

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



**Application No. 19689-A of MIC9 Owner, LLC**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the private school regulations under Subtitle X § 104.1 and from the bulk extension regulations under Subtitle A § 207.2 to construct new office space and a 111-unit apartment house on the campus of an existing adult private school in the RA-2 and RA4 Zones at premises 2300 16th Street, N.W. (Square 2568, Lot 806, 808, and 809).

**INITIAL ORDER DATE:** March 7, 2019  
**DECISION DATE ON REMAND:** December 14, 2022

**DECISION AND ORDER ON REMAND**

By order issued March 7, 2019, the Board granted, subject to conditions, a self-certified application submitted by MIC9 Owner, LLC on behalf of Meridian International Center (the “Center” or “Meridian”), the owner of the property that is the subject of the application (collectively, the “Applicant”). The application requested special exceptions under Subtitle X § 104.1 of the Zoning Regulations to modify the Center’s existing private school plan and under Subtitle A § 207.2 to extend the bulk regulations of the RA-4 zone 35 feet west into a portion of the subject property zoned RA-2 to allow a mixed-use building with apartments, space for the Center, and vehicle parking in a below-grade garage.

Parties in this proceeding are the Applicant and two affected Advisory Neighborhood Commissions, ANC 1C and ANC 1B, located across 16<sup>th</sup> Street N.W. from the subject property.<sup>1</sup>

A group of residents living near the subject property (the “Petitioners”) appealed the Board’s order to the District of Columbia Court of Appeals, arguing *inter alia* that the findings of fact stated in the order were insufficient to support the Board’s conclusion that the Meridian Center is a private school.<sup>2</sup> The Petitioners contended that the Meridian Center use was a private event center because its core function was hosting and collecting fees from private events.

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<sup>1</sup> ANC 1B did not submit a report or otherwise participate in the proceeding. The Beekman Place Condominium Association requested party status in opposition to the application on behalf of the owners of a residential building across Belmont Street, N.W. to the south of the subject property but withdrew the request before the public hearing.

<sup>2</sup> The Board’s decision to approve the special exception under Subtitle A § 207.2 was not challenged in the appeal. This order on remand reaffirms the Board’s decision to grant that request for relief for the reasons stated in the original order.

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The Court held that the Board’s findings were “inadequate to support the conclusion that Meridian is a private school” eligible to file an application for a special exception under Subtitle X § 104 and therefore vacated the order and remanded the matter for further proceedings. *Youngblood v. District of Columbia Bd. of Zoning Adjustment*, 262 A.3d 228 (D.C. 2021). The Court directed that, on remand, the Board “should make more complete findings about what goes on at Meridian on a daily basis, regarding both its purportedly educational purposes, and the extent to which it operates as a private event facility” but left to the Board’s discretion “whether, on remand, to reopen the record for further factual development given that ANC 1C ‘failed to raise this issue at the [Board’s] hearing.’” *Id.* at 239.

In this Order on Remand, the Board reaffirms its decision as set forth in the original order to approve the application subject to conditions and clarifies the rationale for the Board’s consideration of the relief requested in the self-certified application, specifically with respect to the private school use of the subject property. This Order on Remand supplements the original order and incorporates the findings of fact and conclusions of law set forth in the original order in approving the application subject to the previously stated conditions.

For the reasons discussed below, the Board determined that the existing record contained adequate information for its deliberations on this application. The scope of the Board’s authority in this case was limited to consideration of the request for special exception approval and did not extend to questions of enforcement related to whether the Applicant’s current or past operations were consistent with zoning requirements, including whether the actual use of the subject property was consistent with the permitted private school use. The Board had a plausible basis to decide that a special exception under Subtitle X § 104 was the relief required for the Applicant’s project and did not need more detailed evidence about the Applicant’s daily operations, because that information would have been of limited relevance to the Board’s deliberations and would not have provided a basis to grant or deny the application. Because the applicable zoning regulations do not specifically require or allow consideration of an applicant’s existing operations in the context of this case, particularly with respect to claims of noncompliance with past approvals, the Board could consider the Applicant’s current operations only to the extent that information about current operations was relevant to the Board’s finding of a plausible basis to consider the relief requested in this self-certified application or to a determination of whether proposed new conditions might be sufficient to mitigate potential adverse impacts of the planned use. The existing record is sufficient for those purposes.

**FINDINGS OF FACT**

1. The property that is the subject of this application is configured as three contiguous tax lots with frontage on 16<sup>th</sup> Street, N.W. to the east, Belmont Street, N.W. to the south and west, and Crescent Place, N.W. to the north (Square 2568, Lot 806, 808, and 809).
2. The Applicant’s current operation is housed in the Meridian House, located in the western portion (Lot 809) of the subject property, and in the White-Meyer House, located in the center portion (Lot 806).

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3. The Applicant currently uses the eastern portion (Lot 808) primarily as a parking lot.
4. In 1960, the Board approved an application to establish a private school, then known as the Washington International Center, at 1630 Crescent Place, N.W. (Lot 807 in Square 2568), subject to six conditions. The order noted that “the Center will attract adults” and specified hours of operation as 9:00 a.m. to 5:00 p.m. Monday through Friday and “on certain evenings from 5:00 p.m. to 10:30 p.m. and Saturday from 9:00 p.m. until midnight.” See Appeal No. 5802 (Gertrude Louise Isabel Laughlin Chanler; order issued February 24, 1960). (Exhibit 10.)
5. In 1987, the Board approved an application on behalf of the Meridian House International (“MHI”) for “a private school for adults” in the White/Meyer Mansion at 1624 Crescent Place, N.W. (Lot 806 in Square 2568). The order noted that Lot 806 was then under contract for sale to MHI, which owned the abutting lot to the west, the location of MHI’s “central facility” that “operates under a Certificate of Occupancy for a private school for adults.” The order described Meridian House International as a nonprofit educational institution established in 1960 and specializing in world affairs, noting that “MHI conducts various international educational and cultural exchange programs for adults including world affairs seminars, lectures, art exhibitions, concerts, and other cultural events, as well as orientation courses and study and observation programs designed for foreign leaders.” The order noted MHI’s intent to consolidate its operations on the adjacent properties (MHI then leased space at other locations “to gain additional classroom, counselling, and seminar space” to supplement what was available at its original location) and to offer a more cohesive atmosphere for adult educational programs and counseling. The intended use of the White/Meyer Mansion was as a classroom building for primarily small classes, counseling, occasional seminars, and related cultural events. The designated hours of operation specified that “the building may be open occasionally in the evenings and on Sunday afternoons from 1:00 P.M. to 4:00 P.M. when an exhibit is on display.” See Application No. 14571 (Meyer Foundation; order issued April 10, 1987). (Exhibit 11.)
6. In 2003, the Board approved modifications to two conditions adopted in Appeal No. 5802 relating to the location of parking for the building located at 1630 Crescent Place N.W. The 2003 order noted that “Meridian International Center holds a special exception to operate a private school and cultural center at 1630 Crescent Place, N.W. Square 2568 Lot 809” that was approved in 1960 in Appeal No. 5802. The four conditions of approval adopted in the 2003 order included provisions requiring “Meridian ... to provide an attendant and/or valet parking” as specified for “all events of 150 or more guests” and for “all events of 200 or more guests.” See Application No. 17070 (Meridian International Center; order issued November 18, 2003). (Exhibit 12.)
7. Certificate of Occupancy No. B156346 was issued February 14, 1989 to Meridian House International to use the basement and first, second, and third floors of the building located

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on Lot 806 of Square 2568, known as 1624 Crescent Place, N.W., as a “Private School for Adults.” (Exhibit 14.)

8. Certificate of Occupancy No. B164266 was issued December 1, 1992 to Meridian International Center to use the first, second, and third floors of the building located on Lot 807 of Square 2568, known as 1630 Crescent Place, N.W., as a “Private School for Adults.” (Exhibit 14.)
9. Certificate of Occupancy Permit No. CO 26225 was issued December 28, 2001 to a sole proprietor trading as Crescent Catering to operate a restaurant in 1,200 square feet on the first floor of 1630 Crescent Place, N.W. The permit reflected a change in ownership with the description of use stated as “Cafeteria Adjunct to Institution of Higher Learning – 20 Seats.” (Exhibit 14.)
10. In the application at issue in this proceeding, the Applicant sought zoning relief for a project involving the construction of a new mixed-use building on the eastern portion of the subject property. The planned building will contain approximately 111 dwelling units, up to 9,266 square feet of gross floor area devoted to office and meeting space for the private school use, and parking in a below-grade garage.
11. In accordance with the Board’s Rules of Practice and Procedure (Subtitle Y), an application for approval of a special exception may be filed only by the owner of the property for which zoning relief is sought or an authorized representative of the owner. (Subtitle Y § 300.4.)
12. Pursuant to Subtitle Y § 300.8, an applicant for a special exception must provide specific information at the time the application is filed, including:
  1. a completed application form;
  2. a plat, drawn to scale and certified by a survey engineer licensed in the District of Columbia or by the D.C. Office of the Surveyor, showing the boundaries and dimensions of the existing and proposed structures and accessory buildings and structures on the specific piece of property, if necessary;
  3. architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and building materials, and where applicable, parking and loading plans;
  4. a detailed statement of existing and intended use of the structure, or part thereof;
  5. a detailed statement of how the application meets each element of the review standards for special exceptions specified in Subtitle X § 901;
  6. at least three color images showing the pertinent features of the structure and property involved (front, rear, and sides, if possible and applicable);
  7. the name and addresses of the owners of all property located within 200 feet of the subject property;
  8. the name and address of each person having a lease with the owner for all or part of any structure located on the property involved in the application;

9. a copy of the certificate of occupancy or other documentation showing the current authorized use(s) on the property;
  10. a copy of the resume of any expert witness who will be testifying in the case;
  11. a written summary of the testimony of all witnesses; and
  12. a statement of the efforts that have been made to apprise the affected ANC and other individuals and community groups concerning the application, if any.
13. An application for a school plan must also include a plan for the school showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including the following: (a) buildings and parking and loading facilities; (b) screening, signs, streets, and public utility facilities; (c) athletic and other recreational facilities; (d) a description of all activities conducted or to be conducted on the school, and of the capacity of all present and proposed school development; and (e) any other relevant information. (Subtitle Y § 300.9.)
14. An application for approval of a special exception must contain either (a) a memorandum from the Zoning Administrator stating that a building permit application has been filed and certifying the required zoning relief or (b) a certification by an architect or attorney certifying the required zoning relief. The certification must reflect that the architect or attorney is duly licensed to practice in the District of Columbia and is currently in good standing and otherwise entitled to practice in the District of Columbia, and that the relief requested is required in order for the proposed structure to be erected or the proposed use to be established. (Subtitle Y § 300.6.)
15. The form provided by the Office of Zoning for use in submitting a self-certified application (Form 135) includes the following caveat:
- The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. **Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.** The undersigned agent and owner further acknowledge that **any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.** The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA. The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter. (Emphasis added.)

**CONCLUSIONS OF LAW**

The Applicant requested special exceptions under Subtitle X § 104 to modify an existing private school plan and under Subtitle A § 207.2 to extend the bulk regulations of the RA-4 zone 35 feet west across a portion of the subject property zoned RA-2 to allow a new apartment house containing space for private school use on the campus of an existing private school in the RA-2 and RA-4 zones at 2300 16th Street, N.W. (Square 2568, Lot 806, 808, and 809). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.), to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR Subtitle X § 901.2.)

The application at issue in this proceeding was self-certified by the Applicant in accordance with the procedure set forth in Subtitle Y § 300.6. The self-certified application identified the zoning relief needed for the Applicant's project as including approval of a special exception under the private school regulations of Subtitle X § 104 for the modification of an existing private school plan to allow a new building on the campus of an existing private school that was first established at the site in 1960. The Court of Appeals vacated the Board's original order, which approved the application subject to conditions, and remanded the case for further proceedings related to the question of whether Meridian was currently operating as a private school. The Court described the circumstances as: "Meridian again seeks a special exception to modify its private school plan, requiring it to demonstrate that it continues to qualify as a private school eligible for a special exception under 11-X D.C.M.R. § 104.1." *Id.* at 233. The case was remanded because the Court agreed with the Petitioners' contention that the Board's findings did not support its conclusion that Meridian was a private school eligible for the requested special exception.

The Board's jurisdiction, when considering an application for a special exception, is delineated by the Zoning Act and Zoning Regulations and does not extend to making final determinations about whether an applicant's current operation is consistent with zoning requirements. The Board may deliberate on a request for zoning relief made in a self-certified application so long as the Board finds a plausible basis to conclude that the requested relief is sufficient to achieve the applicant's project; this is necessarily a forward-looking inquiry that is independent of and done for a different purpose than an investigation of the zoning compliance of an applicant's current operations. Questions about whether the actual use of a particular property is permitted and allegations of zoning violations, including whether the actual use is different from the permitted use and whether the existing use fails to comply with conditions of past approvals, raise issues of enforcement that are outside the scope of the Board's authority when deliberating on an application for a special exception.

In this case, the Board's approval of the Applicant's request for a special exception under Subtitle X § 104 did not constitute a final determination by the Board that the relief requested was in fact the relief needed to obtain any building permit, certificate of occupancy, or other administrative

determination based on the Zoning Regulations or Map. Rather, the Board considered the relief requested as the zoning relief plausibly needed to accomplish the proposed modification of the Applicant's private school plan. Approval of the requested special exception under Subtitle X § 104 did not constitute a determination that the Applicant's current operation was compliant with zoning requirements; rather, the Board determined only that the application met the requirements for approval of the requested special exception, which concerned the future use of the property. Because the Board's jurisdiction does not extend to the enforcement of the Zoning Regulations, any attempt by the Board to assess, in this proceeding, whether the Applicant's current operation was in compliance with zoning requirements would have required consideration of matters outside the scope of a special exception application and would not have been instrumental in achieving compliance with zoning requirements even if a violation seemed apparent.

The Zoning Act specifies that the regulations adopted by the Zoning Commission may provide that the Board of Zoning Adjustment "may in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the regulations, make special exceptions to the provisions of the zoning regulations in harmony with their general purpose and intent." (D.C. Official Code § 6-641.07(g) (2012 Repl.)) The Board's authority in considering a request for a special exception has been described in a number of decisions by the District of Columbia Court of Appeals. The Board is authorized to grant a special exception where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the regulations; in evaluating a request for a special exception, the Board is limited to a determination of whether the special exception sought meets the requirements of the particular regulation on which the application is based. An applicant has the burden of showing that the proposal complies with the regulation, but once that showing has been made, the Board ordinarily must grant the application. *See, e.g., National Cathedral Neighborhood Association v. District of Columbia Bd. of Zoning Adjustment*, 753 A.2d 984 (D.C. 2000), *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032-33 (D.C. 1995), *First Baptist Church v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981), *Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18-19 (D.C. 1980), and *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973).

The Applicant in this proceeding requested special exception approval of certain changes to a previously approved special exception, the latest in a series of approvals that have authorized the private school use of the subject property since 1960. The Applicant provided testimony and evidence describing its use of the subject property as a private school. The record also contains testimony alleging that the Applicant had not been operating in compliance with prior zoning approvals and that the actual use of the property was not as a private school but as a private event center.<sup>3</sup> The Board considered that testimony but did not make any final determinations on the issues raised by those allegations in the context of this application for special exception approval

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<sup>3</sup> The testimony in opposition to the application before the Board did not address whether a "private event center" is a use category employed in the Zoning Regulations. A use authorized by a certificate of occupancy requires that the use must be designated in terms of a use classification established by the Zoning Regulations. Subtitle A § 302.8(a). The use definitions, use categories, and use groups used in the Zoning Regulations are set forth in Subtitle B.

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to the extent that the allegations were not relevant to an assessment of whether the Applicant had satisfied the burden of proof for a special exception under Subtitle X § 104 and instead raised issues of enforcement outside the Board's jurisdiction.

The Board's focus in this case was not on the Applicant's past or current use of the property. Instead, with respect to the request for relief under Subtitle X § 104, the Board assessed the application solely on whether the Applicant had demonstrated that the application met the requirements specified in Subtitle X § 104 for special exception approval of a modification of an existing private school plan for the future use of the property.<sup>4</sup> The self-certified application requested special exception approval of a private school use, and the Board was obligated to deliberate on that request so long the Board found a plausible basis to conclude that the requested relief was sufficient to achieve the Applicant's purpose. The existing record contains sufficient testimony and evidence for the Board to make that decision. In doing so, the Board was not required to examine the Applicant's current or past operations except to the extent that the information might be relevant to the Applicant's proposed modification of the existing private school approval. Allegations that the Applicant had failed to comply with past approvals or was using the subject property for a use other than private school, including a use that would require different zoning relief, did not require the Board to dismiss the application for lack of a plausible basis to find that the proposed modification would be adequate for the Applicant's project.<sup>5</sup>

The Board has consistently held that arguments asserting the need for additional or different zoning relief are irrelevant to its consideration of an application for special exception relief. *See, e.g.*, Application No. 18263-B (Application of Stephanie and John Lester; order on remand issued July 25, 2013). The self-certification process allows applicants to decide the type of zoning relief needed while acknowledging that an applicant assumes the risk that the property owner might require additional or different zoning relief from the relief specified in a self-certified application in order to obtain, for the desired project, any building permit, certificate of occupancy, or other administrative determination based on the Zoning Regulations and Map. Approval of a self-certified application by the Board does not constitute a finding by the Board that the relief requested was the relief required to obtain the necessary permit, and does not prevent the Zoning Administrator from denying a building permit application because more relief is needed, or the Board from affirming such a denial. For this reason, the Board has consistently held that assertions of an erroneous certification are irrelevant to its review of applications. *See, e.g.*, Application No. 16974 (Tudor Place Foundation; order issued July 29, 2004) (the most that can be said in response to an argument that a self-certified application was incomplete is that the applicant would also

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<sup>4</sup> Subtitle X § 104 specifies that education use by a private school may be permitted as a special exception if the Board determines that the proposed use meets the general special exception criteria in Subtitle X Chapter 9 and certain other requirements, especially that the private school must be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. (Subtitle X § 104.2.)

<sup>5</sup> Contrast Application No. 19630 (Goirand and Xenophontos; order issued November 20, 2018) (self-certified application for a special exception from lot occupancy requirements was dismissed because the Board found no basis to conclude that the requested relief was sufficient under the circumstances, where the special exception provision did not apply to the applicants' proposal and the applicants failed to revise the application to request variance relief).



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need variance relief; that fact did not require the Board to deny a request for a special exception because the Board's inquiry was limited to the narrow question of whether the applicant met its burden under the general and specific special exception criteria); accord Application No. 18250 (Raymundo B. Madrid; order issued May 10, 2012); Application No. 17537 (Victor Tabb; order issued July 27, 2007) ("The question of whether an applicant should be requesting variance relief is not germane to the question of whether a special exception should be granted"). These holdings are consistent with the Court of Appeals' admonition that "[i]n evaluating requests for special exceptions, the BZA is limited to a determination of whether the applicant meets the requirements of the exception sought." *Georgetown Residents Alliance v. District of Columbia Bd of Zoning Adjustment*, 802 A.2d 359,363 (D.C., 2002). As the Board has previously held, "It would defeat the entire purpose of the self-certification process if one of the 'requirements of the exception sought' is to prove the exception alone will suffice. The sufficiency of the self-certified relief must be proven in the first instance to the Zoning Administrator and not the Board." Application No. 18263-B at 10. To avoid wasting time, the Board may, "on its own motion, dismiss an application when there is no plausible basis to conclude that the relief requested is sufficient ... But where ... the issue is not one of computation, but interpretation, the Board should at this stage allow the Zoning Administrator to carry out the function of "administratively interpreting ... the Zoning Regulations" vested in the Zoning Administrator by Part 3 (F) of Reorganization Order No. 55 (1953)." *Id.*

The record in this proceeding contains adequate testimony and evidence to support the Board's conclusion that a plausible basis existed to warrant consideration of the self-certified application seeking special exception relief for a private school use. The Applicant has operated under special exception approval for a private school use at the property since 1960; that approval remained effective through subsequent modifications in 1987 and 2003 and remains in effect now.<sup>6</sup> The prior approvals recognized that the Applicant intended to operate a private school for adults with extended hours of operation that allowed some events in the evening and on weekends. The Applicant currently uses the subject property pursuant to certificates of occupancy that authorized private school use. The prior special exception approvals reflected decisions by the Board that the Applicant intended to operate a private school use at the subject property; the certificates of occupancy issued to the Applicant reflect that the Zoning Administrator determined that the planned use of the property was as a private school. The application at issue in this proceeding did not require the Board to consider again in great detail whether the proposed use of the property would be as a private school. Rather, the Board had more than adequate grounds to find that a plausible basis existed to decide that the requested relief – a modification of special exception approval for a private school use first granted to the same applicant in the same location, more than 60 years ago and subsequently reaffirmed – was sufficient for the Applicant's proposal, especially considering that the Applicant assumed the risk that additional or different zoning relief might be needed in order to obtain a building permit or certificate of occupancy for the project.

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<sup>6</sup> If the Board had denied the application at issue in this proceeding, the Applicant could have continued operating the private school use consistent with the prior approvals. A question about whether the actual operation complies with the permitted use could be investigated as an enforcement matter at any time, not dependent on the filing of an application to modify an existing special exception.

The Board's finding of a plausible basis to consider the relief requested in this application was not limited to recognition of the permitted private school use but was also supported by information provided by the Applicant describing its current operations as well as the proposed use of the new building.<sup>7</sup> The Applicant represented the planned use as a modification of its existing private school campus and sought relief under a provision governing private school use. The reports of both the Office of Planning<sup>8</sup> (Exhibit 56) and the District Department of Transportation (Exhibit 57) analyzed the Applicant's proposal as a modification of an existing private school use. The initial resolution submitted by ANC 1C (Exhibit 55) assessed the application as a request for approval to modify a previously approved private school plan pursuant to Subtitle X § 104 and recommended denial on the ground that the Applicant could not satisfy the conditions required for approval of a modification to the existing plan given that "the requirements of DCMR 11X-104.2 are not currently being met." The resolution stated the ANC's assertions that "many of the private events at Meridian do not relate to its use as a private school and should be assessed" and that the Applicant had violated prior conditions of approval but did not challenge the classification of the planned use as anything other than a modification of the Applicant's existing private school use. Similarly, letters submitted into the record by persons in opposition to the application objected that the proposal would cause adverse impacts especially with respect to traffic and parking but did not challenge the Applicant's planned use for the property as something other than a continuation of the existing private school use.

Questions about the Applicant's current operation, including whether the actual use constituted a private school operated in compliance with past approvals, did not preclude the Board's finding of a plausible basis to consider the application, because those questions raised issues outside the scope of the Board's jurisdiction in deliberating on an application for special exception relief, where the Board is required to limit its consideration to the requirements set forth in the Zoning Regulations for the specific relief at issue. The ANC's first resolution complained of past zoning violations by the Applicant. The ANC's second resolution, a post-hearing submission (Exhibit 88), reiterated its opposition to the application and asserted that Meridian was not a private school within the dictionary definition and therefore was not entitled to special exception relief. That allegation, essentially a claim that Meridian's actual use of the subject property was outside the scope of the use authorized by its certificates of occupancy, also raised questions about compliance but did not challenge the Applicant's demonstration of its existing permission to operate a private school use at the subject property or provide a basis for the Board's denial of the application at issue.

The preponderance of the evidence and testimony in the record supported the Board's finding of a plausible basis to consider the application as a request to modify an existing private school use. In considering the self-certified application at issue in this proceeding, the Board did not direct the

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<sup>7</sup> See the original order's findings of fact, including Nos. 12-14, 23, 46, 64-67, and 82.

<sup>8</sup> The report of the Office of Planning, dated June 1, 2018, described the requested relief under Subtitle X § 104 as necessary "to permit the expansion of an existing private school" through the addition of meeting and work spaces to supplement the current operation of the private school without increasing the number of employees or events over current levels. (Exhibit 56.)

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Applicant to provide detailed information demonstrating specifically how the private school use was operated in part because the application sought approval of a modification of a special exception for private school use previously granted to the same applicant at the same property, without proposing substantive changes in the way the previously approved use would be operated. The Board's consideration of the request for zoning relief did not entail an analysis of whether the Applicant's current use of the subject property was consistent with the requirements of the Zoning Regulations and prior approvals of zoning relief to allow the private school use of the subject property. Such a determination was not needed for the Board to find a plausible basis to conclude that the planned use of the property was as a private school, and in any event cannot be made definitively at any one time; rather, the Applicant has an ongoing obligation to use its property consistent with zoning requirements as reflected in the private school use permitted by its current certificates of occupancy and past special exception approvals.

The Court of Appeals concluded in *Youngblood* that the Board had not sufficiently considered whether the Applicant was eligible to request a special exception for a private school use. The Zoning Regulations do not restrict the Board to accepting applications only from "eligible" applicants. The Board's Rules of Practice and Procedure specify that an application must be filed by the owner of the property at issue or an authorized representative of the owner, must identify the relief requested in the application by means of a memorandum from the Zoning Administrator or a certification by an architect or attorney, and must provide certain information. The required information is primarily related to physical characteristics of the subject property and any structures (existing or proposed) but also includes "a detailed statement of existing and intended use" as well as a copy of a certificate of occupancy or other documentation showing the current authorized uses on the applicant's property. Because in many instances a special exception is granted before the special exception use is established, the information required to be submitted in support of an application will not address whether the existing use of the property at issue is consistent with zoning requirements.<sup>9</sup> In the case of an application with a memorandum from the Zoning Administrator, the Board will review the relief requested with the understanding that an applicant has already represented the proposed use or structure to the Zoning Administrator.<sup>10</sup> In

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<sup>9</sup> Special exception approval is required before a use or structure that requires special exception approval can be legally established or constructed; therefore, only those applications proposing a modification to an existing special exception or seeking to renew approval of a special exception that was granted subject to a term of approval are likely to address how an applicant's current operation meets the requirements for the special exception approval sought in the new application. The Board may consider a self-certified application for a special exception despite a lack of evidence about current operations because the finding of a plausible basis to consider the requested relief as the relief needed for an applicant's project is not intended as an assessment of current compliance.

<sup>10</sup> Even when an application for zoning relief is submitted with a referral from the Zoning Administrator that reflects a specific use, the Board may deliberate on and approve the relief requested without addressing, in the context of the application, allegations that the applicant's planned use of the property would actually be a different use. *See, e.g.,* Application No. 12045 (Young Men's Christian Association of Metropolitan Washington; order issued May 4, 1976) (Board granted special exception for a private club without addressing allegations that the planned use would not be a private club); *affirmed, Ass'n for Preservation of 1700 Block of N Street, N.W. and Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978). A related decision reflects that the application was filed pursuant to a memorandum issued on October 1, 1975 by the Zoning Administrator's office "to the BZA stating that the then 'proposed YMCA Functions Building (private club)'" and "required the BZA's approval for a special exception to

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the case of an application with a self-certification form, the Board will review the information submitted by the applicant to determine whether a plausible basis exists to conclude that the relief requested is adequate to accomplish the applicant's purpose, but the Board's conclusion on that question is subject to review and change by the Zoning Administrator during the subsequent permitting process.

Similarly, the Board's jurisdiction in deliberating on the application in this case did not extend to assessing whether Meridian's use of the subject property was consistent with prior approvals of the permitted private school use. The standards for approval of a special exception specified in the Zoning Regulations do not encompass allegations of non-compliance with past approvals; therefore, the Board cannot deny an application solely on the basis of an applicant's zoning violations. The Board's consideration of factors not specified in the Zoning Regulations would in effect constitute an amendment of the Zoning Regulations, which the Board lacks the authority to do; the Board does not have the power to amend any regulation. (D.C. Official Code § 6-641.07(e) (2012 Repl.)) *See, e.g.*, Application No. 17022 (Edmund Burke School; order issued August 4, 2004) (the scope of the Board's authority is defined by statute such that, where permitted by the Zoning Regulations, the Board may grant a special exception subject to appropriate principles, standards, rules, conditions, and safeguards *set forth in the regulations*; the Board's discretion in reviewing a special exception application is limited to a determination of whether an applicant complied with the requirements enumerated in the Zoning Regulations, and the Board lacks legal authority to deny an application solely on the ground that the applicant failed to comply with a prior grant of zoning approval) and Application No. 16970 (National Child Research Center; order issued March 29, 2005) (the fact that the number of children enrolled and persons employed at a child development center exceeded the limits set by the Board in prior approvals did not alone furnish grounds to deny an application to expand the child development center use; the scope of the Board's authority is defined by the Zoning Act (D.C. Official Code § 6-641.07) and the Zoning Regulations, and there is no principle, standard, rule, condition, or safeguard set forth in the Zoning Regulations that makes noncompliance with a granted special exception grounds for denying a request for its modification.) *See also, e.g.*, Application No. 18065 (Shomarka Keita; order issued January 18, 2011) (Board does not condone illegal construction undertaken without obtaining the necessary permits, but the Board's discretion in reviewing an application for a special exception is limited to a determination of whether the applicant has complied with the specific and general requirements stated in the Zoning Regulations for approval of that special exception; because those requirements did not address prior illegal acts by an applicant or previous owner of the subject property, the Board lacked the legal authority to dismiss or deny an application for a special exception solely on the ground that construction was undertaken illegally without receiving the necessary zoning approvals and permits); accord, Application No. 18063 (Zachary and Lydia Plotz, et al.; order issued March 4, 2011).

Any allegation that the Applicant's actual use of the subject property was not consistent with its permitted use – whether due to past noncompliance with conditions of approval or new contentions

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erect roof structures and for a variance from the parking requirements." *See, Ass'n for Preservation of 1700 Block of N Street, N.W. and Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 668, 670 (D.C. 1978).

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that the permitted private school use has “evolved” over the years into a different use, not permitted as a matter of right – would fall under the enforcement jurisdiction of the Zoning Administrator. For example, in Appeal No. 18256 (ANC 1C; order issued October 22, 2012), the Board dismissed, for lack of jurisdiction, an appeal alleging that a business, which had a certificate of occupancy for a fast-food establishment, had “morphed” into another, more intensive use as a food delivery service that required special exception approval. The Board determined that an email from the Zoning Administrator stated only that a fast-food establishment use *would be a lawful use* at the location in question, consistent with the certificate of occupancy. The email did not state a determination by the Zoning Administrator that the property was *currently being used* as a fast-food establishment or constitute a failure to enforce the zoning regulations. Instead, the email reflected the Zoning Administrator’s conclusion that *an investigation of the possible food delivery service use was needed to determine whether the business was operating outside the scope of the permitted use*. The Board noted that, while the investigation did not proceed as expeditiously or with the result desired by the ANC, the scope and conduct of enforcement actions undertaken (or not) by the Zoning Administrator were not subject to review by the Board as an “order, requirement, decision, determination, or refusal made by an administrative officer ... in the administration or enforcement of the Zoning Regulations.” Instead, the Board held that enforcement of the Zoning Regulations is a discretionary function left to the discretion of the Zoning Administrator. *See also* Appeal No. 17439 (ANC 6A; order issued March 30, 2007) (appeal challenging the issuance of a certificate of occupancy for a restaurant use was denied because the ANC’s contention that the business was actually being operated as a fast-food establishment, which required special exception approval, did not prove that the issuance of the certificate of occupancy had been in error and was not the focus of an appeal; a lawfully issued certificate of occupancy may be revoked by the Department of Consumer and Regulatory Affairs (“DCRA”)<sup>11</sup> and enjoined by the Superior Court if “the actual occupancy does not conform with that permitted,” but the Board of Zoning Adjustment cannot invalidate a valid certificate of occupancy on that ground); Appeal No. 18027-A (Mehmet Kocak and Philly Pizza & Grill Inc.; order issued December 1, 2010) (Board denied an appeal challenging revocation of certificates of occupancy issued for a restaurant use where the Zoning Administrator reasonably determined, after an investigation that included several visits to the premises by DCRA inspectors, that the actual use of the property, as a fast-food establishment, did not conform to the permitted use); Appeal No. 17504 (JMM Corporation; order issued October 1, 2007) (Board found no error arising from enforcement action since the director of DCRA is authorized by the Construction Code (12A DCMR 110.5.1) to revoke a certificate of occupancy “if the actual occupancy does not conform to the permitted” and a preponderance of the evidence in the record, including the results of an investigation undertaken by DCRA, demonstrated that the appellant’s business was operated outside the scope of its certificate of occupancy); Appeal No. 13967 (California Steak House, Inc.; order issued November 22, 1983) (in an appeal challenging revocation of a certificate of occupancy, for operation outside the scope of the permitted restaurant use, the Zoning Administrator testified that the decision to revoke the certificate of occupancy was made after procedures were established by the predecessor of DCRA to govern such revocations, where the Zoning Administrator’s determination was based in part on inspections and

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<sup>11</sup> As of October 1, 2022, the zoning functions formerly performed by the Department of Consumer and Regulatory Affairs were assumed by the new Department of Buildings. *See* D.C. Official Code § 10-561.01 *et seq.*

investigations made of the business operations by the ZA's office); and Appeal No. 18114-B (Ward 5 Improvement Association; order issued September 26, 2017) (Zoning Administrator's decision to issue certificates of occupancy for restaurant/nightclub use was reversed where the Board found that the business was operating as a sexually oriented business establishment, which required special exception approval; Board's conclusion was based in part on information obtained by DCRA investigators during inspections of the premises after business operations began).

The Board has a long-standing practice of distinguishing its authority in considering an application for a special exception from the Zoning Administrator's authority to administer and enforce the Zoning Regulations. *See, e.g.*, Application No. 12045 (Young Men's Christian Association of Metropolitan Washington; order issued May 4, 1976) and Appeal No. 12139 (Association for Preservation of the 1700 Block of N Street, and Vicinity; order issued May 13, 1977). In the application proceeding, the Board granted a request for a parking variance for a new facility, which the Board considered a private club for zoning purposes. Noting that "there is no definition of a YMCA in the Zoning Regulations," the Board considered the request for relief after concluding that "the attributes of a YMCA most closely fit the normal definition of a private club." The Board declined to address a contention raised by opponents of the application that the planned use did not qualify as a private club, ruling that "this question was not properly before the Board" in the application proceeding because "the issue of whether the YMCA is a private club should only be considered as an appeal of the decision of the Zoning Administrator, such appeal to be properly filed and advertised with the Board" "should the opponents wish to pursue this matter." Such an appeal was filed with the Board, after the Zoning Administrator determined that "the proposed YMCA is a private club within the meaning of the Zoning Regulations." After reviewing the Zoning Administrator's decision and his testimony in support of the determination as well as the appellant's evidence, the Board concluded that planned facility met the zoning definition of "private club" and denied the appeal. Both of the Board's orders were upheld by the Court of Appeals. *See, Ass'n for Preservation of 1700 Block of N Street, N.W. and Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674, 675 (D.C. 1978) (affirmed Board's decision to grant zoning relief without ruling, in the application proceeding, on whether the planned facility would be a private club for zoning purposes, because the issue should only be considered as an appeal of the decision of the Zoning Administrator) and *Ass'n for Preservation of 1700 Block of N Street, N.W. and Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 668 (D.C. 1978) (affirmed Board's denial of appeal challenging the Zoning Administrator's determination that the planned facility would be a "private club" as defined in the Zoning Regulations, where the Board's findings with respect to four essential elements of the definition were based on substantial evidence and its conclusion that the facility was a private club, as defined, was neither unreasonable nor clearly erroneous).

The Board's decision to approve the application at issue in this case was also consistent with the precedent established by *Neighbors on Upton Street v. District of Columbia Bd. of Zoning Adjustment*, 697 A.2d 3 (D.C. 1997). That case concerned an application to allow a private school use at 2801 Upton Street, N.W. filed by the Selma M. Levine School of Music, an applicant that had obtained the same approval previously for its operation at a different location. A party in

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opposition argued from the outset that the Levine School was not a private school; the Board nonetheless granted the application.

The Levine School first obtained a special exception for its music school in 1987 when its operation was located at 1690 36<sup>th</sup> Street, NW. *See* Application No. 14556 (Sisters of the Good Shepherd; order issued May 8, 1987). The Levine School had requested a special exception for a private school use pursuant to then Paragraph 3101.42 of the Zoning Regulations. The Board's order approving the application contained detailed findings of fact about the music school operation but did not specifically address why the designation of the music school as a private school use was appropriate; nor was that designation challenged by any participant in the proceeding. The order noted that the Levine School had been operating since its founding in 1976 in "various makeshift locations, including churches throughout the District of Columbia" before moving into the building on 36<sup>th</sup> Street, which had been used for educational purposes for almost 20 years; the Levine School began operation at the site in 1985 "without obtaining a valid certificate of occupancy."

Several years later, around 1994, the Levine School submitted an application for a special exception, under then § 206 of the Zoning Regulations, to allow a private music school in an existing building, with a new addition to house additional educational facilities including a performance auditorium, at 2801 Upton Street, N.W. *See* Application No. 15984 (Carnegie Institution of Washington; order issued November 1, 1995). The findings of fact stated in the Board's order approving the application included No. 1, which reads in its entirety: "The proposed use is within the definition of Section 206 of the Zoning Regulations and is a private school and can be approved in accordance with the standards of that Section of the Regulations." The summary of evidence in the order included detailed information about the planned music school use and noted that "Levine is a well-established private school that has been operating in the District for nearly 20 years" as well as an accredited music school. The order noted that the Office of Planning recommended approval of the application with certain conditions, in part because "OP concluded that the [Levine] School meets the special exception tests outlined in Section 206 [for a private school use] and [the general criteria for a special exception under] Subsection 3108.1 of the Zoning Regulations." However, the order did not elaborate on the Board's conclusion that the planned use of the subject property was as a private school even though a party in opposition to the application argued that the Levine School should have applied for a use variance because "a music school does not qualify as a private school under the zoning definition."

The Board's decision in Application No. 15984 was affirmed by the D.C. Court of Appeals in *Neighbors on Upton Street*. The petitioners, three neighborhood groups, challenged the Board's decision on the ground that the Levine School was not a "private school" eligible for a special exception under § 206; instead, they argued that the planned use should be considered a trade school, a use not permitted under the zoning regulations. The Court noted that neither "private school" nor "trade school" is defined in the zoning regulations and "therefore turn[ed] to the dictionary to determine whether the Levine School is a private school or a trade school." *Id.* at 7. The Court held that the Levine School "plainly meets the dictionary definition of a 'school'" and was "'private' in that it is 'established, conducted, and primarily supported by a nongovernmental

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agency’ ....” The Court also rejected the petitioners’ argument that the Levine School was a trade school based on the relevant dictionary definitions. Noting it was “not bound by the school’s description of itself as a ‘center for community,’” the Court found greater significance in “what the record actually shows about what goes on in the Levine School on a daily basis.” *Id.* at 8. In that regard, “it is apparent that the Levine School, in its daily operations, provides music education in a broad sense rather than training for a business or profession.... [A]ccordingly ... the Levine School is not a trade school and is thus eligible to be granted a special exception.” *Id.*

The Board’s finding in Application No. 15984 that the Levine School’s operation at the new site would be a private school use allowed the Board to conclude that the relief requested was sufficient to achieve the applicant’s purpose.<sup>12</sup> That finding was made without extensive discussion of an assertion to the contrary, perhaps because the Board had previously concluded, in approving Application No. 14556, that the Levine School’s operation was properly considered a private school for zoning purposes and that conclusion was affirmed by the Zoning Administrator in subsequently approving issuance of a certificate of occupancy for the operation.

Similarly, in granting the relief requested by MIC9 Owner LLC on behalf of Meridian in this application, the Board had a plausible basis to conclude that the relief requested was sufficient to achieve the Applicant’s project especially considering the history of special exception approvals going back to 1960, in each instance for a private school geared toward adults whose operation would extend into evening and weekend hours. The Board’s conclusion in this proceeding that the planned use should be considered a private school for zoning purposes meant only that the approval of the requested special exception authorized the use of the specified property as a private school. That conclusion did not, and could not, provide a basis for a permanent determination that the actual use of the property is now or would remain, indefinitely in the future, consistent with the permitted use. A question of whether the actual use of a property is in compliance with zoning requirements and approvals is one of enforcement, which the Board cannot review or decide in the context of an application for zoning relief.

Based on the findings of fact and conclusions of law stated in the original order (issued March 7, 2019) and in this Order on Remand, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exceptions under Subtitle X § 104.1 to modify a private school plan and under Subtitle A § 207.2 to extend the bulk regulations of the RA-4 zone into a portion of the Property zoned RA-2. Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans submitted as Exhibit 87E in the record and subject to the following **CONDITIONS**, which were included in the initial order and are restated here:

**Project**

1. The Project shall be constructed in accordance with the plans dated July 2, 2018 and included

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<sup>12</sup> The special exception approved in Application No. 15954 was granted subject to conditions including a 25-year term of approval. By order issued April 27, 2022 in Application No. 20677, the Board approved a new special exception for the private school use subject to similar conditions but without a term of approval.



as Exhibit 87E of the Record.

2. The Applicant shall have flexibility with the design of the Project in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary the final selection of the colors of the exterior materials, within the range presented to the Board and included with the drawings, based on availability at the time of construction;
  - c. To make minor refinements to exterior details and dimensions, including without limitation to sills, bases, mullions, coping, railings and trim, or any other changes:
    - 1) to comply with Construction Codes that are otherwise necessary to obtain a final building permit,
    - 2) to comport with final design comments from District historic preservation officials, or
    - 3) to address the structural, mechanical, or operational needs of the building uses or systems that do not significantly alter the exterior design as shown on the plans.
  - d. To vary the final number of residential units plus or minus 10%;
  - e. To vary the final number of parking spaces plus or minus 10%;
  - f. To vary the final streetscape design and materials in the public right-of-way, in response to direction received from District public space permitting authorities;
  - g. To vary the final landscaping materials of the Project, consistent with the range presented to the Board and included with the drawings, based on availability and suitability at the time of construction or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;
  - h. To vary the location and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements;

### **Term**

3. The new meeting/conference space within the Project for the Meridian International Center (“Meridian”) is approved for a period of **five (5) years** from the date of issuance of the certificate of occupancy for such space.

### **Meridian Community Partnership and Communication**

4. Meridian Community Partnership. The Applicant shall work with representatives of the Beekman Place Condominium Association, 1661 Crescent Place, NW Inc., Meridian Crescent Condominium Association, and the 17th Street neighbors (the “Community Parties”) to establish the Meridian Community Partnership (“MCP”) as a forum for collective discussion regarding ongoing community-related issues. The MCP shall have a steering committee (the “MCP Steering Committee”) comprised of a designated representative of each of the

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Community Parties, Meridian, and the future condominium association of the Project. The MCP Steering Committee shall meet no less than twice per year to discuss ongoing issues and concerns.

5. Event Notification.

- a. Meridian shall email the Community Parties, no later than the 25th of each month, a list of evening events, weekend events, and any additional events, programs, or activities that require valet services scheduled for the following month. The list shall include information on the date, time (start/end), use of valet parking, transportation plan (shuttle buses, vans, etc.), location, and range in the number of guests for each planned event. The List shall also include an accounting of the previous month's events as well as an accounting of events over the year to date.
- b. Meridian shall send out information regarding the Meridian Ball at least two (2) months prior to the Meridian Ball.

6. Meridian Complaint Reporting and Resolution.

- a. Hotline:
  - i. Meridian shall establish a "hotline" for neighbors to report concerns at [neighbors@meridian.org](mailto:neighbors@meridian.org) or (202) 939-5535. Through use of the email or phone number, any complaint will go to the Neighborhood Liaison Manager, as well as the Meridian Event Manager and the Vice President of Human Resources & Administration.
  - ii. Meridian shall keep a log of all emails and phone calls to the "hotline" and shall provide a log of the emails and phone calls to the representatives of the Community Parties each month. For each concern, an explanation of actions taken to rectify the concern shall be provided.
- b. Neighborhood Liaison Manager. Meridian shall designate a neighborhood liaison manager (the "Neighborhood Liaison Manager") responsible for monitoring the "hotline" and promptly responding to any concerns that are reported.

**Meridian Use – Number of People and Events**

7. Maximum Number of Guests. Except for the Meridian Ball, no more than 275 guests shall be permitted on the Campus at any one time for any Meridian function, whether for Meridian Leadership Programs involving international professional participants or Events, as defined in Condition No. 8 below.

8. Events

- a. For purposes of this Order, "Event" means any Meridian activity on the Campus that involves catering or outside vendor services, except for the Meridian Ball; "Evening Event" means any Event the majority of which takes place after 5:30 PM on a weekday; and

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“Weekend Event” means any Event that takes place on a Saturday or Sunday, irrespective of the timing of the Event, and includes weddings.

- b. Number of Events.
  - i. Total Number of Events. No more than 150 Events shall be permitted per year.
  - ii. Evening Events. No more than 55 Evening Events shall be permitted per year, and no more than 25 of such Evening Events shall end after 9:30 PM.
  - iii. Weekend Events. No more than 45 Weekend Events shall be permitted per year, and no more than one (1) wedding shall be permitted per weekend.
  - iv. Neighborhood Meetings and Events. The above-stated restrictions on the number of Events shall not apply to any neighborhood meeting or event, including but not limited to the Beekman Annual meeting and any ANC 1C meeting.
- c. Location of Events – Weddings. No wedding shall take place in the new space for Meridian constructed as part the approved Project (“New Meridian Space”).
- d. Number of Guests at Events
  - i. No more than 250 guests shall be permitted per Event.
  - ii. No more than 10 Events per year shall have more than 200 guests.
- e. Deadline for Conclusion of Events. All Events shall end by 11:00 PM to allow for the breakdown of tables and the stowage of equipment and refuse prior to 1:00 AM.
- f. Meridian Ball
  - i. The above-stated restrictions on the number of guests shall not apply to the Meridian Ball, which may have more than 300 guests and may occur on all of the Meridian space.
  - ii. No more than one (1) Meridian Ball shall be permitted per year.

**Noise**

9. Meridian Events – Arrival and Departure of Guests

- a. Event Manager. Meridian shall have an event manager (“Meridian Event Manager”) on duty at all Events and the Meridian Ball. The Meridian Event Manager shall be responsible for oversight from the beginning to the end of each Event and the Meridian Ball.
- b. Contract Provision. All new contracts for shuttles servicing Meridian Events and the Meridian Ball shall include the following language: “As a courtesy to neighbors, we ask that arriving and departing guests exercise the same degree of consideration they would expect in their own neighborhoods with respect to noise, litter, and otherwise disruptive behavior.”
- c. Guest Management. The Meridian Event Manager shall remind all guests to observe quiet in the residential neighborhood as they depart, shall ensure that unacceptable behavior results in the immediate expulsion of the responsible persons, and shall emphasize the obligation for adult supervision when people under the age of 18 years of age are present.

10. Meridian Events – Amplified Music

- i. Indoors. Amplified music indoors for Events shall be terminated by 11:00 PM.

- ii. Outdoors. Amplified music outdoors for Events shall be terminated by 9:00 PM.

11. Residential Building Rooftop Terrace

- a. The residential portion of the Project (“Residential Building”) shall include a rooftop terrace above the sixth floor of the Residential Building (“Rooftop”). The Applicant shall install and utilize landscaping and trellises to mitigate sound transmissions from the Rooftop along Crescent Place. The Applicant shall install a Plexiglas, glass, masonry, or other comparable solid screen at railing height around the perimeter of the Rooftop, subject to DCRA and any other required governmental agency approval.
- b. The Rooftop shall be limited to a maximum of 100 people at one time.
- c. Amplified music through a loudspeaker shall not be permitted on the Rooftop at any time.
- d. Rooftop hours of use shall be limited to 7:00 AM and 10:00 PM on Sunday through Thursday and 7:00 AM and 11:00 PM on Friday and Saturday.

**Transportation – Parking**

12. Residential Garage.

- a. The residential portion of the Project’s garage (“Residential Garage”) shall be reserved for the residents and guests of residents of the Residential Building, with unsold spaces being made available only to residents of the Community Parties.
- b. The Applicant shall reserve space for two (2) car-sharing spaces in the Project, subject to a signed agreement with a car sharing service.
- c. The Applicant shall install signage and mirrors at the garage exit on Crescent Place to ensure the awareness and ability of exiting traffic to see oncoming pedestrian and vehicular traffic.

13. New Meridian Garage – Community Use.

- a. The Meridian portion of the Project’s garage (“Meridian Garage”) shall be made available to the Community Parties and to the guests of the future residents of the Project between 7:00 PM and 8:00 AM on weekdays and at all times on weekends, subject to Meridian’s Event schedule.
- b. The specific logistics for permitting access and permit allocations for the Meridian Garage shall be determined post-construction, but prior to the issuance of the first certificate of occupancy for the Project, in cooperation with the Community Parties.

14. Meridian Use – Employee Parking and Transportation Management

- a. Meridian shall subsidize employees who take public transit to work and shall offer a stipend to employees who bike to work as an effort to encourage employees to commute via non-auto modes of transportation.

- b. Meridian shall charge employees subsidized rates to park on Campus as an effort to encourage employees who drive to work to park in the Meridian parking lots (i.e., the existing parking garage under Meridian Crescent and the new Meridian Garage in the Project).

**15. Meridian Use – Guest Parking and Transportation Management**

- a. Meridian shall encourage all guests to use carpooling or public transportation whenever feasible.
- b. Meridian shall maximize the use of all Meridian parking lots via directed parking at all times other than when valet operations are utilized.
  - i. Guests shall be given the privilege of parking free of charge in all Meridian parking lots.
  - ii. Meridian shall station an attendant at the Meridian Crescent garage entrance to provide access to the Meridian Crescent parking garage and to ensure garage security during those times the garage will be utilized for Events in the Meridian spaces.
  - iii. Prior to the issuance of building permit for the Project, Meridian shall provide for long-term contractual arrangements for satellite lots for Meridian functions for which their parking lots cannot fully accommodate guests' cars.

**Transportation – General Circulation**

- 16. All vehicles parked in the Residential Garage and all self-parked vehicles in the Meridian Garage must exit via the Crescent Place exit. All other traffic, except for trucks subject to the Truck Routing Plan described below, shall be permitted to exit onto Belmont Street and turn left or right on Belmont Street when exiting the Project.
- 17. All rideshares and taxis dropping off and/or picking up passengers at the Project shall be required to use the Project's entry court ("Entry Court") or 16th Street entrance.
  - a. The Applicant shall update the geolocation of both the Project's address and the New Meridian Space's address on Google and other websites to be located within the Entry Court.
  - b. Meridian shall encourage all guests being dropped off at the New Meridian Space to utilize the Entry Court for any pickup and drop off.

**Transportation – Loading and Service Activity**

- 18. Loading Coordinator. Meridian shall designate a staff member as the "Meridian Loading Coordinator." The Residential Building shall also designate a staff member as the "Residential Loading Coordinator." Each Loading Coordinator shall be on site anytime there are scheduled deliveries, trash, and move-in/move-out activity.
- 19. Truck Routing Plan. Vehicles subject to the truck routing plan shall exit the Project by turning

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left onto Belmont Street and then turning right onto 16th Street (“Truck Routing Plan”).

20. Traffic Rules. Vehicles subject to the traffic rules shall comply with the following provisions (“Traffic Rules”):

- a. Vehicles shall not double park on streets surrounding the Meridian’s campus (“Campus”), shall keep one clear lane of traffic open at all times, and shall otherwise obey all posted parking, stopping, and standing restrictions on streets surrounding the Campus.
- b. Vehicles shall abide by the D.C. “Motor Vehicle Excessive Idling Act” of 1984, as amended (1997), (“Excessive Idling Act”) which allows idling of up to three (3) minutes while a motor vehicle is parked, stopped, or standing, except, inter alia, “to operate for 15 minutes air conditioning equipment on buses with an occupancy of twelve or more persons” or “to operate heating equipment when the local temperature is thirty-two degrees Fahrenheit or below.”
- c. All contracts with vendors and service providers shall include a provision that requires all vehicles coming to the Campus (including any subcontractors) to comply with the Traffic Rules.

21. Trash

- a. Meridian Use – Entire Campus. No private trash pick-up activity shall take place between 10:00 PM and 7:00 AM on weekdays or between 10:00 PM and 9:00 AM on weekends, with the exception of the night of and the morning after Meridian’s annual fundraising ball (the “Meridian Ball”).
- b. New Meridian Space – Truck Routing Plan. The Meridian Loading Coordinator shall direct all trash trucks associated with the New Meridian Space to use the Truck Routing Plan.
- c. Residential Building. Private trash pick-up activity associated with the Residential Building shall occur between 9:00 AM and 5:00 PM on weekdays, and between 10:00 AM and 5:00 PM on weekends.

22. Deliveries – Meridian Use

- a. For purposes of this Order, “Meridian Delivery Vehicles” means any commercial vehicles (including a trucks, pick-up trucks, and vans) delivering goods or services to Meridian and its Campus.
- b. Location. The Meridian Loading Coordinator shall direct all Meridian Delivery Vehicles to utilize the prescribed loading docks or designated on-street commercial loading zone as shown on pages 9-10 of Exhibit 87E of the Record.
- c. Hours. Delivery activity that involves a Meridian Delivery Vehicle utilizing a back-up beeper shall not take place on the Campus between 10:00 PM and 9:00 AM. Select vendors with trucks limited to a 16-foot box truck or less are permitted to load-out after 10:00 PM, provided that any Meridian Delivery Vehicle utilizing a back-up beeper is staged prior to 10:00 PM.

- d. Truck Routing Plan. For deliveries to the New Meridian Space, the Meridian Loading Coordinator shall direct all Meridian Delivery Vehicles to use Truck Routing Plan.
- e. Traffic Rules. The Meridian Loading Coordinator shall direct all Meridian Delivery Vehicles to comply with the Traffic Rules.

**23. Deliveries – Residential Building**

- a. Delivery Vehicles. For purposes of this Order, “Residential Delivery Vehicles” means all commercial vehicles (including trucks, pick-up trucks, and vans) delivering goods or services to customers contracted by the Residential Building or a resident of the Project.
- b. Location. The Residential Loading Coordinator shall be responsible for directing all scheduled deliveries for residents to use the Entry Court or, when necessary, the 16th Street entrance (subject to obtaining proper “No Parking” permits from the District of Columbia).
- c. Size.
  - i. Residential Delivery Vehicles accessing the Entry Court shall be no more than 30 feet in length including the driver cab.
  - ii. No more than one (1) Residential Delivery Vehicle over 24 feet in length shall be permitted in the Entry Court at one time.
- d. Hours.
  - i. All delivery activity utilizing a Residential Delivery Vehicle over 16 feet in length, other than a maintenance vehicle for residents for emergency repairs, shall occur between 9:00 AM and 5:00 PM or between 7:00 PM and 10:00 PM.
  - ii. All other delivery activity with Residential Delivery Vehicles that are 16 feet or less in length shall occur between 8:00 AM and 10:00 PM.
- e. Truck Routing Plan. The Residential Loading Coordinator shall direct all Residential Delivery Vehicles over 24 feet in length to use the Truck Routing Plan.
- f. Traffic Rules. The Residential Loading Coordinator shall direct all Residential Delivery Vehicles to comply with the Traffic Rules.

**24. Residential Building – Moving Activity**

- a. Location. The Residential Loading Coordinator shall direct all moving vehicles (“Moving Trucks”) to utilize the loading docks or, when necessary, the 16th Street entrance (subject to obtaining proper “No Parking” permits from the District of Columbia).
- b. Size.
  - i. Moving Trucks permitted to use the Entry Court and loading dock shall be no more than 30 feet in length.
  - ii. Moving Trucks that are more than 30 feet in length shall be required to utilize curbside space on 16th Street to load and unload. In the event that 16th Street is utilized for Moves, the Residential Loading Coordinator shall direct the moving

resident to obtain a “No Parking” permit from the District of Columbia and post the signs a minimum of two (2) days in advance of the moving date.

- c. Hours.
  - i. Any Moves utilizing a Moving Truck that is more than 16 feet in length shall occur between 9:00 AM and 5:00 PM.
  - ii. All other Moves with Moving Trucks that are 16 feet or less in length shall occur between 8:00 AM and 10:00 PM.
  - iii. Moves using a truck that is greater than 24 feet in length within the Entry Court shall not be permitted to arrive or depart while guests for Meridian Events with over 100 guests located within the New Meridian Space are arriving or departing.
- d. Truck Routing Plan. The Residential Loading Coordinator shall direct all Moving Trucks to use the Truck Routing Plan.
- e. Traffic Rules. The Residential Loading Coordinator shall direct all Moving Trucks to comply with the Traffic Rules.

### **Transportation – Shuttle Bus and Valet Operations**

#### **25. Shuttle Bus Operations**

- a. Maximum Number of Passengers. Shuttle buses dropping-off or picking-up passengers within the Campus (“Shuttle Buses”) shall be limited to a maximum of 36 passengers, except as permitted in Condition 25 d.iii below.
- b. Traffic Rules. Meridian shall direct all Shuttle Bus operators to comply with the Traffic Rules.
- c. Contract Provisions. In addition to language requiring compliance with the Traffic Rules and the language regarding guest behavior set forth in Condition 9.b, all contracts with Shuttle Bus operators shall include the following language: “While waiting between drop-offs and pick-ups, Shuttle Buses are required to leave the [Project]’s entry court, Belmont Street, Crescent Place, and 17th Street roadways and wait in an offsite location.”
- d. Passenger Drop-off/Pick-up
  - i. Meridian House and White Meyer House. Meridian shall direct all Shuttle Buses to pull over to a curb when picking up and discharging passengers at the Meridian House or the White Meyer House.
  - ii. New Meridian Space.
    - 1. For Events in the New Meridian Space, Shuttle Buses shall be required to load and unload within the Entry Court.
    - 2. Meridian shall direct all Shuttle Buses to use the Truck Routing Plan.
    - 3. For all Events that require a Shuttle Bus, a traffic control operator (“Traffic Control Coordinator”) shall be stationed within the Entry Court.
  - iii. Shuttle Buses with More than 36 Passengers. Occasionally, Shuttle Buses transporting more than 36 passengers may be necessary. Any Shuttle Buses transporting more than 36 passengers shall be required to conduct dropoff/pick-up operations on 16th Street. In the event that any such Shuttle Bus is unable to utilize



16th Street, the Shuttle Bus Operator shall find another location for discharging passengers and shall not be permitted to utilize the Entry Court, Belmont Street, Crescent Place, or the 17th Street roadways for discharging passengers.

26. Valet Operations

- a. All Meridian Spaces
  - i. Activities with 100–150 People. For all Events, programs, or activities in excess of 100 people and less than 150 people, Meridian shall provide a Traffic Control Coordinator.
  - ii. Activities with More than 150 People. For all Events, programs, or activities in excess of 150 people, Meridian shall require valet operations and other “assisted arrival,” such as Shuttle Buses. In the event that valet operations are provided, the valet operator shall serve as the Traffic Control Coordinator. In the event that only Shuttle Buses are utilized, Meridian shall provide a Traffic Control Coordinator.
- b. Valet Staffing. Meridian shall continue to work with its consistent and vetted valet parking operators to ensure operations are staffed sufficiently to keep traffic flowing and to minimize backups.
- c. Permitting and Signage. Meridian shall obtain a valet permit from the District of Columbia for each Event, program, or activity that requires valet parking, which states the use of a specified number of curbside parking spaces (3–8), depending on the size of the Event, program, or activity. Meridian shall post “No Parking” signs a minimum of three (3) days in advance of the Event, program, or activity date, in accordance with District standards, and shall remove such signs immediately following the Event, program, or activity.
- d. Traffic Rules. Meridian shall direct all valet parking operators to comply with the Traffic Rules.
- e. Noise. Meridian shall brief all valet parking operators with regard to noise limitations and no shouting.
- f. Entrance Access. Meridian shall direct all valet parking operators to not obstruct the entrances to Beekman Place, Meridian Crescent, or 1661 Crescent Place.
- g. New Meridian Space
  - i. For Events, programs, or activities at the New Meridian Space that require a valet, pick-up and drop-off activity shall be located within the Entry Court.
  - ii. Meridian shall direct the valet parking operator to position a Traffic Control Coordinator at the entrance of the Entry Court to safely and efficiently guide traffic entering and exiting the Entry Court in order to prevent queuing along Belmont Street.

**Transportation – Proposed Improvements**

27. Pre-Construction Study. Prior to the commencement of construction of the Project, the Applicant shall pay for and perform a traffic study to evaluate the anticipated impact of the

Project on the Belmont Street and 16th Street intersection (“Pre-Construction Study”).

- a. The Pre-Construction Study shall include an evaluation of whether a traffic signal is warranted at the intersection. If warranted, the Applicant shall pay for and install the signal, subject to DDOT approval.
- b. If the Pre-Construction Study does not call for a new signal at that location, the Applicant shall request that DDOT install a signal detector on Belmont Street to call the green signal on Crescent Place, thereby creating a gap in traffic on 16th Street to facilitate egress from Belmont Street. Installation of such improvement shall be subject to DDOT approval.

28. Signage and Markings. Prior to the issuance of a certificate of occupancy for the Project and subject to DDOT approval, the Applicant shall do the following:

- a. Install signing and pavement markings at the intersection of 16th Street and Belmont Street to improve visibility of and awareness of pedestrians crossing Belmont Street.
- b. Install “Do Not Block the Box” signing and pavement markings at the intersection of 16th Street and Belmont Street and the intersection of 16th Street and Crescent Place.
- c. Install a “No Trucks Over 7,000 lbs. Gross Vehicle Weight” sign at the intersection of 17th Street and Crescent to prohibit trucks travelling north on 17th Street.
- d. Install two-way traffic pavement markings along the two-way section of Belmont Street to 16th Street.
- e. Install pavement markings at the Crescent and 16th Street intersection identifying individual left and right turn lanes.
- f. Install a “No Left Turn from 7:00 to 9:30 AM and 4:00 to 6:30 PM” sign on Belmont Street at its intersection with 16th Street.

29. Removal of Parking Spaces. Prior to the issuance of a certificate of occupancy and subject to approval by DDOT, the Applicant shall remove three (3) on-street parking spaces on the south side of Belmont Street (between 16th Street and the primary Beekman Place driveway entrance) to increase the width of the travel lanes to better accommodate two-way traffic on the portion of the street.

30. Vehicle Routing / Post-Occupancy Study. When the Residential Building is 85% occupied, the Applicant shall pay for and perform a traffic study that evaluates the impact of the Project on the Belmont and 16th Street intersection (“Post-Occupancy Study”).

- a. The Post-Occupancy Study shall include an evaluation of whether a traffic signal is warranted at the intersection. If warranted, the Applicant shall pay for and install the signal, subject to DDOT approval.
- b. If the Post-Occupancy Study does not call for a new signal at that location, the Applicant shall request that DDOT install a signal detector on Belmont Street to call the green signal on Crescent Place, thereby creating a gap in traffic on 16th Street to facilitate egress movements from Belmont Street. Installation of such improvement shall be subject to DDOT approval.

- c. If the Post-Occupancy Study does not call for a new signal or signal detector at that location, but the Post-Occupancy Study indicates that the total number of new trips at the intersection exceeds either 28 new trips in the AM peak hour or 36 new trips in the PM peak hour (as compared to the 2022 background peak hour traffic volumes set forth on Figure 15B of the Applicant's traffic study dated January 2018), then the Applicant shall implement operational measures and signage to direct all traffic exiting the Project except trucks greater than 24 feet in length to turn right and proceed westbound on Belmont Street between 7:30 AM and 9:30 AM on weekday mornings and between 4:30 PM and 6:30 PM on weekday evenings.

**Other Impacts**

31. Snow Shoveling. The Applicant and Meridian shall shovel the entire width of the sidewalks, including ramps to crosswalks, adjacent to the Campus within the first eight (8) hours of daylight after the ceasing to fall of any snow or sleet in accordance with D.C. Code § 9-601.
32. Litter Removal. The Applicant and Meridian shall continue to keep the area adjacent to the Campus free of litter.
33. Lighting. The Applicant shall install full cut off lights on the Project to mitigate light pollution to neighboring properties.
34. Dog Waste. Subject to Public Space review and approval, the Applicant shall to install two (2) dog waste stations with bag dispensers along the perimeter of the Project that will be available for the general public to use. The Project's condominium association shall be responsible for refilling the dispensers. The Applicant shall incorporate this provision into the future condominium documents and by-laws of the Project.
35. Construction Management Agreement. The Applicant shall abide by the Construction MOU included in Exhibit 87C of the Record.
36. Stormwater Management. Consistent with the requirements of D.C. law and municipal regulations (DCMR, Title 21), plans for Project shall incorporate a plan for effective stormwater management. To the greatest extent possible, the Applicant shall implement stormwater management measures (e.g., low-grade slopes, erosion-resistant ground cover, centralized stormwater conveyance, and collection facilities) that minimize both runoff to adjacent properties and standing water on the site of the Project and protect the Chesapeake Watershed.
37. Tree Protection Plan. The Applicant shall utilize the services of a licensed and insured arborist/tree removal expert to ensure the protection of the two (2) trees on 16th Street and any other street trees that are planned to remain. Such arborist shall be retained to:
  - a. Examine all trees on or adjacent to the Property that are to remain post-construction.

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- b. Identify and tag those trees requiring removal as a result of erosion problems.
- c. Identify and tag all trees that can be saved as part of the Project's overall landscape plan.
- d. Approve the plan to protect the two 16th Street trees.
- e. Identify appropriate species for planting on the Property.


38. 16th Street Trees. In addition to any fine imposed under the 2016 Heritage Tree provisions, the Applicant shall post a \$25,000 Tree Protection Bond for five (5) years following substantial completion of the Project for replacement trees in the case of damage to the two willow oaks on 16th Street. Any replacement tree must be approved by the City Arborist.
39. Replacement Tree on Crescent Place. Subject to DDOT and any other governmental agency approval, the Applicant shall plant a street tree in the location of the Crescent Place curb cut that will be closed post-construction.
40. Protection of Existing Street Trees. Subject to DDOT review and approval, the Applicant shall protect and retain the existing street trees adjacent to the Project located on both Belmont Street and Crescent Place.

**VOTE: 3-0-2** (Frederick L. Hill, Lorna L. John, and Peter G. May voting to issue this order on remand; Carl H. Blake and Chrishaun S. Smith not participating)

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

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

ATTESTED BY:

  
SARA K. BARDIN  
Director, Office of Zoning

**FINAL DATE OF ORDER:** January 18, 2023

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE

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EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.