

**EXECUTIVE OFFICE OF THE MAYOR
OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS**

NOTICE OF FUNDING AVAILABILITY

FY2011 Community Grant

Background Information on the grant:

The Mayor's Office on Asian and Pacific Islander Affairs (OAPIA) is soliciting grant applications from qualified community-based organizations (CBOs) serving the District's Asian and Pacific Islander (API) community for its FY 2011 Asian and Pacific Islander Community Grant. The grant is intended to fund programs that provide services to the District's API residents and/or merchants in the areas of health, education, housing, legal, public safety, business, and employment.

Amount of grant funds available and number of awards:

OAPIA expects to award up to 12 grants. Eligible CBOs can be funded up to \$60,000. CBOs, which collaborate with other organizations on a program(s), can be funded up to \$80,000.

Eligible organizations and entities:

Applicants must meet all of the following conditions:

- Is a nonprofit – 501(c)3 – organization
- Program/organization serves primarily API residents and/or merchants
- Program is located in the District of Columbia
- Has an organization operational budget of \$1,000,000 or less per year

Program scope: Focus of the grant will be to provide culturally and linguistically appropriate services in the areas of Education (all ages), Workforce Development, Economic Development, Housing Services, Legal Services, Health and Human Services, Public Safety, Arts, Culture and Humanities to the District's API residents and merchants.

Release Date of RFA: Monday, June 28, 2010

Availability of RFA: Download at OAPIA website (www.apia.dc.gov) and/or pick up a copy at OAPIA office's located at 441 4th Street, NW, 721N Washington, DC 20001

Pre-bidder's conference: Friday, July 2, 2010 from 10:00 am – 12:00 noon
441 4th Street, NW
11th Floor, Conference Room 1112
Washington, DC 20001

Deadline for Submission: Wednesday, July 29, 2009 at 12:00 pm
441 4th Street, NW **Suite 721 North**
Washington, DC 20001

Contact Name: Neel Saxena, OAPIA, (202) 727-3120, neel.saxena@dc.gov

CAPITAL CITY PUBLIC CHARTER SCHOOL

NOTICE OF INVITATION FOR BIDS

Food Services

Approximately 538 children in grades pre-K through eleventh, seeks requests for proposals, in accordance with D.C. Code section 38-1802.04(c)(1)(A), to provide one or more of the following types of equipment, furnishings, and services for the administration of both our lower and upper school.

Capital City Public Charter School

Will receive bids until

July 9, 2010 at 12:00 pm

Capital City Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack, and supper meals to children enrolled at the Lower and Upper School campuses for the 2010-2011 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Snack, and Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained from:

Justin Samples
3047 15th St, NW
Washington, DC 20009
Ph. No. 202-387-0309

OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA,
CHILD SUPPORT SERVICES DIVISION

NOTICE OF A PUBLIC MEETING

The District of Columbia' Child Support Guideline Commission's Public Meeting

Saturday, July 31, 2010, at 11:00 A.M.
Anacostia Public Library
1800 Good Hope Road, S.E.
Washington, DC 20020

The Office of the Attorney General for the District of Columbia, Child Support Services Division on behalf of the Child Support Guideline Commission (Commission) announces its public meeting in which it will elicit comments and recommendations from the public concerning the District's Child Support Guideline. The Commission's mission is to review the Child Support Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the guideline. In order to achieve its objectives, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend the July public meeting.

Persons wishing to Review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to testify should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-2131, or by e-mail at cory.chandler@dc.gov by Monday, July 26, 2010. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to testify. Persons wishing to testify should send nine (9) copies of their written testimony to the Office of the Attorney General for the District of Columbia, Child Support Services Division at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Monday, July 26, 2010 to:

Cory Chandler, Assistant Deputy Attorney General
Office of the Attorney General for the District of Columbia,
Child Support Services Division
441 4th Street, NW
Suite 550 North
Washington, D.C. 20001

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located 1200 First Street NE, Washington, DC, intends to issue a permit to District of Columbia Water and Sewer Authority (WASA), to construct and operate an expansion of an existing enhanced nitrogen removal facility located at the Blue Plains Wastewater Treatment Plant located at 5000 Overlook Ave SW, Washington DC 20032. The plans include installation and operation of new methanol and methanol/glycerol storage tanks and related feed systems, new denitrification reactors, and four (4) packed-tower counter-current water scrubbers to control methanol vapor and volatile organic compounds (VOCs) from methanol and methanol/glycerol storage tanks.

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

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

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington D.C. 20002

No written comments postmarked after July 25, 2010 will be accepted.

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

EXECUTIVE OFFICE OF THE MAYOR**SERVE DC- THE MAYOR'S OFFICE ON VOLUNTEERISM
DC COMMISSION ON NATIONAL AND
COMMUNITY SERVICE****PUBLIC MEETING**

The mission of Serve DC- The Mayor's Office on Volunteerism is to promote the District of Columbia's spirit of service through national service, partnerships and volunteerism.

The DC Commission on National and Community Service (Serve DC) is pleased to announce its next Commission meeting on:

Wednesday, July 7, 2010, 6 P.M. – 7 P.M.
Franklin D Reeves Municipal Center
2000 14th Street, NW
Cromwell Room – 2nd Floor
Washington, DC 20009

All meetings are open to the public. Meeting minutes can be obtained from 2000 14th Street, NW, Suite 101, Washington, DC 20009.

For additional information or to request a copy of the minutes, please call 202-727-7925.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
ANNOUNCEMENT OF AMENDMENT TO SOLICITATION FOR OFFERS

(62nd Street, NE)

The Department of Housing and Community Development (DHCD) is publicly announcing an amendment to the May 21, 2010 Solicitation of Offers for the development of several District-owned properties.

According to the Department of Consumer and Regulatory Affairs' Zoning Administrator, the following properties are zoned as **R-2**:

Square 5268, Lot 0009;
Square 5268, Lot 0010;
Square 5268, Lot 0011;
Square 5268, Lot 0012;
Square 5268, Lot 0013;

Be advised that it is the sole responsibility of the developer to confirm the zoning of a development site and the permitted uses of a development site as part of the due diligence for developing a proposal. DHCD's Property Acquisition and Disposition Division (PADD) makes no representation or warranty as to the accuracy or application of any zoning information.

The complete listing of District-owned properties included in the original Solicitation of Offers announcement, including the documentation needed to submit a proposal, is located on DHCD's website at www.dhcd.dc.gov. For further information and questions, please contact Adarsh Hathi, Realty Project Manager at adarsh.hathi@dc.gov or (202) 478-1351.

BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS

POSTPONEMENT OF MEETING

The District of Columbia Board of Real Property Assessments and Appeals hereby gives notice of postponement of an administrative meeting on Friday, June 25, 2010 at 2:00 p.m.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****2010-2011 Youth Risk Behavior Survey Administration**

The Office of the State Superintendent of Education (OSSE) will issue a request for applications for delivery of survey administration services for the 2010-2011 Youth Risk Behavior Survey in the District of Columbia.

The OSSE Division of Wellness and Nutrition Services, Healthy Youth Development Program is funded through a cooperative agreement with the Center for Disease Control's (CDC) Division of Adolescent and School Health (DASH) to collect data used to improve the health outcomes of students in grades six through twelve (6-12) in the District of Columbia. One project funded under this cooperative agreement is the administration of the biennial Youth Risk Behavior Survey (YRBS).

Eligible applicants include research centers, institutes of higher education, for profit and not for profit agencies with experience in school based survey administration.

The Request for Application (RFA) will be released on or after July 14, 2010 and will be available on the OSSE website at <http://www.osse.dc.gov> under Wellness and Nutrition Services, or through the District of Columbia Office of Partnerships and Grant Services website at <http://opgd.dc.gov>, under "District Grants Clearinghouse"; or by contacting Veronica Whycoff, OSSE, Wellness and Nutrition Services at veronica.whycoff@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****Early Childhood Higher Education Scholarship Program**

The District of Columbia Office of the State Superintendent of Education (OSSE) Division of Early Childhood Education (ECE) is responsible for coordinating early childhood education services to District of Columbia children and their families.

Request for Application:

OSSE will issue a Request for Application (RFA) to fund one (1) grant to support early childhood educators seeking higher education degrees. The grantee will be responsible for:

- Recruiting and establishing relationships with OSSE-approved colleges and universities;
- Recruiting scholarship recipients and their employers;
- Supporting scholarship recipients from the application to course completion and degree attainment;
- Seeking additional funds to support the scholarship program;
- Tracking scholarship recipients' progress and other related data in "real time";
- Ensuring that participants meet the scholarship retention requirements;
- Tracking scholarship recipients' retention goals and other related data in "real time";
- Ensuring that meaningful incentives are awarded to scholarship recipients;
- Tracking incentives and other related data in "real time".

Funds up to \$700,000.00 are available to support the grant awarded under this RFA. One hundred percent (100%) of the funding is made available from the U.S. Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) Child Care and Development Fund (CCDF).

Applicants must be a nonprofit organization licensed to do business in the District of Columbia. Applicants must have knowledge of the professional needs of the early childhood workforce in the District of Columbia, as demonstrated through prior experience in working with early childhood stakeholders, exposure to the demographic issues in the District, and familiarity with the higher education landscape and relevant resources necessary to further the objectives of this grant. Applicants cannot have a direct relationship with, or be a part of, any local early childhood program or higher education institution.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****Fiscal Year 2010 Mathematics and Science Partnerships (MSP) Program
Grant****REQUEST FOR APPLICATION RELEASE DATE: July 9, 2010****APPLICATION SUBMISSION DEADLINE: August 17, 2010**

The Division of Elementary and Secondary Education within the Office of the State Superintendent of Education (the "OSSE"), will be soliciting grant proposals from partnerships consisting of at least one District of Columbia high-need Local Education Agency (LEA) and one science, technology, engineering, and mathematics (STEM) department within an institution of higher education (IHE). A high-need LEA is defined as:

- an LEA that serves not fewer than 10,000 children from families with incomes below the poverty line;
- **or** for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
- for which there is a high percentage (thirty three 33 % or more) of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach or may have an emergency, or provisional, or temporary certification or licensing.

The purpose of the MSP Program Grant is to increase the academic achievement of students in mathematics and science by enhancing the content knowledge and teaching skills of classroom teachers. The funds may support any of the activities authorized under Part B of Title II of the Elementary and Secondary Education Act, as amended. To receive more information or for a copy of this RFA, please contact:

Sheryl Hamilton
Office of the State Superintendent of Education
810 First Street, NE, 5th Floor
Washington, D.C. 20002
Telephone: (202) 741-6404
Email: Sheryl.hamilton@dc.gov

The RFA and applications are also available on the www.osse.dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY**Fiscal Year 2011 McKinney-Vento Homeless Assistance Act Program Grant****REQUEST FOR APPLICATION RELEASE DATE: July 9, 2010****APPLICATION SUBMISSION DEADLINE: July 30, 2010**

The Division of Elementary and Secondary Education, within the Office of the State Superintendent of Education (the "OSSE"), will be soliciting grant proposals from District of Columbia local education agencies (LEAs). The purpose of the McKinney-Vento Homeless Assistance Act Program Grant is to assist LEAs in addressing the educational and related needs of homeless children and youth. LEAs, with or without this funding, must ensure that homeless children and youth have equal access to the same free, appropriate public education, including public preschool education, as provided to other children and youths. The funds may support any of the activities authorized under section 723(d) of the McKinney-Vento Act (42 U.S.C. 11433(d)), including but not limited to, the following:

- Supplemental educational services, such as tutoring and other academic enrichment programs;
- Defraying the excess cost of transportation in order to enable students to attend the school of origin; and
- Early childhood education programs for pre-school-aged homeless children.

To receive more information or for a copy of this RFA, please contact:

Sheryl Hamilton
Office of the State Superintendent of Education
810 First Street, NE, 5th Floor
Washington, D.C. 20002
Telephone: (202) 741-6404
Email: Sheryl.hamilton@dc.gov

The RFA and applications are also available on the www.osse.dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY**Fiscal Year 2011 Mathematics and Science Partnerships (MSP) Program
Grant****REQUEST FOR APPLICATION RELEASE DATE: July 9, 2010****APPLICATION SUBMISSION DEADLINE: August 17, 2010**

The Division of Elementary and Secondary Education within the Office of the State Superintendent of Education (the "OSSE"), will be soliciting grant proposals from partnerships consisting of at least one District of Columbia high-need Local Education Agency (LEA) and one science, technology, engineering, and mathematics (STEM) department within an institution of higher education (IHE). A high-need LEA is defined as:

- an LEA that serves not fewer than 10,000 children from families with incomes below the poverty line;
- **or** for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
- for which there is a high percentage (thirty three percent (33%) or more) of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach or may have an emergency, or provisional, or temporary certification or licensing.

The purpose of the MSP Program Grant is to increase the academic achievement of students in mathematics and science by enhancing the content knowledge and teaching skills of classroom teachers. The funds may support any of the activities authorized under Part B of Title II of the Elementary and Secondary Education Act, as amended. To receive more information or for a copy of this RFA, please contact:

Sheryl Hamilton
Office of the State Superintendent of Education
810 First Street, NE, 5th Floor
Washington, D.C. 20002
Telephone: (202) 741-6404
Email: Sheryl.hamilton@dc.gov

The RFA and applications are also available on the www.osse.dc.gov.

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

Appeal No. 17127-A on behalf of the Nebraska Avenue Neighborhood Association, pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decisions of the Department of Consumer and Regulatory Affairs in the issuance of Building Permit No. B456618 dated November 7, 2003, revision permits issued for the Sunrise Assisted Living Facility, located at 5111 Connecticut Avenue, N.W. in the R-2 and R-5-B¹ zone (Square 1989, Lot 162).

HEARING DATE: September 1, 2009
DECISION DATE: September 1, 2009

DECISION AND ORDER ON REMAND

This case was remanded to the Board of Zoning Adjustment (“Board” or “BZA”) for further proceedings consistent with the District of Columbia Court of Appeals (“Court of Appeals” or “Court”) decision in *Chiapella, et al. v. D.C. Bd. of Zoning Adjustment*, 954 A.2d 996 (D.C. 2008).

Procedural History

The Petitioner in *Chiapella* requested that the Court of Appeals review the Board’s order of June 2, 2005 (“2005 Order”) dismissing the Nebraska Avenue Neighborhood Association’s (“NANA’s” or “Appellant’s”) appeal of two building permits issued by the Department of Consumer and Regulatory Affairs (“DCRA”) on August 25 and November 7, 2003. Specifically, the Petitioner claimed that the Board erred in: (1) Dismissing the appeal of the August permit as untimely; (2) Dismissing NANA’s claim that the November permit allowed a trash room to unlawfully occupy part of the required rear yard, by finding that it was an accessory building; and (3) Dismissing NANA’s claim that the building proposed by the November permit would exceed matter-of-right floor area ratio (“FAR”) because the claim was not stated with particularity.

The Court of Appeals decision affirmed the Board’s dismissals relating to the timeliness of the August permit and NANA’s rear yard claim relating to the November permit. However, the Court found that the Board improperly dismissed NANA’s FAR claim without a hearing, concluding that “the question whether addition of the trash room resulted in a FAR beyond the allowable amount is a question of fact, and [NANA was] entitled to present evidence to support

¹ Although the subject property is currently zoned R-5-B, the base building permit, Building Permit No. B43564, was processed under R-5-D zoning controls.

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[its] claim at an evidentiary hearing.” *Chiapella*, 954 A.2d at 1004. The Court also found that the Board failed to hear or consider NANA’s claim that the November permit approved plans that no longer showed a required loading space.

In accordance with the Court’s ruling, the Board held an evidentiary hearing on September 1, 2009 to dispose of the FAR and loading issues. Each of the current Board members has read the record of this appeal as it existed prior to the issuance of the 2005 Order, including the initial hearing transcripts. Following the remand hearing, the Board deliberated and voted to deny the two remaining portions of the appeal.

Parties

The Appellant in this case is NANA. Advisory Neighborhood Commission 3/4G (“ANC 3/4G” or “the ANC”) was automatically a party to the appeal, as was DCRA and the property owner, Sunrise Connecticut Avenue Assisted Living, L.L.C. (“Sunrise”).

ANC 3/4G

The ANC filed two written reports with the Board prior to the Board’s original hearing on April 13, 2004. In a report dated February 27, 2004, ANC 3/4G indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted to support the appeal and to request party status. (Exhibit 13). In a report dated April 12, 2004, ANC Commissioner Christopher Fromboluti, a registered architect, expressed his concerns regarding the FAR and loading issues. (Exhibit 18). Mr. Fromboluti stated that the relocation of the trash room resulted in a FAR above the maximum permitted because the trash room structure was mostly a “basement” (which counts toward FAR) and the FAR calculations erroneously excluded this area. Mr. Fromboluti stated further that an electric transformer was improperly occupying a required loading berth.

Relevance of 2001 Order

In addition to the record and the portions of the 2005 Order not related to FAR, the findings of fact that follow also rely upon relevant findings made by the Board in *Appeal No. 16716A of Nebraska Avenue Neighborhood Association*, 48 DCR 10157 (2001) (“2001 Order”). That appeal challenged the decision of the Zoning Administrator (the “ZA”) to approve Building Permit No. B435464, the base building permit which allowed Sunrise to construct the assisted living facility.² NANA raised several issues during the 2001 appeal. Among other things, NANA argued that the approved building violated FAR requirements, and that the loading areas for the approved building were “inappropriate”.

² Between March, 2001 and March, 2003, NANA filed two other appeals with the Board alleging that the facility was in violation of several zoning regulations. The Board issued final orders in each of those matters. However, they are not germane to the current controversy.

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FINDINGS OF FACT

The Property

1. The subject property is located at 5111 Connecticut Avenue, N.W., Square 1989, and Lot 162.
2. On March 8, 2001, the date that the base building permit for the project (No. B43564) was issued, the site was zoned R-5-D and was located in Square 1989, Lots 49-57 and 161.
3. On June 28, 2002, Lots 49-57 were rezoned to the R-1-B zone district.
4. On November 7, 2003, DCRA issued Building Permit No. B456618, which authorized, among other things, the relocation of a trash room enclosure from a location adjacent to the alley stub to the southeastern corner of the site adjacent to the building.
5. NANA filed an appeal of the permit on January 6, 2004.
6. The grounds remaining for disposition are whether, as a result of the relocation of the trash room, the building permit allowed more FAR than permitted and required fewer loading facilities than required under the Zoning Regulations (Title 11 DCMR).

The FAR Issue

7. A maximum FAR of 3.5 is permitted in an R-5-D District. 11 DCMR § 402.4.
8. The Board has already determined that, prior to the relocation of the trash room, the building's FAR was 3.47. (2001 Order, Finding of Fact 32).
9. The difference between the 3.47 utilized and the 3.5 maximum FAR available resulted in a surplus FAR of approximately 187 feet prior to the relocation of the trash room.
10. The trash room enclosure is approximately 120 square feet.
11. The roof of the trash room enclosure was constructed at grade level. (2005 Order, Finding of Fact 16, quoted by the Court of Appeals in *Chiapella v. District of Columbia Bd. of Zoning Adjustment*, 954 A.2d at 1004).
12. Since the roof was constructed at grade, the portion of the structure below the roof would be below grade.
13. In addition, the ZA testified, and the Board so finds, that the plans for the November permit and photographic evidence show that the structure was underneath a layer of soil that was held back by a retaining wall that formed the boundary of the grade and, therefore, it was a structure below grade.

BZA APPLICATION NO. 17127-A**PAGE NO. 4****The Loading Issue**

14. The Board previously found that the Sunrise facility is a community residence facility intended to be operated as housing for persons with handicaps pursuant to 11 DCMR § 330.5(d)³ (2001 Order, Finding of Fact 21).
15. Subsection 2201.1 of the Zoning Regulations (Title 11 DCMR) provides that all new buildings or structures must be provided with loading berths, loading platforms, and service/delivery loading spaces as specified in the table appended to the provision.
16. There is no specific schedule for Community-Based Residential Facilities (“CBRFs”).
17. Finding of Fact 71 of the 2001 Order found that the ZA correctly applied the schedule applicable to “any other use” for which no specific schedule applies.
18. That schedule requires one loading space with a depth of 20 feet.
19. The original plans showed a loading space with the required 20-foot depth.
20. The revised plans show the trash room in place of the designated loading space.
21. Sunrise claims that this space, though no longer specifically identified in the plans, was rotated and still exists.
22. Exhibit 2, attachment B-1 shows an area adjacent to the public alley that, though not labeled as such, would provide sufficient room for a loading area. In addition, Exhibit 14, Tab B-3, shows that same approximate area labeled as “Loading Area 800 feet”.

CONCLUSIONS OF LAW

The Board is authorized by section 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(2) (2008 Repl.), to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer in the administration of the Zoning Regulations. The burden of proof rested with the Appellant, 11 DCMR § 3119.2.

Denial of FAR Claim

As to this portion of the remand, the question for the Board is whether the relocation of the trash room enclosure triggered additional gross floor area, thereby increasing the FAR, and whether any such increase exceeded that maximum amount of FAR permitted.

At the outset, the Board notes that both the Appellant and the ZA reviewed the November permit under the R-5-D FAR standard, even though the property had been rezoned to R-5-B before the

³ Current 11 DCMR § 330.5(d) was formerly cited as 11 DCMR § 330.5(i).

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revised permit was issued. The Board will therefore undertake its analysis based upon the R-5-D standard. In doing so, the Board does not intend to establish precedent concerning the application of § 3202.4, which vests construction rights based upon the date a building permit is issued, but provides that “[a]ny amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.”

The resolution of the FAR claim depends upon whether the relocation of the trash room increased FAR above the 3.5 limitation. The Board had previously concluded in its 2001 Order that prior to the relocation of the trash room, the project’s FAR was 3.47. The parties agree that the critical issue is whether all or part of the structure is below grade. That is because the computation of FAR only includes gross floor area. The definition of gross floor area does not expressly exclude buildings that are to be constructed entirely beneath grade. Rather, the definition of gross floor area found at 11 DCMR § 199.1 provides that “the term gross floor area includes basements, but not cellars.”

A cellar is defined as “that portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade” whereas a basement is “that portion of a story partly below grade, the ceiling of which is four feet (4 ft.) or more above the adjacent finished grade.” Since no portion of a story less than four feet above the adjacent finished grade is counted against FAR because it is a cellar, an accessory building constructed at or below grade is not counted either because it is a stand-alone cellar, or more logically is simply not counted because no portion is above grade.

It was the burden of the Appellant to prove that a portion of the trash room was above grade and, as to that portion above grade, provide an exact computation of FAR that allocates the portion that was a cellar and that which was a basement. This Appellant failed to do this. In fact, the Appellant never proffered what the final FAR was after the trash room was moved. When questioned by Vice-Chairman Dettman, the Appellant’s representative conceded that she was unable to calculate the gross floor area after the trash room was relocated. (Transcript, BZA Hearing of September 1, 2009, (“T.”) p. 373 – 375). Instead, the Appellant stated that she needed further “advice” from the ZA in order to make this calculation. (T., p. 375).

Even though this failure of proof is enough to deny the appeal, the Board concludes that there is sufficient evidence in the record to conclude that the structure was entirely below grade and therefore not countable towards FAR. First, there is the Board’s own finding in the 2005 Order that the roof of the structure was at grade, and the structure itself was, therefore, below grade. However, because it is not clear that this determination was “essential” to the Board’s disposition of the accessory building issue, see *Ali Baba Co., Inc. v. WILCO, Inc.* 482 A.2d 418, 421 (D.C. 1984), that finding does not have a preclusive effect. It is, however, corroborated by the photographic evidence presented by the ZA, and his interpretation of it. Therefore, the Board concludes the trash room was below grade and was properly excluded from the FAR calculation.

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Even if the accessory building were completely above grade, its contribution towards FAR would not have resulted in the facility's FAR exceeding 3.5 because the total square footage of the trash room of 120 square feet was less than the 187 square feet of surplus FAR available.

Denial of the Loading Claim

Likewise, the Appellant failed to establish that the ZA erred with respect to the loading requirements. The Board determined in 2001 that the Sunrise facility was a CBRF, not a 102-unit apartment building as claimed by the Appellant (T., p. 396). Because 11 DCMR § 2202.1 contains no specific schedule for a CBRF use, as it does for an apartment house, the Board found both that the ZA appropriately used the schedule pertaining to "any other use" and that the necessary facilities were provided.

The required facilities include one service/delivery loading space with a minimum depth of 20 feet. The original plans showed such a space that met this requirement. However, the plan for the relocated trash room showed that structure at a location where the loading space had been. The Appellant argues that the space no longer exists, while Sunrise claims that the space was re-located.

The Board agrees with the ZA that a properly dimensioned space was provided for on the revised plans. Specifically, Exhibit 2, attachment B-1 shows an area adjacent to the public alley that, though not labeled as such, could be used as a loading space with a depth of at least 20 feet. Thus, the missing loading berth has been accounted for.

ANC Issues and Concerns

Section 13(b) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(A)), requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC (herein referred to as the "Commission"). Specifically:

The written rationale of the decision shall articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In so doing, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission. Further, the government entity is required to support its position on the record.

The Board has considered the ANC's issues and concerns, but does not find the ANC's advice to be persuasive. The ANC asserted that the placement of dirt at the trash enclosure room was insufficient to create a below grade structure, and that most of the structure was a "basement" instead of a cellar. For the reasons explained above, the Board finds that the ZA did not err in finding that the trash room was below grade, and that its relocation had no impact on the FAR.

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The ANC asserts non-compliance with the loading requirements because it alleges that an electric transformer occupies the site of a required loading berth. If true, that would be a violation of the Zoning Regulations and the ANC could request DCRA to investigate the matter. However, the revised plans show the required number of loading facilities with no electric transformer present. Therefore, the ANC's concern is not relevant to this appeal.

Therefore, for the reasons stated above, it is hereby **ORDERED** that those portions of the appeal relating to the FAR claim and loading facilities claim, are hereby **DENIED**.

Vote taken on September 1, 2009

VOTE: **4-0-1** (Marc D. Loud, Shane L. Dettman, Meridith H. Moldenhauer and Michael G. Turnbull to Deny the appeal; No other Board member (vacant) participating)

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

A majority of the Board members approved the issuance of this Decision and Order, all of whom read the record on the appeal.

FINAL DATE OF ORDER: June 17, 2010

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

SG

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

Application No. 18067 of Marzieh Ostadhosseini, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the construction of a flat (two-family dwelling) in the R-4 District, at premises 1211 4th Street, N.W. (Square 523, Lot 866).

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. At the hearing, as a preliminary matter, the Board waived the 15-day posting requirement as well as the requirement that the applicant file the affidavit of posting five days prior to the hearing.

The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report in support of the application. The Office of Planning (“OP”) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 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 ANC and OP reports 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 a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 6 (Plans), is hereby **GRANTED**.

BZA APPLICATION NO. 18067

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VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman 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.

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, 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.

TWR

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

Application No. 18071 of The Washington Ballet, pursuant to 11 DCMR § 3104.1, for a special exception to allow a private ballet school with dormitory and ancillary office use for seven students, and two staff under section 206, in the R-2 District at premises 3704 Porter Street, N.W. (Square 1911, Lot 19).¹

HEARING DATE: June 15, 2010
DECISION DATE: June 15, 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”) 3C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C filed a letter, dated May 20, 2010, and a resolution in support of the application with one condition.² The ANC’s letter indicated that the ANC had voted unanimously (9:0) at its regularly-scheduled, duly-noticed meeting on May 17, 2010 at which a quorum was present. (Exhibit 26). The Office of Planning (“OP”) submitted a timely report recommending approval of the application on the condition that no vehicles are brought to the home by the student-residents. (Exhibit 29). Ten letters of support from nearby neighbors were submitted for the record. (Exhibits 22, 25, and Exhibit 27, Tab 6 (a-h)).

¹ The application, which had requested special exception and/or area variance relief under §§ 206 and 302 was at first amended to add a request for an area variance under § 199 to vary the definition of “family” to increase the number of occupants from six to nine to achieve the objectives of the original application. (Exhibit 27). Subsequently, at the hearing, the application was amended yet again so that the only relief needed was special exception relief under § 206 and the number of students went from six to seven and staff from three to two.

² The ANC asked for one condition that the students residing at the premises in the application not be allowed to bring cars to the campus. The Board adopted that condition.

BZA APPLICATION NO. 18071**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 § 206. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, that the requested relief can be granted 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 CONDITION:**

1. Students residing at 3704 Porter Street, N.W. shall not be permitted to park their vehicles at the campus.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg, Shane L. Dettman 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 22, 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 THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-08B
Z.C. Case No. 04-08B/02-45
(PUD Modification – St. Elizabeths Hospital)
May 10, 2010

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public meeting on May 10, 2010, the Commission approved an application from the D.C. Water and Sewer Authority (“DC WASA”) and the D.C. Department of Real Estate Services (“DRES”) (collectively, the “Applicant”) for a minor modification to a planned unit development (“PUD”) and related map amendment concerning St. Elizabeths Hospital to exclude certain areas from the approved PUD.

FINDINGS OF FACT

By Zoning Commission (“Z.C.”) Order No. 02-45, dated May 1, 2003, the Commission approved the application of the D.C. Department of Mental Health for first-stage review and approval of a PUD and related map amendment filed in order to permit St. Elizabeths Hospital to develop a new mental health hospital, parking, landscaping, stormwater controls, and related facilities. The PUD site that is the subject of Z.C. Order No. 02-45 consists of approximately 49.4 acres of land area located on an irregularly shaped parcel in the southeast part of the East Campus of St. Elizabeths Hospital. Z.C. Order No. 02-45 became final and effective upon publication in the *D.C. Register* on November 28, 2003, pursuant to 11 DCMR § 3028.

By Z.C. Order No. 04-08A, dated September 13, 2004, the Commission approved a minor modification to the first-stage PUD in order to add an additional 5.19 acres to the PUD site. Z.C. Order No. 04-08A became final and effective upon publication in the *D.C. Register* on December 24, 2004.

By Z.C. Order No. 04-08, dated January 13, 2005, the Commission granted second-stage approval for the PUD and related Zoning Map amendment. Z.C. Order No. 04-08 became final and effective upon publication in the *D.C. Register* on April 22, 2005.

By letter dated March 24, 2010, counsel for the Applicant requested a minor modification to the Commission’s prior approvals pursuant to § 3030 of the D.C. Zoning Regulations. The letter requested the Commission remove a five-acre portion of land from the PUD site. By letter dated April 12, 2010, counsel for the Applicant amended the modification to request removal of only a 3.3 acre portion of land from the PUD site, and provided a metes and bounds description of the land area to be removed from the PUD site. The land to be removed is located in the northwest corner of the PUD site, and is proposed as a new location for a water tower to be constructed by DC WASA. The removal of the land for the new water tower will reduce the overall size of the PUD site to 51.29 acres.

Pursuant to 11 DCMR § 3030.11, the Director of the Office of Zoning placed the request for a minor modification on the Commission's Consent Calendar Agenda for its public meeting of May 10, 2010. The D.C. Office of Planning submitted a report in support of the minor

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modification request dated April 30, 2010. At that meeting, the Commission voted to approve the modification as a minor modification.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant's proposed modification is minor and consistent with the intent of the Commission's prior approvals. The Commission concludes that the proposed modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of a minor modification to remove 3.3 acres of land from the PUD site that was approved in Z.C. Order Nos. 02-45 and 04-08, as amended by Z.C. Order No. 04-08A. The minor modification shall also remove the zoning designation from the land to be removed from the PUD site, such that the land shall revert to an unzoned designation. All other provisions and conditions of Z. C. Order Nos. 02-45, 04-08, and 04-08A remain in effect.

On May 10, 2010, upon motion of Chairman Hood, as seconded by Commissioner May, 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 § 3028.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 25, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-06**

Z.C. Case No. 10-06

**(D.C. Water and Sewer Authority and District Department of Real Estate Services –
Construction of a New Water Tower)**

May 10, 2010

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public meeting on May 10, 2010, where the Commission approved an application from the D.C. Water and Sewer Authority (“DC WASA”) and the D.C. Department of Real Estate Services (“DRES”) (collectively, the “Applicant”), pursuant to 11 DCMR § 2523.2, for review and approval of the design of a new water tower in excess of 90 feet of height on the East Campus of the St. Elizabeths Hospital.

SUMMARY ORDER

The property that is the subject of this application is a 3.3-acre portion of the East Campus of St. Elizabeths Hospital (the “Subject Property”), and is located to the northwest of the planned unit development (“PUD”) approved by the Commission in Zoning Commission (“Z.C.”) Order Nos. 02-45 and 04-08. Concurrent with this request, the Commission approved a minor modification to the PUD in order to remove the site of the proposed water tower from the PUD site. The Subject Property is, therefore, unzoned.

By text amendment approved by the Commission in Z.C. Order No. 09-10, the Commission authorized the construction of a water tower owned and operated by DC WASA on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital. (11 DCMR § 2523.1.) The text amendment requires that any water tower that exceeds 90 feet in height be reviewed and approved by the Commission prior to the issuance of a building permit. (11 DCMR § 2523.2.) The Department of Consumer and Regulatory Affairs has approved a waiver from the Height of Buildings Act of 1910 to accommodate the new water tower.

The Commission provided proper and timely notice of the public meeting on this application, as required by 11 DCMR § 2523.4, by mail to Advisory Neighborhood Commission (“ANC”) 8C. The Subject Property is located within the jurisdiction of ANC 8C. ANC 8C did not submit a report regarding the application. As permitted under 11 DCMR § 2523.7, the D.C. Office of Planning (“OP”) submitted a report dated April 30, 2010 in support of the application.

The Commission required the Applicant to satisfy the burden of proving the elements that are necessary to approve the project under 11 DCMR §§ 2523.2 and 3104.1. The Applicant provided plans and illustrations of the proposed water tower and identified how the proposed design met the standards of 11 DCMR § 2523.2 in its application package, as required under 11 DCMR § 2523.3.

No persons or parties appeared in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party. Based upon the record

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before the Commission, and having considered and given great weight to the report of OP, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 2523.2 and 3104.1, including the specific standards that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3000.8, the Commission has determined to waive the requirement of 11 DCMR § 3028.8 that findings of fact and conclusions of law accompany the order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is, therefore, **ORDERED** that the application be **GRANTED** subject to the following condition:

1. The water tower shall be consistent with the plans for either Option A or Option B as included in the Applicant's initial filing; provided, that the Applicant shall have the flexibility to modify the design to provide any illumination, lighting, or markings required by the Federal Aviation Administration or for other safety or security purposes.

On May 10, 2010, upon the motion of Chairman Hood, as seconded by Commissioner May, 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 § 3028.9, this Order shall become final and effective upon publication in the *D.C. Register*, that is on June 25, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 10-17
(Map Amendment from DC/SP-2 to DC/C-4
@ 1200 17th Street, N.W. – Square 160, Lot 809)
June 17, 2010**

THIS CASE IS OF INTEREST TO ANC 2B

On June 15, 2010, the Office of Zoning received an application from the National Restaurant Association (the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 160, Lot 809 in Northwest Washington, D.C. (Ward 2) at 1200 17th Street, N.W. The property is currently zoned DC/SP-2. The Applicant proposes a map amendment to rezone the property to DC/C-4.

The Applicant is requesting the rezoning to allow redevelopment of the site that is consistent with the high-density designation of the surrounding properties. The 17,013 square-foot-site is located within the Dupont Circle (“DC”) Overlay District and outside of the Dupont Circle and Sixteenth Streets historic districts. It is currently improved with the eight-story National Restaurant Association Building.

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