

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

Memorandum

TO: District of Columbia Zoning Commission

FROM: *XS fur*
Ellen McCarthy, Director
Office of Planning

DATE: March 3, 2006

SUBJECT: Preliminary Report and Pre-Hearing Statement – Zoning Commission Case 05-05
Proposed Text Amendment to Permit Emergency Shelters in the Commercial-Light
Manufacturing (C-M-1 and C-M-2) Districts

RECEIVED
DC OFFICE OF ZONING
2006 MAR -3 PM 4 56

PROPOSAL

The Office of Planning (OP) proposes a text amendment to the Zoning Regulations to permit emergency shelters as a special exception in the Commercial-Light Manufacturing (C-M-1 and C-M-2) Districts

RECOMMENDATION

The Office of Planning believes that the proposed text amendment will help alleviate some of the locational problems experienced by emergency shelter providers by expanding the zone districts within which emergency shelters are permitted. The Office of Planning recommends that the Zoning Commission set down for public hearing the proposed zoning text amendment to 11 DCMR, Chapter 8, Section 802 to permit emergency shelters by special exception in the C-M-1 and C-M-2 Districts. See proposed text in Attachment 2.

BACKGROUND

The District Government has embarked on the *Homeless No More*¹ initiative that is a plan to end homelessness in Washington, D C by the year 2014. The directives of the plan are to address the social and economic problems of homelessness through increasing homeless prevention efforts using local and federal resources; providing access to substantially more permanent and affordable housing, and the coordination of social services for homeless residents. The plan recognizes that homelessness will not be completely eliminated and therefore a system needs to be in place by which residents will not become stuck in homelessness but will be rapidly re-housed

¹ *Homeless No More, A Strategy for Ending Homelessness in Washington DC by 2014, December 2004*

Residents who become homeless usually face one or more areas of crisis such as unemployment, mental illness, inability to find affordable housing, or substance abuse. In order to adequately address the complex needs of residents, providers of relevant services have created a system called "*Continuum of Care*." The Continuum of Care system begins with prevention efforts to help people stay in their homes and includes outreach to persons on the streets and those at risk of being forced into the streets. The system provides emergency shelter, transitional housing, permanent supportive housing, and support services.² The emergency shelter portion consists of both overnight-only shelters and twenty-four hour facilities. For most adults shelter is needed for less than sixty days out of the year, but for the chronically homeless it is often much longer. Emergency shelter for families is available twenty-four hours a day and the duration of stay is limited to less than six months.

ANALYSIS

The Zoning Commission held a public roundtable on September 23, 2004 to hear the public's view on allowing emergency shelters and adult rehabilitation homes in the C-M zone district. At the roundtable, non-profit and for-profit operators, government agency representatives, ANC representatives, and members of the general public testified. Most of the testimony presented was focused on the adult rehabilitation homes. Problems identified that related to both types of facilities include the economic feasibility of smaller facilities, community opposition, and the price of real estate.

The petition to have adult rehabilitation homes in the C-M districts was not included in this application because the community has more concerns about the impact of the operation and size of adult rehabilitation homes. OP therefore decided to proceed with the request for the emergency shelters while additional information is gathered for the adult rehabilitation homes.

The District Government, private agencies, non-profit organizations, and the faith community operate homeless shelters within the District. In 2002 and 2003 the District estimated that throughout the year there were between 16,000 and 17,500 persons who lived in emergency shelters or on the streets, which was an increase over the former years. Over the past ten years, both the District and private providers have increased the number of beds and services available and there are currently enough beds to shelter approximately 8,875 persons.³ The District of Columbia government currently operates fifteen full-time emergency shelters and six other facilities that are open only during hypothermia season or hypothermia nights. The Office of the Deputy Mayor for Children, Youth, Families and Elders that operates some of the emergency shelters is currently in the process of upgrading their services under the *Continuum of Care* program by creating "homeless assistance centers."

Under the *Homeless No More* plan and the *Continuum of Care* system, emergency shelters play a pivotal part in moving persons without shelter back onto the road to self-directed lives. Persons find themselves homeless for a myriad of reasons and emergency shelters are the first line of defense from being on the streets for many. In order to provide homeless residents with the needed housing and service providers are in need of buildings in which to operate.

It has been conveyed to OP by both public and private providers that they are experiencing difficulties in locating sites for emergency shelters throughout the city. Obstacles include the fact that real estate cost

² *The Community Partnership for the Prevention of Homelessness*

³ *Homeless No More*, pg. 4

is prohibitive in many areas where emergency shelters are permitted, the restricted number of residents they can accommodate is usually not sufficient to house the number of persons who need shelter, and community opposition similar to other community based residential facilities (CBRF) affects the ability to open new emergency shelters

Economics of Operation

Many service providers testified at the roundtable that the size of facilities currently allowed by the Zoning Regulation has been a deterrent to providers who would like to provide more shelters to meet the need that exists. The largest number of persons that the regulations currently allow in emergency shelters is twenty in the R-5, SP, CR, and C-2, if approved by special exception and as a matter-of-right in the C-3, C-4, and C-5 Districts

Providers state that to operate facilities that accommodate less than twenty persons and provide the best services is not always economically feasible. There is a consensus among providers that smaller facilities are more desirable because they are best integrated into the community and are more similar to a home setting to which the residents will be transitioned. However, other factors such as community opposition, land costs, and access to necessary services, limit this option

The economy of the District also plays a role in where providers chose or are able to locate their facility. The price of buildings and land in some areas of the City where emergency shelters are allowed are high and therefore a prohibitive factor. Some facilities were placed in vacant buildings when the City's economy was at its lowest. With the improvement in the economy, these and other buildings have appreciated in value and emergency shelters are being forced to relocate. In addition, trying to find locations that meet their requirements such as size and proximity to public transportation has been problematic as the price of real estate rises

Community Opposition

Generally, placement of CBRFs around the city encounter great pressure and opposition from communities in which they try to locate due to a number of factors such as: fear of the unknown, facilities not living up to the standards of the community, security, government oversight, location in relation to other sensitive facilities in the community, and public safety. Many providers are afraid of this opposition and therefore tend to look to areas with the least resistance. Recently, some facilities operated by the District were closed because they were substandard and unfit for housing and new locations need to be found.

ZONING

Prior to 1981, the Zoning Regulations defined and permitted four types of facilities that provided residential accommodations with some type of supervision (emergency shelters was not defined). Residents of Adams-Morgan expressed concerns to the Zoning Commission that their community was unfairly burdened by halfway houses and social service centers and they were concerned about the contractual safeguards, supervision, and burden on the community of the many facilities. To address these issues, the Zoning Commission revised the regulations to define Community-based Residential Facilities and create seven sub-categories, one of which is "Emergency Shelter" that is defined as.

“A facility providing temporary housing for one (1) or more individuals who are otherwise homeless and who are not in need of a long-term sheltered living arrangement, as that arrangement is defined in the Health Care Facilities and Community Residence Regulations, 22 DCMR § 3099.1 (1986)(superseded) ”

A sheltered living arrangement is defined as “a living arrangement in which a responsible adult oversees the activities of daily living of each resident so as to assist each resident in maintaining adequate personal hygiene; establishing social, community, and family contacts; and obtaining adequate medical, nursing, health, and social services. This type of living arrangement may include the supervision of the taking of medications prescribed for self-administration.” (22 DCMR § 3099.1 (2004))

The changes in the regulations were to permit community based residential facilities in all residential, commercial and mixed use zones with the size of the facilities depending on the general density of the zone. Their decisions were guided by four principles:

1. Equitable distribution around the entire District of Columbia
2. No areas should contain a disproportionate share of facilities and be impacted by a concentration of facilities
3. Small facilities should be encouraged to lessen impact, increase compatibility and be an alternative to institutional settings
4. The size and densities of facilities should be consistent with that permitted in the zone district

The Commission was further guided by the need to balance the concerns of the community in which the facility is located and the needs of the occupants and operators of the facility. Based on these principles, potential impact and compatibility with the residential zones, the Commission determined the zone district and under what circumstances the various kinds of facilities would be permitted. Emergency shelters are permitted as follows:

Table 1 - Emergency Shelters

ZONE	MATTER-OF-RIGHT	SPECIAL EXCEPTION
R-1	1-4 persons	5-15 persons ^{1, 3} 15+ persons ^{2, 3}
R-2, R-3, R-4	1-4 persons	5-15 persons ^{4, 5} 15+ persons ^{2, 5}
R-5, SP, C-R, W-1, W-2, W-3	1-4 persons	5-25 persons ^{4, 5} 25+ persons ²
C-1	1-7 persons	5-15 persons ^{4, 2, 3} 15+ persons ^{2, 5}
C-2	1-7 persons	5-25 persons ^{4, 5} 25+ persons ^{2, 5}
C-3, C-4, C-5	No Limit	N/A
C-M, M, W-0	Not Permitted	Not Permitted

¹Subject to requirements

- no other CBRF for 7 or more persons in same square or within 1,000 ft.
- adequate off street parking
- meet code and licensing requirements
- no adverse impact on neighborhood because of traffic, noise, operations, or number of similar facilities in the area

²If DC program goals/objectives cannot be achieved by smaller facility or reasonable alternative

³The BZA may approve more than 1 CBRF in a square or within 1,000 ft. if cumulative effect will not have adverse impact on neighborhood because of traffic, noise, or operations

⁴Subject to requirements.

- no other CBRF for 7 or more persons in same square or within 500 ft.
- adequate off street parking
- meet code and licensing requirements
- no adverse impact on neighborhood because of traffic, noise, operations, or number of similar facilities in the area

⁵The BZA may approve more than 1 CBRF in a square or within 500 ft if cumulative effect will not have adverse impact on neighborhood because of traffic, noise, or operation.

Benefits of the C-M Zones

The C-M district is designed to *“provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive districts”* The C-M-1 and C-M-2 districts tend to be more light manufacturing activities because of the lower FAR and heights than that permitted in the more intense C-M districts

	FAR	Height/stories
C-M-1	3.0	40 feet/3 stories
C-M-2	4.0	60 feet/no limit

Both private and public providers testified at the public roundtable held on September 23, 2004 that amending the Zoning Regulations to allow emergency shelters in the C-M District would offer additional locational choices as they will be able to access buildings and land that is more affordable and can accommodate a larger number of residents. The C-M district allows buildings to house a larger number of residents along with the required support services. As shown on Attachment 1, there is not a large amount of land within the C-M Districts and size and transportation criteria may put limitations on areas where they may locate. Because CM locations would be outside of residential areas, some of the perceived negative impact on neighborhoods would be minimized and may therefore have less community opposition.

The opposition to the placement of emergency shelters in industrial districts argues that people should not be made to live in industrial areas where the uses permitted may not be compatible with residential use. Again, it should be emphasized that under the *Homeless No More* program shelters will not become permanent residences for the homeless as stays will be limited and services provided are focused on enabling residents to return to a permanent place of residence. The *Homeless No More* program envisions that homelessness within Washington DC will end by 2014 and even if this goal is not achieved the need for shelters will diminish.

Such a temporary stay is not dissimilar to a hotel, which is a permitted, matter-of-right use in the CM zones. The functional similarities between hotels and shelters include a common dining room, service

adjacent space, meeting facilities and administrative offices While it may seem intuitive that hotel guests may not stay as long as someone at a shelter there is no zoning restriction to a hotel guest's length of stay.

It should be emphasized that the proposal to allow emergency shelters in the C-M-1 and C-M-2 district is just another option for providers to consider when trying to find locations for these services. Due to the concerns that shelters will be placed in areas with noxious uses, OP recommends the shelters not be allowed in close proximity to transfer stations, power plants, land fills and instead be in areas which could be considered a logical extension of an adjacent residential area

On February 24, 2005, OP submitted a proposal to the Zoning Commission to consider allowing emergency shelters in the C-M Districts. The Commission had concerns which are addressed below

Acreage of C-M District in the District.

There is a total of 2,390 acres, or 5% of land in the District, within the C-M District Of this, 1,040 4 acres are in the C-M-1 District and 189 3 acres are in the C-M-2 District

Placement of Emergency Shelters

As part of the amendment, OP proposes that emergency shelters not be placed within 1,000 feet of a square containing a sewage plant, a waste treatment facility, a waste transfer station, a landfill, or any documented contaminated site In order to address the issue the "colonies" of emergency shelters may emerge in these areas, OP recommends that no other emergency shelter or other CBRF be within the same square or within 1,000 feet

Number of Person

The Commission expressed concerns that without a size limit it could result in the warehousing of residents As stated in the *Homeless No More* policy, it is necessary that facilities be of a size that will be able to provide necessary and required services as well as shelter Therefore, economies of scale are necessary to be achieved between the cost of having centralized services and the number of persons at the shelter Therefore, after consultation with the Office of the Deputy Mayor for Children, Youth, Families, and Elders OP recommends that shelters house a maximum 150 persons

Equal Distribution

The Zoning Commission expressed concerns about the unequal distribution of emergency around the City In 1981 the Zoning Commission addressed the issue in Zoning Commission Order No 347 in which it outlined zones within which emergency shelters were permitted as a matter-of-right or as a special exception It is the goal of OP to improve the geographic dispersion of these facilities but the location of emergency shelters is both a function of zoning and market economics Therefore, this proposal is to allow the possibility that some emergency shelters are allowed to locate within the C-M districts

Industrial Area Study

OP is currently finalizing an industrial areas study which is scheduled to be presented to the Zoning Commission in March 2006. Generally, the study is cautious about the location of emergency shelters within industrial districts. However, there are some industrial areas that are adjacent to residential or commercial areas which may be suitable for emergency shelters. The map outlining these specific locations is not currently available because the study is still under review but will be provided in the final report if the proposal is set down.

COMPREHENSIVE PLAN

A major theme of the Comprehensive Plan is "Providing for Diversity and Overall Social Responsibilities" (Section 111)

"111.1 Each distinct neighborhood of the District is an integral part of a diverse larger community that contributes to the District attractiveness and strength:

- (a) Although many residents have sufficient means or individual support systems to be self-reliant, other residents are periodically more dependent on the larger community for support or assistance in their daily living; and*
- (b) While the District must strive to increase educational, employment, and other opportunities to reduce such dependency, all neighborhoods should share in the overall social responsibilities of the community including but not limited to, housing the homeless, feeding the hungry, accommodating the disabled, and welcoming residents of diverse backgrounds and needs."*

The proposal to allow emergency shelters in the C-M districts is consistent with this theme of the Comprehensive Plan as it will provide more location options to accommodate homeless persons and provide the necessary health and training services.

The Human Services element of the Comprehensive Plan states that its major goal for the District is to "ensure a broad range of community-based human services." Policies in support of the human services delivery system is as follows.

- "1002.2 (a) Focus the full range of health and social services on major problems facing the District, such as infant mortality, the homeless, alcohol, drug abuse, Acquired Immune Deficiency Syndrome (AIDS), and the availability and cost containment of services;*
- (c) Maintain and improve services for all children and adults in twenty-four hour (24 hr. care facilities and ensure that victims of homelessness are cared for, especially when extreme weather conditions occur;"*

A major policy of the Housing Element of the Comprehensive Plan is that

“300.6 The District should continue to intensify its efforts to identify and address issues applicable to the elderly population, including institutional housing and community-based residential facilities. . . “

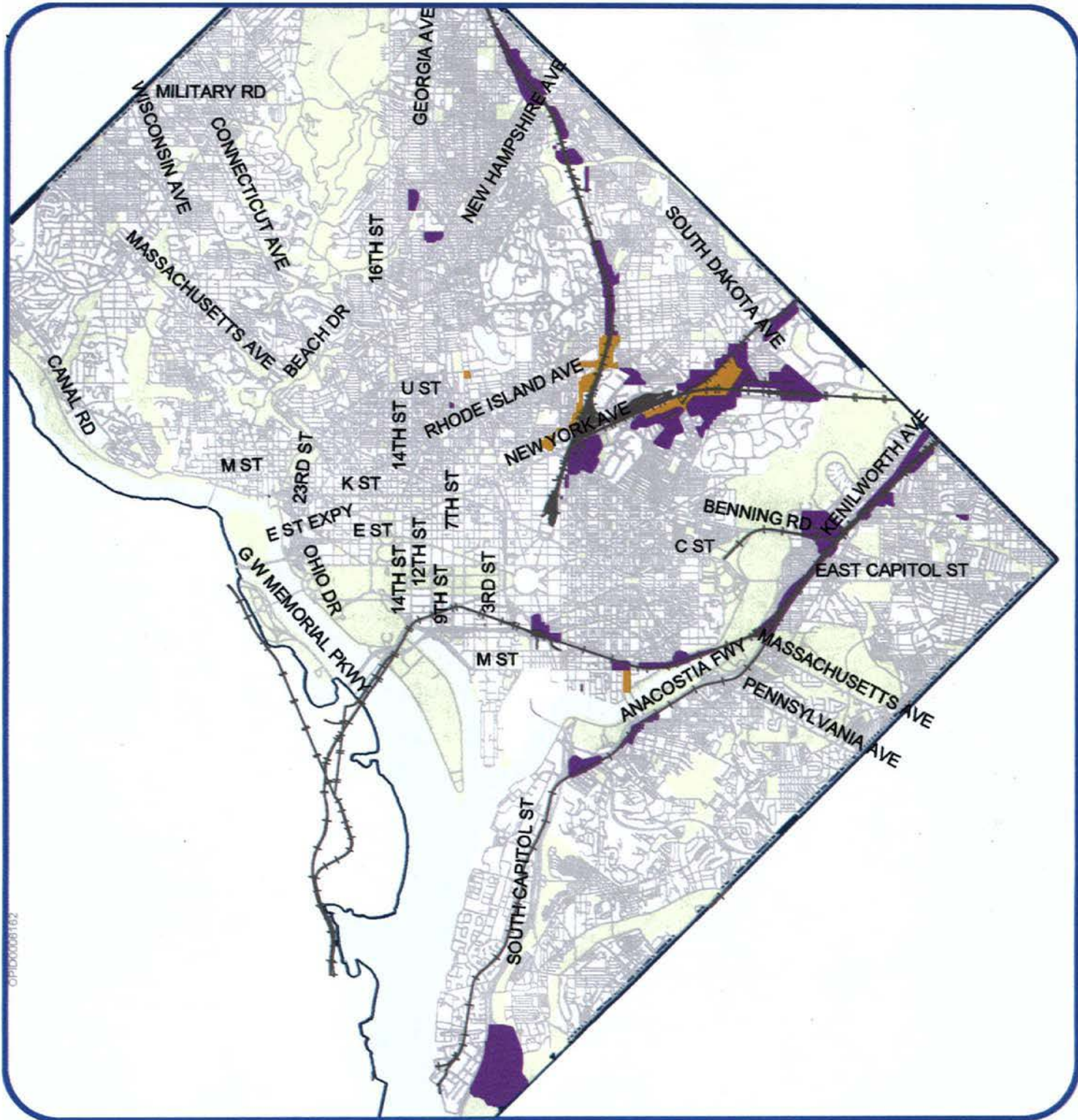
The proposal is consistent with these policies as it is an attempt to provide services to residents that are underserved and will lead to a broader range of location options.

RECOMMENDATION

Due to the large number of homeless persons and families, the economics of operating small facilities and community opposition to homeless facilities make it extremely difficult to locate and open new facilities. Providers have testified that the nature and non-residential character of the C-M Zone will allow emergency shelters to be located in areas with minimal impacts on surrounding neighborhoods and some of their economies of scale issues. OP is recommending a text amendment to the Zoning Regulations to permit emergency shelters in the C-M-1 and C-M-2 districts by special exception. OP recommends that the application for the proposed text amendment (Attachment 2) be set down for public hearing.

ATTACHMENTS:

- 1 Location of C-M-1 and C-M-1 Districts
- 2 Proposed Text Amendment
- 3 Person addressing Emergency Shelters at the Public Roundtable, September 23, 2004



★ ★ ★ Government of the
 District of Columbia
 Anthony A. Williams, Mayor
 Office of Planning ~ June, 2005

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

INDUSTRIAL USE ZONES



Legend

- C-M-1
- C-M-2
- Parks
- Railroads

ATTACHMENT 2

Proposed Text Amendment to Add Emergency Shelters to the C-M-1 and C-M-2 Zones

Revise Section 802.1 to read as follows:

- "802.1 The uses in this section shall be permitted as special exceptions in a C-M District except that emergency shelters shall be limited to the C-M-1 and C-M-2 Districts if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section "**

Add a new Section 802.17 as follows:

- "802.17 An emergency shelter for five (5) to one hundred and fifty (150) persons, not including resident supervisors or staff and their families, shall be permitted in a C-M-1 and C-M-2 Districts only if the following requirements are met**
- (a) There shall be no other property containing an emergency shelter or other community-based residential facility for seven (7) or more persons in the same square.**
 - (b) There shall be no other property containing an emergency shelter or other community-based residential facility for seven (7) or more persons within a radius of one thousand feet (1,000 ft.) from any portion of the property**
 - (c) Emergency shelters shall not be located within one thousand feet (1,000 ft) of a square containing a sewerage treatment plant, a waste treatment facility, a transfer station, or a landfill**
 - (d) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility**
 - (e) The proposed facility shall meet all applicable code and licensing requirements. The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area**
 - (f) The Board may approve more than one emergency shelter in a square or within one thousand feet (1,000 ft) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.**

- (g) The Board may approve a facility for more than one hundred and fifty (150) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District. The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation and Human Services and, if a historic district or historic landmark is involved, the State Historic Preservation Officer ”**

ATTACHMENT 3

Person addressing Emergency Shelters at the Public Roundtable, September 23, 2004

Yvonne Gilchrist	District of Columbia Department of Human Services
Lynn French	Office of the Deputy Mayor for Children, Youth, Families, and Elders
Daniel Pernell, III	ANC-6C
Barbara Zartman	Committee of 100
Chapman Todd	Catholic Charities of Washington, D.C
Cornell Jones	Miracle Hands Community Development Corporation