The Applicant can provide at least five parking spaces on site, and has the use of two additional spaces in the neighboring lot, to serve the 11 employees and any visitors who drive to the community center.²

The Board is required to give “great weight” to the recommendation of the Office of Planning and to any issues and concerns raised by ANC 1B in this proceeding. The Board notes that both OP and the ANC were in support of this application. The Office of Planning recommended two conditions, both related to parking; the Board agrees that the Applicant should be required to stripe the parking spaces available on the subject property in accordance with the Zoning Regulations, and notes that the record includes an updated agreement allowing the Applicant to use two parking spaces in the parking lot of the Easter Seals child development center. ANC 1B did not indicate any issues or concerns about the Applicant’s community center use in its resolution recommending approval of the Applicant’s request for a five-year extension of the special exception.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the written report of ANC 1B, the Board concludes that the Applicant has satisfied the requirements for renewal of a special exception under § 209 to allow the continued operation, for another five-year term, of a community center in the R-4 district at 1323 Girard Street, N.W. (Square 2855, Lot 828). Accordingly, it is hereby **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. The special exception shall be valid for a term of five years from the effective date of this Order.
2. The normal hours of operation of the community center shall not exceed 10:00 a.m. to 7:00 p.m., Monday through Friday.
3. Except for occasional special events, the number of persons in attendance at the community center shall not exceed 11 staff and 60 participants.
4. The Applicant shall conduct programs and activities associated with the community center primarily inside the building.
5. The Applicant shall provide five parking spaces on the subject property, and shall maintain the spaces in accordance with the requirements of chapter 21 of the Zoning Regulations, including with respect to the size of the spaces, maintenance of the parking area, and access to the parking area.
6. The Applicant shall place a trash receptacle on the front porch of the subject property, and shall empty the trash daily.

² The Board notes that, since a new fence has been erected around the rear yard of the subject property, vehicles will not be able to drive onto the adjoining neighbors’ rear yard.

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7. The Applicant shall designate a member of the staff of the community center as the person responsible for addressing complaints and concerns raised by the public or Advisory Neighborhood Commission 1B.
8. The Applicant shall attend at least one public meeting of Advisory Neighborhood Commission 1B each year to provide an opportunity for the public to express concerns related to the operation of the community center, and to describe how the Applicant addressed any complaints received from the public during the prior year.

VOTE: 3-0-2 (Marc D. Loud, Shane L. Dettman, and Konrad W. Schlater (by absentee vote) voting to APPROVE; two Board members not participating)

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

A majority of Board members approved the issuance of this Order.

FINAL DATE OF ORDER: OCTOBER 26, 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.

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.

MN

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

Application No. 17970 of Lorraine B. Purnell, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of an accessory garage serving a one-family row dwelling under section 223, not meeting the lot occupancy (section 403), and court (section 406) requirements, in the R-5-A District at premises 222 Emerson Street, N.W. (Square 3323, Lot 12).

HEARING DATE: October 20, 2009

DECISION DATE: October 20, 2009

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) 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. ANC 4D did not participate in this application. The Office of Planning (OP) submitted a report in support of the application. The Board considered a letter (Exhibit 22) from Robin Richardson, a neighboring property owner, in opposition to the application.

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

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

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 8 Plans & Elevations) be **GRANTED**.

VOTE: **3-0-2** (Marc D. Loud, Anthony J. Hood and Meridith H. Moldenhauer to Approve, the NCPC member and the third Mayoral appointee (vacant) not present, not voting).

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: _____

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

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

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

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS.

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SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

Application No. 17974 of Cleo M. Davis, pursuant to 11 DCMR § 3104.1, for a special exception, under section 223, from the lot occupancy (403.2), rear yard (404.1), and nonconforming structure (2001.3) requirements of the Zoning Regulations, to allow an addition to an existing one-family row dwelling in the R-3 District at premises 5000 4th Street, N.W. (Square 3253, Lot 70).¹

HEARING DATE: October 20, 2009

DECISION DATE: October 20, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. The self-certification was revised to reflect the application, as amended. (Exhibits 4 and 21)

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) 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. ANC 4D filed a report on October 19, 2009, recommending approval of the application. However, the ANC's report was not filed on a timely basis, nor did it meet the requirements of section 3115.1 of the Zoning Regulations. Thus, while acknowledging that the ANC was in support of the project, the Board did not give the report great weight. (Exhibit 23). The Office of Planning (OP) submitted a report in support of special exception under section 223.² (Exhibit 22).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223 (§§ 403.2, 404.1, and 2001.3). No parties appeared at the public hearing in opposition to this

¹ The Applicant amended the original application in which she had sought variance relief from sections 403.1 (lot occupancy), 404.1 (rear yard), and 2001.3 (expansion of a nonconforming structure). The Applicant filed revised plans to reflect the amended application. (Exhibit 21).

² In testimony before the Board, OP indicated that the Applicant also would need approval from public space.

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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 report³, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (403.2, 404.1, and 2001.3), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 21 – Amended Plans) be **GRANTED**.

VOTE: **3-0-2** (Marc D. Loud, Meridith H. Moldenhauer, Anthony J. Hood to APPROVE. No other Board members participating or voting.)

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

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: _____

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

³ While the Board found that the ANC's report did not meet the requirements of section 3115.1 and could not be given great weight, the Board noted that the ANC was in support of the project.

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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.

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 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.