

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



Application No. 21240 of 71 Florida Ave 39, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 203.1(j) to allow a new health care facility use for 16 persons in an existing two-story detached building in the R-2 Zone at 4237 Eads Street, NE (Square 5089, Lot 72).

HEARING DATES: March 12, March 26, April 23, and June 4, 2025

DECISION DATES: April 30, May 14, and June 4, 2025

PROPOSED DECISION AND ORDER

This self-certified application was filed on November 19, 2024 on behalf of 71 Florida Ave 39, LLC (“the Applicant”), the owner of the property that is the subject of the application. Following a public hearing, the Board voted to approve the application subject to conditions.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. In accordance with Subtitle Y §§ 400.4 and 402.1, the Office of Zoning provided notice of the application and public hearing, by letters dated December 10, 2024, to the Applicant, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the Department of Buildings, Advisory Neighborhood Commission (“ANC”) 7F, the ANC in which the subject property is located, and Single Member District ANC 7F03, the Office of Advisory Neighborhood Commissions, the Councilmember for Ward 7 as well as the Chairman and the at-large members of the D.C. Council, and the owners of all property within 200 feet of the subject property. Notice was published in the District of Columbia Register

on December 20, 2024 (71 DCR 15855) as well as through the calendar on the Office of Zoning website.

Parties. Pursuant to Subtitle Y § 403.5, the Applicant and ANC 7F were automatically parties in this proceeding. The Board received no request for party status.

Applicant's Case. The Applicant presented evidence and testimony in support of the request for zoning relief needed to allow a new health care facility for 16 persons in an existing detached two-story building.

OP Report. By memorandum dated February 26, 2025, the Office of Planning recommended approval of the application. (Exhibit 28.)

DDOT Report. By memorandum dated February 28, 2025, the District Department of Transportation indicated no objection to approval of the application. (Exhibit 31.)

ANC Report. ANC 7F initially submitted a resolution in opposition to the application that the ANC adopted at a public meeting, with a quorum present, on April 22, 2025. (Exhibit 50.) At a public meeting on May 27, 2025, also with a quorum present, ANC 7F adopted a second resolution, which “support[ed] the approval of a special exception for up to 10 beds” at the subject property “contingent upon the Applicant’s adherence to...conditions and considerations” relating to traffic, parking, and aspects of the operation including the frequency of deliveries, cleaning services, trash

collection, and visitors as well as aspects pertaining to the disposal of hazardous materials, privacy, and outdoor noise. (Exhibit 57.)

Persons in support. The Board received letters in support of the application from residents living near the subject property who indicated no objection to the Applicant's proposal.

Persons in opposition. The Board received letters and heard testimony from persons in opposition to the application, including some residents living near the subject property. The persons in opposition generally objected that the Applicant's proposal would cause adverse impacts relating to increased traffic associated with staff, visitors, and deliveries to the facility, parking, noise, loitering, and safety.

FINDINGS OF FACT

1. The property that is the subject of this application is an interior lot on the south side of Eads Street, N.E., located midblock between 42nd Street, N.E. and 44th Street, N.E., with the address 4237 Eads Street, N.E. (Square 5089, Lot 72).
2. The subject property is rectangular, with a lot width of 50 feet. The east and west side lot lines extend approximately 98.75 feet and the lot area is 4,938 square feet. (Exhibit 26A, 42A.)
3. The subject property was improved with a detached building that was formerly used as a principal dwelling. The building is two stories and 30 feet in height, with a basement.

4. The building is set back approximately 20 feet from the front lot line, with a rear yard of 28 feet and side yards of 11 feet on the east and west. (Exhibit 26C, 42A.)
5. The existing building is approximately 28 feet wide and approximately 50 feet deep. The existing lot occupancy is approximately 40 percent. (Exhibit 26A.)
6. The building has a one-story front porch and a rear deck addition on the first-floor level, without stairs down to grade in the rear yard.
7. The Applicant proposed to use the existing building at the subject property as “a health care facility treating those who require medical inpatient rehabilitation for various neurological and orthopedic injuries and conditions, as well as long-term issues such as dementia.” (Exhibit 3.)
8. The Applicant did not propose any significant modifications to the exterior of the existing structure or to increase its size.
9. The interior of the existing building will be configured to accommodate the health care facility use on the first and second floors as well as in the basement. As proposed, the basement would contain three bedrooms (with a total of five beds) and two bathrooms. The first floor would provide a living room, family room, dining room, and kitchen as well

as one bedroom (with two beds) and a bathroom. The second floor would be configured as four bedrooms (with a total of nine beds) and two bathrooms. (Exhibits 6, 26C and 26E.)

10. The Zoning Regulations define a “health care facility” as “A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*)” (Subtitle B § 100.2.)
11. The Applicant proposed to operate a health care facility for up to 16 persons, of any age, in the existing building at the subject property. According to the Applicant, the facility was “designed to provide long-term and short-term treatment and care to individuals requiring daily assistance, medical supervision, and rehabilitative or supportive services. The residential component ensures that patients, referred to as ‘guests,’ have access to on-site care, meals, daily activities, and medical oversight tailored to their needs.” The length of stay will not be fixed but could be short- or long-term. (Exhibit 26E.)
12. The health care facility will operate with both on-site and visiting staff. Employees who will be on-site daily will include an administrative supervisor to oversee operations and coordinate staffing, among other duties, as well as two caregivers. A nurse will visit the facility every three weeks, and a medical provider will be on call and available as required. (Exhibit 26E.)

13. The Applicant anticipated that two or three employees would be on site at a given time, 24 hours per day.
14. The health care facility will utilize a meal delivery service, with food deliveries once per day. Deliveries will generally occur between 6:00 and 9:00 a.m., lasting approximately 15 minutes per delivery. The meals will be provided pre-cooked or ready to heat. (Exhibits 26E, 54, 56.)
15. The health care facility will utilize daily cleaning services. The Applicant anticipated that housekeeping services will be provided by cleaners who will generally arrive by 7:00 a.m., in one vehicle, and depart by 9:00 a.m. In addition to tasks related to cleaning and laundry service, the cleaners will coordinate hazardous waste pick-up with licensed disposal companies. (Exhibits 26E, 54.)
16. The Applicant will permit visitors to the health care facility between 7:00 a.m. and 7:00 p.m. The Applicant will require visitors to schedule their visits in advance with the facility administrator. (Exhibits 54, 56.)
17. The Applicant will provide activities for residents of the health care facility, including outdoor activities such as gardening and structured group activities such as a visit to a park. The Applicant will supervise the recreational use of outdoor areas of the subject property and will not permit any amplified sound or smoking. Outdoor activities in the rear yard

and on the rear deck will be permitted only between 8:00 a.m. and 5:00 p.m. (Exhibits 54, 56.)

18. The Applicant will enforce “quiet hours” between 8:00 p.m. and 7:00 a.m. to minimize noise associated with residents, staff, and visitors at the health care facility. The Applicant will post signs restricting large gatherings and will supervise outdoor events to avoid loud conversations and other potential noise impacts.
19. The subject property abuts a public alley, 15 feet wide, along its rear lot line.
20. The Applicant will provide four vehicle parking spaces at the rear of the lot, accessible from the alley via a roll-up garage-type door. Three of the parking spaces will be reserved for employees of the facility; one space will be reserved for visitors.
21. The Applicant will maintain a trash enclosure at the southwest corner of the lot, which will provide three 96-gallon trash containers and two recycling bins. Trash collection will occur via the public alley every day except on Sundays. (Exhibits 26E, 54, 56, 56A.)
22. The Applicant will maintain an existing solid fence along the side lot lines adjacent to the building and the rear yard. A chain link fence extends along the front lot line of the subject property as well as along the side lot lines in the front portion of the site.

23. The Applicant currently operates a health care facility for up to eight persons at 4231 Clay Street, N.E., approximately 450 feet from the subject property. The Applicant submitted an application for a special exception under Subtitle U § 203.1(j) to allow a maximum of 16 persons at the Clay Street location. The Board granted the application subject to conditions. See Application No. 21249 (4231 Clay Street NE LLC; **date**).
24. The abutting property to the east of the subject property contains a one-story detached principal dwelling. The abutting property to the west of the subject property is unimproved.
25. Properties in the vicinity of the subject property are primarily devoted to relatively low-density residential use in one- or two-story detached buildings or two-story apartment houses. The area also contains some institutional uses.
26. The subject property is located near Metrobus stops on Benning Road or 42nd Street and approximately 0.4 miles from the Benning Road and Minnesota Avenue Metrorail stations.
27. The subject property is located in a Residential House (R) zone, R-2.
28. The Residential House zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses. (Subtitle D § 101.1.) The R zones are intended to (a) provide for the orderly development and use of

land and structures in areas predominately characterized by low- to moderate-density residential development; (b) recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city; (c) allow for limited compatible accessory and non-residential uses; (d) allow for the matter-of-right development of existing lots of records; (e) establish minimum lot area and lot width for the subdivision and creation of new lots of record; and (f) discourage multiple dwelling unit development.

(Subtitle D § 101.2.)

29. The purpose of the R-2 zone is to provide for areas with semi-detached houses and avoid denser types of residential development. (Subtitle D § 101.6) The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached houses. (Subtitle D § 101.7.)

CONCLUSIONS OF LAW AND OPINION

The Applicant requested a special exception under Subtitle U § 203.1(j) to allow a new health care facility use for 16 persons in an existing two-story detached building in the R-2 zone at 4237 Eads Street, NE (Square 5089, Lot 72). The Board is authorized under § 8 of the Zoning Act (D.C. Official Code § 6-641.07(g)(2)) 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 requirements. (*See* Subtitle X § 901.2.)

A health care facility use serving as many as eight persons may be permitted as a matter of right in the R-2 zone.¹ (Subtitle U § 202.1(k).) The Board is authorized pursuant to Subtitle U § 203.1(j) to approve a health care facility use for nine to 300 persons as a special exception, subject to specific requirements.² Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the issues and concerns stated by ANC 7F, the Board determined that the Applicant's proposal, operated consistent with the conditions of approval adopted in this order, satisfied the requirements for approval of the requested special exception to allow a health care facility use for up to 16 persons in the existing building at the subject property.

The Board credited the Applicant's testimony that the planned facility will meet all applicable code and licensing requirements, as required under Subtitle U § 203.1(j)(4). The Applicant indicated that the health care facility at the subject property will be licensed as an "assisted living residence" under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*). The Office of Planning testified, based on information provided

¹ A health care facility for not more than six persons, not including resident supervisors or staff and their families, is permitted as a matter of right in the R-2 zone. A health care facility for up to eight persons, not including resident supervisors or staff and their families, is permitted as a matter of right in the R-2 zone provided that no property containing an existing health care facility for seven or more persons is located in the same square or within a radius of 1,000 feet. (Subtitle U § 202.1(k).)

² The R-2 zone is included in the R-Use Group B. (Subtitle U § 200.2.)

by the State Health Planning and Development Agency (“SHPDA”), that an “assisted living facility” was defined by statute as a subcategory of “health care facility,” determined by the type of services provided, and that SHPDA monitors the need for the various types of facilities. The Office of Planning also noted that, before obtaining a license from the Department of Health, the planned health care facility will be required to comply with building code requirements, including safety standards related to accessibility and emergency exits. (Exhibit 28.) The Office of Planning did not state any reservations about the Applicant’s ability to obtain a license for the health care facility planned at the subject property.

The application demonstrated that the Applicant will provide adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility, as required by Subtitle U § 203.1(j)(3). The Applicant will provide four vehicle parking spaces for use by employees and visitors to the site. The Board credited the Applicant’s testimony that residents of the health care facility would not likely keep a vehicle at the subject property, given the nature of the intended use. The Board determined that four vehicle parking spaces will be sufficient for the planned use in light of the number of employees at the site and the Applicant’s implementation of measures to schedule deliveries and visitors to the facility.

The Board determined that the planned health care facility use, operated consistent with the conditions of approval adopted in this order, will not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area (see Subtitle U § 203.1(j)(5)). The planned use will be residential in nature in that the persons utilizing the health care facility will reside at the subject property, potentially for long-term stays. The Board

concluded that the planned levels of staffing, food deliveries, need for cleaning services, and visitors to the site would not likely create adverse impacts on neighboring properties. The Applicant will maintain three parking spaces on site for the staff of the health care facility, sufficient for the three employees anticipated on site at a given time. A fourth parking space will be available for visitors, whose visits will be scheduled throughout a 12-hour period each day. The Board was not persuaded that other vehicle trips to the health care facility, including daily visits associated with food deliveries and cleaning services as well as periodic visits related to health care for the residents, will create adverse impacts with respect to traffic congestion or parking. Those visits will be of relatively short duration primarily during morning hours, and the Applicant submitted photographs illustrating that street parking is available near the subject property. The Applicant indicated that the health care facility will not generate a need for other deliveries that might result in frequent vehicle trips to the site. The Board credits DDOT's conclusion that the Applicant's proposal to operate a health care facility for 16 persons at the subject property "will not have adverse impacts on the District's transportation network." (Exhibit 31.)

The Board concluded that the planned health care facility use will not have an adverse impact on nearby properties due to noise or operations. The health care facility use will occur primarily inside the building, and the Applicant will implement measures to limit potential noise impacts associated with any outdoor activities. The Board did not determine that operation of the planned health care facility for up to 16 persons will create adverse impacts significantly different from uses permitted as a matter of right in the R-2 zone, which include principal dwellings and a health care facility for up to eight persons.

The Board determined that the planned health care facility use, operated consistent with the conditions of approval adopted in this order, will not have an adverse impact on the neighborhood because of the number of similar facilities in the area. The Zoning Regulations state that, in the R-2 zone, “there shall be no other property containing a health care facility either in the same square or within a radius of [500 feet] from any portion of the [Applicant’s] property” (Subtitle U § 203.1(j)(2)) but also that more than one health care facility, within 500 feet of another facility, may be approved when the Board determines that “the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations” (Subtitle U § 203.1(j)(6)). In this case, the Applicant proposed a new health care facility within 500 feet of another health care facility, which obtained a license to operate with up to eight persons and a special exception to allow operation with up to 16 persons. The Office of Planning estimated that the other facility, at 4231 Clay Street, N.E., was “approximately 450 feet directly south of the subject site [at 4237 Eads Street, N.E.] or a six-minute walk between the buildings.” According to the Office of Planning, no other health care facility was currently in operation in Square 5148 or within a radius of 500 feet of the subject property. (Exhibit 28.)

Under the circumstances of this application, the Board determined that the cumulative effects of the two facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations. Each of the two facilities will serve a maximum of 16 persons, will be operated subject to conditions of approval designed to mitigate or avoid the creation of any potential adverse impacts, and are located in a relatively low-density residential area in existing buildings that were formerly used as principal dwellings. The Applicant indicated that, so long as the two facilities remained under common ownership, the Applicant will employ the same service providers at each

location, including food delivery and cleaning services as well as trash collection. (Exhibit 54.)

That coordination will facilitate the operation of the two facilities in a cooperative manner and mitigate potential cumulative effects, especially related to traffic.

Subtitle X § 901.2. The Board concluded that approval of the requested special exception, subject to the conditions of approval adopted in this order, will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as is required for approval of a special exception under Subtitle X § 901.2. The Zoning Regulations permit a health care facility for at least six persons at the subject property as a matter of right.³ The Board determined that a larger health care facility, for up to 16 persons and operated subject to the conditions of approval, will be consistent with the purposes of the Residential House zones to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses. Specifically, approval of the application will be consistent with the intent of the R zones to provide for the orderly development and use of land and structures in areas predominately characterized by low- to moderate-density residential development and to allow for limited compatible accessory and non-residential uses. In light of the Applicant's use of the existing structure at the subject property, the Board concluded that approval of the requested special exception will be consistent with the purpose of the R-2 zone to avoid denser types of residential development.

³ A health care facility for up to eight persons, not including resident supervisors or staff and their families, is permitted as a matter of right provided that no property containing an existing health care facility for seven or more persons is located in the same square or within a radius of 1,000 feet. (Subtitle U § 202.1(k).)

The Board determined that approval of the requested special exception, subject to the conditions adopted in this order, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. As discussed above, the Board concluded that the application satisfied the requirements for approval of a special exception to allow a health care facility serving more than eight people, including with respect to avoiding the creation of potential adverse impacts related to traffic, parking, and operations. The Board determined that the planned levels of staffing, food deliveries, need for cleaning services, and visitors to the site would not create adverse impacts or detract from the residential character of the neighborhood. The Applicant will utilize an existing building, formerly a residence, without altering its size or appearance, to house the health care facility.

Implicit in the Board's power to grant special exceptions is the authority to place reasonable conditions upon such approval. *President and Directors of Georgetown College v. District of Columbia Bd. of Zoning Adjustment*, 837 A.2d 58, 69 (D.C. 2003). The Board may impose a term limit on a special exception use when the Board determines that a subsequent evaluation of the actual impact of the use on neighboring properties is appropriate. In imposing a term limit, the Board is directed to consider the reasonable impacts and expectations of the applicant. (See Subtitle X § 901.5.)

In this case, the Applicant initially argued that a term limit would raise "significant concerns due to the nature of the use and the population it serves" relating to the potential displacement of residents and impacts on investment and long-term planning. The Applicant emphasized that the health care facility use of the subject property would be "heavily regulated [and] monitored" by

other District government agencies, including the Department of Buildings, the Department of Health, and the Department of Health Care Finance. The Applicant also alleged that “a time limit does not directly address the ANC’s concerns which are related to traffic, parking, commercialization, a lack of community benefits package, and disturbing the adjacent property owners (who support the project).” (Exhibit 54.) The Applicant later suggested a term of 10 years if the Board determined “that, despite the other mitigating factors, a time limit is still appropriate” or seven years. (Exhibit 56; Transcript of June 4, 2025 at 29.)

The Board considered the reasonable impacts and expectations of the applicant and determined that a five-year term of approval was appropriate. The Board did not agree with the Applicant that regulation by other agencies eliminated the need for a term of approval, given that the Board was required to determine whether the application met the requirements for approval of the requested special exception and no other agency is focused on the zoning matters within the Board’s purview in this application. The Board also disagreed that imposition of a term of approval would result in displacement or hinder investment or long-term planning. The health care facility use may be carried out as a matter of right for six or eight residents (depending on the proximity of any other health care facility); the special exception approval was needed only to allow up to 16 persons in a health care facility at the subject property. The Board determined that a term limit of five years was appropriate to allow an evaluation of the efficacy of the other conditions of approval adopted in this order, many of which addressed concerns raised by ANC 7F in recommending approval of a health care facility for a maximum of 10 persons subject to conditions including a term of five years.

Great weight. The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04.) For the reasons discussed above, the Board agreed with OP’s recommendation that, in this case, the application should be approved.

The Board is also required to give “great weight” to the issues and concerns raised by an affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A)). In this case, ANC 7F initially adopted a resolution in opposition to the application, citing concerns stated by “residents of the surrounding community about the continued commercialization of their residential neighborhood, a lack of available parking, and a pattern of incomplete or misleading disclosures by the applicants regarding the intended use of these properties.” ANC 7F also stated a concern about “the saturation of assisted living facilities in the area,...significantly altering the residential character and infrastructure demands of the neighborhood.” (Exhibit 50.) Later, ANC 7F adopted a resolution in support of “the approval of a special exception for up to 10 beds at each of the properties located at 4237 Eads Street NE and 4231 Clay Street NE, contingent upon the Applicant’s adherence” to “conditions and considerations” listed by the ANC. The Applicant indicated its intent to comply with several of the ANC’s considerations, including by assigning the on-site parking spaces for use by staff and visitors, arranging for trash collection six days per week, and the collection of hazardous waste by a licensed contractor as well as the implementation of measures to avoid objectionable conditions related to privacy, outdoor noise, or the timing of deliveries and cleaning services at the health care facility.

For the reasons discussed above, the Board concurred with the ANC's revised recommendation to approve the application subject to conditions, although the Board did not agree with some elements of the conditions recommended by the ANC. The Board declined to limit the number of visitors to the health care facility to four per day in the absence of substantial evidence of the need for that limit to avoid any adverse impacts, especially considering the uses permitted as a matter of right at the subject property as well as the provision of one parking space at the subject property reserved for visitors, the availability of on-street parking nearby, the proximity of public transportation options, and the potential for visitors who will not require a parking space. ANC 7F expressed concern about the proximity of another health care facility as well as the "over-concentration and the encroachment of commercial activity in a residential zone" as a result of other institutional uses in the vicinity. The Board did not agree that the Applicant's planned health care facility should be considered "commercial activity" and noted that Subtitle U § 203.1(j) refers only to the proximity of other health care facilities and not to any other uses. For the reasons discussed above, the Board determined that the application demonstrated that the cumulative effect of the two planned health care facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations. The Board's jurisdiction in this application proceeding did not extend to undertaking an examination of the "long-term cumulative impact" of the "commercial" activities claimed by the ANC or "to take steps to preserve the residential character of the neighborhood."

Exceptions to the Proposed Order. Because a majority of the Board members participating in the issuance of this order did not personally hear the evidence in this application, a proposed order

was provided to the parties to afford them an opportunity to present written exceptions, in accordance with D.C. Official Code § 2-509(d).

Based on the findings of fact and conclusions of law, the Board concluded that the Applicant satisfied the burden of proof for a special exception under Subtitle U § 203.1(j) to allow a new health care facility use for up to 16 persons in an existing two-story detached building in the R-2 zone at 4237 Eads Street, NE (Square 5089, Lot 72). Accordingly, it is **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. The approval of the special exception shall be for a term of five years, beginning on the date that this order became final.
2. The number of patient beds at the health care facility at the subject property shall not exceed 16.
3. The Applicant shall provide four vehicle parking spaces at the rear of the subject property with screening (fencing and roll-up door) as shown on Exhibit 26A.
4. The Applicant shall reserve three of the vehicle parking spaces for use by staff of the health care facility and shall make one parking space available for use by visitors.
5. The Applicant shall limit hours for visitors to 7:00 a.m. to 9:00 p.m.
6. The Applicant shall schedule housekeeping services for the health care facility in the morning between 6:00 a.m. and 11:00 a.m.

7. The Applicant shall schedule meal delivery services in the mornings, for completion by 9:00 a.m.
8. The Applicant shall hire a trash contractor to collect trash from the health care facility via the public alley between 6:00 a.m. and 11:00 a.m. at least six days per week. The Applicant shall provide and utilize a screened enclosure for trash storage as shown in Exhibit 26A.
9. The Applicant shall maintain a solid privacy fence, six feet high, enclosing the rear yard of the subject property as shown in Exhibit 26A.
10. The Applicant shall not permit any outdoor activity at the subject property except during daylight hours.
11. The Applicant shall designate a community liaison who will attend meetings of the affected ANCs at least quarterly for the purpose of seeking feedback on any issues or concerns related to the operation of the health care facility.

VOTE: 4-0-1 (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; one Board seat vacant)

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 A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: _____

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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.