

Wittie Exhibit List

- Exhibit 1. Transfer of Lot 848
- Exhibit 2. Memo of P & A to Council's Motion to Dismiss pp. 19-21
- Exhibit 3. Memo of P & A to DC's Motion to Dismiss pp. 21-22
- Exhibit 4. Court Order Dismissing Case – 2/7/16
- Exhibit 5. Elevation Diagram
- Exhibit 6. Excerpts from Prior BZA Statements
- Exhibit 7. ANC3C Resolution 2016-031
- Exhibit 8. DGS Solicitation for Offers – 9/2014
- Exhibit 9. The Washington Post Article “D.C. Mayor’s Ambitious Plan for Homeless Families at Risk of Collapse” 4/18/16
- Exhibit 10. Cheh Letter dated 4/6/16
- Exhibit 11. DGS Letter dated 4/29/16
- Exhibit 12. Council Report on Bill 21-669 – Excerpt
- Exhibit 13. The Northwest Current Article “Parking added to shelter plan amid concerns” 2/8/17

National Park Service
National Capital Parks

LAND RECORD NO. 709

December 18, 1973

Reservation Nos. 631, 351L,
310C, 313, 325, 656, 326, 328,
329, 331, 331A, 17, 690, 340,
350, 452, 453, 505, 543, 625,
663, 674, 694, 696

District of Columbia

1. On December 18, 1973, the following DISPOSALS were recorded in the Land Records of National Capital Parks.

A. Transferred for recreation and related purposes:

1. Reservation 631 - Stevens Playground

Area: 229,154.- square feet

Assessed value of land: \$52,866.-

2. Reservation 351L - McLean Playground

Area: 126,319.- square feet

Assessed value of land: \$94,739.-

3. Reservation 310C - Park (Park Road and 19th St., N.W.)

Area: 9,037.- square feet

Assessed value of land: \$18,074.-

4. Reservation 313 - Loomis Park

Area: 102,964.- square feet

Assessed value of land: \$25,741.-

5. Reservation 325 and 656 - Book Hill Park

Area: 27,580.- square feet

Assessed value of land: \$24,756.-

6. Reservation 326 - Triangle

Area: 9,918.- square feet

Assessed value of land: \$4,959.-

7. Reservation 328 - Triangle

Area: 27,580.- square feet

Assessed value of land: \$41,370.-

8. Reservation 329 - Triangle
Area: 17,885.- square feet
Assessed value of land: \$26,827.-
9. Reservation 331 - Hobart Place Park
Area: 2,880.- square feet
Assessed value of land: \$2,016.-
10. Reservation 331A - Hobart Place Park
Area: 2,880.- square feet
Assessed value of land: \$2,016.-
11. Reservation 17 - Garfield Park
Area: 310,305.- square feet
Assessed value of land: \$620,600.-
12. Reservation 690 - Lovejoy Playground
Area: 11,605.- square feet
Assessed value of land: \$8,703.75
Improvements: \$41,905.-
13. Reservation 340 - Triangle
Area: 12,905.- square feet
Assessed value of land: \$9,678.72
14. Reservation 350 - Triangle
Area: 19,803.- square feet
Assessed value of land: \$5,940.96
15. Reservation 452 - Triangle
Area: 7,257.- square feet
Assessed value of land: \$362.83
16. Reservation 453 - Triangle
Area: 25,765.- square feet
Assessed value of land: \$772.96
17. Reservation 505 - Triangle
Area: 8,252.- square feet
Assessed value of land: \$6,436.56
18. Reservation 543 - Spring Valley Park
Area: 125,995.- square feet
Assessed value of land: \$18,889.25
19. Reservation 625 - Linnean Playground
Area: 246,700.- square feet
Assessed value of land: \$74,010.-

Kingsman

20. Reservation 663 - Kingman Playground

Area: 22,482.- square feet

Assessed value of land: \$3,249.58

21. Reservation 674 - Triangle

Area: 69,134.- square feet

Assessed value of land: \$20,740.23

22. Reservation 694 - Foxhall Playground

Area: 114,897.- square feet

Assessed value of land: \$63,193.35

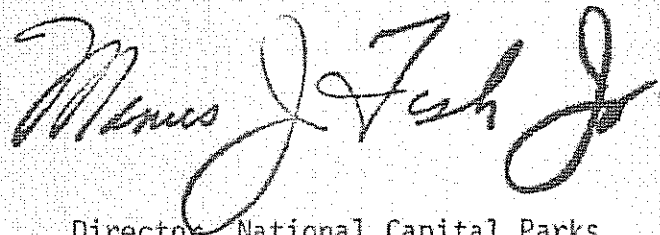
23. Reservation 696 - Neighborhood Park

Area: 21,825.- square feet

Assessed value of land: \$1,746.-

Transfer of jurisdiction, letter of February 16, 1971, Plat S. O. 70-281
Recorded on December 14, 1972, Office of the Surveyor District of
Columbia, Book 162, Page 2.

Plat assigned map file number NCP 7-425.



Director, National Capital Parks

TRANSFER OF JURISDICTION

Handwritten notes and signatures at the top of the page, including a signature that appears to be "H. H. ...".

<p>U.S. RES. 413</p>	<p>U.S. RES. 474</p>	<p>U.S. RES. 494</p>	<p>U.S. RES. 496</p>
<p>U.S. RES. 433</p>	<p>U.S. RES. 503</p>	<p>U.S. RES. 543</p>	<p>U.S. RES. 423</p>
<p>U.S. RES. 530</p>	<p>U.S. RES. 340</p>	<p>U.S. RES. 340</p>	<p>U.S. RES. 452</p>
<p>U.S. RES. 329</p>	<p>U.S. RES. 331</p>	<p>U.S. RES. 331-A</p>	<p>U.S. RES. 337</p>
<p>U.S. RES. 328.5</p>	<p>U.S. RES. 326</p>	<p>U.S. RES. 327-A</p>	<p>U.S. RES. 328</p>
<p>U.S. RES. 313</p>	<p>U.S. RES. 313</p>	<p>U.S. RES. 313-C</p>	<p>U.S. RES. 313</p>

gick

FEB 16 1971

MEMORANDUM (COP)

Gen. Walter E. Haskins
Director, National Park Service
Washington, D. C. 20541

FROM: [Name obscured]

RE: Five enclosures attached transfer of jurisdiction plats, S. O. 78-274; 78-275; 78-276; 78-277 and 78-278. The plats indicate portions to be transferred to the District Government. (See enclosed lists.)

The National Park Service properties are part of the list of lands to be transferred to the District and have been under administration since respective dates for the past two years, with a consolidation of the lists furnished with our letters of November 29, 1970, and December 11, 1970.

In accordance with the act of Congress approved May 20, 1954, (47 Stat. 161) the National Park Service hereby transfers jurisdiction over the areas set forth on the enclosed lists. The five signed enclosures are enclosed. After the District of Columbia Council issues the transfer orders forward the plats to the National Capital Planning Commission for their recommendations.

Thank you for your cooperation.

Sincerely yours,

(sgd) Russell E. Dickenson

General Superintendent

Enclosures

cc:

NCP Summary

NCP Files

Mr. Haskinsville

Supts. Taylor, Stanton & Martinek

Mr. Hagan

Mr. Cutler

Mr. [Name obscured]

Mr. Antosca-RSC

Mr. Warkle, D.C. Surveyor

Mr. Conrad, NCP

JANASISVALLEVERD 2/9/71

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

NEIGHBORS FOR RESPONSIVE GOVERNMENT, ET AL.)	
)	
Plaintiffs,)	
v.)	Case No. 16-CA-006290 B
)	Judge Jennifer A. Di Toro
)	Next Event: 12/9/16 Initial Conference
COUNCIL OF THE DISTRICT OF COLUMBIA, ET AL.)	
)	
Defendants.)	
)	

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
DEFENDANT COUNCIL OF THE DISTRICT OF COLUMBIA'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendant Council of the District of Columbia (“Council”), through counsel, submits this memorandum of points and authorities in support of its Motion to Dismiss the Complaint filed by Plaintiffs Neighbors for Responsive Government, *et al.* (“Plaintiffs”).

Introduction

Plaintiffs are a non-profit corporation and several individuals who reside within the boundaries of Advisory Neighborhood Commission 3C (“the ANC”). Together, they seek a declaratory judgment¹ that would invalidate section 3(a)(2) of the Homeless Shelter Replacement

¹ Plaintiffs also seek to enjoin the Defendants from taking any action furthering implementation of section 3(a)(2) of the Shelter Act. Having passed the legislation in question, however, no action remains to be taken by the Council. Notwithstanding that Plaintiffs’ request for injunctive relief against the Council is therefore moot, for all the reasons set forth herein regarding Plaintiffs’ claims of entitlement to declaratory relief, Plaintiffs’ assertion of entitlement to injunctive relief against the Council is similarly non-justiciable and otherwise precluded by law.

about, that question is not ripe for judicial resolution.” *Smith*, 310 A.2d at 231. Put another way, “an issue is ripe for adjudication only when the parties’ rights may be immediately affected by it.” *Allen v. United States*, 603 A.2d 1219, 1229 n.20 (D.C. 1992) (*en banc*). See also *Fraternal Order of Police, Metro. Labor Comm. v. District of Columbia*, 113 A.3d 195, 199 (D.C. 2015) (“‘[A] desire for vindication’ – that is, ‘a declaration that a person was wronged’ – is inadequate to create a live controversy.”) (quoting *Settemire v. District of Columbia Office of Employee Appeals*, 898 A.2d 902, 907 (D.C. 2006)); *Metro. Baptist Church v. District of Columbia Dept. of Consumer & Regulatory Affairs*, 718 A.2d 119, 130 (D.C. 1998) (noting that doctrine of ripeness correctly recognizes that “an adversary system can best adjudicate real, not abstract conflicts”).

Here, Plaintiffs mistake the effect of section 3(a)(2) of the Shelter Act, arguing that it constitutes a “‘change [in] the use of property owned or leased by or on behalf of the government,’” (Complaint at ¶ 40) (quoting D.C. Code § 1-309.10(b)), and a “‘final policy decision’ by defendants on ‘public improvements . . . affecting [the] ANC3C area,’” (Complaint at ¶ 43) (quoting D.C. Code § 1-309.10(c)(1)). According to Plaintiffs, the “shelter location” in Ward 3 is now “fixed by statute,” (Complaint at ¶ 52), and the Council has “plac[ed] thereon a 50-unit homeless shelter” (Complaint at ¶ 1). This simply is not true and demonstrates a fundamental misunderstanding of the Council’s action and the bill it passed. Section 3(a)(2) of the Shelter Act does not direct the construction of a shelter at the Idaho Avenue Site or any other location, nor does it specify that some set number of housing units be established within the bounds of the ANC. Instead, it authorizes, but does not require, the Mayor to use the funds that have been appropriated for capital project HSW03C to construct a shelter of up to 50 units at the Idaho Avenue Site. Similarly, Plaintiffs do not allege that the Mayor has taken any steps to

utilize these funds for the purpose of constructing the shelter in question, only that she “intends” to do so. (Complaint at ¶ 39). Given that the harm alleged in Plaintiffs’ Complaint, the “placing” on the Idaho Avenue Site of “a 50-unit homeless shelter,” (Complaint at ¶ 1), unquestionably “depends on contingencies which may not come about,” *Smith*, 310 A.2d at 231 (citation omitted), Plaintiffs’ claim of entitlement to declaratory relief is not yet ripe.⁵⁷

Furthermore, Plaintiffs’ own Complaint concedes that judicial resolution of its claims is premature for another reason: the fact that the Idaho Avenue Site “even under the existing zoning, would require a special exception from the Board of Zoning Adjustments” (ANC 3C Resolution No. 2016-031 (June 20, 2016) (Exhibit 2 to Plaintiffs’ Complaint)).⁵⁸ Section

⁵⁷ Relatedly, Plaintiffs allege that the Shelter Act “authorizes the Mayor to award a contract for construction of the shelter on the Site via a Request for Proposals to be issued by the Department of General Services.” (Complaint at ¶ 38). However, section 4 of the Shelter Act makes clear that, to the extent required by section 451 of the Home Rule Act, any contract entered into by the Mayor must be submitted to the Council for its approval. (Shelter Act at § 4). Accordingly, the Shelter Act does not confer on the Mayor authorization to enter into any contract that she does not already possess the inherent authority to enter.

⁵⁸ The ANC is correct that constructing a shelter containing up to 50 housing units at the Idaho Avenue Site, which is zoned RA-1, *see* <http://maps.dcoz.dc.gov/zr16>, will require the District to obtain zoning relief from the Board of Zoning Adjustment. *See* 11-U DCMR § 420.1(f) (permitting only by special exception in zone RA-1 “[e]mergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families,” provided, among other conditions, that “[t]here shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility,” “[t]he proposed facility shall meet all applicable code and licensing requirements,” “[t]he facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area,” and that “[t]he Board of Zoning Adjustment may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District”). The concerns raised by the ANC in its Resolution No. 2016-031, regarding a potential change in use of the Idaho Avenue Site, such as co-location of a shelter with the existing police station, parking, and the potential use of an alternative site or sites (Exhibit 2 to Complaint at ¶ 4), all fall within the ambit of the factors that the BZA must consider in determining whether to permit the required special exception. Moreover, as noted above, the ANC objected to, and the Council removed from the introduced version of the Shelter

13(c)(4) of the ANC Act (D.C. Official Code § 1-309.10(c)(4)) requires the Office of Zoning to provide each affected ANC with notice of “applications, public hearings, proposed actions, and actions on all zoning cases,” and section 13(d) (D.C. Official Code § 1-309.10(d)) requires an affected ANC to consider each such action and the District to give great weight to the issues and concerns raised by the affected ANC. For that reason, the ANC in this case will have every opportunity to make its concerns regarding the change in use of the Idaho Avenue Site known to the BZA, the government entity charged with responsibility for addressing the land-use issues raised by the Plaintiffs.⁵⁹ The Complaint’s admission of the necessity for zoning relief in connection with the placement of a shelter at the Idaho Avenue Site therefore fatally undermines Plaintiffs’ allegation that their “only meaningful remedy” is for section 3(a)(2) of the Shelter Act “to be declared unlawful, null and void.” (Complaint at ¶ 53).

Act, language that would have expressed the “sense of the Council” that it “supports the approval by the Board of Zoning Adjustment of such special exceptions and variances as needed for each of the projects” *Compare* Bill 21-620 (introduced version), available at <http://lims.dccouncil.us/Download/35335/B21-0620-Introduction.pdf> with Bill 21-620 (enrolled version), available at <http://lims.dccouncil.us/Download/35335/B21-0620-Enrollment.pdf>. Thus, the Council has taken no position on, and in any event the BZA remains free to grant or deny, a special exception for the construction of a shelter containing up to 50 housing units at the Idaho Avenue Site.

⁵⁹ Notably, the Council itself has no authority over zoning matters. Section 492(a) of the District Charter amended section 1 of An Act To regulate the height, area, and use of buildings in the District of Columbia and to create a Zoning Commission, and for other purposes, approved March 1, 1920 (41 Stat. 500; D.C. Code 6-621.01), adding a new subsection (e) to provide that “[t]he Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law.” D.C. Official Code § 6-621.01(e). The Zoning Commission’s jurisdiction over zoning matters is therefore exclusive. *See Tenley & Cleveland Park Emergency Comm.*, 550 A.2d at 336 (“Thus, the Home Rule Act explicitly provides that the Zoning Commission is the exclusive agency vested with the authority to enact zoning regulations for the District of Columbia.”). In turn, the BZA’s role is “to assure that the regulations adopted by the Zoning Commission are followed.” *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1034 (D.C. 1995). Accordingly, to the extent Plaintiffs’ comments and recommendations relate to the potential change in use of the Idaho Avenue Site, they should not have been directed to the Council in the first instance, but rather to the appropriate zoning authority, in this case the BZA.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

<p>NEIGHBORS FOR RESPONSIVE GOVERNMENT, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>COUNCIL OF THE DISTRICT OF COLUMBIA, <i>et al.</i>,</p> <p>Defendants.</p>	<p>Case No. 2016 CA 006290 B Judge Jennifer A. Di Toro Next Event: Initial Conference December 9, 2016</p>
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE
DISTRICT OF COLUMBIA'S MOTION TO DISMISS COMPLAINT

INTRODUCTION

Plaintiffs challenge the lawfulness and validity of paragraph 3(a)(2) of D.C. Law 21-141, the “Homeless Shelter Replacement Act of 2016” (the Homeless Shelter Act), which authorizes steps prefatory to construction of a homeless shelter in Ward 3.¹ The challenged paragraph conditionally authorizes construction of a shelter for homeless families on land located at 3320 Idaho Avenue N.W. (the Police Station site).² Plaintiffs claim that the Council of the District of Columbia (the Council) was required to provide particular advance notice before approving paragraph 3(a)(2)

¹ A wholly separate set of plaintiffs’, though with the same counsel, has brought a nearly identical action challenging the paragraph authorizing construction of a homeless shelter in Ward 5. *Citizens for Responsible Options, et al. v. Council of the District of Columbia, et al.*, 2016 CA 007152 B (Judge Irving).

² For the Court’s convenience, the District will use plaintiffs’ terminology and refer to the 3320 Idaho Avenue, N.W. location selected in paragraph 3(a)(2) of the Homeless Shelter Act as “the Police Station site.”

his concerns at the hearing—and there are no facts alleged, in the complaint or elsewhere, that he did not attend, nor that he voiced no concerns in another way—he was certainly given notice and the opportunity both to attend the Council hearing and meetings and to comment whether he attended or not. Because the language complained of resulted only from a modification of an announced plan, no further notice was required by the ANC Act and, thus, this case should be dismissed.

D. No Notice Is Required Because No Final Action Towards Construction Has Been Taken.

The ANC Act requires that commissioners be advised before certain actions are taken, but only *final* actions. Because the Homeless Shelter Act only authorizes preliminary actions, none of which would allow the construction complained of, no notice was required. An action that only sets forth how a construction project may proceed but does not authorize construction is not final. *Cf. Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 1165-66 (D.C. 2009) (“The decision did not allow GW to begin construction, but rather only set forth the conditions under which the Commission would allow GW to continue with the zoning process.”)

The Homeless Shelter Act only *authorizes* mayoral actions rather than commanding them, and those actions are only ones that must be made *prefatory* to any decision to begin construction of the various shelters. *See* the Homeless Shelter Act, § 3(a)(2), Compl. (Dkt. No. 1) Ex. 1 at 2-3 (“The Mayor is authorized to use funds ... provided, that the contract” be approved by the Council). No final decision has been made about construction of a shelter at the Police Station site because

none has been authorized. *See* Sec. IV below. Thus, even if plaintiffs were correct that the Council or the Mayor is required to provide advance notice under the ANC Act for some of the actions, neither is required to do so under the circumstances presented in this case.

III. Plaintiffs Lack Standing to Maintain This Action as They Were Not Denied Their Rights Under the ANC Act Because They Received Adequate Notice and Their Concerns Were Heard.

Plaintiffs here complain that the Council and the Mayor failed to provide notice required by the ANC Act and, thus, denied them an opportunity to comment regarding the enactment of the Homeless Shelter Act. *See, e.g.*, Compl. (Dkt. No. 1) at ¶ 35. Plaintiffs are mistaken. Even if plaintiffs had a right to advance notice under the ANC Act, plaintiffs received sufficient notice to satisfy the ANC Act and, thus, have had the opportunity to exercise all of their rights under that act. Therefore, plaintiffs have not suffered an injury under the ANC Act sufficient to grant them standing and the case should be dismissed.

A. Plaintiffs Had Actual Notice Under the ANC Act, Because they Knew of the Proposal Prior to its Passage.

The Court should dismiss the complaint because plaintiffs received actual notice of the proposed actions well before the actions were taken and still longer before the law became effective. When a party has received actual notice of a proposed action, failure to provide formal notice under the ANC Act is harmless error. *Shiflett v. D.C. Bd. of Appeals & Review*, 431 A.2d 9, 11 (D.C. 1981) (“[I]t is error to fail to notify an ANC of applications for building permits in its area, but ...

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**

<p>NEIGHBORS FOR RESPONSIVE GOVERNMENT ET AL.,</p> <p style="text-align:center">Plaintiffs,</p> <p>v.</p> <p>MAYOR MURIEL BOWSER, DISTRICT OF COLUMBIA, et al.,</p> <p style="text-align:center">Defendants.</p>	<p>Case No. 2016 CA 006290 B Judge Jennifer A. Di Toro</p>
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ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

In the case before the Court, Plaintiffs challenge the validity of paragraph 3(a)(2) of D.C. Act 21-141, the “Homeless Shelter Replacement Act of 2016” (“Shelter Act”), which authorizes the steps required prior to construction of a homeless shelter located at 3320 Idaho Avenue, N.W. in Washington D.C. (“Police Station site”). Plaintiffs, individual residents of the District of Columbia who own and reside in properties within the geographic boundaries of Advisory Neighborhood Commission (“ANC”) 3C, claim that the Council of the District of Columbia (“Council”) and the Mayor of the District of Columbia (“Mayor”) failed to comply with the ANC Act before enacting the Shelter Act, specifically, that the Council, sitting as the Committee of the Whole, revised paragraph 3(a)(2) without notice to the ANC. *See* Compl. ¶ 26. Plaintiffs contend that because Defendants thereby deprived Plaintiffs of their legally protected right to raise issues and express concerns before the Council and the Mayor acted, “the only remedy that will vindicate that right is for the Court to invalidate that portion of D.C. Law 21-412 that designates the Police Station site as the location for a Ward 3 homeless shelter, and require any further selection process for a homeless shelter site in Ward 3 to proceed with proper ANC notice and consultation....” Pl. Mot. Summ. J. at 3-4. Defendants counter that Plaintiffs lack

standing to maintain this action, as they have not suffered an injury to a concrete interest, and even if the Court were to find that Plaintiffs have standing, that the ANC Act does not require notice of the challenged actions of the Council and the Mayor. Def. Council's MTD at 22-25. Defendants argue that even if notice were required, Plaintiffs were afforded substantial advance notice by other means such that Plaintiffs cannot be found to have suffered justiciable injury. *Id.* at 27-28. Finally, Defendants argue that the case should be dismissed because this Court lacks authority to resolve a dispute where the controversy "involves a political question . . . where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department." *Id.* at 30 (citing *Zivotofsky v. Clinton*, 566 U.S. 189, 195 (2012)) (internal citations omitted). The Court concludes that even making all inferences in favor of Plaintiffs, Plaintiffs have failed to state a claim on which relief can be granted under D.C. Super. Ct. Civ. R. 12(b)(6). Plaintiffs have not set forth sufficient evidence to prove such intentional or unjustified failure by the Defendants to comply with the requirements of the ANC Act that would implicate a constitutional question and confer jurisdiction on this Court. Moreover, Plaintiffs' claim of lack of notice cannot stand without a concurrent claim of concrete injury, which Plaintiffs have not alleged they suffered. Without concrete injury, as explained below, the case cannot proceed and the motion to dismiss shall therefore be granted.

I. Relevant Factual Background

On February 11, 2016, the Mayor introduced Bill 21-0620, proposed legislation that sought the Council's approval of the terms of a series of leases for property to be used by the District to provide temporary shelter for families experiencing homelessness. Def. Council Opp. to MSJ at 2, n.2. Among the agreements for which the Mayor sought approval was described via a January 8, 2016 letter of intent for the lease of premises at 2619 Wisconsin Avenue, N.W., located within

the bounds of ANC 3C in Ward 3. *Id.* As introduced, Bill 21-0260 also would have exempted the final lease agreements from certain requirements of the District's procurement laws and expressed the support of the Council for expedited review and zoning approval by the Board of Zoning Adjustment ("BZA"). *Id.* Accompanying Bill 21-0620 was an emergency version of the legislation, Bill 21-618, including substantively identical provisions. Pl. SMF at 1, ¶ 4. On February 19, 2016, the Council noticed a March 17, 2016 public hearing regarding Bill 21-0620. Def. Council Opp. to MSJ at 2, n. 6.

On March 14, 2016, the ANC met concerning the proposed shelter legislation. *Id.* n.7. D.C. Councilmember Mary M. Cheh attended the meeting and agreed with some of the community's concerns. *Id.* n. 8. That same day, the ANC passed ANC 3C Resolution No. 2016-013, asking the Council to consider several issues related to Bill 21-0620. *Id.* at 3. A number of concerns were expressed in the ANC Resolution, which were submitted together with written testimony to the Council, including the ANC's opposition to the request for expedited review by the Board of Zoning Adjustment, to the waiver of District procurement law in connection with Council approval of the final lease, and to the emergency version of the legislation which would require only a single vote by the Council to ensure passage. *Id.* at 3, n. 10. On April 6, 2016, Councilmember Cheh proposed three alternate sites for a temporary homeless shelter in Ward 3. *Id.*, Ex. 2A (letter from Councilmember Cheh, April 6, 2016). The first proposed alternate site was the site of the Metropolitan Police Department's Second District Station at 3320 Idaho Avenue, N.W. *Id.* On April 13, 2016, Councilmember Cheh sent an email to all of the Ward 3 ANC Commissioners reporting that she had requested that the Mayor and the Department of General Services ("DGS") consider the alternate sites for placement of the Ward 3 shelter,

including the Idaho Avenue site. *Id.*, Ex. 2 (Declaration of Councilmember Mary M. Cheh at ¶ 4).

In May 2016, local news channels reported on Council Chairman Philip H. Mendelson's plan to utilize District-owned property to for the site of the shelter. *Id.* Ex. 1 (Declaration of Council Chairman Philip H. Mendelson at ¶ 3). On May 16, 2016, the Council's Committee of the Whole posted the revised version of Bill 21-260 to Chairman Mendelson's website. *Id.* at Ex. 1, ¶ 4. The revised Bill 21-620 was then issued on May 16, 2016, authorizing the Mayor to use funds appropriated for the placement of a temporary homeless shelter in Ward 3 at the Police Station site. *Id.* ANC 3C met that same evening. *Id.* at 5. On May 17, 2016, the Council voted unanimously to pass the revised version of Bill 21-620, rather than the emergency version of Bill 620. *Id.*, n. 23.

On May 26, 2016, a public meeting was held in Ward 3, at which Councilmembers Cheh and Mendelson were present, to address local residents' concerns regarding placement of a shelter at the Police Station site. *Id.* at 6, n. 24. On May 31, 2016, the Council voted unanimously to pass a revised version of the Bill to specify that the shelter site would have no more than 50 housing units. *Id.*, n. 27. The final legislation, the "Homeless Shelter Requirement Act," ("Shelter Act") became effective on July 29, 2016, following the required 3-day period of congressional review. *Id.*; *see also* D.C. Law 21-141; 63 DCR 8435.

II. Legal Standard

In determining whether a complaint sufficiently sets forth a claim to survive a motion to dismiss, the court must construe the complaint in the light most favorable to the plaintiff and must take the facts alleged in the complaint as true. *Casco Marina Dev., L.L.C., v. District of Columbia Redevelopment Land Agency*, 834 A.2d 77, 81 (D.C. 2003). However, "the tenet that

a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice,” and “unadorned, the-defendant-unlawfully-harmed-me accusation[s]” also are insufficient. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (“a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.”). Rather, “[t]o survive a motion to dismiss [under Rule 12 (b)(6)], a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Potomac Dev. Corp. v. District of Columbia*, 28 A.3d 531, 544 (D.C. 2011) (quoting *Ashcroft*, 556 U.S. at 678); *see also Bell Atl. Corp.*, 550 U.S. at 555 (“Factual allegations must be enough to raise a right to relief above the speculative level.”). Likewise, “[w]here a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of entitlement to relief.’” *Id.*

In addition to the facts pled, a motion to dismiss pursuant to Rule 12 (b)(6) may rely upon documents that are in the public record or are referred to in the complaint. *Chamberlain v. Am. Honda Fin. Corp.*, 931 A.2d 1018, 1025 (D.C. 2007) (“Documents that a defendant attached to a motion to dismiss are considered part of the pleadings if they are referred to in plaintiff’s complaint and are central to her claim.”); *see also Buaiz v. United States*, 471 F. Supp. 2d 129, 134 (D.D.C. 2007) (citing *Gustave-Schmidt v. Chao*, 226 F. Supp. 2d 191, 196 (D.D.C. 2002))

(in addition to relying on the allegations in the Complaint, the Court may rely upon “documents attached as exhibits or incorporated by reference in the complaint, and matters about which the Court may take judicial notice.”). The Court cannot, however, consider matters outside the pleading when ruling on a motion to dismiss without converting the motion to one for summary judgment. *See* Super. Ct. Civ. R. 12(b) (“If, on a motion asserting the defense numbered (6) to dismiss for failure to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment...”); *see also Washkoviak v. Sallie Mae*, 900 A.2d 168, 177-78 (D.C. 2006). In this case, both parties have cited matters of public record of which the Court is entitled to take notice without converting the motion to one for summary judgment. *Drake v. McNair*, 933 A.2d 607, 616 (D.C. 2010); *Cagliotti v. District Hosp. Partners, LP*, 933 A.2d 800, 807 (D.C. 2007). The Court therefore shall consider whether Plaintiffs’ claims survive a Motion to Dismiss under Rule 12(b)(6).

III. Analysis

A. Political Question

In 1973, Congress passed the District of Columbia Self-Government and Government Reorganization Act, Pub. L. No. 93-198, 87 Stat. 777, commonly known as the “Home Rule Act.” “The Home Rule Act operates much like a state constitution, and it specifies that the Council has no authority to pass any act contrary to its provisions.” D.C. Code § 1-207.71(c); *Washington D.C. Ass’n of Realtors, Inc. v. District of Columbia*, 44 A.3d 299, 301 (D.C. 2012). The District of Columbia Charter is set out in Title IV of the Home Rule Act and establishes the organizational structure of the District Government. (codified at D.C. Code §§ 1-204.01-1-204.115 (2006)). The Charter created a tripartite form of government such that “the same

general principles should govern the exercise of such power in the District Charter as are applicable to the three branches of government at the federal level.” *Wilson v. Kelly*, 615 A.2d 229, 231 (D.C. 1992). Defendants argue that this case should be dismissed because section 404(c) of the District Charter firmly commits to the discretion of the Council the establishment of procedures for public notification of intended Council actions. See D.C. Code § 1-204.04 (“the council shall adopt and publish rules of procedures which shall include provisions for adequate public notification of intended actions of the Council”) ; see also *Baker v. Carr*, 369 U.S. 186, 217 (“Prominent on the surface of any case held to involve a political question,” is a “textually demonstrable constitutional commitment of the issue to a coordinate political department.”). The District further alleges that the the ANC Act could not require advance notice of the actions involved in enactment of legislation because the requirements of legislative enactment are set by the Charter and prior notification of an ANC is not among them.¹ Defendants contend that one legislature cannot bind a future legislation and for any conflict, “the later statute supercedes the earlier.” Council’s Reply in Support of MTD at 6 (quoting *Washington D.C. Ass’n of Realtors*, 44 A.3d at 306). The Plaintiffs note that the provision requiring the Council to notify the ANC is not in direct contravention with any provision of the Home Rule Act.² District MTD at 12. ANCs are political subdivisions of the District of Columbia government and therefore do not receive due process protections under the

¹ Defendants argue that the District’s Charter, part of the Home Rule Act, does not include prior notification of an ANC as among the requirements for enactment of a law in the District. Specifically, neither Section 404(4) of the Home Rule Act, which defines the procedures by which the Council and Mayor approve legislation, nor Section 606(c), which defines the congressional review period, includes any requirement that notice be given to any entity other than Congress. Def. MTD at 13; citing D.C. Code § 1-204.04(3) (Home Rule Act); § 1-206.02(c) (Congressional review period). Drawing all inferences in Plaintiffs’ favor, the Court will address their claims without concluding that the requirement of ANC notification is properly considered part of the legislative enactment procedure.

² On December 20, 2016, the Council passed the Advisory Neighborhood Commissions Omnibus Amendment Act of 2016 (B21-0697), in part to clarify that the only actions for which all District agencies must give ANCs a 30-day notice are the intent to acquire property or the intent to change the use of a property the government owns or leases. The bill exempts the Council from this advance notice requirement.

Constitution against actions of the District of Columbia. *Williams v. Baltimore*, 289 U.S. 36, 40 (1933). However, this case is brought by the individual residents who own and reside in properties within the geographic boundaries of ANC 3C who do have due process protections under the Constitution. Thus the Court must determine whether the procedural flaw has violated a substantive right.

B. Standing

In order for a Court to adjudicate a question, Plaintiffs must first establish that they have standing under Article III of the Constitution, which limits the reach of the judiciary to cases and controversies. *See* U.S. Const. art. III § 2; *Allen v. Wright*, 468 U.S. 737, 750, 104 S.Ct. 3315, 82 L.Ed. 2d 556 (1984). Although the Superior Court of the District of Columbia was established under Article I of the United States Constitution, it generally adheres to the “case and controversy requirement of Article III as well as prudential principles of standing, and “looks to federal standing jurisprudence, both constitutional and prudential, when considering issues of standing.” *Riverside Hosp. v. District of Columbia Dep’t of Health*, 944 A.2d 1098, 1104 (D.C. 2008); *Padou v. District of Columbia*, 77 A.3d 383, 389 n. 6 (D.C. 2013); *Padou v. District of Columbia Alcoholic Bev. Control Bd.*, 70 A.3d 201, 211 (D.C. 2013). As standing is an “essential and unchanging part of the case or controversy requirement,” a finding that Plaintiffs in the case before this Court have standing is a necessary predicate to the exercise of the Court’s jurisdiction over this matter. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed. 2d 351 (1992). Viewing the question of standing in the context of a motion to dismiss, the Court “may either rule upon the Complaint’s well-pleaded allegations, or alternatively, order the plaintiff to demonstrate its standing by affidavit.” *Grayson v. AT&T Corp.*, 15 A.3d 219, 245-46 (D.C. 2011).

Plaintiffs argue that their case presents a justiciable issue because the Council and the Mayor improperly bypassed the statutorily prescribed procedure “that would have required them to give great weight to ANC issues and concerns that would have been raised via the pre-enactment ANC consultation process.” Specifically, Plaintiffs argue that Defendants failed to follow the requirements of D.C. Code § 1-309.10(b) and to afford them, 30 days in advance, “written notice by first-class mail to . . . the Commissioner representing a single-member district affected by said actions.” Compl. ¶ 28. The Court recognizes that Plaintiffs who claim a procedural injury such as this one may have standing, because “a person who has been accorded a procedural right to protect his concrete interests can assert that right without meeting all the normal standards for redressibility and immediacy.” *Lujan*, 504 U.S. at 572 n. 7; *see also Kopff v. D.C. Alcoholic Beverage Control Bd.*, 381 A.2d 1372, 1377 (D.C. 1977). However, a plaintiff who alleges a deprivation of a procedural protection to which he is entitled still must demonstrate more than simply procedural injury; there must also be an actual injury flowing from the procedural flaw. *See Smith v. Henderson*, 982 F. Supp. 2d 32, 42 (D.D.C. 2013). In the absence of a substantive injury that would otherwise confer Article III standing, the procedural injury doctrine “could swallow” essential standing requirements. *Id.* at 42. The Court is therefore required to consider whether Plaintiffs’ claim that the lack of notice and the alleged “ANC’s inadequate presentation of neighborhood views” constitutes concrete injury sufficient to confer standing. Pl. Opp. District MTD at 4, (citing *Kopff*, 381 A.2d at 1377).

As established by the Supreme Court, denial of the ability to file comments is not a sufficient injury in fact to satisfy the requirements of standing. *Summers v. Earth Island Inst.*, 555 U.S. 488, 496-97 (2009); *Lujan*, 504 U.S. at 556. *Summers* is instructive. There, petitioners filed suit based on alleged violations of the Forest Service Decisionmaking and Appeals Reform

Act. *Summers*, 555 U.S. at 490. While there was no dispute that petitioners had been denied a procedural right conferred by statute, the Court held that no concrete interest had been injured by the denial, as petitioners could cite no concrete injury in fact. *Id.* In the case before the Court, Plaintiffs seek to distinguish *Summers* and *Lujan*, pointing that there is no precedent in the District of Columbia questioning the *Kopff* conclusion that violation of the ANC right to comment is “actual injury ...suffered by the residents themselves.” 381 A.2d at 1377. *Lujan* was decided in 1992. In 2009, using the framework set forth in *Lujan*, the *Summers* Court concluded that denial of “the ability to file comments” is not sufficient injury to satisfy the standing requirements of Article III. *Summers*, 555 U.S. at 496. The Court finds that while the ANC Act confers the procedural right to comment on the proposed location of the shelter, Plaintiffs have not alleged any injury in fact such that this Court could properly consider the claim.

Plaintiffs further argue that the failure of the Council and the Mayor to follow the ANC Act’s requirements that Commissioners’ comments be given “great weight” affords them standing to bring this action. *See* D.C. Code § 1-309.10(a), (d)(3)(A); Pl. MSJ at 2-3. However, our Court of Appeals has expressly recognized that the right to compliance with the ANC Act is of statutory, not constitutional, dimension. *Tenley & Cleveland Park Emergency Comm. v. District of Columbia Bd. of Zoning Adjustment*, 550 A.2d 331, 342 n. 27 (D.C. 1988). While the Court recognizes that “the ANC Act is designed to ensure effective participation of neighborhood views,” *Kopff*, 381 A.2d at 1377, and that the Court of Appeals long ago made clear that citizens have a legally protected right to ensure compliance with the ANC Act, Plaintiffs’ claim that the procedural violation here affords them standing fails in the absence of an allegation of injury in fact.

C. Injury in fact

A plaintiff alleging a deprivation of a procedural protection nevertheless must prove that he has suffered a substantive injury that would otherwise confer standing. Here, Plaintiffs make the complaint that they were denied the right to comment on the location of the proposed shelter. Compl. at ¶ 35. Although the statute requires written notice by first-class mail, actual notice will also satisfy the legal requirements as long as the relevant Commissioner has had sufficient time to comment. *Henderson*, 982 F. Supp. at 42, citing *Comm. For Washington's Riverfront Parks v. Thompson*, 451 A.2d 1177, 1183 (D.C. 1982) (“[a]ctual notice to the affected ANC which allows meaningful participation in a proceeding is sufficient to cure merely technical violations of the thirty-day notice requirement of the ANC Act.”). Actual notice, therefore, may be found even where technical violations of the ANC Act have been proven, if Defendants can demonstrate that the Plaintiffs were given the right to advise. *Shiflett v. D.C. Bd. of Appeals & Review*, 431 A.2d 9, 11 (D.C. 1981). Plaintiffs argue that *Shiflett* is inapposite, because the plaintiffs in that matter did not submit comments to be afforded “great weight,” while Plaintiffs in the case before the Court did make clear that the ANC had issues regarding the proposed site, and argue that the Council’s failure to solicit and address those concerns and explain their decision with specific written findings deprives them of statutory protections to which they are entitled and this Court should enforce. Compl. ¶¶ 46-48. However, while Plaintiffs allege that they were given no advance notice of the actions of the Council and the Mayor, the record shows that the Council informed them of the decision to utilize the Police Station site on May 17, 2016, when the Committee of the Whole amended the Homeless Shelter Act and issued its report. Compl. ¶¶ 27, 30. Thus, Plaintiffs had thirteen days prior to the Council’s adoption of the Homeless Shelter Act and 126 days before it would become effective to submit any issues and concerns. *Id.* ¶ 33. Plaintiffs themselves acknowledge that they first received actual notice of the planned

amendments to the Shelter Act a month prior to the issuance of the May report, in April 2016, when Councilmember Cheh first informed residents that she planned to propose the Police Station site. *Compl. Ex. 2* at 1 (“WHEREAS, on April 13, Councilmember Cheh wrote to [the Department of General Services] and asked for a feasibility study of ... 3320 Idaho Avenue NW....”). On May 2, 2016, a press release was issued by Councilmember Cheh’s office informing the public that she had written to the Department of General Services regarding the Police Station site for the Ward 3 shelter. *Def. Opp.* at 25. For her part, the Mayor acknowledged her intent to sign the Homeless Shelter Act on May 27, 2016, by issuing a letter to Chairman Mendelson and by signing the Bill on June 13, 2016. *Id.*; *Compl.* at ¶ 31. Thus, under Plaintiffs’ facts, the Court finds that Plaintiffs had actual knowledge of the actions within the parameters of the advance notice requirements under the ANC Act. D.C. Code § 1-309.10(b).

Our Court of Appeals has found that substantial compliance with notice requirements may suffice where verbatim compliance has not been found. *See Richardson*, 452 A.2d at 124 (J. Nebeker, concurring) (“The ANC Act permits affected citizens to provide notice to agencies regarding actions that affect their communities. Violation of an alleged notice requirement does not prohibit them from doing so.”) The record shows that Plaintiffs exercised their right to testify regarding their concerns about the Police Station site and expressed their concerns through ANC3C resolutions. *Compl. Ex. 2*; ANC Resolution No. 2016-013 (March 14, 2016).

Plaintiffs claim, however, that because adoption of Section 3(a)(2) of the Shelter Act is a “final policy decision by defendant on public improvements affecting the ANC3C area,” the Court should find that Plaintiff’s deprivation of the 30-day written notice is sufficient injury to confer standing. *Compl.* ¶ 43; *Pl. Opp. MTD* at 3. Even assuming that Plaintiffs are correct and adoption of Section 3(a)(2) is a final decision on the location of the Ward 3 shelter, the Court

finds that violation of the statutory right to comment only amounts to actual injury suffered by residents if there is a connection between the procedural flaw and a substantive injury that would otherwise confer Article III standing. Claims of lack of notice cannot stand without injury. The question, therefore, remains whether Plaintiffs were injured by the lack of notice. Based on the record, and drawing all inferences in favor of Plaintiffs, the Court concludes that while the Plaintiffs were entitled to notice, they suffered no concrete injury because they received actual notice via the Council's announcement of the decision to utilize the Police Station site on May 17, 2016, when the Committee of the Whole amended the Homeless Shelter Act and issued its report, and again via ANC3C resolutions which were submitted to Councilmember Cheh. *Compl.* at ¶¶ 27, 30.

D. Causation and Redressibility

In order for this Court to find that Plaintiffs have standing, Plaintiffs must also demonstrate that their alleged injuries from the lack of notice and issuance of the Amended Act were both caused by the Defendants and are capable of redress. As discussed above, standing for a procedural injury is special, in that *Lujan* affords a “person who has been accorded a procedural right to protect his concrete interests can assert that right without meeting all the normal standards for redressibility and immediacy.” *Lujan*, 504 U.S. at 572 n.7. Plaintiffs do not have to prove that had they received the procedure, the substantive result would have been altered. “All that is necessary is to show that the procedural step was connected to the substantive result.” *Richardson*, 982 F. Supp. at 41 (citing *Sugar Cane Growers Co-op of Fla. v. Veneman*, 289 F.3d 89, 94-95 (D.C. Cir. 2002)). Nonetheless, Plaintiffs still must demonstrate more than a procedural flaw for this Court to find that they have met the requirements of standing. While they have demonstrated the procedural flaw, they have failed to persuade the

Court that the failure to give their comments “great weight” affected the substantive result. The Court notes that construction has not begun; nothing in the Homeless Shelter Act itself indicates that construction is imminent. Should the Mayor propose to proceed with construction, the Council is free under the Act to reject any proposed contract, which would render the disputed section “unlawful, null and void” under the Home Rule Act. *See* Council MTD at 31. The “substantive result,” namely, construction of the shelter, has not yet materialized such that the Court could find that the procedural flaw affected any substantive result. Court intervention, therefore, does not provide the only remedy by which Plaintiffs’ claims may be redressed. As noted at oral argument, no final actions have been taken; the Shelter Act only authorizes preliminary actions by which the construction project may proceed. *See, e.g., Foggy Bottom Ass’n v. D.C. Zoning Ass’n*, 979 A.2d 1160, 1165-66 (D.C. 2009) The Shelter Act authorizes Mayoral actions; no final decision has been made regarding the Police Station site.

Conclusion

Having concluded that Plaintiffs have not sustained an injury in fact so as to confer standing, the Court then turns to the question whether judicial action may still be required because no other remedy is available. In this case, the original decision-making process has not been completed. Construction has not begun. Plaintiffs’ remedy, therefore, remains in the political arena, whereby pursuant to D.C. Code § 1-309.10(a), Plaintiffs can seek to intervene in the political process such that the Council or Mayor may decide not to proceed with construction at the Police Station site. The Supreme Court has clearly indicated that “a court lacks the authority” to intervene when the “controversy involves a political question” *Zivotofsky v. Clinton*, 566 U.S. at 195, and plaintiffs have not been “shut out of the political process.” *Davis v. Bandemer*, 478 U.S. 109, 139 (1986). As none of the Plaintiffs can claim a sufficient injury in fact, this

challenge cannot survive a motion to dismiss under Super. Ct. Civ. R. 12(b)(1), (4), or (6), which shall therefore be granted.

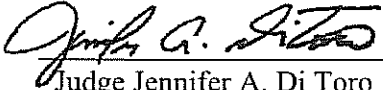
Accordingly, it is this 7th day of February, 2017, hereby

ORDERED, that Defendant Council of the District of Columbia's *Motion to Dismiss* is **GRANTED**. It is further

ORDERED, that Defendant District of Columbia's *Motion to Dismiss* is **GRANTED**. It is further

ORDERED, that Plaintiffs' *Motion for Summary Judgment* is **DENIED**.

SO ORDERED.



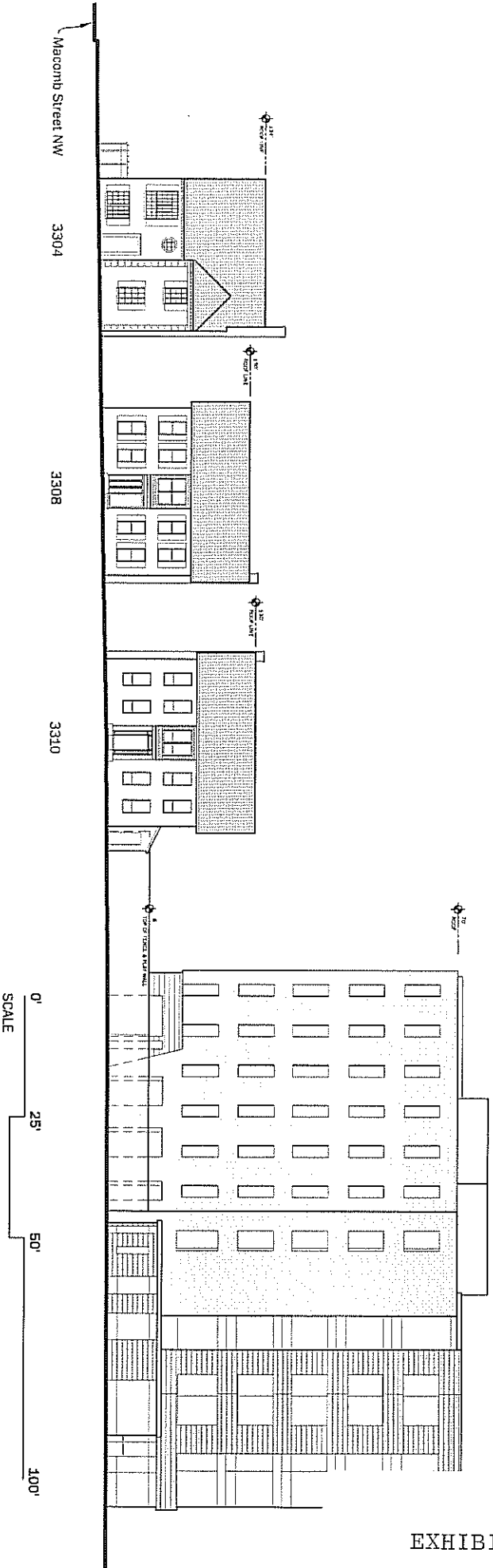
Judge Jennifer A. Di Toro
Associate Judge
Signed in Chambers

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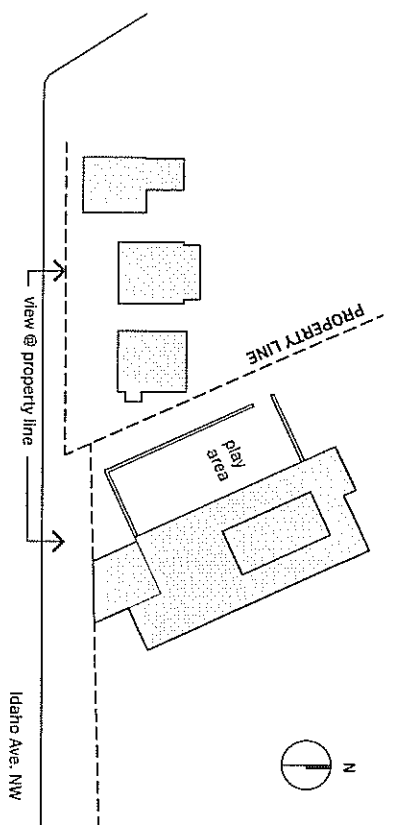


Elevation along Idaho Avenue NW

Reference elevation estimated from grade at single-family residences to roof peaks.
 Reference elevation for the Ward 3 Short Term Housing Facility from proposed Architectural Plans and Elevations, dated January 27, 2017.

prepared by **GBR | Architects**
 for **Neighbors for Responsive Government**

Reference Diagram



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

**Application for 850 Delaware Avenue, SW
Square 590E, Lot 800**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by the District of Columbia in support of an application pursuant to 11-X DCMR §§ 901.2 and 1000.1 for (i) special exception relief pursuant to 11-U DCMR § 320.1(a) to permit an emergency shelter in the RF-1 District with more than 15 persons; (ii) special exception relief pursuant to 11-C DCMR § 703 for a partial reduction in the number of required parking spaces; and (iii) a variance from the building height and number of stories requirement of 11-E DCMR § 303.1, to permit the construction of a new emergency shelter with ground and cellar level medical care use in the RF-1 District at 850 Delaware Avenue, SW (Square 590E, Lot 800) (the "Site").

Pursuant to 11-Y DCMR § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment ("BZA" or "Board") no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested variance and special exception relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

I. BACKGROUND

A. Description of the Site and Surrounding Area

As shown on the architectural plans and elevations included with this application (the "Plans"), the Site consists of Lot 800 in Square 590E, which is owned by the District of Columbia, and has a total land area of approximately 24,187 square feet. Lot 800 is the only lot in Square 590E and is a corner lot bounded by H Street, SW to the north, private property to the east, I Street, SW to the south, and Delaware Avenue, SW to the west. The Site is generally triangular in shape. The northwest portion of the Site includes a portion of former U.S. Reservation No. 220 (the "Reservation 220"), which was transferred from the jurisdiction of the National Park Service to the District of Columbia for highway purposes in 1957. *See* Sheets 4-5 of the Plans, indicating the "Property Boundary for Federal Land" in blue, and the Transfer of Jurisdiction of Reservation 220, dated February 20, 1957, and also included in the application materials. Reservation 220 has a land area of approximately 11,065 square feet, and approximately 4,878 square feet of Reservation 220 is included in Lot 800. *See* Sheet 2 of the Plans; the Transfer of Jurisdiction of Reservation 220; and the Topographic Survey of Square 590E and Reservation 220, all included in the application materials.

The Site is presently improved with a 3-story building that the Applicant proposes to raze in connection with redevelopment of the Site. The existing building houses the Unity Health Care

The District Department of General Services will ensure that the proposed emergency shelter will meet all applicable code requirements, and DHS will ensure that the facility will meet all applicable licensing requirements.

Section 203.1(h)(5) – The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The emergency shelter will not have an adverse impact on the neighborhood because of traffic. The proposed emergency shelter use is anticipated to generate a nominal number of new vehicular trips, such that the project will not create any adverse traffic conditions. As stated above, residents of similar sites within the District typically do not have cars, and 12 on-site parking spaces will be sufficient for the staff who work at the emergency shelter. Moreover, the Site is within close walking distance of the Waterfront, Federal Center, and Navy Yard Metrorail stations, multiple Metrobus routes, car-share spaces, and Capital Bikeshare stations, which will accommodate many of the employee and visitor trips to the Site and further reduce potential increases in traffic generated by the emergency shelter use. The Site is also located in a mixed-use, walkable neighborhood, such that residents and staff at the Site will be able to accomplish daily errands on foot rather than needing to rely upon a private vehicle.

The emergency shelter will not have an adverse impact on the neighborhood because of noise or operations. The emergency shelter will be a residential use, and inherently will not produce any adverse impacts due to noise or operations. The emergency shelter will operate similar to a multi-family apartment building, which use is found in multiple locations in the surrounding neighborhood. The proposed facility will be self-contained, with on-site dining, laundry, recreation areas, and total wrap-around services for the residents. There will be no central kitchen or food preparation on-site, and instead meals will be delivered twice each day, with deliveries utilizing the on-site loading facilities. Trash will be picked up in the rear yard, accessed through the ingress and egress established for on-site parking and loading.

Section 203.1(h)(6) – The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within one thousand feet (1,000 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

As confirmed by the Department of General Services, there are no other emergency shelters located in the square or within 1,000 feet of the Site.

Section 203.1(h)(7) – The Board of Zoning Adjustment may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

The emergency shelter will house up to 166 persons, not including resident supervisors or staff and their families. The program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the Site and there are no other reasonable alternative locations to meet the program needs of Ward 6. *See* Homeless Shelter Act, Sec. 2(7), stating that “[i]t is in the best interest of the District to construct these new temporary shelter facilities on District-owned land, in part to avoid the disruption to the provision of services in the continuum of care that would accompany the eventual expiration of leases.” The aggregate number of units in the replacement sites is the minimum necessary to meet that need. Thus, a facility for more than 15 persons at the Site is an absolute necessity. The District undertook an aggressive search for sites throughout the District, and the Council designated the Site as the Ward 6 emergency shelter location.

A restriction on the number of occupants to a maximum of 15 would require that there be at least 12 separate emergency shelter facilities in Ward 6 to house the maximum of 166 persons that can be accommodated at the Site, each of which would be limited to a maximum of 15 persons, and each required to be located at least 1,000 feet from each other, and not in the same square as each other. The delivery of comprehensive, on-site wrap-around services for the residents could not efficiently or effectively be replicated at numerous different smaller facilities spread throughout Ward 6. The program requires that the comprehensive services be delivered in one central location in each Ward. *See* Homeless Shelter Act, Sec. 2(8), stating that each of the facilities will “allow the District to provide small-scale, community-based temporary housing services throughout the District.” Thus, it is impractical to achieve the District’s program goals in Ward 6 with a smaller facility or series of facilities, and there is no other reasonable alternative to meet the District’s program goals for Ward 6, other than what is being proposed.

D. The Applicant Meets the Test for a Special Exception Relief for Parking Under 11-C DCMR § 703.2

The BZA may grant a full or partial reduction in the number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of compliance with at least one of the eight conditions listed in 11-C DCMR § 703.2. In this case, the project complies with several of the eight listed conditions as follows:

11-C DCMR § 703.2(b) - *The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities, and*

11-C DCMR § 703.2 (c) - *Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces*

The Site is particularly well-served by mass transit, shared vehicle, and bicycle facilities. The Site is conveniently located within close walking distance of four different Metrorail lines (approximately 0.3 miles from the Waterfront Metrorail station, which services the Metrorail Green line, approximately 0.4 miles from the Federal Center Metrorail station, which services the Metrorail Blue, Orange, and Silver lines, and approximately 0.5 miles from the Navy Yard Metrorail station, which services the Metrorail Green line). The Site is also located within 0.3 miles of nine different bus lines; within 0.4 miles of seven Zipcar locations; and within 0.4 miles

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

**Application for 5505 5th Street, NW
Square 3260, Lot 54**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by 5th Street Partners LLC, on behalf of the District of Columbia Government, in support of an application pursuant to 11 DCMR §§ 3104.1 and 3103.2 for (i) special exception relief pursuant to 11 DCMR § 732.1 to permit an emergency shelter in the C-2-A District; (ii) a variance from the height requirements of 11 DCMR § 770.1; (iii) a variance from the floor area ratio (“FAR”) requirements of 11 DCMR § 771.2; and (iv) a variance from 11 DCMR § 2001.3 to permit the construction of an addition to an existing non-conforming structure that already exceeds the maximum permitted building height limitation in the C-2-A District at 5505 5th Street, NW (Square 3260, Lot 54) (the “Site”).

Pursuant to 11 DCMR § 3113.8, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or “Board”) no fewer than 14 days prior to the public hearing for this application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception and variance relief. The following is a preliminary statement indicating how the Applicant meets the burden of proof.

I. BACKGROUND

A. Description of the Site and Surrounding Area

The Site consists of Lot 54 in Square 3260 and has a total land area of approximately 8,722 square feet. Square 3260 is bounded by Longfellow Street, NW to the north, 4th Street, NW to the east, Kennedy Street, NW to the south, and 5th Street, NW to the west. The Site is in the southwest portion of Square 3260 with frontage on 5th Street. The Site is otherwise bounded by private property to the north, east, and west, and abuts a public alley at its northeastern-most corner for approximately nine feet. The Site is presently improved with a vacant 5-story building. The Applicant proposes to adaptively reuse the existing building and construct a new addition to the building in connection with redevelopment of the Site.

The Site is located in the heart of the Kennedy Street neighborhood, which is a mixed-use community located in northwest Washington DC. Kennedy Street, NW is a one-mile corridor extending from North Capital Street on the east to Georgia Avenue on the west, and is developed with a mix of retail and service uses. “The institutions along Kennedy Street—its churches, service agencies, and charter school—help to anchor a neighborhood characterized by easy links to DC’s Metro system via several bus routes... The Kennedy Street neighborhood encompasses the Brightwood Park and South Manor Park neighborhoods and is home to eclectic specialty shops and a full range of services.” *Washington DC Economic Partnership, DC Neighborhood Profiles*

Pursuant to 11 DCMR § 2101.1, the minimum parking requirement for an emergency shelter for 16 or more persons is as prescribed by the Board. The District of Columbia government has determined, based upon experience with other such housing in the District, that the 11 on-site parking spaces will be adequate for the needs of building occupants, employees, and visitors. The Department of Human Services (“DHS”) has found at other similar facilities in the District that residents typically do not have cars. The on-site parking is sufficient for the staff and employees who work at the Site.

Section 358.5 – The proposed facility shall meet all applicable code and licensing requirements.

DGS will ensure that the proposed emergency shelter will meet all applicable code requirements, and DHS will ensure that the facility will meet all applicable licensing requirements.

Section 358.6 – The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The emergency shelter will not have an adverse impact on the neighborhood. As stated above, there is adequate off-street parking at the Site for the emergency shelter use, such that the proposed new use will not create any adverse traffic conditions. There are also a variety of public transportation options in the surrounding area, including a Metrobus stop at the corner of 5th and Kennedy Streets, NW that is served by the 62, 63, and E4 Metrobus lines, a Capital Bikeshare station at the corner of 5th and Kennedy Streets, NW, and five permanent carshare locations within 0.4 miles of the Site. The Site is also located in a mixed-use, walkable neighborhood, such that residents and staff at the Site will be able to accomplish daily errands on foot.

Moreover, the emergency shelter will be a residential use, and inherently will not produce any adverse impacts due to noise. The proposed use will also not adversely impact the neighborhood due to its operations because it will operate similar to a multi-family apartment building, which use is found in close proximity to the Site. The proposed facility will be self-contained, with on-site dining, laundry, playground and total wrap-around services for the residents. There will be no central kitchen or food preparation on-site. Meals will be delivered twice each day, and the delivery van will use the parking area. In addition, there are no similar facilities in the area.

Section 358.7 – The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

There are no other community-based residential facilities located in the square or within 500 feet of the Site.

Section 358.8 – The Board may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia

cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

The emergency shelter will house approximately 149 persons, not including resident supervisors or staff and their families. The program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the Site and there is no other reasonable alternative to meet the program needs of Ward 4. It is imperative that all 270 units at DC General be replaced before DC General can be closed. The aggregate number of units in the replacement sites across all eight Wards is the minimum necessary to meet that need. Thus, a facility for more than 15 persons at the Site is an absolute necessity. The District has undergone an aggressive search for sites throughout the District, and the Site is a viable and desirable location where the District was able to negotiate an LOI on terms favorable to the District's needs. Further, it activates an otherwise vacant blight on the neighborhood.

D. The Applicant Meets the Test for Special Exception Relief Under 11 DCMR § 3104.1

In addition to satisfying the specific requirements set forth in 11 DCMR § 732.1, the Applicant must also demonstrate that the requested special exception meets the more general requirements of 11 DCMR § 3104.1. Before granting an application for a special exception, the Board must determine that the requested relief "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. The stated purposes of the Zoning Regulations are set forth in section 6-641.02 of the D.C. Code:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

D.C. Code § 6-641.02 (2001). Those purposes are reproduced in the text of the Zoning Regulations as well. *See* 11 DCMR §§ 101.1-101.2.

The adaptive reuse of the existing building on the Site as an emergency shelter for 49 families is consistent with the purposes described above. The project will promote the appropriate distribution of population to create conditions that are favorable to health, safety, and prosperity,

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

**Application for 2266 25th Place, NE
Square 4258, Lot 35**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by Jemal's Tony LLC, on behalf of the District of Columbia Government, in support of an application pursuant to 11 DCMR §§ 3104.1 and 3103.2 for (i) special exception relief to locate an emergency shelter in the C-M-2 District pursuant to 11 DCMR 802.28, and (ii) a variance from the requirement of 11 DCMR 802.28(c) to allow an emergency shelter to be located within 1,000 feet of a solid waste handling facility, at 2266 25th Place, NE (Square 4258, Lots 35) (the "Site").

Pursuant to 11 DCMR § 3113.8, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment ("BZA" or "Board") no fewer than 14 days prior to the public hearing for this application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception relief. The following is a preliminary statement indicating how the Applicant meets the burden of proof.

I. BACKGROUND

A. Description of the Site and Surrounding Area

The Site consists of Lot 35 in Square 4258 and has a total land area of approximately 55,067 square feet. The Site is zoned C-M-2 and is located within the boundaries of Advisory Neighborhood Commission ("ANC") 5C. Square 4258 is generally bound by CSX rail tracks and a small segment of 24th Street to the north, Bladensburg Road to the south, 25th Place to the east, and Queens Chapel Road to the east, all in the northeast quadrant of the District of Columbia. The Site is an irregularly shaped lot located in the northern portion of the square at the terminus of 25th Place, and has partial frontage along 25th Place and 24th Place. Currently, Lot 35 is improved with a vacant, two-story warehouse.

The areas to the east and west of the Site are zoned C-M-1 and C-M-2, and are primarily devoted to light-manufacturing and industrial uses. To the immediate east, across 25th Place, is a bus storage and maintenance facility owned and operated by the Washington Metropolitan Area Transit Authority (WMATA). There are residential neighborhoods further east that are zoned R-1-B and R-5-A. The Fort Lincoln New Town development, including the Shops at Dakota Crossing retail uses, is located approximately 0.8 miles to the east.

The area immediately north of the rail tracks is zoned C-M-1 and also subject to the Langdon Overlay (LO) District, which exists for purposes of protecting the residential neighborhood that exists further north, and to encourage retention of existing commercial and light manufacturing uses and businesses under special controls that protect quality of life and the

As a result of the distance between the two shelters, the operational differences described above, the low number vehicular trips expected to the proposed emergency shelter, and the residential character of the proposed shelter, the cumulative effects of having two emergency shelters within 1,000 feet of each other within this area of the District will not result in adverse impacts on traffic, noise, or operations. First, the proposed emergency shelter and the existing Adams Place Emergency Shelter are located approximately 930 feet apart, only 70 feet shy of the 1,000 foot threshold, and the area between the two shelters is predominately used for commercial and light-industrial uses.

With respect to operations, the two emergency shelter programs are different in several key ways. First, the Adams Place Emergency Shelter is a low-barrier, unaccompanied adult men's shelter that provides shelter on a nightly, first-come first-serve basis. The proposed shelter at 2266 25th Place will serve families with minor children who apply for and receive a shelter placement from DHS. There will be no walk-in services provided at the Site. Rather, families will be offered accommodations from a central intake center on Rhode Island Avenue, NE, and families will have 24-hour access to their private units until exiting homelessness to permanent housing. In addition, the proposed facility will have far less turnover than the daily turnover experienced at the Adams Place Emergency Shelter. For example, according to information provided by the District, families in short-term family housing programs have a current median length of stay of approximately 140 days. Finally, given the types of surrounding uses, the concurrent operation of two emergency shelters in this area will not have an adverse impact on neighboring and nearby properties. The closest residential areas to the north will be buffered by the CSX rail tracks.

Furthermore, as stated above, it is expected that most of the residents of the proposed shelter will not own a vehicle. Rather, resident families will likely be dropped off or rely upon the Metrobus routes that are in close proximity to the proposed shelter. To assist with travel costs, the District intends to offer residents public transportation vouchers. Thus, the majority of vehicle trips will be generated by staff and visitors to the accessory clinic which is expected to be a modest number that will not create adverse traffic conditions. Furthermore, given the distance between the two shelters the cumulative number of vehicle trips generated by both facilities will likely be imperceptible compared to existing traffic and circulation in the area. Finally, given the limited operation of the Adams Place Emergency Shelter, the residential character of the proposed emergency shelter, and the distance between the two shelters and other residential areas, there will be no adverse noise impacts that result from approval of a second emergency shelter in this area.

Section 802.28(g) - The Board may approve a facility for between one hundred and fifty-one (151) and three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District, provided that no shelter shall be approved that would increase the total number of emergency shelter residents housed within the square to exceed four hundred and fifty (450) persons.

The emergency shelter will contain no more than 50 private family units, 5 of which will be two-bed units, 32 will be three-bed units, 21 will be four-bed units, and 2 will be five-bed units. As a result, the building will be capable of accommodating up to 200 people, not including resident supervisors or staff and their families. The Site achieves the program goals and objectives of the District of Columbia, as well as its legal obligation to provide shelter to families in private rooms. The program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the Site, and there is no other reasonable alternative to meet the program needs of Ward 5. It is imperative that all 270 units currently at DC General be replaced before DC General is closed. The aggregate number of units across the eight short-term family housing sites proposed by the Mayor will meet that need, and thus a facility for more than 150 persons at the Site is a necessity. The District has undergone an aggressive search for sites throughout the District, and the Site is both a viable and desirable location for the proposed facility. No other site in Ward 5 was able to meet the program requirements. During the site selection process, the District was presented with three possible Ward 5 locations for providing short-term family housing; however, the Site was the only one that was deemed feasible as the other two sites were found to be too small to meet the District's programmatic goals. In addition, the District was able to negotiate a Letter of Intent for the proposed emergency shelter at the Site that is favorable to its needs.

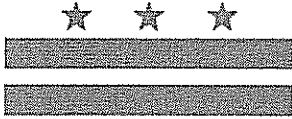
Section 802.28(h) - The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation and Human Services and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

The Board will refer the application to the D.C. Office of Planning (OP) upon submission by the Applicant, at which time OP will coordinate with all applicable District agencies.

D. The Applicant Meets the Test for Special Exception Relief Under 11 DCMR § 3104.1

In addition to satisfying the specific requirements set forth in 11 DCMR § 802, the Applicant must also demonstrate that the requested special exception meets the more general requirements of 11 DCMR § 3104.1. Before granting an application for a special exception, the Board must determine that the requested relief "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. The stated purposes of the Zoning Regulations are set forth in section 6-641.02 of the D.C. Code:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and



ADVISORY NEIGHBORHOOD COMMISSION 3C
GOVERNMENT OF THE DISTRICT OF COLUMBIA

CATHEDRAL HEIGHTS • CLEVELAND PARK
MASSACHUSETTS AVENUE HEIGHTS
MCLEAN GARDENS • WOODLEY PARK

Single Member District Commissioners
01-Lee Brian Reba; 02- Gwendolyn Bole; 03-David Valdez
04- Arthur Barkmann; 05- Margaret Siegel; 06-Carl Roller
07- Victor Silveira; 08-Catherine May; 09-Nancy MacWood

P.O. Box 4966
Washington, DC 20008
Website <http://www.anc3c.org>
Email all@anc3c.org

ANC 3C Resolution No. 2016-031
**Resolution Regarding Homeward DC Plan for an Emergency Family
Shelter in Ward 3, 3320 Idaho Avenue NW**

WHEREAS, on February 9, 2016, the Mayor announced the details of her Homeward DC Plan (the “Plan”) at a meeting with the Council of the District of Columbia (the “Council”), which included the construction of transitional housing shelters for families experiencing homelessness in seven of the city’s eight wards, including one in Ward 3; and

WHEREAS, on March 14, ANC3C adopted a resolution which expressed, among other things:

- Support for the closure of D.C. General and an eight-ward approach to establishing smaller shelters better suited to the purpose;
- An Objection to the lack of notice to any affected ANC about the plans reflected in B21-0260 and the lack of consideration of the views of any affected ANC, including this ANC;
- A Recommendation that the Council examine numerous issues relating to the selected sites; and

WHEREAS the Council has not responded to ANC3C’s resolution, thereby denying it the great weight to which it is entitled under D.C. Code § 1-309.10(d)(3)(A) *et seq.*;

WHEREAS, on April 13, Councilmember Cheh wrote to the Department of General Services (“DGS”) and asked for a feasibility study of three sites as alternatives to the Mayor’s, one of which was 3320 Idaho Avenue NW and, on May 2, Councilmember Cheh described DGS’s analysis of those sites as flimsy and inadequate;

WHEREAS, on May 16, without notice to the ANC or any opportunity for affected residents to comment, the Council had its first vote on a plan to change the location of the transitional housing shelter in Ward 3 to the 3320 Idaho Avenue location, co-located with the Metropolitan Police Department’s (“MPD”) Second District Police Headquarters;

WHEREAS, on May 26, Chairman Mendelson, Councilmember Cheh and Director Laura Zeilinger of the Department of Human Services (“DHS”) hosted a community meeting, open to all Ward 3 residents, at which some questions were answered, but many key questions, such as those concerning enrollment at John Eaton Elementary School and the currently

inadequate supply of permanent affordable housing, were left unanswered or the details were incomplete;

WHEREAS, on May 31, just one business day after the meeting on the 26th, the Council unanimously approved in a second vote its shelter plan and the Mayor signed the bill on June 14;

WHEREAS, if constructed and implemented as proposed, the shelter at the Ward 3 Idaho Avenue site would:

- Be built atop land that is currently being used as a parking lot by the officers and staff of the Second District Police Headquarters;
- Include John Eaton Elementary School as the in-boundary elementary school which of-age residents of the shelter would be able to attend as a matter of right;
- House up to fifty families for a period of sixty to ninety days, and, per the Director of DHS, approximately 89% of the children at that shelter would be of grade school age or younger;

WHEREAS, there was no notice to the public that the Council itself was considering the 3320 Idaho Avenue site, no consultation with ANC3C, no impact or feasibility studies of using the site, and no opportunity for informed input from the surrounding community;

WHEREAS, the decision to locate a transitional housing shelter at the Idaho Avenue Site, which is currently used exclusively by the MPD and, even under the existing zoning, would require a special exception from the Board of Zoning Adjustments, constitutes an additional or change in “the use of property owned or leased by or on behalf of the government” within the meaning of the ANC Act, DC Code, Section 1-309.10;

WHEREAS, ANC3C hosted its own community forum on June 14 at which it heard from many constituents who expressed concern about the proposal, and has received many emails from constituents some of which expressed support for the proposal while the vast majority expressed concerns with the process, the lack of specific details behind the multi-shelter strategy, and the suitability of the site location;

WHEREAS, neither the Council nor the Mayor have obtained an independent, thirty-party analysis of the suitability of co-locating a transitional housing shelter with a major police station that also serves as a fuel depot for the city’s emergency vehicles, and ANC3C is not aware of consultations with MPD regarding placement of the shelter on police station land;

WHEREAS, no information has been made publicly available about the DGS process for selecting sites;

WHEREAS, there has been no independent study or evaluation of alternative sites within Ward 3, and the only study conducted by DGS was described by the Ward 3 Councilmember as inadequate;

WHEREAS, it appears the laudable goal of ending chronic homelessness has supplanted the equally important responsibility of the city to provide its residents with notice and opportunities for informed input;

THEREFORE BE IT RESOLVED, ANC3C:

(1) Reiterates the findings presented in its Resolution 2016-013, including:

- An endorsement of the goals of the Homeward DC Strategic Plan to end chronic homelessness;
- Finding that the facilities and programs at D.C. General are inadequate and that smaller facilities should be sited within each of the eight wards;

(2) Objects to the failure of the Council to provide advance notice to the community and an opportunity for ANC3C to provide recommendations regarding the Council's selection of the Idaho Avenue site prior to the Council's adoption of B21-0620;

(3) Recommends that the development of the proposed shelter at the Idaho Avenue site should not proceed until the Council provides all affected ANCs with an opportunity to comment on the proposal and accords "great weight" to any comments that are provided;

(4) Recommends that an independent study be conducted, and interim results be reported to ANC3C within 120 days from the date of this resolution, as to the suitability of co-locating a shelter of the type proposed at 3320 Idaho Avenue and that the study should address the concerns raised by the community, including, without limitation, the following items:

- The potential impact of police officers in close proximity to the shelter may have on the residents, many of whom may not have positive associations or relationships with the police, and whether such presence may create an environment of tension, a perception that there is a lack of trust and criminalization of homelessness, a resultant lack of dignity and deleterious effect on the residents' relationship with the staff and case workers of the shelter;
- The appropriateness of the site generally due to police and city operations at the location, including concerns raised about the testing and sounding of sirens on police cruisers prior to deployment on patrol and the presence of a fuel depot used by the city's emergency vehicles, including the environmental and health impact of the fuel depot on residents;
- The feasibility of designing a residential facility that is consistent with the character of the neighborhood while still providing for a large parking structure beneath it, as required for the police officers and staff of 2D as well as the staff and residents of the shelter;

- Assessing the cost of constructing the proposed facility at 3320 Idaho Avenue, including the incremental cost of accommodating the parking, fueling and operational needs of the 2D police station;
 - Whether those incremental costs plus the long-term costs arising from the changes in police operations, such as increasing the window of time for the rotation of officers from 30 minutes to an hour, will offset the claimed savings of locating the shelter on city-owned land; and,
 - Whether there are alternative city-owned or privately owned sites on which the proposed facility could be built at equal or lower all-in cost without the risk of adversely affecting police or other health and safety operations.
- (5) Recommends that the Council hold a hearing with the appropriate agencies at which residents may express their views to the Council, as a public participatory process has not been provided;
- (6) Recommends the creation of a Community Advisory Committee to provide residents with meaningful and ongoing opportunities to engage with the process, and that the committee should include representatives from ANC3C, John Eaton Elementary School's Local School Advisory Team, the MPD's Second District Headquarters, DHS, DGS, the Cleveland Park Citizens Association, Cathedral Commons, Vaughan Place, the McLean Gardens Condominium Association, and residents of the Cathedral Heights neighborhood, including but not limited to the 3300 block of Idaho Avenue NW.
- (7) Requests a meeting with the Mayor, Deputy Mayor for Public Safety, and MPD about how the Second District Headquarters and its operations will be reconfigured and how the level of police services will be impacted by the proposed co-location;
- (8) Requests that the Council require every agency involved with developing plans concerning the 3320 Idaho Avenue shelter site include ANC3C in the planning process, and that the Council review in six months the status of agencies' involvement of ANC3C;
- (9) Objects to the lack of a well-defined strategy for a potential increase in enrollment at John Eaton Elementary School, which is already at 124% enrollment with neglected infrastructure and urges DCPS to institute, in consultation with ANC3C, a well-defined strategy to address a potential increase in enrollment at John Eaton Elementary School;
- (10) Urges DHS to evaluate, under the Council's plan, how best to support families who elect to maintain their children's enrollment at their original schools, day care and child-development programs so that transportation time (both waiting for buses and in transit) is not unduly long, stressful or burdensome;
- (11) Requests, consistent with Paragraph (i)(1) of the ANC Act, the Council provide copies of all official documents and public data, or identify those documents and their

custodian(s), related to the Idaho Avenue Site and any other sites in Ward 3 that may have been considered by the Council in advance of its adoption of the Council's Plan, including without limitation all documents and public data related to the evaluation, analysis or consideration of any of the following:

- the total cost of developing, operating and maintaining a shelter at the Idaho Avenue Site;
- the effect on police operations at MPD's Second District of developing and operating a shelter at the Idaho Site;
- the suitability of the site for a shelter, including the burdens placed on residents of the shelter;
- alternatives to the Idaho Avenue Site;
- the effect of developing and operating a shelter at the Idaho Avenue Site on the surrounding neighborhood and local schools; and,
- the extent to which the development of the planned shelter on the Idaho Avenue Site is consistent with existing land use policies and objectives related to the site.

BE IT FURTHER RESOLVED that the Commissioner for SMD 3C06, the Chair or their designees may represent the Commission on this matter.

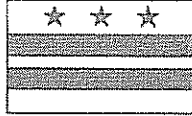
Attested by



Carl Roller

Chair, on June 20, 2016

This resolution was approved by a roll-call vote of 8-0 on June 20, 2016 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 9 commissioners) was present.



Solicitation for Offers (SFO)
for the Acquisition of Housing Properties for the
District of Columbia Department of Human Services (DHS)

Issued: September 26, 2014

Issued by:
The Government of the District of Columbia
Department of General Services (DGS)
ATTN: Michelle Chin
2000 14th Street NW, 5th Floor
Washington, DC 20009
www.dgs.dc.gov

The mission of the Department of General Services (DGS) is to elevate the quality of life for the District with superior construction, first-rate maintenance and expert real estate management. By building and maintaining safe and green state-of-the-art facilities which foster economic growth and elevate educational environments, our trusted and skillful employees create modern and vibrant communities across all of the District of Columbia.

Solicitation for Offers (SFO)

Acquisition of Family Housing Properties for

The District of Columbia Department of Human Services (DHS)

I. Introduction & Purpose

On behalf of the District of Columbia's Department of Human Services (DHS) the Department of General Services (DGS) is seeking properties to use as emergency housing units for families. The District of Columbia is required, under District law, to provide shelter for homeless residents when the temperature drops below freezing. The District of Columbia is committed to protecting families and individuals who are homeless from extreme weather injury by meeting the demands for shelter during hypothermia seasons.

Persons and families in need of temporary housing are District residents who need temporary assistance to obtain or retain permanent housing. Currently, DHS is looking to lease properties in Washington, DC to meet an increasing demand for services which address at risk families. The properties offered should contain multi-family units, single room occupancies, and efficiencies. Innovative solutions such as renovation, restoration or transformation of an existing space which will address the critical needs for families are welcomed.

II. Explanation of Use

DHS will use the offered properties as housing units for families. A "Focused Housing" model which will create Temporary housing facilities ideally targeted to no more than fifty (50) units per building is being implemented. However, the District is able to entertain some flexibility in that target number. Each facility should have the ability to expand to no more than 15 additional beds during hypothermia season. Ten percent (10%) of the total number of buildings footprint should be utilized for program support spaces. Supportive services will be provided on site and will be geared toward supporting families to achieve housing stability, improving quality of life and working to sustain self-sufficiency. Such spaces may include a community room, administrative area as well as a space to accommodate group dining. DHS or one of its providers will maintain on-site control over the units. Partially occupied buildings will not be accepted. However, properties which include multiple buildings may be considered.

III. Criteria for Evaluation

All offers will be considered on an ongoing basis. A Technical Evaluation Committee will evaluate each proposal on a case by case basis. Offers will be evaluated on the Selection Criteria's provided within this SFO. The District's requirements are as follows:

Building Type & Size

A building or complex that is a minimum of 15,000 square feet and can accommodate between 30-50 families is preferred. Opportunities which may allow for more than 50 families may also be suitable. Ideally the District would like to have current residential buildings; however the District is open to the possibility of alternative uses that can be converted to residential units.

- A. **Location**
- B. Property location(s) can be dispersed throughout the District of Columbia. All wards within the District will be considered.
- C. **Improvements**
Developer is required to deliver a completed turn-key project to the District; which includes responsibility for any repairs and maintenance of the property. All improvements to include Security Specifications and Furniture Fixtures and Equipment will be negotiated based on each property.
- D. **Transportation**
Property location (s) should meet the needs of DHS, which includes proximity to public transportation and other social service resources.
- E. **Parking**
On- site parking for Administrative Staff and Service Providers who will manage the daily needs of the residents is preferred.
- F. **Terms**
The District will enter into a ground lease of 10 years with two 5 year options to renew.
- G. **Management**
DHS will provide on-site management of residence.
- H. **Access**
The District will require 24- hour access to the property during the duration of the lease.
- I. **Rental Rate**
The rental rate for the property should be reflective of the competitive market value although offeror pricing should be based on market competitiveness.

IV. Selection Criteria

A Technical Evaluation Committee will evaluate each proposal on a case by case basis. This solicitation will remain open until DHS has satisfied their request for properties. The District will evaluate each submission based on the following questions listed below; which also coincide with its requirements listed in Section V.

- 1) Is the space suitable to meet the operational needs of the agency?
- 2) Is the proposed Annual Rental Rate competitive according to current market condition?
- 3) Does the proposed site provide an easily accessible location for all citizens that it serves? What is the proximity and accessibility to multiple modes of public transportation?
- 4) What is the proposed project schedule? How quickly will the space be available?

V. Submission

A. Submission Content

All offerors should also provide a written narrative (not to exceed three pages) providing the following:

- 1) Address and name, if applicable, of all offered properties, including ward # and zone.
- 2) Name and contact information for the properties' current owners.
- 3) Floor plans delineating specific floors to include square footage.
- 4) Total number of units. Number of unit types (ie. 1 bedroom, 2 bedrooms, 1 bath, 2 baths etc.)
- 5) Provide square footage of each individual unit type.
- 6) Provide total building square footage.
- 7) A copy of an official document showing ownership of all offered properties.
- 8) Photos (interior/exterior) and floor plan of all offered properties.
- 9) A description of parking available at the offered properties.
- 10) A description of any property amenities.
- 11) A description of the condition of the space to include building operating systems.
- 12) If building/units need rehabilitation or construction, please describe scope of work to be completed.

- 13) Provide a project schedule identifying critical tasks to include when the units will be available.
- 14) Identify available on-site parking, including the number of spaces.
- 15) Provide written responses to questions listed in Section IV of this SFO.

B. Submission Requirements and Format

Offerors must supply four (4) hard copies of the written narrative with all supporting documents by hard copy. Offers must be 12-point Ariel font size on 8.5"x 11" paper to include an electronic copy of their submission in a .pdf format. Offers must also include signed DC DGS FORM S-103 attached to this SFO.

Offers should be mailed or hand delivered to:

*Department of General Services
ATTENTION: Michelle Chin
REFERENCE: DGS-SFO-2014 – 10
2000 14th Street, NW - 5th Floor
Washington, DC 20009*

No phone calls please. All questions should be sent via email to michelle.chin@dc.gov. Responses will be provided on the DGS website located @ <http://dgs.dc.gov>

Electronic and facsimile offers will not be accepted. Each offer shall be submitted in a sealed envelope conspicuously marked: "Offer in Response to DGS-SFO-2014 - 10."

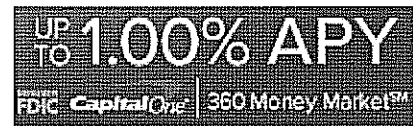
Offers, with all required supplemental information and documentation, must be submitted to DGS to be considered.

This Solicitation for Offers shall not be considered an offer to purchase and DGS reserves the right to withdraw its solicitation at any time as it may deem necessary, appropriate, or beneficial to the District.

The Washington Post

D.C. Politics

D.C. mayor's ambitious plan for homeless families at risk of collapse



By Aaron C. Davis and Jonathan O'Connell April 18, 2016

D.C. Mayor Muriel E. Bowser's ambitious plan to replace the notorious homeless shelter at D.C. General with a network of smaller, "dignified" shelters for families risks collapse under hurried assumptions about real estate costs and required approvals.

Persistent questions about Bowser's plan threaten to undermine support from a city council and public that initially shared her drive to improve services for the city's growing homeless population.

The chairman of the D.C. Council, who had previously committed to a vote on the plan in April at Bowser's request, announced Monday he would postpone action.

To quickly close the dilapidated former hospital and maintain the mayor's ability to spend money on other priorities, Bowser and her senior aides dismissed two options that would have driven down costs: using only city-owned land or selling the existing hospital building to fund the new shelters.

Instead, the mayor wants to lease private land for five proposed shelters in a city where real estate costs have skyrocketed - a decision that could cost taxpayers more than twice as much than if Bowser had chosen the cheaper route.

Her plan also calls for the city to pay landlords to build and run the dwellings on city-owned properties - which would be turned over to the landowners when the leases expire.

EXHIBIT 9

Although Bowser took office determined to fulfill her pledge to end the desperate conditions for families at D.C. General, she and her team never analyzed the best way to pay for the new system, leaving them ill-prepared to defend a plan that has given even homeless advocates sticker shock.

Instead, Bowser decided to devote nearly all the \$1.3 billion city borrows annually for capital projects to school construction and economic development. That choice forced the city to lease most shelter space instead of purchasing or building it.

Costs then became a distant concern because the District does not count rent against its borrowing limit for big-ticket items like new schools and stadiums.

Bowser and her top aides met weekly, focused first on securing homeless shelter sites in each ward — locations driven by politics as well as policy to ensure passage through the D.C. Council. Once sites were found, the administration also failed to fully plan the projects before agreeing to fully pay for them, city officials acknowledge.

In an interview, Bowser forcefully defended her strategy. “It’s not easy, nobody said it was going to be easy,” she said. “I think that we’ve put together a great plan and we think that the facilities will look awesome and operate really well and we’ll put together a package to get all the regulatory approvals,” she said.

Bowser also said her decision to lease the land and not to spend capital dollars to buy property was the best choice available.

“Cities like ours have to do a lot of things at once,” Bowser said. “Already, people are telling me we are not spending enough on schools. We also have to invest in our parks, we have to invest in our roads and bridges, so we don’t have the luxury of using our capital budget for one thing and one thing only.”

Dan Tangherlini, formerly both a D.C. city administrator and head of the U.S. General Services Administration, which manages federal real estate nationwide, said creating homeless shelters in one of the most expensive markets in the country is “really, really hard.”

Bowser and the council were hamstrung by the cap on borrowing, he said. With constrained borrowing, the city is likely to pay more to lease shelters or other facilities, he said. At the federal level, leasing long-term can cost three times owning or renovating, Tangherlini said. As a result, the federal government has placed a high priority on purchasing sites instead of leasing them.

“What the city has done is impose a limitation on itself for something that it has a unique capacity to do, which is to go to the capital markets and make these investments,” he said. “If you can’t push the money across the table then you’re going to rent it. And you’re going to rent it at a much higher cost.”

In Ward 4, for instance, the District plans to lease a 34,000-square foot vacant brick apartment building at 5505 5th Street NW to provide space for up to 49 families as well as playground space and a computer lab. It will cost the District an estimated \$36.1 million in rent payments over 20 years.

But two blocks away, at 809-813 Kennedy Street NW, the District owns a vacant lot that could allow for a 28,395-square-foot shelter. That's 16 percent less space but could save tens of millions because a new building would likely cost \$10 million or less, and the city would own it. D.C. has proposed the site for a separate housing project for low-income residents.

Non-profit shelter operators have sometimes found space at lower costs. For 25 years, So Others Might Eat (SOME) leased a 30-unit building at 1433-1435 Spring Road NW, paying \$830 per unit each month in 2014, according to the former owner.

That year SOME, which did not return requests for comment, bought the building for \$5.1 million, according to property records. Bowser's site in the same ward calls for \$14 million in capital up front plus \$23.1 million in lease payments over 30 years.

The two locations where Bowser plans to build on District-owned land are budgeted to cost \$10 million each and that estimate is above what it typically costs to build new 30,000-square-foot residential buildings, which can range from \$5.3 million to \$6.8 million, according to developers' estimates.

The administration has said durable surfaces, and special program space for social services increase construction costs, but it has not made public any detailed documents to show why.

The administration also says operating costs will be higher because it plans to more quickly move families from shelters into affordable housing units, resulting in higher maintenance costs related to frequent turnovers in the shelters.

Bowser's plan calls for borrowing \$40 million, mostly for construction on the two sites it already owns, and then paying the five private landlords about \$300 million to construct and operate shelters on their properties. The city's leases would expire between 20 and 30 years from now, with no options to purchase the shelters at the end of those terms.

By contrast, if the city built all of the shelters, several developers interviewed by The Post said costs for building comparably sized residential spaces is \$175 to \$225 per square foot, or a total of \$48.8 million to \$62.7 million.

The city would still have to put the shelters on either land it owns or purchases. The five properties Bowser has proposed leasing are appraised at a total of \$13.9 million, but would likely cost much more to obtain on the open

market.

Even if the sites cost five times that, and the city paid directly to maintain and operate the buildings, documents and interviews show that the city could pay roughly double to lease the properties over 20 years than to buy land and build them itself - and it would own the facilities in the end.

Administration officials said they never weighed how much the city could save if it made a bigger upfront investment and leased less or no land.

In fact, the administration never sought an independent analysis of the tradeoffs until after announcing the deals and facing weeks of intensifying criticism. This month, city officials solicited bids for outside consultants to analyze its approach but gave interested companies only one day to respond and a week to complete the job.

A Bowser spokesman said a company had been chosen but declined to name it because a deal had not been finalized.

In the meantime, millions of additional costs remain unknown.

The city has agreed to pay the as-yet-unknown property taxes that will be assessed on the new buildings. And the administration has pre-emptively agreed to limit some maintenance costs for landlords.

Bowser's team has also downplayed an issue that now could become an Achilles heel of the entire plan.

Nearly all of the sites will require changes to their permitted use by the city's Board of Zoning Adjustment. That process will add time and uncertainty to the plan because final approvals must come in a venue where determined opponents have killed or stalled previous applications for homeless shelters.

And that's resulted in another cost: Bowser's administration is preparing to hire private attorneys to win zoning fights.

Gaps in the mayor's ability to fully explain costs have only fueled criticism from some residents who were opposed to shelters in their neighborhood in the first place.

At a Ward 6 community meeting last week, city officials tried to allay concerns but were instead shouted down by residents of a neighboring garden-style condominium complex who said they had no intention of letting the project go forward. In addition to a zoning change, the site for the proposed seven-story shelter in that ward requires approval from the Historic Preservation Review Board.

"Residents are going to walk out of their front doors and look up at this, this wall," said Robert Hall, head of the Capitol Park IV Condominium Association. "Uh-uh. We have demanded answers. We have requested documents that

are being denied, and we are going to sue you to get them, so you might as well start turning them over.”

Administration officials released a trove of documents online to counter concerns about transparency, but they included only thin analyses of costs.

The administration justifies the shelter leases by comparing them to the cost of other property the city rents, mostly for office space. But that's a correlation even the city's own consultant warned was faulty, according to the documents.

At the meeting in Ward 6, blocks from Nationals Park, Tommy Wells, Bowser's director of environment and her appointed defender of the program for the night, tried to quiet the crowd. "I know everyone is upset, I know everyone is not happy. But please, let's try to remain calm and have a discussion," he said.

The reception hasn't been much better elsewhere.

In Ward 3, dozens of community members walked out en masse this month saying the administration has not been forthright about the plan, which will require a zoning change from two plots for single-family homes to a dormitory-style shelter for 38 families along Wisconsin Avenue.

Local Headlines newsletter

Daily headlines about the Washington region.



Ward 3 residents have successfully prevented the District from housing the homeless in their neighborhoods in the past. Of 54 District-backed shelters in the city, only three are in Ward 3; none of the District's 2,607 emergency beds for families and adults are in the ward. One of the residents who spoke before the exodus at the meeting was an attorney who helped kill a shelter plan in the neighborhood two decades ago.

In Ward 1, a small group of protesters marched to a community meeting with signs accusing Bowser of enriching her political donors, who stand to profit from three of the proposed leases.

In Ward 5, where the city will argue it should be allowed to rezone a warehouse beside a bus depot and night club from industrial use to residential, attendees at another meeting balked when asked if the site should be surrounded by "ornamental grasses" or "dominant perennial" vegetation.

The community is not ready to talk landscaping, "but cost and location. Why here?" said the man who left without offering his name.

Despite the obstacles and pushback from neighbors, no elected leader has raised the prospect of continuing to house the homeless at D.C. General, which needs \$50 million in renovations and also costs \$17 million annually to operate. That building, Bowser says, remains a scar on the city since the disappearance two years ago of 8-year-old Relisha

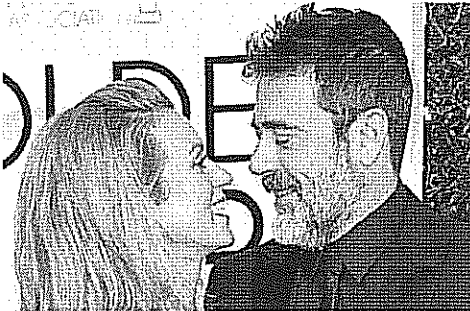
Rudd from the facility.

Aaron Davis covers D.C. government and politics for The Post and wants to hear your story about how D.C. works — or how it doesn't. [Follow @byaaroncdavis](#)

Jonathan O'Connell has covered land use and development in the Washington area for more than five years. [Follow @OConnellPostBiz](#)

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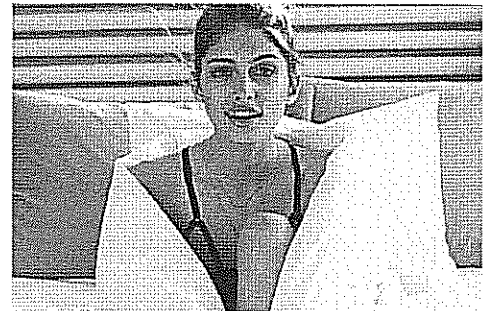
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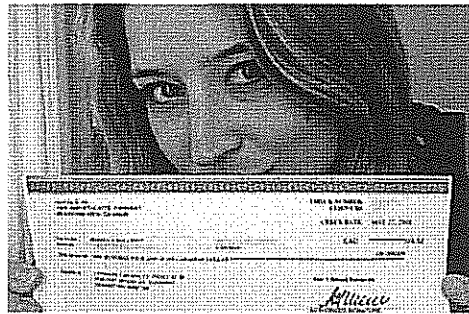
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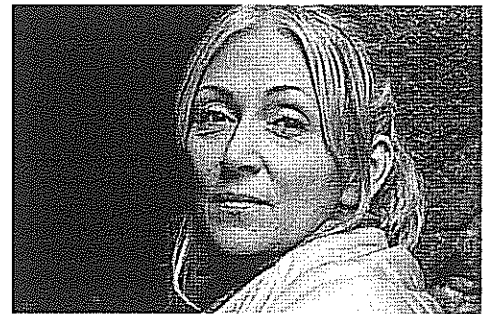
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COUNCIL OF THE DISTRICT OF COLUMBIA
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

Mary M. Cheh
Councilmember, Ward 3
Chair, Committee on Transportation and the Environment

Office: (202) 724-8062
Fax: (202) 724-8118
mcheh@dccouncil.us
www.marycheh.com

April 6, 2016

Christopher Weaver, Director
Department of General Services
2000 14th Street, NW, 8th Floor
Washington, DC 20009

Dear Director Weaver,

I'm writing to request the Department of General Services conduct a preliminary evaluation of three specific sites in Ward 3 for the short term family housing facility. I remain concerned about the selected site at 2619-2623 Wisconsin Avenue, NW, and I believe that a fair assessment of other feasible sites in Ward 3 by the Department of General Services and the Department of Human Services should be undertaken. In particular, three specific site suggestions have been repeatedly raised by the community as potentially viable sites – both operationally and economically – for the short term family housing facility. Therefore, I would like your team to evaluate the following sites and determine their suitability as alternative or supplemental sites:

Site 1:

3320 Idaho Avenue, NW
Washington, DC 20016

Note: This is District-owned land and the site of the Second District Police Station. This site is approximately 200,000 square feet of land. The police station occupies approximately 14,000 square feet. There is approximately 48,000 square feet of land available for the short term family housing facility and parking decks. The property is zoned R-5-A. Please see the attached Google Map picture.

Site 2:

3101 Albermarle Street, NW
Washington, DC 20008

Note: This is the former site of the Polish Ambassador's residence. There is an existing building on approximately 48,000 square feet of land. The property is zoned R-1-A. The property is in close proximity to a metro station and bus lines.

Site 3:

4100 River Road, NW
Washington, DC 20016

Note: This is the site of the City Church. There is an existing building on approximately 23,000 square feet of land. The property is zoned R-5-A. The property is in close proximity

to a metro station and bus lines. The owner is open to sale or lease of the property. This site and an evaluation of the site has recently been given to the Mayor and Director Zeilinger of the Department of Human Services.

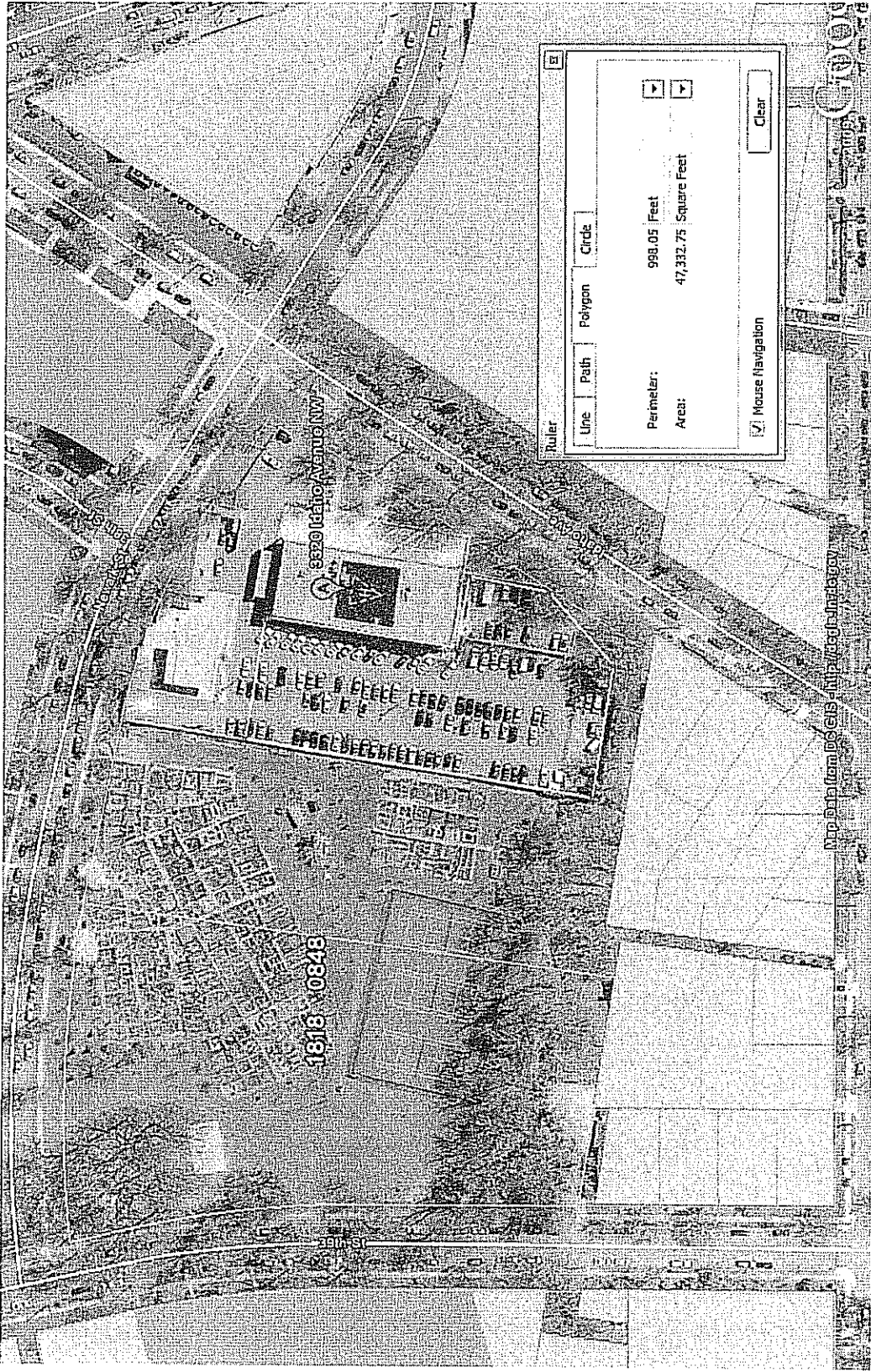
I would appreciate receiving the results of your evaluation of each of these sites by close of business on Thursday, April 14, 2016. Thank you for your cooperation.

Thanks,

A handwritten signature in black ink, appearing to read 'Mary M. Cheh', with a stylized flourish at the end.

Mary M. Cheh

cc: Mayor Muriel Bowser
Laura Zeilinger, Director, Department of Human Services



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



April 29, 2016

Councilmember Mary Cheh
Council of the District of Columbia
1350 Pennsylvania Ave, NW, Ste 108
Washington, DC 20004

Re: Ward 3 Alternative Sites

Dear Councilmember Cheh,

Thank you for your letter dated April 6, 2016, regarding alternative suggestions for Ward 3 sites with respect to the Short-Term Housing Initiative – 3320 Idaho Avenue, Northwest; 3101 Albemarle Street, Northwest; and 4100 River Road, Northwest.

The site at 3320 Idaho Avenue, Northwest, is District-owned land, but it is currently the site of the Metropolitan Police Department (MPD) Second District Police Station, a park, and a Department of Public Works (DPW) refueling station. In order to use this site for the Ward 3 site, we would need to lease a facility to relocate the Second District, which would require additional operating dollars. Alternately, the District would either need to identify suitable District-owned land for the relocation, as well as additional capital funds in order to construct or renovate a new facility for MPD, or identify additional capital funds in order to renovate the existing MPD building to also support the Ward 3 site. There are limited capital funds available for site construction, which are already dedicated to the Wards 1, 7, and 8 sites. Finally, the loss of the park at that location may interfere with the Department of Parks and Recreation's (DPR) master plan for park availability for this neighborhood. These complicating factors create an unknown delay and thus make this site unsuitable for our purposes.

The site at 3101 Albemarle Street, Northwest, is a former diplomatic residence. This site was considered and reviewed by the team during the property search for this initiative. Unfortunately, DGS was not able to complete a successful negotiation for this site.

The site at 4100 River Road, Northwest, the City Church, is privately owned and was not offered at the time of the open solicitation through which DGS searched for the properties responsive to the needs of the short-term family housing initiative. As such, this site could not be appropriately evaluated in terms of the likelihood of successful negotiations, schedule and availability or implication of reuse of the historic church.

We sincerely appreciate your participation in this process and willingness to engage us with additional potential sites in the Ward. Unfortunately, due to funding, availability, or other factors, these sites are not suitable for our purposes within the allotted budget and timeframe.

Very Respectfully,




Christopher Weaver
Director
Department of General Services

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

OFFICE OF THE
SECRETARY
2016 JUN 20 PM 1:37

TO: All Councilmembers
FROM: Chairman Phil Mendelson
Committee of the Whole 
DATE: May 17, 2016
SUBJECT: Report on Bill 21-669, the "Fiscal Year 2017 Budget Support Act of 2016"

The Committee of the Whole, to which Bill 21-669 was referred, reports favorably thereon with amendments and recommends approval by the Council.

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I. BACKGROUND AND NEED

The purpose of Bill 21-669, the Fiscal Year 2017 Budget Support Act of 2016 ("FY 2017 BSA"), is to amend or enact various provisions of law that support the implementation of a balanced Fiscal Year 2017 budget and financial plan.

In addition to the subtitle-by-subtitle analysis set forth below, further background on Bill 21-669 is available in the various committee budget reports. The committee print attached to this report contains FY 2017 BSA subtitles as recommended by the Committee of the Whole based on recommendations and feedback from the various Council committees. The Committee of the Whole recognizes the importance of the policy recommendations set forth by the various committees in their individual budget reports. These policy recommendations play an important role in the performance and budget review process by the Council. The Committee of the Whole expects the executive branch to work with individual committees to address the policy recommendations as a part of the Council's continuing oversight activities.

FY 2017 Capital Allotments

	Land	Construction	Total
Ward 1	\$7,500,000	\$12,500,000	\$20,000,000
Ward 3	\$0	\$12,500,000	\$12,500,000
Ward 4	\$3,000,000	\$10,000,000	\$13,000,000
Ward 5	\$0	\$10,000,000	\$10,000,000
Ward 6	\$0	\$12,500,000	\$12,500,000
Ward 7	\$0	\$10,000,000	\$10,000,000
Ward 8	\$0	\$10,000,000	\$10,000,000
Contingency	\$17,000,000		\$17,000,000
TOTAL			\$105,000,000

The FY 2017 capital allotment for the family shelter ownership structure per Bill 21-620 includes the \$40 million that was previously budgeted to fund the shelter plan. For the District to own all the replacement sites, an additional \$65 million in capital funds needed to be identified in the FY 2017 budget to pay for site acquisition, development, construction, and contingency reserves. The Council recognizes that identifying the source of these funds requires making difficult choices and tradeoffs between competing priorities. After careful analysis of the Mayor's proposed Capital Improvement Plan, the Council has determined that \$49 million budgeted for the modernization of Coolidge High School is unlikely to be spent in FY 2017, and can therefore be adjusted to make FY 2017 resources available for the shelter plan. The Council redistributes the \$49 million for Coolidge across FY 2018 and FY 2019, keeping that school's modernization budget whole and aligned with a more realistic spending plan. Please see the committee report on Bill 21-620, the Homeless Shelter Replacement Act of 2016, for more information on Coolidge High School and the school modernization process.⁵

Converting the proposed family shelter plan to an ownership-based plan will save the District \$165 million over the terms of the proposed leases, reduce the impact of the family shelter plan on the operating budget, and eliminate the unnecessary transfer of government resources to private entities.

Using the information received from the Executive and the Chief Financial Officer, the Council's Office of the Budget Director analyzed the operating budget impact for each family shelter, taking into account lease payments, debt service on capital expenditures, real estate taxes, facility costs, and the cost of social services. The results are set forth in the following table:

⁵ The remaining \$16 million in capital dollars came from a variety of sources reallocated within the FY 2017 Capital Improvement Plan.

the requirement that the Mayor submit the Inspector General's budget unaltered, but this is at odds with how the majority of inspector general offices (including at the federal level) submit their budgets for appropriation.

Subtitle G. Use of Official Vehicles During and Emergency Amendment Act of 2016: authorizes an employee in one of the enumerated agencies (which includes the Executive Office of the Mayor, the Office of the City Administrator, the Homeland Security and Emergency Management Administration, or the Metropolitan Police Department) to use an official vehicle for commuting and responding to emergency circumstances if a public emergency has been declared by the Mayor. The subtitle, as amended, limits the duration of the use and requires the Council to be notified within a specified time of any official vehicle use authorized pursuant to this subtitle.

Subtitle H. Ballot Access Modernization Amendment Act of 2016: authorizes the collection of electronic signatures for candidate nominations, referenda, initiatives, and recalls. This subtitle implements the provisions of Bill 21-193, the Ballot Access Modernization Amendment Act of 2015. The subtitle also repeals an unnecessary prohibition on the number of signatures the Board of Elections will accept for filing for an elected office. Currently regulations limit the number of signatures to two times the minimum number of signatures required for that office.

Subtitle I. Mayor's Office of Community Affairs Limited Grant-making Amendment Act of 2016: authorizes the Director of the Mayor's Office of Community Affairs to make a grant to address housing needs in the Caribbean community of the District.

Subtitle J. New Columbia Statehood Commission Discretionary Funding: provides limited authorization for the members of the New Columbia Statehood Commission to spend Commission funds for discretionary expenses – similar to the discretionary accounts for the Mayor, Council Chairman, and other government officials.

Subtitle K. PDS Creditable Service Clarification: clarifies the creditable service calculation for a small number (less than 10) of employees of the Public Defender Service for the District of Columbia hired between 1987 and 1991. A new interpretation unintentionally prevents the very limited number of employees from accessing the amount of pension funds they, prior to the new interpretation, were eligible to receive.

Subtitle L. Equity in Survivor Benefits Clarification Amendment Act of 2016: clarifies that for the purpose of the District's retirement benefits, a modification of any order regarding qualification for spousal retirement benefits shall not be effective if the modifications were made after the death of the employee.

Subtitle M. Archives Eminent Domain Authority: authorizes the Mayor to acquire several lots within square 3942 through eminent domain so that the land may be used as a site for the DC Archives.

THE NORTHWEST CURRENT

Wednesday, February 8, 2017

Serving Communities in Northwest Washington Since 1967

Vol. 1, No. 6

Parking added to shelter plan amid concerns

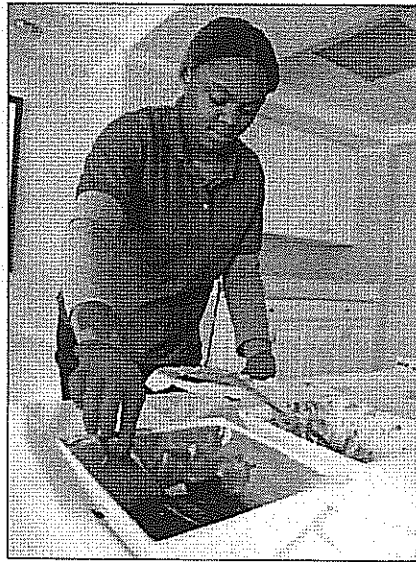
By KATHERINE SALTZMAN
Current Correspondent

Plans for a short-term family housing facility in Ward 3 continue to divide residents living near the proposed 3320 Idaho Ave. NW site as the D.C. government moves forward with a zoning application to construct the six-story building.

Meanwhile, the District government told some residents this week that it will amend its parking plan in response to neighbors' concerns — providing additional capacity but potentially causing temporary disruptions to the nearby tennis courts and community garden.

The Ward 3 family shelter is one of seven proposed by Mayor Muriel Bowser to replace D.C. General — a deteriorating and overcrowded family shelter in Southeast — with smaller community-based short-term housing facilities across the city. Advisory Neighborhood Commission 3C (Cleveland Park, Massachusetts Avenue Heights, Woodley Park) held a special meeting last Tuesday. See *Homeless*/Page 3

CRÊPE DAY



Susann Shin/The Current

Hillwood Estate, Museum and Gardens celebrated La Chandeleur, also known as Crêpe Day, with sweet treats, storytelling, art projects and more among the historic property's French treasures on Saturday afternoon.

Agency amends plan for 'Vision Zero' fines

■ **Safety:** Some stakeholders still unconvinced on proposal

By BRADY HOLT
Current Staff Writer

Plans for higher traffic fines and new violations are moving forward, after the D.C. Department of Transportation scaled back some of the increases from an earlier iteration.

The agency made headlines in late 2015 with a series of proposed fine increases that would have included \$1,000 for exceeding the posted speed limit by 26 to 29

mph, rather than the existing \$300. The new proposal, released last month, would establish a \$400 fine for those speeds on a controlled-access highway and \$500 on other streets. The plan also adds numerous other new or increased fines compared to current law, but many are less stringent than the 2015 iteration. And the Transportation Department is now proposing penalties for certain pedestrian or cycling behaviors — for example, fining bicyclists who wear phones while riding.

The revised proposal "reflects the input we received from residents." See *Safety*/Page 2

City finalizes schedule for MLK Library renovations

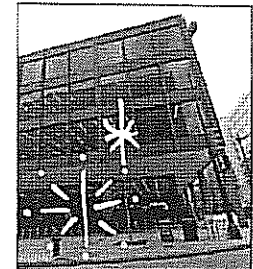
■ **Downtown:** Building to close March 4 for three years

By MARK LIEBERMAN
Current Staff Writer

The Martin Luther King Jr. Memorial Library is set to close on March 4 for a three-year, \$208 million modernization that will substantially alter the interior and exterior of the historic building — plans that have earned mixed reviews from the advisory panel created to help develop them.

Efforts to upgrade and renovate the central library, which opened in 1972 and was designated a historic landmark in 2007, have been in the works for over a decade, with concept designs coming together in the last two years. Major new features will include a fourth-floor auditorium and conference center, a rooftop deck and a ground-floor cafe. The front will be transformed into a large transparent entryway, and new rooms will be dedicated to fabrication, music production, art creation and an interactive children's area.

An advisory panel of 18 city-wide stakeholders provided input



Brian Kapur/The Current

The 901 G St. NW library is due for a \$208 million renovation.

that led to the final design from the firms Martinez + Johnson Architecture and Mecanoo. Though the panel members all supported the goal of modernizing the outdated facility, differing opinions emerged during the design process, and some concerns still remain about aesthetic and functional issues.

Robin Diener, president of the library's friends group, told The Current she's disappointed with the "mundane" and "mediocre" See *Library*/Page 2

Deal teacher wins school system's top honor

By KATE MAGILL
Current Correspondent

Jan Schuettpez, a seventh-grade science teacher at Alice Deal Middle School, recently won D.C. Public Schools' top honor as the Teacher of the Year.

Schuettpez learned of her award Feb. 1, in her classroom full of cheering students, as D.C. Mayor Muriel Bowser and newly appointed Chancellor Antwan Wilson made the announcement.

"I am just always inspired by the students to try to bring my best every day," Schuettpez said moments after she received the award in the Tenleytown school. "I think it's just a passion for what I do, and for trying to make sci-



Kate Magill/The Current

Chancellor Antwan Wilson, right, surprised Jan Schuettpez with the Teacher of the Year award.

ence come alive for them, so that they might be our next great scientists."

The school system's annual award comes with a \$10,000 prize, and nominations can come from

students, parents and community members. Schuettpez will be recognized alongside other honorees at the Standing Ovation for D.C. Public Schools event on March 13 at the Kennedy Center.

"When we look to find the Teacher of the Year, we look to find teachers that have demonstrated that their students are growing, who have demonstrated that their colleagues ... look up to them, that they have an unquenchable thirst to learn, and to grow and to be better," Deputy Mayor for Education Jennie Niles said following the announcement.

Schuettpez was recognized for her innovative lessons in the classroom as well as for her extracurricular activities. See *Teacher*/Page 5

NEWS

Helipad plan

George Washington University Hospital proposal prompts noise concerns / Page 3

SPORTS

Statement win

Wilson takes down defending DCIAA champ H.D. Woodson in hoops showdown / Page 9



SHOPPING & DINING

Bricks, mortar, wheels

Local restaurateurs balance food truck businesses with traditional storefront eateries / Page 15

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Tips? Contact us at news@northwestcurrent.com

GWU Hospital considers seeking permission for helipad

By BRADY HOLT
Current Staff Writer

George Washington University Hospital is hoping to construct a helipad atop its Foggy Bottom building, prompting mixed reactions from residents in advance of a community meeting on the issue.

Hospital officials say the addition would improve the District's ability to respond to a mass-casualty situation, as the city currently has only one Level I trauma center with helicopter access: MedStar Washington Hospital Center in Park View, which officials say can take only seven patients at a time.

"A helipad at GW Hospital

would provide more immediate access for the most critically ill and save lives in the DC Metropolitan area," Christine Searight, the hospital's director of marketing and business development, wrote in an email to *The Current*.

The project would require changes to a long-standing law against new helipads in residential areas. There's been no D.C. Council action on that so far this year, but last fall then-member Yvette Alexander had introduced a bill to soften the restrictions.

Advisory Neighborhood Commission 2A (Foggy Bottom, West End) unanimously opposed the bill at its November meeting. But

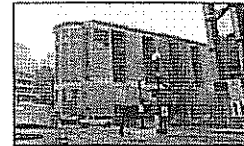
at least one community leader now supports the plan. Marina Strezewski, president of the Foggy Bottom Association, also raised concerns in November but says she's heard persuasive information from hospital officials both about the need for a helipad and about the likely impacts.

Strezewski said officials told her that in the aftermath of the 2013 Navy Yard shooting, critical patients had to be taken by ambulance to the hospital after Washington Hospital Center's trauma center reached capacity. And she fears D.C. will see more mass-casualty events in the future. "It's not a question of if — it's a question

of when, given the world we live in today," said Strezewski.

Strezewski's home near New Hampshire Avenue and I Street NW is one of the closest residences to the helipad. But she was also encouraged by officials' assurances that at 80 decibels, the type of helicopter that would come to George Washington University Hospital is significantly quieter than ambulance sirens. And she said the hospital expects only 100 helicopter transports per year, with just 25 expected at night.

Officials are scheduled to provide a detailed presentation on the plans at the Foggy Bottom Association's Feb. 21 community



Brian Kapor/The Current
The hospital is located at 900 23rd St. NW in Foggy Bottom.

meeting from 7 to 8:30 p.m. at George Washington University's Fungler Hall, 2201 G St. NW.

ANC 2A chair Patrick Kennedy said he still has reservations pending more details about the impacts. "I think what they've presented is very good — not necessarily sufficient, but a start of a process that we can undertake," he said.

HOMELESS: Parking plan revised

From Page 1

day to hear a presentation on the zoning application and receive community feedback.

The shelter project needs several areas of zoning relief to be constructed on the Idaho Avenue site, which it would share with the Metropolitan Police Department's 2nd District headquarters. Notably, while regulations would allow a three-story, 40-foot-tall building, the city argues that the shelter needs 72 feet and six stories to properly serve families. Other exemptions include necessary permission for 50 residential units instead of the currently allowable 25. The city had also applied for permission to have just 12 parking spaces rather than the required 21, but ANC 3C member Angela Bradbery told constituents Monday that the city now intends to provide additional parking.

Meridith Moldenhauer, land-use counsel for the project, said at the meeting that the city has already received approval with similar zoning applications for two other shelters elsewhere in D.C. And Laurn Zeilinger, director of the Department of Human Services, said that although concerns about the size of the building are legitimate, the city will work with the community on its operations.

"We are very committed to operating this program in a way in that it exists in harmony with the neighborhood. We have a good track record of doing that and in a number of other places of the city," Zeilinger said.

But community members still expressed concern about the Ward 3 project and zoning application requests, with about 130 residents filing the police station's community room at last week's meeting.

Neighbors living within 200 feet of the project were given priority to speak first. Many feared that the zoning relief for the shelter proposal — especially the size of the proposed building — would worsen traffic and parking congestion, impede police activity, add to public transportation order-

ship, reduce property values, and overshadow homes and views. For their part, supporters say that many of the expressed objections are overblown, and other concerns are being addressed.

Theresa Fergo, who lives in McLean Gardens, said she worries that the homeless shelter would increase the current overflow of police vehicles onto the street, reducing space for others to park.

"Where will the police cars be parked during the construction process? There is already an overflow of police cars and their personal cars on the sidewalks and on the streets themselves," Fergo said.

D.C. Department of General Services project manager Agyei Hargrove and 2nd District Cmdr. Melvin Gresham said the city was developing plans to ensure that police vehicles had on-site parking before beginning construction. The current traffic capacity is expected to remain the same following the completion of the shelter. Gresham said, and the project includes a new parking deck for police vehicles to replace surface parking sacrificed to build the shelter.

A few days after the meeting, officials shared a new parking plan. On Monday, they told ANC 3C's Bradbery that they'll construct a three-level parking deck instead of the previously planned two-level structure, with capacity for another 60 to 80 spaces. This project would cost \$9.5 million, up from \$5.5 million for the smaller deck, and would take away more parking capacity during construction, according to Bradbery.

Accordingly, during the 18-month construction process, the city intends to use the three public tennis courts behind the police station as temporary parking, Bradbery said. An access road between the police station and the courts would disrupt some of the community garden plots located there as well, and although details on the cost and restoration weren't immediately available, officials

See Homeless/Page 5

The week ahead

Wednesday, Feb. 8

The Office of the State Superintendent of Education and the State Board of Education will hold a community meeting on an initial draft of D.C.'s state education plan under the federal Every Student Succeeds Act. The meeting will be held from 7 to 8:30 p.m. at Wilson High School, 3950 Chesapeake St. NW. For more information or to register, visit essa.dc.gov/essa.

Monday, Feb. 13

Humanities DC and the Historical Society of Washington, D.C., will host a meeting to announce the creation of the DC Oral History Collaborative — a new citywide initiative to document and preserve the history of Washington's residents and communities through the collection of oral histories — and provide updates on the DC Cultural Plan. The meeting will be held from 7 to 8:30 p.m. in Room A-5, Martin Luther King Jr. Memorial Library, 901 G St. NW. To RSVP, visit wdc.humanities.org/dc-oral-history-collaborative.

Wednesday, Feb. 15

The Crestwood advisory neighborhood commissioner for single-member district 4A09 will host a meeting at 7 p.m. at Grace Lutheran Church, 4300 16th St. NW.

Michael Kirkwood of the D.C. Office of Aging has been invited to give a brief presentation on financial planning, and the agenda will also include discussion of a request to add a stop sign at 17th and Varnum streets NW.

Thursday, Feb. 16

The Office of the State Superintendent of Education and the State Board of Education will hold a community meeting on an initial draft of D.C.'s state education plan. The meeting will be held from 7 to 8:30 p.m. at Barnard Elementary School, 430 Decatur St. NW. For more information or to register, visit essa.dc.gov/essa.

Thursday, Feb. 23

Mayor Muriel Bowser will host a Budget Engagement Forum in Ward 3 to solicit public input about the administration's priorities and investments. The meeting will begin at 6:30 p.m. at Wilson High School, 3950 Chesapeake St. NW. To register, visit budgetforum1.eventbrite.com. The Ward 3-Wilson Feeder Education Network will meet at 6:45 p.m. at the Tenley Friendship Library, 4450 Wisconsin Ave. NW. The speaker will be Ward 3 D.C. Council member Mary Cheh, with discussion focusing on overcrowding in Wilson feeder schools and possible solutions.



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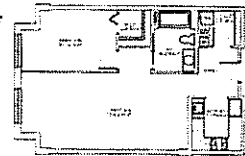
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TEACHER: New chancellor surprises Deal Middle School science instructor with award

From Page 1

ricular efforts with students, including founding the Girls STEM Science Club and the "Mighty Girls Book Club" at Deal.

She also participated in the Inspired Teaching Institute last school year, in which she built on skills to create more "engagement-based instruction." The institute is run in partnership with D.C. Public Schools, as part of an effort to strengthen teachers' practices and to foster professional development.

A Woodley Park resident, Schuettzel is now in her fourth year at Deal, and her 19th

year as a teacher.

She credited her students with pushing her to grow as an educator. "We have the greatest humans in the District right here, they're amazing," Schuettzel said. Her students, she said, "come in and work hard every day, [and] inspire me to come up with interesting lessons."

The award announcement Feb. 1 also marked Wilson's first official appearance as D.C. school's chancellor. He comes to the District from Oakland, Calif., where he served as the superintendent of schools.

Wilson expressed his excitement to build on the progress that Bowser's administra-

tion has made in improving the city's school system, including an increased focus on middle schools. He said one of his top priorities is to create school environments in which students feel valued and challenged.

"Quite simply we want to focus on excellence in education and equity," Wilson said, "making sure our students know that we are preparing them — not just to be successful while they're in school, which is extremely important, but we're preparing them for what's going to meet them when they graduate. And we expect them to graduate."

He also emphasized the importance of

social and emotional learning for students, in order to foster self-awareness and self-motivation.

One of Wilson's goals in his first year in office is to visit every school in the District, a process he has already begun. After touring several classrooms at Deal last Wednesday, he mentioned how impressed he was with the engaged educators.

"I love being in classrooms because I'm often mesmerized by how teachers captivate students' attention," Wilson said. "At the end of the day, a good classroom is one where students are challenged, where they are put in positions to be successful."

HOMELESS: Plans tweaked

From Page 3

declined to delay the zoning application, according to Bradberry. City representatives weren't immediately available for comment before The Current's deadline on Tuesday.

At the meeting, residents also worried that the proposed width and height of the project would negatively impact property owners. Coupled with the busy loading dock at the Cathedral Commons commercial site, the addition of a six-story shelter would diminish the residential neighborhood setting, one Idaho Avenue resident added.

"I know my immediate neighbors and I paid a premium for a house in this idyllic neighborhood. I implore the commission [to] protect our property values. We deserve rights just like the homeless," the resident said.

Several attendees also addressed their continuing concerns with the D.C. Council's site selection process for the shelter,

blasting the council for limited notification about the proposal. Some accused Ward 3 Councilmember Mary Cheh of expediting the process without consulting ANC 3C. Cheh countered that she had held a community meeting on the issue while the council was considering Mayor Muriel Bowser's proposed site on Wisconsin Avenue NW, and the police station was floated as another possibility during that meeting. Council members decided the privately owned Wisconsin site wasn't a good deal.

"We had to come together as a council and think about where to put the shelter," Cheh said. "The fact that this is city-owned property made it rise to the top."

Despite concerns, there were also neighbors in support of the project. Many wore pins that said "Ward 3 for All." Though there might be changes to the area, the proposed shelter would benefit the neighborhood, McLean Gardens resident Josh Beraha said.


"I have three children; ages 1, 2



Brian Kapur/Current file photo
The 2nd District police station is eyed for a family shelter.

and 4. I am willing to sacrifice things like parking around the corner in order to have families experiencing homelessness living in our neighborhood. I am willing to deal with a tall building's shadow, a little extra noise and traffic," said Beraha. "Living in a community means having to make certain sacrifices, and I am standing up proudly in support of this project. I think it will be a great addition to the neighborhood."

ANC 3C chair Nancy MacWood said her commission will continue to work with city agencies and testify at the Board of Zoning Adjustment's March 1 hearing on the issue. ANC 3C will be considering a resolution on the issue on Feb. 21.



Georgetown University to Eliminate Steam Whistle Emergency Notification System

Effective immediately, Georgetown University is decommissioning its steam whistle system used previously to provide notification of emergencies to the campus and greater Georgetown community. Moving forward, emergency notifications will be shared through HOYAAlerts — Georgetown's mass email and text notification system.

Residents of the greater Georgetown community, including neighbors, may enroll in the system, and are encouraged to download the *LiveSafe App* as an additional communication tool provided by the Georgetown University Police Department (GUPD). If you would like to sign-up for HOYAAlerts, please send an email to EmergencyManagement@Georgetown.edu. Please be aware that if you enroll, you will receive some messages that are specific to the on-campus community.

Georgetown Office of Governmental Relations and Community Engagement
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