

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF SCHEDULED MEETING

The Board for the Condemnation of Insanitary Buildings will be holding a scheduled meeting on Wednesday, June 23, 2010 at 10:00 am.

Please note the new meeting location: The meeting will be held at 1100 Fourth Street, SW, Room 4302, Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the “Board for the Condemnation of Insanitary Buildings” tab on the main page.

For inquiries, please call the Board for the Condemnation of Insanitary Buildings at 202-442-4332 or send an email to vacantproperty@dc.gov.

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Managing Editor (Name and complete mailing address): DAMALI KAJUBI, 441 4th ST, N.W., WASHINGTON D.C. 20001

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Full Name	Complete Mailing Address
DISTRICT OF COLUMBIA GOVERNMENT	ONE JUDICIARY SQUARE 441 4th ST, N.W., RM 520S WASHINGTON, D.C. 20001

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Full Name	Complete Mailing Address

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16. Publication of Statement of Ownership
 If the publication is a general publication, publication of this statement is required. Will be printed in the June 18 2010 issue of this publication. Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner Date
 **DAMALI KAJUBI, EDITOR** **6/15/2010**

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

**D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**

**CITYWIDE REGISTRATION SUMMARY
AS OF MAY 31, 2010**

WARD	DEM	REP	STG	OTH	NP	TOTALS
1	37,783	2,718	850	197	10,469	52,017
2	30,393	5,705	360	168	10,411	47,037
3	35,380	7,890	370	148	10,747	54,535
4	47,545	2,733	620	186	9,014	60,098
5	47,445	2,092	597	182	7,711	58,027
6	40,780	5,489	535	183	9,551	56,538
7	46,883	1,532	484	136	6,825	55,860
8	39,455	1,396	514	219	6,764	48,348
TOTALS	325,664	29,555	4,330	1,419	71,492	432,460
<i>Percentage By Party</i>	75.30%	6.83%	1.00%	.33%	16.53%	100.00%

District of Columbia

BOARD OF ELECTION AND ETHICS

Monthly Report of

VOTER REGISTRATION STATISTICS

and

REGISTRATION TRANSACTIONS

as of the end of

MAY 31, 2010

Covering Citywide Totals by:

WARD, PRECINCT AND PARTY

One Judiciary Square

441 4th Street NW, Suite 250N

Washington, DC 20001

(202) 727-2525

<http://www.dcboee.org>

**D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS****WARD 1 REGISTRATION SUMMARY
AS OF MAY 31, 2010**

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
20	1,273	44	17	11	324	1,669
22	2,983	268	38	14	760	4,063
23	2,095	126	67	8	577	2,873
24	2,181	223	33	15	645	3,097
25	3,573	437	77	6	1,059	5,152
35	3,101	220	70	13	892	4,296
36	3,568	246	84	22	973	4,893
37	2,552	124	55	11	628	3,370
38	2,385	126	70	14	628	3,223
39	3,473	219	106	21	933	4,752
40	3,322	218	100	22	1,011	4,673
41	2,640	166	61	20	898	3,785
42	1,567	61	32	7	409	2,076
43	1,485	72	24	6	311	1,898
136	815	126	8	1	252	1,202
137	770	42	8	6	169	995
TOTALS	37,783	2,718	850	197	10,469	52,017

D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICSWARD 2 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
2	437	124	5	6	262	834
3	1,329	411	11	9	593	2,353
4	1,388	439	10	7	650	2,494
5	2,181	737	20	11	842	3,791
6	2,568	1,203	39	21	1,540	5,371
13	1,220	274	5	2	434	1,935
14	2,704	442	34	9	896	4,085
15	2,861	305	23	19	843	4,051
16	2,878	344	33	11	728	3,994
17	4,035	589	52	39	1,287	6,002
18	3,386	212	56	11	754	4,419
21	1,413	94	27	6	319	1,859
129	1,877	313	20	6	693	2,909
141	2,116	218	25	11	570	2,940
TOTALS	30,393	5,705	360	168	10,411	47,037

DISTRICT OF COLUMBIA REGISTER VOL. 57, NO. 25 JUNE 18 2010
D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 3 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
7	1,112	412	17	5	488	2,034
8	2,320	738	25	9	725	3,817
9	1,061	589	7	6	406	2,069
10	1,936	575	17	5	701	3,234
11	3,358	898	45	18	1,328	5,647
12	494	214	3	5	199	915
26	2,605	396	32	10	805	3,848
27	2,391	289	18	9	539	3,246
28	2,448	738	34	11	932	4,163
29	1,351	302	15	4	431	2,103
30	1,295	304	18	5	295	1,917
31	2,359	434	19	10	622	3,444
32	2,627	441	24	12	638	3,742
33	2,805	399	38	12	754	4,008
34	3,166	489	24	15	970	4,664
50	2,024	322	17	11	435	2,809
138	2,028	350	17	1	479	2,875
TOTALS	35,380	7,890	370	148	10,747	54,535

D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICSWARD 4 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
45	2,173	92	43	12	392	2,712
46	3,014	108	36	14	554	3,726
47	2,688	174	42	16	726	3,646
48	2,751	158	46	10	563	3,528
49	738	36	18	5	179	976
51	3,162	612	33	10	651	4,468
52	1,268	292	5	2	248	1,815
53	1,172	88	16	4	270	1,550
54	2,323	120	38	9	479	2,969
55	2,668	95	37	15	431	3,246
56	3,068	106	36	17	683	3,910
57	2,590	90	33	17	469	3,199
58	2,296	65	27	3	380	2,771
59	2,613	101	30	12	409	3,165
60	2,043	93	24	6	671	2,837
61	1,613	64	20	3	286	1,986
62	3,205	174	38	6	398	3,821
63	3,116	121	61	11	561	3,870
64	2,323	63	14	7	320	2,727
65	2,721	81	23	7	344	3,176
TOTALS	47,545	2,733	620	186	9,014	60,098

DISTRICT OF COLUMBIA REGISTER VOL. 57, NO. 25 JUNE 18 2010
D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 5 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
19	3,450	170	64	15	735	4,434
44	2,803	250	41	19	589	3,702
66	4,560	139	38	15	510	5,262
67	2,976	115	25	11	384	3,511
68	1,875	157	32	6	371	2,441
69	2,212	81	12	10	267	2,582
70	1,547	77	19	5	270	1,918
71	2,489	83	35	9	363	2,979
72	4,136	126	29	17	662	4,970
73	1,881	110	33	10	338	2,372
74	3,811	172	61	7	696	4,747
75	2,721	117	48	11	532	3,429
76	944	58	14	3	197	1,216
77	2,754	99	36	12	453	3,354
78	2,607	70	28	5	412	3,122
79	1,897	59	22	6	292	2,276
135	2,651	158	42	17	438	3,306
139	2,131	51	18	4	202	2,406
TOTALS	47,445	2,092	597	182	7,711	58,027

WARD 6 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
1	2,561	138	39	8	600	3,346
81	4,362	302	53	18	809	5,544
82	2,253	215	22	11	450	2,951
83	2,947	233	36	14	597	3,827
84	1,849	389	30	8	468	2,744
85	2,555	547	26	11	638	3,777
86	2,044	264	31	9	460	2,808
87	2,734	216	35	16	472	3,473
88	1,948	318	21	3	405	2,695
89	2,400	677	37	10	685	3,809
90	1,450	269	12	8	384	2,123
91	3,586	325	53	14	788	4,766
127	3,579	274	59	16	776	4,704
128	1,812	178	22	9	511	2,532
130	740	330	12	3	267	1,352
131	706	159	5	6	205	1,081
142	1,205	169	13	5	321	1,713
143	2,049	486	29	14	715	3,293
TOTALS	40,780	5,489	535	183	9,551	56,538

DISTRICT OF COLUMBIA REGISTER VOL. 57, NO. 25 JUNE 18 2010
D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 7 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
80	1,337	59	12	6	217	1,631
92	1,548	55	18	9	249	1,879
93	1,420	46	13	7	217	1,703
94	1,868	77	19	2	229	2,195
95	1,550	52	24	1	284	1,911
96	2,193	75	30	6	352	2,656
97	1,291	44	16	4	196	1,551
98	1,770	50	21	8	236	2,085
99	1,346	43	12	7	220	1,628
100	1,787	50	18	3	267	2,125
101	1,625	41	18	5	180	1,869
102	2,275	63	23	8	287	2,656
103	3,342	107	32	14	530	4,025
104	2,464	76	29	7	368	2,944
105	2,094	68	26	5	322	2,515
106	2,970	91	28	7	423	3,519
107	1,647	58	15	3	276	1,999
108	1,165	42	8	2	133	1,350
109	1,013	37	7	1	106	1,164
110	3,895	134	39	12	480	4,560
111	2,179	58	30	7	385	2,659
112	1,962	64	16	6	271	2,319
113	2,166	65	16	5	287	2,539
132	1,976	77	14	1	310	2,378
TOTALS	46,883	1,532	484	136	6,825	55,860

DISTRICT OF COLUMBIA REGISTER VOL. 57, NO. 25 JUNE 18 2010
D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

WARD 8 REGISTRATION SUMMARY
AS OF MAY 31, 2010

PRECINCT	DEM	REP	STG	OTH	NP	TOTALS
114	2,887	108	39	32	521	3,587
115	2,668	88	29	10	577	3,372
116	3,604	119	49	27	610	4,409
117	1,496	54	13	15	250	1,828
118	2,414	91	40	9	376	2,930
119	2,518	128	48	15	484	3,193
120	1,535	39	15	12	308	1,909
121	3,072	91	45	8	551	3,767
122	1,746	43	25	8	272	2,094
123	2,247	130	34	15	426	2,852
124	2,391	61	32	8	354	2,846
125	4,067	132	45	18	629	4,891
126	3,498	151	39	21	655	4,364
133	1,371	44	13	6	187	1,621
134	2,018	53	30	8	279	2,388
140	1,923	64	18	7	285	2,297
TOTALS	39,455	1,396	514	219	6,764	48,348

REGISTRATION STATISTICS

CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 04/30/2010 and 05/31/2010

NEW REGISTRATIONS	DEM	REP	STG	OTH	N-P	TOTAL
BEGINNING TOTALS	321105	29264	4270	1408	70484	426531
BOEE Over the Counter	178	6	0	0	38	222
BOEE by Mail	283	12	4	0	66	365
BOEE Online Registration	91	9	2	0	21	123
Department of Motor Vehicle	958	143	11	4	501	1617
Department on Disability Services	1	0	1	0	0	2
Office of Aging	1	0	0	0	0	1
Federal Postcard Application	1	0	0	0	1	2
Department of Parks and Recreation	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0
Department of Corrections	0	0	0	0	0	0
Department of Human Services	1	0	0	0	0	1
Special / Provisional	0	0	0	0	0	0
All Other Sources	57	0	0	0	19	76
+ TOTAL NEW REGISTRATIONS	1571	170	18	4	646	2409

ACTIVATIONS						
Reinstated from Inactive Status	4358	313	69	16	727	5483
Administrative Corrections	32	8	0	6	85	131
+ TOTAL ACTIVATIONS	4390	321	69	22	812	5614

DEACTIVATIONS						
Changed to Inactive Status	592	46	11	2	133	784
Moved Out Of District (Deleted)	15	1	0	0	5	21
Felon (Deleted)	2	0	0	0	0	2
Deceased (Deleted)	805	80	5	3	128	1021
Administrative Corrections	182	32	3	1	46	264
- TOTAL DEACTIVATIONS	1596	159	19	6	312	2092

AFFILIATION CHANGES						
+ Changed To Party	273	27	12	5	95	
- Changed From Party	-79	-68	-20	-14	-233	
ENDING TOTALS	325664	29555	4330	1419	71492	432460

FRIENDSHIP PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR PROPOSAL FOR
CLOUD COMPUTING CONSULTANT

Friendship Public Charter School (FPCE) requests proposals from prospective vendors to implement a comprehensive software and hardware solution for students and staff, 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

HOPE COMMUNITY CHARTER SCHOOL**REQUEST FOR PROPOSALS****After School Care and Summer School Services**

The Imagine-Hope Community Charter School will accept bids for the provision of after school care for two charter school campuses in Washington DC until Friday, May 21 at 12:00pm. All requirements may be obtained in the official RFP document located at www.hopecommunitycs.org under the "news" section. Any questions may be directed to Daniel Hudspeth at 202-832-7370.

Deadline for submissions is June 25, 2010.

Please mail proposals and supporting documents to the following address:

Daniel Hudspeth

Hope Community Charter School

2917 8th Street, NE

Washington, DC 20017

Ph: 202-832-7370

Fax: 202-832-7370

Email: Daniel.hudspeth@imagineschools.com

HOPE COMMUNITY CHARTER SCHOOL**REQUEST FOR PROPOSAL****Facilities Management Services**

The Imagine-Hope Community Charter School will accept bids for the provision of cleaning and facilities management services for the 2010-2011 school year. These services will be provided for our two campuses in Northeast Washington, DC. The school will accept bids until Friday June 25th at 5pm. All proposals may be mailed to Daniel Hudspeth at 2917 8th St. NE Washington, DC 20017. The full RFP may be found at www.hopecommunitycs.org under the “news” section. Any questions may be directed to Daniel Hudspeth at 202-832-7370.

Deadline for submissions is June 25, 2010.

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Daniel Hudspeth

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2917 8th Street, NE

Washington, DC 20017

Ph: 202-832-7370

Fax: 202-832-7370

Email: Daniel.hudspeth@imagineschools.com

HOPE COMMUNITY CHARTER SCHOOL**REQUEST FOR PROPOSAL****IT Support Services**

The Imagine-Hope Community Charter School will accept bids for the provision of IT support services, internet maintenance and system protocol services for the 2010-2011 school year. These services will be provided for our two campuses in Northeast Washington, DC. The school will accept bids until Friday June 25th at 5pm. All proposals may be mailed to Daniel Hudspeth at 2917 8th st. NE Washington, DC 20017. The full RFP may be found at www.hopecommunitycs.org under the "news" section. Any questions may be directed to Daniel Hudspeth at 202-832-7370.

Deadline for submissions is June 25, 2010.

Please mail proposals and supporting documents to the following address:

Daniel Hudspeth

Hope Community Charter School

2917 8th Street, NE

Washington, DC 20017

Ph: 202-832-7370

Fax: 202-832-7370

Email: Daniel.hudspeth@imageschools.com

HOPE COMMUNITY CHARTER SCHOOL**REQUEST FOR PROPOSALS****Mental Health Support Services**

The Imagine-Hope Community Charter School will accept bids for the provision of social work services, psychological evaluations, educational testing, and speech and occupational therapy services for the 2010-2011 school year. These services will be provided for our two campuses in Northeast Washington, DC. The school will accept bids until Friday June 25th at 5pm. All proposals may be mailed to Daniel Hudspeth at 2917 8th St. NE Washington, DC 20017. The full RFP may be found at www.hopecommunitycs.org under the "news" section. Any questions may be directed to Daniel Hudspeth at 202-832-7370.

Deadline for submissions is June 25, 2010.

Please mail proposals and supporting documents to the following address:

Daniel Hudspeth

Hope Community Charter School

2917 8th Street, NE

Washington, DC 20017

Ph: 202-832-7370

Fax: 202-832-7370

Email: Daniel.hudspeth@imagineschools.com

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

*Notice of Extension of Public Comment Period
for the
“Second Draft Fiscal Year 2011-2015 Consolidated Plan and
Fiscal Year 2011 Annual Action Plan for the District of Columbia”*

The Department of Housing and Community Development (DHCD) announces the extension of public comment period until Monday, July 12, 2010 for the second draft of Fiscal Year 2011-2015 Consolidated Plan and Fiscal Year 2011 Annual Action Plan for the District of Columbia. These documents were made available to the public on Tuesday, May 18, 2010 and will be submitted in final form to the U.S. Dept of Housing and Urban Development (HUD) on Friday, August 13, 2010.

Both documents are available for review, on the Department’s website www.dhcd.dc.gov and in hard copy at the Department’s offices at 1800 Martin Luther King Jr. Avenue, SE, Washington, DC 20020, at the Housing Resource Center, 1st Floor. Additionally, copies are available at all public library branches, ANC offices, and the following community-based organizations:

**Housing Counseling
Services, Inc.**
2410 17th Street, NW
Suite 100 - (202) 667-7006

Lydia’s House
3939 South Capitol St.,
SW
(202) 373-1050

**Central American
Resources Center**
1460 Columbia Road,
NW
(202) 328-9799

University Legal Services
220 I Street, NE, Suite 130
(202) 547-4747

**Latino Economic
Development Corp.**
2316 18th Street, NW
(202) 588-5102

If you wish to provide comments for the record, please do so by mail or email by close of business Monday, July 12, 2010. Written statements should be mailed to: Leila Finucane Edmonds, Director, DHCD, Attention: Consolidated Plan Comments, 1800 Martin Luther King Jr., Ave., SE, Washington, DC 20020. Emailed comments should be submitted to DHCDEVENTS@DC.GOV with a subject line “Consolidated Plan comments.”

For additional information, please contact Pam Hillsman at Pamela.Hillsman@dc.gov or by phone at (202) 442-7251.

Adrian M. Fenty, Mayor
Valerie Santos, Deputy Mayor for Planning and Economic Development
Leila Finucane Edmonds, Director, Department of Housing and Community Development
www.dhcd.dc.gov

**DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES
FAMILY SERVICES ADMINISTRATION**

NOTICE OF FUNDS AVAILABILITY

**Community Services Block Grant Program
Domestic Violence Prevention and Awareness Services
RFA #: 0719-10**

The District of Columbia Department of Human Services (DHS), Family Services Administration (FSA), through the Community Services Block Grant (CSBG) program is soliciting applications to strengthen the capacity of DHS-Funded family shelters' staff to develop and improve their efforts to address domestic violence. This Request for Application (RFA) is for two awards to equip staff with the knowledge and skills to increase residents' awareness of measures for preventing domestic violence.

Eligibility: Private, non-profit and community-based organizations operating within the District of Columbia are eligible to apply.

Length of Award: The grant awards will be from the point of execution to September 30, 2010, and are pending fund availability.

Available Funding for Award: The grant awards are authorized under the Community Services Block Grant (CSBG) Act of 1998 as amended (Pub. L. No. 105-285, 112 Stat. 2702 (1998)).

Anticipated Number of Awards: FSA, through this notice, will issue two (2) grants in an amount not to exceed \$100,000 per award.

The Request for Application (RFA) will be released on Friday, June 18, 2010, and can be obtained from <http://www.opgs.dc.gov> at the link for the District Grants Clearinghouse. Applications may also be obtained by contacting Ms. Betty Ervin, Staff Assistant for the Community Services Block Grant program at 645 H Street, N.E. – 3rd fl., Washington, DC, telephone, (202) 698-4301.

A Pre-Application Conference will be held on Tuesday, June 29, 2010, from 2:00 pm to 4:00 pm at FSA, 645 H Street, N.E., 4th floor Conference Room, Washington, DC 20002. **You may register by contacting: Ms. Betty Ervin at (202) 698-4301 or at betty.ervin@dc.gov, no later than June 25, 2010.**

It is strongly recommended that all perspective applicants attend the pre-application conference.

The deadline for application submission is Monday, July 19, 2010, by 3:30 p.m.

KIPP DC

REQUEST FOR PROPOSALS

Security Services

KIPP DC will receive bids until Friday, July 2nd, 2010, at 5:00 PM for security services at 421 P Street, NW.

Additional specifications outlined in the Request for Proposals (RFP) may be obtained from:

Alex Shawe
910 17th Street, NW – Suite 1050, Washington, D.C. 20006
alex.shawe@kipfdc.org
202-223-4505

All bids not addressing all areas as outlined in the RFP will not be considered.

PAUL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSAL**

Paul Public Charter School is seeking separate proposals from **Qualified Contractors** to:

1. Paint the school's auditorium
2. Repoint face bricks on approximately 4000 SF of exterior walls

Specifications may be obtained by contacting:

Mr. Harold Bardonille
5800 Eighth Street, NW
Washington, DC 20011
(202) 291-7499.

Site inspection may be arranged by appointment on Monday through Wednesday between the hours of 9:30 AM and 4:00 PM.

Proposals will be accepted until by 4:00 PM, Friday July 2, 2010.

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 July 1, 2010.

Comments on these appointments should be submitted, in writing, to Granville M. Woodson, Director, 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 April 22, 2010. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Appointments of Notaries PublicEffective: July 1, 2010
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Adams	Eleine O.	Transportation Federal Credit Union 1200 New Jersey Avenue, SE, West Wing, 1st Floor	20003
Ahmed	Mushtaq	Goldstar Cab Company 39 Q Street, SW	20024
Andriano	Michelle	Airports Council International-North America 1775 K Street, NW, Suite 500	20006
Baron	Martha C.	1328 Juniper Street, NW	20012
Bauer	Julie A.	First Mountain Title 1401 H Street, NW, Suite 750	20005
Bennett-Foy	Cynthia R.	2703 6th Street, NE	20017
Biggs	Roca	3601 Wisconsin Avenue, NW, #109	20016
Blanco	Eustanik D.	DLA Piper, LLP (US) 500 8th Street, NW	20004
Blocker	Maxine	3114 Westover Drive, SE	20020
Brown-Nance	Kiana	Federal News Service 1000 Vermont Avenue, NW	20005
Bryant	Mary Ann	U.S. Department of Energy 1000 Independence Avenue, SW, SC-45.2, Room 3H-017	20585
Caldwell	Diana	3110 35th Street, NE	20018
Chatman	Ola Renee	Gibson, Dunn & Crutcher 1050 Connecticut Avenue, NW, Suite 300	20036

**D.C. Office of the Secretary
Appointments of Notaries Public****Effective: July 1, 2010
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Clarke	Julie E.	3317 Cleveland Avenue, NW	20008
Cochran	Alice	Project Vote/Voting For America, Incorporated 737 1/2 8th Street, SE	20003
Cunningham	Dawn	FedEx Express 1700 Pennsylvania Avenue, NW, Suite 950	20006
Daley	Karerna M. N.	Children's National Medical Center 111 Michigan Avenue, NW	20010
Davis	Kimberly D.	District of Columbia Water & Sewer Authority 5000 Overlook Avenue, SW	20032
Davis	Kenneth E.	415 Quackenbos Street, NW	20011
DeFoe	C. Allison	3149 Hawthorne Drive, NE	20017
Eibs	Kelly M.	1537 Foxhall Road, NW	20007
Epps	Gloria Simmons	Intellectual Property Owners Association 1501 M Street, NW, Suite 1150	20005
Equitz	April M.	Lafayette Federal Credit Union 1300 Pennsylvania Avenue, NW, Suite C.1-80	20523
Evans	Marlisa	18 57th Street, SE	20019
Flournoy	Jeimy	U.S. Department of Justice US DOJ-ENRD-OAAG P.O. Box 7415	20044
Gooden	Melody Y.	Keller Williams Capital Properties 801 D Street, NE	20002
Gravelly-Moss, Ph.D.	Carolyn E.	Crisis Management Introspect 2314 Minnesota Avenue,SE	20020

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Grimes	Elizabeth	State Farm Insurance Companies 5217 Wisconsin Avenue, NW	20015
Hayes-Hawkins	Mia	1900 H Street, NE, Apartment 202	20002
Higgins	Jonathan D.	Bank of Georgetown 1054 31st Street, NW, Suite 18	20007
Howard	Diana G.	Epstein Becker & Green, PC 1227 25th Street, NW, Suite 700	20037
Jackson	Ebony	Universal Service Administrative Company (USAC) 2000 L Street, NW, Suite 200	20036
Johnson	Charlene A.	Expert Legal Services Chartered 6665 13th Street, NW	20012
Johnson	Ray A.	Law Offices of Ray A. Johnson, PLLC 1629 K Street, NW, Suite 300	20006
Jones	Demaine	TD Bank 901 7th Street, NW	20001
Jordan	Michelle M.	King & Spalding, LLP 1700 Pennsylvania Avenue, NW	20006
King	Jeighdeane M.	Ogilvy Public Relations 1111 19th Street, NW, 10th Floor	20036
Kohl	Rachel G.	BEST Kids, Incorporated 4606 Sheriff Road, NW	20019
Leech-Black	Elsbeth D.	National Rehabilitation Hospital 102 Irving Street, NW	20011
Mapp	Antonio	Bernabei & Wachtel, PLLC 1775 T Street, NW	20009
McMillan	Kimberly Page	Michael M. Wood 3633 M Street, NW, Unit 5	20007

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Micalizzi	Leilani	Venable, LLP 575 7th Street, NW	20004
Mickle	Jeffrey	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Floor	20036
Mitrothanasis	Sharon L.	US Department of Justice/Office of the Inspector General/Oversight & Review 1425 New York Avenue, NW, 13th Floor	20530
Murray	Areather T.	Murray & Tellington Funeral Home, Incorporated 4804 Georgia Avenue, NW	20011
Newon	Phyllis M.	Squire, Sanders & Dempsey, LLP 1201 Pennsylvania Avenue, NW	20004
Palmer	Natalie R.	3725 12th Street, NE, Apartment 2	20017
Panepinto	Catherine M.	Bradley Arant Boult Cummings, LLP 1133 Connecticut Avenue, NW 12th Floor	20036
Quinones-Torres	Gisela	R & R Janitorial, Cleaning Services 1931 15th Street, NW	20009
Randolph	Cheryl J.	US Securities and Exchange Commission 100 F Street, NE	20549
Rice	Nichele Y.	Davis Wright Tremaine, LLP 1919 Pennsylvania Avenue, NW, Suite 200	20006
Robinson	Jacqueline	3701 Connecticut Avenue, NW, Apartment 824	20008
Sanders	DelVenus	Keller Williams Capital Properties 801 D Street, NE	20002
Sugar	Deborah L.	DARO Realty, Incorporated 4301 Connecticut Avenue, NW, Suite 437	20008

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Appointments of Notaries Public****Effective: July 1, 2010
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Sullivan	Amanda M.	Regan Zambri & Long, PLLC 1919 M Street, NW, Suite 350	20036
Sutton	Deborah G.	Suttons Process Service, Incorporated 1200 G Street, NW, PMB 064	20005
Tucker	Deborah M.	Federal Trade Commission 601 New Jersey Avenue, NW	20001
Webb	Glenard A.	Washington Times Newspaper 3600 New York Avenue, NE	20002
Westrich	Timothy R.	Community Preservation and Development Corporation 5513 Connecticut Avenue, NW, Suite 250	20015
Young	Deborah L.	Bradley Arant Boult Cummings, LLP 1133 Connecticut Avenue, NW 12th Floor	20036

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

Order No. 14619-B¹ of Lenore Partnership, Motion for Modification of Conditions “A” and “D”² of Order No. 14619 of Lenore Partnership and Waiver of the Two (2)-Year Filing Time Requirement, pursuant to Section 3129 of the Zoning Regulations. The original application was pursuant to Sub-section 8207.2 (3108.1, 11 DCMR) of the Zoning Regulations, for a special exception under Paragraph 3101.45 (209.1, 11 DCMR) to permit construction of a community center building, including a tennis court and a swimming pool in an R-1-A District at premises 4201 Lenore Lane, N.W. (Square 2246, Lot 27).

HEARING DATE (original application):	June 24, 1987
DECISION DATE (original application):	June 24, 1987
FINAL ORDER ISSUANCE DATE (original application):	September 15, 1987
FIRST MODIFICATION DECISION DATE:	April 6, 1988
FIRST MODIFICATION ORDER ISSUANCE DATE:	May 5, 1988
2nd MODIFICATION DECISION DATE:	June 8, 2010

SUMMARY ORDER ON 2nd REQUEST FOR MODIFICATION

Background.

On June 24, 1987, the Board approved the Applicant’s original request for special exception pursuant to Sub-section 8207.2 (3108.1, 11 DCMR) of the Zoning Regulations, for a special exception under Paragraph 3101.45 (209.1, 11 DCMR) to permit construction of a community center building, including a tennis court and a swimming pool in an R-1-A District at premises 4201 Lenore Lane, N.W. (BZA Order No. 14619, issued September 15, 1987), subject to six conditions.

On May 5, 1988, the Board issued a companion order to reflect approval of a request from the Applicant for a minor modification of the approved plans. The Board approved that first modification request on April 6, 1988. (BZA Order No. 14619, issued May 5,

¹ This minor modification order is numbered 14619-B, so as to distinguish this order from a prior modification order issued May 5, 1988 (Order 14619). Essentially, that order reflected that there were approved plans (Site Plan 23C) that revised the site plan by relocating the footprint of the swimming pool and the tennis courts. Order No. 14619 (issued May 5, 1988) is a companion order to Order 14619 which was issued on September 15, 1987. The May 5, 1988 Order states, “...the proposed modification of plans is approved subject to the condition that the layout of the site shall be in accordance with the plans marked as Exhibit No. 23C of the record. In all other respects, the Order of the Board dated September 15, 1987, shall remain in full force and effect.”

² The Applicant amended its request at the Office of Planning’s recommendation, and agreed to a modification to Condition “D” as well. For ease of administration, that modification would reference the site plan in this application instead of the identical layout stored with the original case record in the Office of Zoning’s archive.

BZA APPLICATION NO. 14619-B**PAGE NO. 2**

1988). Subsequently, the construction was completed and the site now contains the Lenore Pool and Tennis Club (the "Club"), which is the successor to the Lenore Partnership (both are referred to as the "Applicant"), a facility that has been in existence for over 22 years subject to the conditions in that order.

Second Request for Modification.

On April 26, 2010, by a letter from the Applicant dated April 22, 2010, the Board received a new request for a modification to condition "A" of Order No. 14619 of Lenore Partnership. That condition relates to the number of member families that may use the facilities of the Club and the number of member families who may reside further than 1,000 feet from the site. Condition "A" of the existing special exception order limits to 15 the number of families that could be members of the community center. The condition also states that no more than two member families may reside in excess of 1,000 feet from the site. The Applicant requested that Condition "A" be amended to allow an increase in the maximum membership from 15 to 20 families; and an increase in the number of families that may reside beyond a 1,000-foot perimeter from two to three. No physical or operational changes were proposed in the request for modification.

The Applicant requested a waiver of the two-year time requirement for filing a modification request, pursuant to § 3129 of the Zoning Regulations.³ (Exhibit 24). Sufficient notice of this motion for minor modification of plans was provided to the Office of Planning (OP) and Advisory Neighborhood Commission (ANC) 3F, as evidenced by their consideration, votes, and reports. (Exhibits 25 and 26). Also, the Applicant notified and consulted with the neighbors living within 200 feet of the facilities, since the modification request included a petition, dated April 15, 2010, from neighbors living within 200 feet of the Applicant's facilities in support of the request. (Exhibit 24).

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. OP submitted a report recommending approval of the request on June 1, 2010. In addition, for administrative ease, OP recommended modifying Condition "D" in reference to the site plan in the application instead of the identical layout stored with the original case record in the Office of Zoning archive. The Applicant agreed to this change. (Exhibit 25). The Board considered the amended request for modification to include a revised Condition "D."

³ Zoning Commission Order No. 09-01, published in the *D.C. Register* on June 5, 2009, amended § 3129 (Modification of Approved Plans), as well as § 3130 (Time Limits on Board Action). In Z.C. Order No. 09-01, the Zoning Commission amended § 3129 by extending the period of time for filing a modification request from six months to two years. Specifically, § 3129.3, as amended, states that the "request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application." The Applicant's request for modification was not filed within either the original six-month or the amended two-year period. Nonetheless, the Board granted the waiver by consensus, having heard no objection from any party or other affected person.

BZA APPLICATION NO. 14619-B

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Pursuant to § 3129.4, the affected ANC 3F, which was a party to the underlying case, is required to be served with any modification request to which it was a party. Although the Applicant's letter is silent as to whether it was served on ANC 3F, the record is clear that ANC 3F did learn of the application and was not prejudiced, as evidenced by the fact that ANC 3F considered and voted upon the Applicant's request on May 17, 2010. (Exhibit 25).

On June 7, 2010⁴, ANC 3F submitted a report, dated June 4, 2010, indicating that at a duly-noticed public meeting on May 17, 2010, the ANC voted unanimously by a vote of 4:0:0 (with a quorum being 4) to support the request for a minor modification to BZA Order 14619 to expand the membership that may use the Club from 15 member families to 20 member families and to raise the limit on the number of families who may reside further than 1,000 feet from the site from two to three. The ANC also voted to support the request for the Board to waive its rules pursuant to § 3100.5 to permit the modification since more time⁵ had elapsed from the approval and original Order than the Zoning Regulations would otherwise allow. The ANC also voted 4:0:0 to maintain the provisions of the original order as listed in the April 22, 2010, letter to the Board from the Applicant, as well as the governing regulations implementing the 1987 Order regarding hours of operation, lighting, noise, trash, security, and private parties cited in the Applicant's letter of April 22, 2010.

Section 3129, specifically § 3129.3, indicates that a request for minor modification "of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application." The Board, by consensus, waived the two-year time limit, noting that the facility in question had been operating for several decades.

Further, § 3129.7, states that "[a] request to modify other aspects of a Board order may be made at anytime, but shall require a hearing." All of the parties in the case filed written reports and all of those reports were in support of the request. The Board waived its rules, by consensus, and decided the request based on the written materials that had been filed.

The modifications are minor and do not change the material facts on which the zoning relief was approved, and therefore no new relief is required. The Applicant stated that the modifications being sought were necessitated by the fact that over the last 22 years the number of families with children who reside within 1,000 feet of the site and are interested in using the Club's facilities has exceeded expectations. The Club would like to

⁴ The Board, by consensus, waived the time requirement to allow the late-filed ANC letter (Exhibit 26) into the record, pursuant to § 3129.4.

⁵ The ANC's letter referenced the now-amended six-month limitation period that was amended by Zoning Commission Order No. 09-01 to a two-year period.

BZA APPLICATION NO. 14619-B**PAGE NO. 4**

expand its membership to accommodate these requests. The modification would raise the limit from 15 to 20 member families and the number of member families who may reside further than 1,000 feet from the site from two to three. A petition was submitted from nearby neighbors in support of the modification request. (Exhibit 24). No one objected to the request.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3129.1, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. No parties opposed this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant's proposed modification of these conditions is consistent with the requirements of § 3129.7 of the Zoning Regulations in that the revisions represent a minor modification that does not change the material facts the Board relied upon in approving the original application.

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 be **GRANTED WITH THE FOLLOWING CONDITIONS, AS MODIFIED:**

Condition A: The membership of the Lenore Pool and Tennis Club, or any successor entity that will use the recreational facilities, shall be limited to no more than 20 families. No more than three of the member families may reside in excess of 1,000 feet from the subject site.

Condition D: The layout of the recreational facilities shall be as shown on the site plan identified as Exhibit No. 23C.

VOTE on Original Application (June 24, 1987): 4-0-1

(Lindsley Williams, Paula L. Jewell, William F. McIntosh, and Charles R. Norris, to grant; Carrie L. Thornhill not present, not voting.)

VOTE on Minor Modification of Plans (April 6, 1988): 4-0-1

(William F. McIntosh, Paula L. Jewell, and Charles R. Norris to approve; Lindsley Williams to approve by proxy; Carrie L. Thornhill not voting, not having heard the case.)

VOTE on Second Minor Modification of Conditions (June 8, 2010): 3-0-2

(Shane L. Dettman, Meridith H. Moldenhauer, Nicole C. Sorg to approve; the Third

BZA APPLICATION NO. 14619-B**PAGE NO. 5**

Mayoral Appointee (vacant) and the Zoning Commission Member not voting, not having participated.)

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

A majority of Board members approved issuance of this order.

FINAL DATE OF ORDER: June 15, 2010

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

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.

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.

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**

Appeal No. 17109-B of Kalorama Citizens Association, pursuant to 11 DCMR § 3100, from the administrative decision of David Clark, Director, Department of Consumer and Regulatory Affairs, from the issuance of Building Permit Nos. B455571 and B455876, dated October 6, 2003 and October 16, 2003, respectively, to Montrose, LLC, to adjust the building height to 70 feet and to revise penthouse roof structure plans to construct an apartment building in the R-5-D District at 1819 Belmont Road, N.W., and from the issuance of the original Building Permit No. B449218, dated March 11, 2003.

HEARING DATES: February 17, 2004, March 9, 2004, March 16, 2004, April 6, 2004, and April 20, 2004

DECISION DATES: June 22, 2004, December 7, 2004, and February 1, 2005

DATE OF BOARD ORDER: November 8, 2005

**DATE OF DECISION ON
MOTION FOR
RECONSIDERATION
AND PARTIAL
REHEARING:**

December 6, 2005

**DATE OF COURT
DECISION
REMANDING TO
BOARD:**

October 25, 2007

PROCEDURAL ORDER ON REMAND

Background

This Procedural Order on Remand is issued to set forth the Board of Zoning Adjustment's ("BZA" or "Board") initial procedures for complying with the District of Columbia Court of Appeals' ("Court") remand instructions in *Kalorama Citizens Ass'n. v. D.C. Bd. of Zoning Adjustment*, 934 A.2d 393 (D.C. 2007), which appealed certain aspects of the Board's decision in Appeal No. 17109. This Procedural Order is being sent to each of the parties to Appeal No. 17109. Appeal No. 17109 was brought by the Kalorama Citizens Association ("KCA" or "Appellant") and joined in by Advisory Neighborhood Commission ("ANC") 1C, and alleged that the Department of Consumer and Regulatory Affairs had erroneously issued several building permits to Montrose, LLC, for a building located at 1819 Belmont Road, N.W.

BZA APPEAL NO. 17109-B**PAGE NO. 2**

By order dated November 8, 2005, the Board partially granted and partially denied Appeal No. 17109. Order No. 17109 granted the appeal on the grounds that the height of the building with the roof deck exceeded the height limitations of the Height Act, but denied the appeal with respect to the penthouse setback requirements under both the Height Act and the Zoning Regulations, as well as with respect to the floor area ratio ("FAR") calculations. Order No. 17109-A, dated April 4, 2006, denied KCA's request for reconsideration of certain aspects of the Board's decision.

KCA appealed to the Court that part of Order No. 17109 which denied its appeal with respect to the FAR calculations. On appeal to the Court, KCA's arguments as to the FAR calculations addressed two separable issues. As to the first issue -- whether the basement was properly measured for the purposes of these calculations -- the Court upheld the Board's order, and **this issue is not within the purview of this remand.**

The second issue appealed was whether the Board properly determined that the sixth level of the building was *excluded* from the FAR calculations. This issue was remanded to the Board for more particularized findings and conclusions.

The Appellants made two arguments for why the space should be counted toward the building's FAR:

1. The space was not an attic, but a habitable sixth floor; and
2. Even if the space were an attic, it provided structural headroom of six feet, six inches or more.

As to the first argument, the Court found that the issue of whether the sixth floor was or was not habitable was irrelevant to the determination of whether the space was an attic. *Kalorama Citizens Ass'n.*, 934 A.2d at 406.

Instead the Court found that the determination of whether a space is an attic must be based upon how the term "attic" is defined and whether the space met that definition. The Court noted that the Zoning Regulations do not define the word "attic," but pursuant to 11 DCMR § 199.2 (g) "[w]ords not defined in this section shall have the meanings given in *Webster's Unabridged Dictionary.*" The *Webster's Third New International Dictionary, Unabridged*, sets out the following definitions of "attic:"

- 1a: a low story or wall above the main order or orders of a façade in the classical styles;
- b: a room or rooms behind an attic; and
- c: the part of a building immediately below the roof and wholly or partly within the roof framing; a garret or storage space under the roof.

The Court found that the Board "did not explicitly consider or apply *any* of the unabridged Webster's dictionary definitions before concluding that the sixth level is an 'attic.'" *Id.* at 406. Because it failed to do so, the Court agreed with "KCA and the ANC that a remand is required so

BZA APPEAL NO. 17109-B**PAGE NO. 3**

that the BZA may consider the attic issue in light of the definitions incorporated by reference in the Zoning Regulations, and so that it can explain why it was or was not appropriate for the Zoning Administrator to treat the sixth level as an attic.” *Id.*

Because the Court held that the Board did not address the attic issue with sufficient particularity, it also held that the Board had not accorded the ANC great weight as to this issue. Therefore, the case was also remanded for the Board to make specific findings with respect to the ANC’s concern that the sixth level does not fall within the definitions of “attic” and to explain why the Board does or does not agree with the ANC.

However, the Court did not disturb the Board’s rejection of the Appellants’ second argument that even if the space were an attic, it provided structural headroom of six feet, six inches or more. Therefore, **the following ruling is the law of the case and will not be revisited on this remand.**

Because the building is framed from front to back, rather than relying on the adjacent walls of the abutting townhouses for support, the collar ties forming the attic ceiling were not ornamental, but served as structural members necessary to help brace the building against racking in a north-south direction. The Board therefore concludes that the collar ties created structural headroom of less than six feet, six inches

BZA Order No. 17109, page 14.

Procedures

In order to properly effectuate the Court’s remand order, the Board must explicitly consider and apply each of the definitions of “attic” stated in the unabridged *Webster’s Third New International Dictionary*, and, based upon this review, determine whether any of the three definitions have been satisfied.

To that end, the Board hereby directs any party that wishes to do so, to submit to the Office of Zoning, by 3:00 p.m. on July 2, 2010, a memorandum analyzing the applicability of each of the three definitions of “attic” to the space at issue. Each memorandum must include citations to, and copies of, any parts of the record in the proceedings of Appeal No. 17109 on which the party writing relies. Only the memorandum need be served on the other parties.

Any reply to a memorandum is due by 3:00 p.m. on July 12, 2010. No sur-reply will be accepted.

The scope of the remand is limited to the record as it existed on the date that Order No. 17109 was issued. Any material attached to the requested memoranda not already in the record will be disregarded by the Board and returned to the party who submitted it.

BZA APPEAL NO. 17109-B
PAGE NO. 4

Following the receipt of the requested memoranda, the Board will deliberate upon the issue on July 20, 2010. Since the majority of the Board members did not personally hear the evidence in this case, the Board, pursuant to § 10 (d) of the District of Columbia Administrative Procedure Act, D.C. Official Code § 1-509(d) (2001), will send a proposed order to the parties and will afford any party adversely affected the opportunity to present written exceptions.

This Procedural Order on Remand is not a final order of the Board and is, therefore, not the proper subject of a motion for reconsideration.

Accordingly, it is **ORDERED** that the Board **APPROVES** the issuance of this Order.

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

A majority of members approved the issuance of this Order.

(Meridith H. Moldenhauer, Shane L. Dettman, Nicole C. Sorg, and Konrad W. Schlater to approve issuance)

FINAL DATE OF ORDER: June 14, 2010

LM

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

Application No. 18048 of Washington Middle School for Girls, pursuant to 11 DCMR § 3104.1, for a special exception for a private school (40 children and 4 staff, grades 4 and 5) under section 206, in the R-5-A District at premises 2683 Douglas Road, S.E. (Square 5872, Lot 143).¹

HEARING DATES: April 6² and June 8, 2010

DECISION DATE: June 8, 2010 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4).

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) 8A and to owners of property within 200 feet of the site.³ The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. According to the Applicant's testimony, ANC 8A is in support of the application and voted 3:2 in favor of the application. ANC 8A did not file a report in relation to its vote on the application. The Office of Planning (OP) submitted a timely report recommending approval of the application with conditions. (Exhibit 27).

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.

¹ The Applicant amended the application to seek approval for 40 students, instead of 20. (Exhibit 25).

² The Board initially scheduled a public hearing on this application for April 6, 2010, but that hearing was postponed at the Applicant's request and rescheduled and held on June 8, 2010.

³ The property was posted for 14 days when 15 days are required. (Exhibit 28). The Board waived the requirement.

BZA APPLICATION NO. 18048**PAGE NO. 2**

Based upon the record before the Board and having given great weight to the OP report⁴, 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 findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED WITH THE FOLLOWING CONDITIONS**:

1. Approval shall be for a period of **FIVE (5) YEARS** from the final date of the order.
2. There shall be a maximum of 40 students in grades 4 and 5. There shall be a maximum of four staff.
3. The school shall operate between 7:00 am to 7:00 pm, Monday through Friday.
4. Outdoor activity shall be supervised by staff.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Shane L. Dettman, Nicole C. Sorg to APPROVE. The Zoning Commission member and the third Mayoral appointee (vacant) neither participating, nor 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: June 15, 2010

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

⁴ Although the ANC had considered and voted in support of the project at its May 2010 meeting, the ANC did not file a written report articulating that support. Therefore, the Board could not give the ANC's position great weight.

BZA APPLICATION NO. 18048

PAGE NO. 3

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

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

Application No. 18068 of Abbas Fathi, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a flat (two-family dwelling) in the R-4 District, at premises 1213 4th Street, N.W. (Square 523, Lot 865).

HEARING DATE: June 8, 2010

DECISION DATE: June 8, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

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) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C did not submit a report related to the application. The Office of Planning submitted a report in support of the application.

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

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

BZA APPLICATION NO. 18068

PAGE NO. 2

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 is hereby **GRANTED**.

VOTE: 3-0-2 (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman and to Approve; No other Board or Zoning Commission members participating)

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

A Majority of the Board members approved the issuance of this order.

ATTESTED BY: _____

JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: _____

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 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.

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. 18069 of Patrick and Jennifer Serfass, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a three story rear addition with roof deck to an existing row dwelling under section 223, not meeting the lot occupancy (section 403) and nonconforming structure (subsection 2001.3) requirements in the R-4 District at premises 1126 I Street, S.E. (Square 995, Lot 31).

HEARING DATE: June 15, 2010

DECISION DATE: June 15, 2010

SUMMARY ORDER

SELF-CERTIFIED

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

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

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

Based upon the record before the Board and having given great weight to the ANC and OP reports, 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.

BZA APPLICATION NO. 18069

PAGE NO. 2

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 9 – Plans) be **GRANTED**.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman to APPROVE. No other Board members present)

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: June 15, 2010

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 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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS.

BZA APPLICATION NO. 18069

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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. 18072 of Juliet Eilperin, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the floor area ratio requirements under subsection 402.4, a variance from the alley setback requirements under subsection 2300.2(b), a variance from the rear yard requirements under subsection 2500.3, and a special exception under section 223, to allow the construction of an accessory garage serving a one-family semi-detached dwelling, not meeting the lot occupancy (section 403) and nonconforming structure (subsection 2001.3) requirements in the R-5-A District at premises 2745 Macomb Street, N.W. (Square 2218, Lot 1).

HEARING DATE: June 15, 2010

DECISION DATE: June 15, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

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

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for a variance from the requirements under §§ 402.4, 2300.2(b), and 2500.3. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 402.4, 2300.2(b), and 2500.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 18072

PAGE NO. 2

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, 2001.3). 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (403, 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 12 – Plans) be **GRANTED**.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman to APPROVE. No other Board member 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: June 16, 2010

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 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.

BZA APPLICATION NO. 18072

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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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, 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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FILING****Z.C. Case No. 05-28C****(Modification to a 1st Stage PUD, Modification to a PUD-Related Map Amendment,
and a 2nd Stage PUD @ Square 5055)****June 8, 2010****THIS CASE IS OF INTEREST TO ANC 7D**

On June 3, 2010, the Office of Zoning received an application from Lano Parcel 12, LLC (the "Applicant") for approval of a modification to a first-stage planned unit development ("PUD"), a modification to a PUD-related map amendment, and a second-stage PUD for the above-referenced property.

This application concerns part of a larger PUD that was approved in 2008 (Z.C. Order No. 05-28). The previously approved first-stage PUD includes approximately 15.5 acres of land area with frontage along Kenilworth Avenue, Foote Street, Anacostia Avenue, Barnes Street, Grant Place, Parkside Place, Roosevelt Place, Burnham Place, Kenilworth Terrace, and Hayes Street. It contains ten building blocks that are labeled Blocks A-J.

The portion of the larger PUD that is concerned in this application is property bounded by Kenilworth Avenue, N.E. (south), Kenilworth Terrace, N.E. (north), and Foote Street (west), and a portion of Block I (east). (This includes Blocks G, H, and a portion of Block I.)

The property that is the subject of the application for a modification to a first-stage PUD and modification to a PUD-related map amendment consists of Square 5055, Lots 14-23, 803-813, and portions of Lots 24 and 802. The Applicant seeks to modify the first-stage PUD as follows: to modify the approved uses such that a community college may be constructed where residential uses were approved; increase the maximum building heights from 110 for the office building on Block H and 90 feet for the residential use along Kenilworth to 130 feet for the office building and 110 feet for the residential; and to modify the previously approved PUD-related map amendment from C-3-A and CR to CR and C-3-C, in order to accommodate the additional height requested.

The property that is the subject of the second-stage PUD consists of Square 5055, Lots 21-23, 803-805, and portions of Lots 24 and 802. The second-stage request consists of approval to develop a community college on a portion of Blocks H and I (only residential development was approved for Block I in the previously-approved PUD).

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11B/06-12B
Z.C. Case Nos. 06-11 and 06-12

**Applications of The George Washington University for Special Exception Approval of a
Campus Plan and for Approval of a First-Stage Planned Unit Development and
Related Zoning Map Amendments for the Foggy Bottom Campus**
Order on Remand
May 24, 2010

This proceeding concerns two applications submitted by The George Washington University (“Applicant,” “University,” or “GW”) concerning its Foggy Bottom campus: Z.C. Case No. 06-11, an application for special exception approval of “The Foggy Bottom Campus Plan: 2006-2025” (“Campus Plan”) and Z.C. Case No. 06-12, an application for review and first-stage approval of a planned unit development and related amendments to the Zoning Map of the District of Columbia applicable to University-owned properties within the campus boundaries. The Zoning Commission for the District of Columbia (the “Commission”) consolidated the applications and considered Z.C. Case No. 06-11 pursuant to §§ 210, 3035, and 3104 of the Zoning Regulations, and Z.C. Case No. 06-12 pursuant to chapters 24 and 30 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. By order effective October 26, 2007, the Commission approved the applications subject to conditions (Z.C. Order No. 06-11/06-12).

Parties to this proceeding, in addition to the Applicant, are Advisory Neighborhood Commission (“ANC”) 2A, the Foggy Bottom Association (“FBA”) and the West End Citizens Association (“WECA”). FBA appealed the Commission’s decision to the District of Columbia Court of Appeals (“Court of Appeals” or “DCCA”). By decision dated September 3, 2009, the Court of Appeals affirmed the Commission’s decision except to remand “for further proceedings with respect to the method of counting students.” *Foggy Bottom Ass’n v. D.C. Zoning Comm’n*, 979 A.2d 1160, 1176 (D.C. 2009).

The pertinent portion of the Court of Appeals ruling that resulted in this remand is as follows:

One of the more contentious issues during the hearings was the method of calculating the number of students using the Foggy Bottom campus, for the purpose of enforcing limits. . . . The University proposed a “primary relationship” test, which would, in general, count all students who either live or take classes on the Foggy Bottom campus, but exclude those students who either reside or take all their classes at GW’s satellite campus, Mount Vernon. FBA advocated an “intensity of use” test, whereby all students using the Foggy Bottom campus would be included, regardless of whether they were also counted in a different campus’s plan. The Commission adopted GW’s “primary relationship” test without much analysis

...

Z.C. ORDER NO. 06-11B/06-12B
Z.C. CASE NOS. 06-11 & 06-12
PAGE 2

The Commission did not address FBA's argument that all students coming to the Foggy Bottom campus add to the strain on the neighborhood, and therefore should be counted in the campus plan, regardless of whether those students are also accounted for in the Mount Vernon plan.

...

Because the Commission did not demonstrate a rational connection between its findings of fact and its conclusion, we remand to give the Commission the opportunity to articulate its reasoning.

979 A.2d at 1173-1174.

PRELIMINARY MATTERS

Pursuant to the Court of Appeals' instruction to the Commission that it "articulate its reasoning" for adopting the University's methodology for counting students, the Commission determined it would issue a written order that sets forth its explanation as to why the primary relationship test proposed by the Applicant should be used with respect to the method of counting students rather than the intensity of use test proposed by FBA, based on the evidence in the record of Z.C. Case Nos. 06-11 and 06-12.

To assist the Commission in its proceedings on remand, and mindful of the Court of Appeals' limited instruction to "articulate its reasoning" for its decision, the Commission, through the issuance of a Procedural Order on Remand requested that the University, as the prevailing party on the issue, provide the Commission with a proposed order that would cure the deficiencies found by the Court of Appeals. Specifically, the Commission asked the Applicant to propose findings of fact based on the exclusive record of Z.C. Case Nos. 06-11 and 06-12, and conclusions of law that flow from those findings of fact.

The Commission also provided FBA, ANC 2A, and WECA the opportunity to submit a revised version of the proposed order for the sole purpose of making such corrections to the Applicant's characterization of their respective positions or the Commission's rationale as each considered necessary. Again, the Commission directed these parties to base any additional or revised factual finding on the exclusive record of the case. Only FBA provided a proposed revised order.

Pursuant to § 3005.25 of the Commission's Rules of Practice and Procedure, a Commissioner may vote at a decision meeting even if he or she had not attended any of the prior hearings or meetings if they have read the transcript and reviewed the complete record. Pursuant to the Procedural Order on Remand, the Applicant and FBA cited the transcript page or the exhibit that supported each statement made in the Applicant's proposed order and FBA's proposed revision and filed a copy of all non-duplicative referenced transcript pages and exhibits cited. These

Z.C. ORDER NO. 06-11B/06-12B
Z.C. CASE NOS. 06-11 & 06-12
PAGE 3

submissions constitute the transcript and the complete record for the purposes of this limited remand, all of which have been read by the four participating Commissioners.

This order was not sent to WECA, FBA, or ANC 2A for the filing of exceptions and the presentation of argument, as had been stated in the Applicant's proposed order. Such procedures are followed "[w]henever in a contested case a majority of those who are to render the final order or decision did not personally hear the evidence." Section 10(d) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Official Code § 1-1509 (d)). When the proposed order was filed, this Commission consisted of five members; three of whom (and thus a majority) had not heard the case. However, as a result of an intervening resignation, there were but four Commissioners available to decide whether to adopt this order on the date that the matter was scheduled for decision. Of these four, only two "had not personally heard the evidence." These Commissioners did not constitute a majority of those who were to "render the final order."

In addition, this order is not the final order in the case, but a supplementary order that explains the basis for a decision already made and not disturbed by the Court of Appeals. The entities adversely affected by the decision were given an opportunity to comment on the proposed order submitted by the Applicant and, since this adopted order is substantially similar to the order proposed, it serves no purpose to repeat the process. Nevertheless, even though this is not a traditional final order, all parties will be able to utilize the reconsideration process set forth at 11 DCMR § 3029 for the limited purpose of identifying any deficiency in the Commission's compliance with the remand instruction.

The use of the present tense (the Commission finds, concludes, etc.) reflects the findings and conclusions that led to the adoption of Z.C. Order No. 06-11/06-12), but which were not expressly stated in that order. This Commission makes no finding other than that this adopted order adequately articulates the basis for the Commission's decision to utilize the primarily relationship methodology.

FINDINGS OF FACT

1. The University proposed a set of conditions as a part of its 2007 Foggy Bottom Campus Plan. *See* Exhibit 31 at p. 13 (GW Pre-Hearing Submission); *see also id.* at Exhibit Y (Pre-Hearing Submission: Proposed Conditions).¹ These conditions included definitions to provide clarity and specificity to the University's commitments and to promote transparency with respect to issues of Campus Plan compliance. *Id.*
2. As a part of these definitions, the University proposed a detailed methodology for determining what constitutes a "Foggy Bottom student" under the student head count and

¹ All citations are to the record for Z.C. Case No. 06-11.

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student full-time equivalent (“FTE”) count for purposes of determining maximum student enrollment at the Foggy Bottom campus. *See* Exhibit 31 at Exhibit Q (Pre-Hearing Submission: Enrollment Methodology). To determine whether a student enrolled in a creditable course at GW was a “Foggy Bottom student,” the University separated the categories of students who have a “primary relationship” with the Foggy Bottom campus from those categories of students who were either “associated with other campuses” or “otherwise not present or active on the Foggy Bottom campus.” *See* Exhibit 99 at pp. 5-6 (GW Supplemental Submission). The University asserted that this approach would appropriately measure student impact at the location where the students had a “primary relationship” while promoting the continued use of satellite campuses as a means to accommodate its space and growth needs. *Id.*

3. In response to questions raised by the Commission and FBA during the first night of hearings and to provide guidance as to which students had a “primary relationship” to the Foggy Bottom campus and therefore should be counted as “Foggy Bottom students,” the University prepared a detailed submission that, in part, described the categories of students enrolled at GW and articulated why each category was, or was not, a “Foggy Bottom student,” considering the rights, privileges, and practices of each category of student with respect to the Foggy Bottom campus. *Id.* at p. 6; *see also id.* at Exhibit B.

Mount Vernon Students

4. GW operates two campuses in the District of Columbia: the Foggy Bottom campus and the Mount Vernon campus. Both campuses are located in residence zone districts and are therefore subject to the requirements of § 210 of the Zoning Regulations (Title 11 DCMR). The two campuses offer traditional undergraduate classes, residence halls, and student support and recreational facilities. *Id.* at Exhibit B pp. 1-2; *see also* Exhibit B at p. 5.
5. As a part of the proposed 2007 Foggy Bottom Campus Plan, the University re-evaluated the relationship between the Foggy Bottom and Mount Vernon campus plans. Under the 2000 Foggy Bottom campus plan, the University had excluded all students counted under the approved Mount Vernon Campus Plan; that is, Mount Vernon residents and non-resident/commuter students. The Mount Vernon campus is subject to its own enrollment limitations, *see id.* at Exhibit B. p. 6, and the University noted that the practice of excluding all students enrolled at the satellite campus was consistent with other institutions that exclude students on satellite campuses completely from the enrollment counts associated with their main campus. *See* Exhibit 99 at p. 5 n. 3; *see also id.* at Exhibit B p. 6 n. 8.
6. Under the 2007 Foggy Bottom Campus Plan, the University proposed to include all Mount Vernon nonresident or commuter students who also take classes at the Foggy

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Bottom campus as “Foggy Bottom students.” *Id.* at Exhibit B at p. 6. Students who reside on the Mount Vernon campus or who take all of their classes at Mount Vernon would be excluded from the definition of “Foggy Bottom students.” *Id.*

7. With regard to the students who reside at the Mount Vernon campus, the University argued, the primary impacts from these students are on the community in which they reside; that is, the residential neighborhood surrounding the Mount Vernon campus, not the residential neighborhoods surrounding the Foggy Bottom campus. The University asserted that these students were unlikely to generate objectionable impacts at the Foggy Bottom campus due to their limited contact with the Foggy Bottom campus as well as GW initiatives such as the shuttle bus that minimizes the traffic and parking impacts of travel between the Foggy Bottom and Mount Vernon campuses. *Id.* at pp. 6-7. The Commission agrees with this analysis and finds that:
 - a. While the students who reside at the Mount Vernon campus or who take all of their classes at Mount Vernon use certain facilities at the Foggy Bottom campus, the impacts of those students on neighborhoods surrounding the Foggy Bottom campus are similar to the impacts of other visitors to the campus in that they have limited contact and do not impose significant impacts on the use of neighboring property.
 - b. Mount Vernon campus residents are unlikely to create objectionable conditions related to traffic or parking in the neighborhoods abutting the Foggy Bottom campus, because those students do not enjoy reciprocal parking privileges at the Foggy Bottom campus and, in any event, are likely to travel using a GW-operated shuttle bus between the two campuses. *Id.*
 - c. While Mount Vernon campus residents may travel to Foggy Bottom to participate in student activities, the Mount Vernon campus provides a “full panoply” of student-oriented programming, and technological advancements limit the students’ need to travel to Foggy Bottom for course-related materials such as textbooks and library research materials. *Id.* at pp. 5-6.

Other Off-Campus Students

8. The University also offers education programs at locations other than the Foggy Bottom and Mount Vernon campuses.
 - a. A third campus is located in Loudoun County, Virginia, which generally offers graduate degree and certificate programs as well as research centers. *Id.* at Exhibit B at p. 2. As such, the Loudoun County campus serves a different set of

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nontraditional students pursuing executive and other part-time programs as well as graduate students engaged in research. *See* Exhibit 99 at p. 5.

- b. The University's education centers offer graduate degree programs targeted to working adult professionals who live nearby, and corporate/government sites, which offer programs similar to those offered at the education centers but are more limited because they are keyed toward the hosting government or corporate institution. *Id.*
 - c. The University also offers distance learning programs and courses. *Id.*
9. The University contended, and the Commission agrees, that the categories of students served at the locations described in finding of fact 8 should be considered "off-campus students" who lack a "primary relationship" to the Foggy Bottom campus, but instead have a primary relationship with the location that directly provides their education. Specifically, the Commission finds it is appropriate to consider students at these facilities to be off-campus students because:
- a. These students have limited rights and privileges to use Foggy Bottom campus facilities or to participate in Foggy Bottom campus activities. *Id.* at Exhibit B at p. 3.
 - b. These students are not eligible to live in GW housing, do not have any rights to use the Lerner Health and Wellness Center, are not permitted to participate in organized intercollegiate athletics or student government, and generally do not participate in other student activities. *Id.* Students enrolled for at least one credit at the Foggy Bottom campus are eligible to use the Lerner Health & Wellness Center. *Id.* at p. 3 n. 2.
 - c. While these students are permitted to use the main library at the Foggy Bottom campus as well as the student bookstore, modern technologies and University policies, as well as a branch library at the Loudoun County campus, limit the need for these students to travel to the Foggy Bottom campus. *Id.* at pp. 3-4.

Office of Planning Report

10. In its report, the Office of Planning ("OP") agreed with the University's proposed definition, which it found was "intended to count every student having an individual effect on the [Foggy Bottom/West End] neighborhood." Exhibit 51 at p. 12 (OP Report). OP agreed with the exclusion of students "living at or attending all of their classes at [the] Mount Vernon Campus," but did not specifically address FBA's contention that GW's proposed method would not adequately measure the intensity of use of the campus. *Id.*

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Zoning Administrator Audit

11. At the request of OP as well as FBA and ANC 2A, the Office of the Zoning Administrator (“ZA”) conducted an audit of GW’s student enrollment to assess GW’s compliance with the 2000 campus plan as well as to “request Zoning Commission guidance in conducting future student counts in the District of Columbia.” Exhibit 81 at p. 1 (ZA Audit). The audit report explained GW’s enrollment methodology and its definitions, including how students at the Mount Vernon campus and other locations are counted, and the ZA accepted this explanation. *See id.* at pp. 2-3; *see also* Tr. Oct. 11, 2006 at pp. 29-30 (testimony of then-ZA Bill Crews stating “we accepted the university’s methodology of how they’re counting students”); Exhibit 81 at Appendix A pp. 3-8.
12. Based on the audit results, the ZA recommended that the Commission further “refine and clarify the definition and methodology for conducting future head counts.” *Id.* at p. 4. Specifically, the ZA recommended that Mount Vernon students who attend classes at Foggy Bottom should be included in the Foggy Bottom head count, even if they are already counted under the Mount Vernon campus plan. However, at the public hearing on the applications, the ZA clarified that this was his recommendation only, and that the ultimate decision was a “policy decision” left up to the Commission. *See* Tr. Oct. 11, 2006 at pp. 31-32 (“So whatever the Commission determines, the more specific the better, of what they consider to [be] a person having an impact on the neighborhood, the better off we all are.”).

FBA Argument

13. FBA proposed that a “Foggy Bottom student” should be defined as either all students enrolled at GW or “the number of persons being educated by GW who at any given time attend classes or have the right to use facilities at the Foggy Bottom campus” since “all such persons add to the intensity of uses” at Foggy Bottom. *See* Exhibit 207 at pp. 3-4 (FBA and ANC 2A joint submission regarding GW’s Proposed Conditions); *see also* Exhibit 187 at pp. 7-9 (FBA PowerPoint); Exhibit 188 at Tab 4 (FBA Memorandum regarding Enrollment Data). FBA testified that the University’s headcount methodology began with the reporting of students to the U.S. Department of Education and the Internal Revenue Service and then proceeded to eliminate categories of students, including students from the Loudoun County campus and other enrolled students such as students studying abroad, continuous enrollment students, and Mount Vernon students. Exhibit 48, Oberlander Declaration, at pp. 7-10; *see also* Exhibit 81 at Exhibit Q. In urging the Commission to focus on the intensity of use of the Foggy Bottom campus, FBA stated that there “is still too little information being disclosed about student enrollment,” even though the University had the burden of justifying its “primary relationship” proposal and exclusions of students from the overall limit. Exhibit 188 at Tab 4, p. 1.

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14. FBA testified that the University had changed methodologies over time and in FBA's view had been inconsistent in who was being counted. *Id.* at pp. 1-3. Essentially, FBA argued that GW should count students based on its total enrollment, as reported to such agencies as the Department of Education, or, at minimum, that headcount should include "every person educated by the university who has rights to use the facilities provided students at the Foggy Bottom campus, since all such persons add to the intensity of uses and thereby the impacts on the co-located residential community." Exhibit 207 at pp. 3-4; Exhibit 188 at Tab 4.
15. FBA's proposed findings of fact and conclusions of law included a holding that the University had not carried its burden as the Applicant on the methodology issue because it has "not provided adequate evidence to identify exactly how many students who live at Mt. Vernon and elsewhere are not being counted. Since the number of students is an important element of campus plan cases, since concerns about overenrollment were continuously expressed in the 2000 campus plan case and again in this case, this omission is serious." Exhibit 219, Proposed Conclusion of Law 4. c. 5.
16. With regard to Mount Vernon students, FBA stated that these students come to Foggy Bottom for classes and other activities and should be counted as Foggy Bottom students. *Id.* FBA cited findings in the ZA's audit that in the fall 2005 semester, 481 students who lived on the Mount Vernon campus were taking courses at the Foggy Bottom campus, including 292 (or 60%) who were taking 75% or more of their courses in Foggy Bottom, and, similarly, during the Spring 2006 semester, 427 students living at the Mount Vernon campus took classes at the Foggy Bottom campus, including 253 taking at least 75% of their courses at Foggy Bottom. Exhibit 81, Attachment p. 5.
17. FBA called for adoption of a definition that it claimed "realistically measures the impact of usage of the Foggy Bottom campus" and "to the extent that the Commission uses headcount, the standard should be objective, clear and enforceable." Exhibit 187 at p. 9. Under cross-examination, FBA's president testified that the focus should not be on where a student's "primary" activities took place, and that, as to students from other campuses, "If they use it, I guess they should count in some way," although she acknowledged that "it's very hard to quantify." *See* Tr. Sept. 28, 2006 at pp. 145-46.
18. The Zoning Administrator testified at the hearing that FBA's proposed definition of "persons being educated at any given time" was vague and that he would need "much more clarification" on how to count the number of Foggy Bottom students under that definition. Tr. Oct. 11, 2006 at p. 30.

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CONCLUSIONS OF LAW

The Zoning Regulations specify that the number of students is one factor that the Commission must take into account when assessing whether a university use in a Residence Zone is likely to become objectionable to neighboring property. (11 DCMR § 210.2.) The Applicant has proposed a Foggy Bottom campus enrollment methodology that is based upon whether a student enrolled in a creditable GW course maintains a primary relationship with the Foggy Bottom campus. The proposed methodology does not count students who reside at the Mount Vernon campus, even if they take classes at the Foggy Bottom campus; moreover, it does not count students who take all of their classes at the Mount Vernon campus. The proposed methodology also does not count off-campus students, including those students enrolled at the Loudoun County campus, at other learning sites, and through distance learning, unless they are also enrolled in a course at Foggy Bottom.

The Commission agrees with the University and OP that the determination of whether a student who is enrolled in a creditable course at GW is to be counted in the definition of Foggy Bottom student enrollment should be based on whether that student maintains a primary relationship with the Foggy Bottom campus. The University's proposed definition conforms to FBA's stated goal, which was to "realistically measure[] the impact of usage of the Foggy Bottom campus" with an "objective, clear and enforceable" standard. *See* Exhibit 187 at p. 9. The University presented sufficient evidence that the categories of students enrolled at GW but excluded from the definition of "Foggy Bottom students" have, by virtue of their primary relationship with another campus, limited contact with the Foggy Bottom campus. Therefore, the Commission finds that the categories of students excluded by GW are not likely to create impacts objectionable to property neighboring the Foggy Bottom campus due to noise, traffic, number of students, or other objectionable conditions, and should logically be excluded from the definition of a "Foggy Bottom student."

The Commission finds that the number of students who reside at the Mount Vernon campus or who take all of their classes at the Mount Vernon campus are not likely to generate impacts objectionable to property neighboring the Foggy Bottom campus due to noise, traffic, number of students, or other objectionable conditions. *See also* Tr. Mar. 12, 2007 at p.117 (concluding that students who live at Mount Vernon should not count towards the Foggy Bottom campus housing requirement). These students do not reside on the Foggy Bottom campus or in the residential neighborhoods surrounding the campus, and are unlikely to impose noise or other impacts related to student conduct. The University provides a shuttle bus between the two campuses and imposes parking policies that minimize the traffic and parking impacts of Mount Vernon residents who come to the Foggy Bottom campus. The impacts of these students are primarily experienced at the Mount Vernon campus, where they reside, and are accounted for under the Mount Vernon campus plan. The Commission does not agree with FBA's contention that the University has not met its burden on this point.

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The Commission finds that the other categories of off-campus students are appropriately excluded from the Foggy Bottom count because “they have extremely limited impact—if any at all—on the Foggy Bottom campus.” *See* Exhibit 99 at p. 4. These categories of students are generally not entitled to the full rights and privileges afforded to Foggy Bottom students, such as the right to live in University housing, use certain facilities, or participate in certain activities, and in any event are not likely to need or desire to come to the Foggy Bottom campus. To the extent that any off-campus student is enrolled in a class at the Foggy Bottom campus as well as at an off-campus location—and is therefore more likely to impose impacts on the Foggy Bottom campus—the University counts those students toward the Foggy Bottom student headcount and FTE count. *See id.* at Exhibit B p. 2.

The Commission therefore concludes that the Foggy Bottom student enrollment methodology set forth by the Applicant provides an appropriate standard by which to measure student impacts associated with the Foggy Bottom Campus Plan, because it accounts for all students who have a primary relationship with the Foggy Bottom campus and are therefore likely to generate impacts due to noise, number of students, traffic, parking, or other objectionable conditions. The Commission also concludes that the students not counted under this enrollment methodology are unlikely to generate impacts due to noise, number of students, traffic, parking, or other objectionable conditions. In particular, the Commission concludes that students who reside at the Mount Vernon campus are unlikely to create objectionable impacts at the Foggy Bottom campus because the Mount Vernon campus features its own facilities, services, and programming for these students and the University provides a shuttle service between the two campuses that ensures these students will not cause objectionable impacts due to traffic or parking. The Commission notes that this determination is consistent with the treatment of other institutions of higher education in the District of Columbia with satellite campuses, which do not count the students at such satellite locations within the applicable population counts for the main campus.

For these reasons, the Commission finds that that the University has met its burden on this point and rejects FBA’s contention that all students coming to the Foggy Bottom campus add to the strain on the neighborhood, and therefore should be counted in the campus plan, regardless of whether those students are also accounted for in the Mount Vernon plan. For this same reason, the Commission must disagree with the ZA’s suggestion that all Mount Vernon campus students who attend classes at the Foggy Bottom campus should be counted. The Commission does agree with the ZA that FBA’s proposed definition of “persons being educated at any given time” is vague and therefore would be difficult to apply.

The recommendations of OP are entitled to great weight under D.C. Official Code § 6-623.04 (2001). OP agreed with the Applicant’s proposed methodology and concluded it was “intended to count every student having an individual effect on the [Foggy Bottom/West End] neighborhood.”

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The Commission is required to accord the issues and concerns raised by ANC 2A the “great weight” to which they are entitled pursuant to D.C. Official Code § 1-308.10(d) (2001). The ANC did not submit comments in response to the Applicant’s proposed order in this remand proceeding and its written report originally submitted in response to the original application did not directly address the issue that was the subject of the remand.

DECISION

Based upon the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia hereby **ORDERS** that Zoning Commission Order No. 06-11/06-12, effective October 26, 2007, shall be supplemented by the addition of the above Findings of Fact and Conclusions of Law.

On May 24, 2010, upon motion by the Commissioner Turnbull, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; third Mayoral appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on June 18, 2010