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October 13, 2009

BY HAND

Anthony J. Hood, Chair
District of Columbia Zoning Commission
441 Fourth Street, N.W., Suite 210 South
Washington D.C. 20001

Kinley R. Bray

Attorney
202.715.8572 DIRECT
202.857.6395 FAX
bray.kinley@arentfox.com

Reference Number
030919.00003

Re: Petition of District of Columbia Public Library to Amend the Zoning Map
and Text of the Zoning Regulations.

Application of District of Columbia Public Library for Special Exception
Relief to construct a new full-service public library at

3660 Alabama Avenue S.E., PAR 207/64, Part of U.S. Reservation 518
(the "Property")

Dear Chairman Hood and Members of the Commission:

The District of Columbia Public Library (the "Applicant") herewith submits twenty (20) copies of a Petition to Amend the Zoning Map from unzoned to the R-5-A Zone District. Also enclosed herewith is a Petition to Amend the Zoning Text to create separate standards for public libraries on government-owned property in the Residence Districts. Finally, pursuant to the proposed text amendments, this application also includes a special exception application to construct a new full-service public library to replace the existing Francis A. Gregory Library on the above-referenced Property.

We hereby request that the Commission shorten the notice period for this case to 30 days. The District of Columbia Library has been proceeding under the attached letter issued by the Zoning Administrator for the District of Columbia indicating that the Property is not subject to zoning. We have recently been informed by the National Park Service and the Zoning Administrator that that ruling is currently being reconsidered. Given the late date, it is imperative that the Library seek to zone the Property as soon as possible. We have also identified areas of relief that will be required if the R-5-A Zone is applied. To avoid the need for a variance, the Library is also proposing an amendment to the Zoning text to treat public libraries separately from residential structures in the Residence Districts, such as is the case for schools and churches. We respectfully request that the Commission schedule a hearing on the requested Petitions and Applications at the earliest possible date.

ZONING COMMISSION

District of Columbia
GENBUS/699244.1

CASE NO. 09-17A
555 West Fifth Street, 40th Floor

Los Angeles, CA 90013-1065

T 213.629.7400 F 213.629.7401

EXHIBIT NO. 1 ZONING COMMISSION

District of Columbia

CASE NO. 09-17A

EXHIBIT NO. 1

1050 Connecticut Avenue, NW
Washington, DC 20036-5339
T 202.857.6000 F 202.857.6395

1675 Broadway
New York, NY 10019-5820
T 212.484.3900 F 212.484.3990

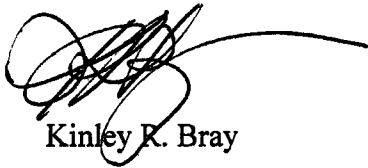
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Arent Fox

Pursuant to 11 DCMR § 3043.1, the Applicant is exempt from filing fees and hearing fees as it is an agency of the government of the District of Columbia, the Property is under the control of the District of Columbia, and is to be used for government (library) purposes.

Please let me know if you require any further information to process this filing.

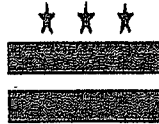
Sincerely,

A handwritten signature in black ink, appearing to read 'Kinley R. Bray', with a long horizontal flourish extending to the right.

Enclosures

Cc: Jeff Bonvechio, District of Columbia Public Library (via U.S. and electronic mail)
Lisa Deanes, District of Columbia Public Library (via U.S. and electronic mail)
Jennifer Steingasser, District of Columbia Public Library (via U.S. and electronic mail)
Joel Lawson, District of Columbia Office of Planning (via U.S. and electronic mail)
Scott Knudson, Wiencek + Associates (via U.S. Mail)
Austin Harris, Adjaye & Associates (via U.S. Mail)
Advisory Neighborhood Commission 7B (via U.S. Mail)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



June 1, 2009

Kinley R. Bray
Ellen McCarthy
Arent Fox LLP
1050 Connecticut Avenue NW
Washington DC 20036

Re: Frances A. Gregory Neighborhood Library, 3660 Alabama Avenue, S.E. (the
"Property")

Dear Kinley and Ellen:

I am in receipt of your letter dated May 15, 2009 regarding the application of zoning to the above-referenced property.

Based on the information you have provided, the Property is owned by the United States Government and maintained as parkland by the National Park Service. The existing Frances A. Gregory Library is subject to a transfer of jurisdiction to the District of Columbia. The District of Columbia Library now wishes to replace the existing library with a new facility.

The Property is owned by the United States government, and therefore is not subject to zoning.

Please let me know if you have any questions about this information.

Sincerely, Matthew LeGrant

Matthew LeGrant
~~Zoning Administrator~~

File : Determination Letter re Frances A Gregory Library to Bray 6-1-09

GENBUS/677025 1



Anthony Hood, Chairman
Zoning Commission
441 Fourth Street, Suite 210S
Washington D.C. 20001

Re: Petition of District of Columbia Public Library to Amend the Zoning Map and to Amend the Text of the Zoning Regulations, and Application for Special Exception at 3660 Alabama Avenue S.E., Part of U.S. Reservation 518 (the "Subject Property")

Dear Chairman Hood:

This letter hereby authorizes Kinley R. Bray, Esquire, and the law firm Arent Fox LLP to represent the District of Columbia Public Library in the above-referenced Petition and Application regarding the Subject Property. Ms. Bray and Arent Fox are authorized to act on our behalf and as our agent with respect to this matter.

Sincerely,

District of Columbia Public Library

By 
Jeff Bonvechio

GENBUS/698569.1

STATEMENT IN SUPPORT

PETITION OF

DISTRICT OF COLUMBIA PUBLIC LIBRARY

FOR AN

AMENDMENT TO THE ZONING TEXT

October 13, 2009

ARENT FOX LLP
1050 Connecticut Avenue N.W.
Washington D.C. 20036
(202) 857-6000
Kinley R. Bray, Esquire

**STATEMENT IN SUPPORT OF
PROPOSED TEXT AMENDMENTS FOR
PUBLIC LIBRARIES IN RESIDENCE (R) ZONES**

DISTRICT OF COLUMBIA PUBLIC LIBRARY, PETITIONER

October 13, 2009

I. BACKGROUND

This Statement in Support requests that the Zoning Commission schedule a public hearing to consider adopting text amendments affecting the use of government-owned property for public libraries. The Petitioner is the District of Columbia Public Library (the “Library” or “Petitioner”). The proposed text amendments would have an immediate impact on a property identified as Parcel 67/204, part of U.S. Reservation 518, which is located at 3660 Alabama Avenue, S.E. (the “Property”). Additional properties housing public libraries or designated for public libraries on federal- or District of Columbia-owned land may also be impacted.

A. The Property

The Property is owned by the United States of America and is subject to a Transfer of Jurisdiction to the District of Columbia approved by the National Capital Planning Commission on September 29, 1958 and the National Park Service on December 11, 1958, and accepted by the District of Columbia on December 16, 1958. The Property was transferred to the District for “Library” purposes, to construct, operate, and maintain a neighborhood library. The Property is part of U.S. Reservation 518, a portion of which is also under the jurisdiction of the District of Columbia, and is the location of Anne Beers Elementary School, which is classified within the R-5-A Zone District. The rest of U.S. Reservation 518 remains unzoned and used for federal park land.

B. Other Potential Library Locations

The District of Columbia operates 25 neighborhood libraries and a main branch in downtown Washington, D.C., all of which are located on land owned by the government of the District of Columbia or the United States. The Library has recently begun a major overhaul of its neighborhood library branches, with significant upgrades and renovations and/or demolition and reconstruction of new, modern library facilities fit for the 21st Century. The current standards for size, accommodations, technology, and other library services are significantly greater than the standards to which the existing libraries within the District of Columbia Public Library system were constructed. As such, the Library is currently in the process of renovating or replacing six (6) neighborhood libraries, including the Francis A. Gregory Neighborhood Library, which is located on the Property. The Library's 21st Century Capital Projects program is either pursuing new construction or extensive renovations/additions to existing facilities. The expectation is that the Francis A. Gregory library is the last or one of the last branches that will see totally new construction.

Each of the Library's locations is limited in size and generally pre-dates development in the surrounding area, such that no additional land is available for acquisition. Many of the existing libraries were developed prior to the application of the District of Columbia's current Zoning Regulations in 1958 and are non-conforming as to side and rear yard setbacks, parking, and floor area ratio. In addition, many changes to the Library's modernization program were made after the zoning case in 2003 which set zoning standards for public libraries, such that various area-related standards deemed acceptable by the DCPL at that time are no longer attainable. The Library's standards for renovation and replacement call for additional floor

area—increasing the average facility from approximately 15,000 square feet to up to 22,000 square feet of gross floor area to accommodate the myriad services provided at each branch, including public meeting rooms, public computer access, and increased shelving space to accommodate a growing collection. The need for increased floor area only exacerbates nonconforming conditions and the number of new facilities which would, without the text amendments proposed herein, have to seek variance relief.

C. Zoning Rationale. These zoning text amendments are proposed in this case rather than in a separate multi-variance case at the Board of Zoning Adjustment (“BZA”) for several reasons. First and foremost is potential delay to the Library’s proposed construction at the Francis Gregory site, given the amount of time that it takes for the Board of Zoning Adjustment to process any application before it. The Library wishes to minimize the number of cases it brings before the Board of Zoning Adjustment, and in the particular case of the Property, the Library was previously advised by the Zoning Administrator for the District of Columbia that the Property would not need to be zoned, and could be constructed under the existing zoning (unzoned or GOV). That previous advice is currently being reconsidered, and at this late date in the Library’s plans for replacement of the Francis A. Gregory Library, the Library seeks to expedite and to streamline all necessary approval processes. The Library has filed, concurrent with this petition, a petition for map amendment to zone the Property and an application for special exception seeking relief necessary to construct the Library in accordance with the plans and the proposed text amendments.

Secondly, other public facilities permitted as a matter of right in the Residence Zones are treated separately for purposes of maximum floor area ratio, side yard setbacks, rear yard

setbacks, and percentage of lot occupancy. This recognizes that, while permitted in the residential zones, public facilities are generally non-residential and should not be held to the same standards as single-family or multi-family residential structures. Public libraries are currently subject to the same restrictions on lot area, buildable envelope, and floor area ratio as residential structures. The proposed text amendments seek to have libraries treated in the same manner as schools and other public facilities, with greater flexibility to accommodate these public uses on residentially-zoned property. This petition proposes, however, that such flexibility be available subject to the requirements and standards for granting a special exception, pursuant to 11 DCMR § 3104.1. Thus, the BZA and the public will have an opportunity to review in detail the Library's proposal and to ensure that there is no adverse impact on surrounding properties, or to the integrity of the Zone Plan or the Zoning Regulations.

Third, neighborhood libraries are designed to serve the communities in which they are located. It is anticipated that the vast majority of library patrons should be able to walk to the branch situated in their local community. The current parking regulations require a great deal of parking—1 space per 1,000 square feet of gross floor area in excess of 2,000 square feet—for neighborhood libraries in residential zones. Given the Library's program requirements, it is anticipated that on average, a new full-service neighborhood library facility would require 20 off-street parking spaces. The average size of the property on which a full-service neighborhood library sits is between 15,000 and 25,000 square feet. Thus, in almost every case, in order to accommodate 22,000 square feet of gross floor area and 20 parking spaces, the Library must either construct underground parking, in limited site area and at significant cost, or seek a variance from the Board of Zoning Adjustment.

Finally, the burden associated with variance relief is significant, onerous, and often unwarranted in the case of government facilities. We submit that a determination that there is no adverse impact on surrounding properties or to the integrity of the Zoning Regulations and Zone Plan is sufficient to protect surrounding property owners and the citizens of the District of Columbia, and that there is seldom a need to analyze public facilities under the requirements for a variance. Nearly all libraries are similarly situated, on limited land area and with nearly identical program requirements—therefore, they are unique as compared to other land uses, but similarly situated when viewed as a distinct group, making the first prong of the variance test difficult to satisfy in most cases.

II. PROPOSED ZONING TEXT AMENDMENTS

The Zoning Text Amendments proposed in this Petition provide special regulatory controls and flexibility for library facilities on government-owned property. The proposed amendments are as follows, together with commentary in italics after each:

A. Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, § 402, Floor Area Ratio (R), is amended by inserting a new subsection as follows:

402.8 A public library located on government-owned land in any R District shall not exceed 2.0 floor area ratio, except where additional floor area ratio is approved by the Board of Zoning Adjustment, pursuant to § 3104.1

Comment: Although the R-1, R-2, R-3, and R-4 Zone Districts do not prescribe a maximum floor area ratio, the effect of restrictions on lot occupancy (40%) and maximum height in terms of stories (3) combine to limit the floor area ratio for all structures other than a church, public school, or public recreation and community center to 1.2 FAR. Churches and public schools are permitted 60% lot occupancy, which allows an effective FAR of 1.8. The public libraries currently in development by the Library are generally 22,000 square feet and are on properties between 9,000 and 29,000 square feet in land area. Thus, the Library submits that an effective

FAR of between 1.8 and 2.0 FAR should be sufficient to permit most of its structures as a matter of right, and that such structures will not adversely impact surrounding properties, as they will be similar in bulk to other similar institutional uses, namely, churches and public schools.

B. Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, § 403, Percentage of Lot Occupancy (R), is amended by inserting a new subsection as follows:

403.4 A public library located on government-owned land may be permitted a lot occupancy in excess of that permitted by § 403.2 if approved by the Board of Zoning Adjustment, pursuant to § 3104.1.

Comment: This proposed amendment would allow an increase in the maximum permitted lot occupancy by special exception. Review by special exception ensures that there is no adverse impact to the surrounding properties or to the integrity of the Zoning Regulations or Zone Plan, and involves a significant public hearing process. The Library submits that variance relief is difficult to obtain because many libraries are similarly situated and therefore cannot meet the first requirement for variance relief under 11 DCMR § 3103.2. In order to provide flexibility without the onerous requirements of filing for variance relief, a special exception is an appropriate mechanism to review, on a case-by-case basis, requests for increase in lot occupancy above that which is currently permitted for a library. In the alternative, the Library proposes that full-service neighborhood libraries have their own lot occupancy, as is the case with churches and public schools, and be entitled to up to 80% lot occupancy in the R-1 through R-5-A Zone Districts.

C. Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA AND DENSITY REGULATIONS, § 404.3 is amended as follows:

404.3 In the case of a lot proposed to be used by a **public library**, public school or a public recreation center that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

Comment: Public schools and recreation centers are currently allowed to omit rear lot lines where they abut a public reservation of land or open space. In the case of the Francis A. Gregory Public Library, which backs to and abuts park land, it is similarly appropriate to omit rear yard, as the rear yard will remain as open space, presumably in perpetuity.

D. Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA AND DENSITY REGULATIONS, § 405, Side Yards (R), is amended by inserting a new subsection as follows:

405.10 In the case of a lot in an R District proposed to be used by a public library that abuts or adjoins on one (1) or more side lot lines a public open space, recreation area, or reservation, the required side yards may be reduced or omitted.

Comment: See Comment to Paragraph C above.

E. Chapter 21, OFF-STREET PARKING REQUIREMENTS, § 2104 is repealed.

Comment: See Comment to Paragraph F below.

F. Chapter 21, OFF-STREET PARKING REQUIREMENTS, § 2108, Reduction of Parking Spaces, Authority of the Board, is amended by inserting a new subsection and renumbering all subsequent subsections as follows:

2108.3 In the case of a public library on government-owned property, the amount of required parking spaces may be reduced or eliminated as prescribed by the Board of Zoning Adjustment, subject to § 3104.1.

~~2108.3-4~~ The Board shall give consideration to the:

- (a) Nature and location of the structure;
- (b) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (c) Amount of traffic congestion existing or that the building or structure can reasonably be expected to create in the neighborhood;
- (d) Quantity of existing public, commercial, or private parking ~~other than curb parking,~~ on the property or in the neighborhood that can reasonably be expected to be available when the building or structure is in use; and
- (e) Proximity to public transportation, particularly Metrorail stations, and the availability of public transportation service in the area or a ride-sharing program approved by the D.C. Department of Transportation.

~~2108.45~~ If the applicant relies on a ride-sharing program, the applicant shall demonstrate to the Board that the program shall continue as long as the use continues.

~~2108.56~~ Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

Comment: The Zoning Regulations currently allow the reduction, by the Board of Zoning Adjustment, for libraries located within one-half mile of a Metrorail Station. This proposed amendment seeks to repeal that provision, in Section 2104.2, and replace it with a new provision in Section 2108 which would allow the reduction or elimination of parking spaces by the Board of Zoning Adjustment, pursuant to § 3104.1, concurrent with the standards enumerated in the existing provisions of § 2108, such as consideration of the nature of the building, availability of

parking in the surrounding area, and the amount of traffic congestion in the particular area. As discussed above, neighborhood libraries are designed to serve the neighborhoods in which they are located, and are distributed throughout the District of Columbia in order to facilitate convenient access to all residents. In most cases, it is inappropriate to provide 20 spaces or more for a neighborhood-serving use.

III. PUBLIC BENEFITS OF THE PROPOSED TEXT AMENDMENTS

There are clear public benefits from the proposed text amendments. By eliminating the need to address the variance tests of uniqueness and serious practical difficulty, the text amendment implicitly recognizes a hard fact which governs site selection and design for public facilities, especially for the library modernization project – that the choice of a site for a new library is largely controlled by the location of existing facilities, and the design is largely driven by a relatively uniform program. Practically speaking, in a city as densely developed as ours, large tracts of vacant land are at a premium, especially those located convenient to neighborhood centers, schools and public transportation, as is the case for most current library sites. The library generally must redevelop in the existing location, and, as is pointed out earlier in this application, since the new library facilities are larger, but the sites are the same size as the old libraries, that generally requires relief from a number of area requirements.

The proposed approach minimizes time and energy for the Library, as well as the Board of Zoning Adjustment, developing and considering detailed justifications for meeting the variance tests for what is new construction. It places the emphasis squarely where it should be, on whether the proposed relief for these new libraries would have any adverse impacts on neighboring property or on the integrity of the Zone Plan or Zoning Regulations.

Moreover, it frees the architects to adopt the most innovative new sustainability provisions, such as canopies over what would otherwise be required yards, or courts or other design techniques to bring in more natural light or to reduce regrading and soil disturbance and minimize stormwater runoff. The public benefits from more sustainable approaches and a reduced carbon footprint.

At the same time, these public benefits come at no expense to access by the public and the Board of Zoning Adjustment to a detailed individual review of each proposed library building, and consideration of any adverse impacts from the proposed zoning relief.

IV. CONSISTENCY WITH COMPREHENSIVE PLAN

The Comprehensive Plan for the District of Columbia recognized the importance of the modernization program proposed for the DC Public Library. The Community Services and Facilities Element of the Plan calls for the provision of high quality facilities to all the citizens of the District. In particular, regarding libraries, the Plan observes:

As one of the world's leading centers of information and knowledge, the District of Columbia must have a state-of-the-art public library system. A revitalized library system must combine high quality physical buildings with new technology, an expanded Internet presence, inviting public spaces for meetings and gatherings, and programs and collections that meet the needs of all citizens. Our libraries should help children succeed in school, help adults improve their reading skills, and support career advancement and life enrichment goals. The District should aspire to nothing less than greatness as it creates a library system that demonstrates the city's commitment to meeting the educational and life-long learning needs of all of its residents. 10 DCMR § 1109.1.

Specifically with regard to branch libraries, the Plan suggests:

Action CSF-3.1.B: Branch Libraries

Completely overhaul, upgrade or re-build each branch library to provide a safe and inviting space that provides services and programs that address the needs of local residents. Each branch library should be designed to provide a minimum of 20,000 square feet of floor space with a clearly visible entrance and an open, inviting and attractive façade. 10 DCMR § 1130.11.

The Plan explicitly took note of the need to increase the size of neighborhood libraries to more than 20,000 sf. It also explicitly recognized the importance of a visible entrance and inviting façade, two elements which could be compromised if the library is forced to accommodate large amounts of surface parking. In addition, by stressing the importance of the front of the building, it reinforces that relief on rear and side yards is less important than the way the building addresses the street. This is further reinforced by the Urban Design Element of the Comprehensive Plan, which discourages surface parking, and promotes the importance of creating a strong street presence.

The Urban Design Element of the Plan even calls for zoning changes to promote improved design quality:

Action UD-2.2B: Using Zoning to Achieve Design Goals

Explore zoning and other regulatory techniques to promote excellence in the design of new buildings and public spaces. Zoning should include incentives or requirements for façade features . . . buffering and other exterior architectural elements that improve the compatibility of structures, including roof structures, with their surroundings while promoting high architectural quality. 10 DCMR § 910.20.

The proposed text amendment would be entirely consistent. The amendment would relax the constraints of area requirements established for residential uses, and permit the Library's architect to work with the site in the most attractive and suitable manner, subject to the

safeguards in § 3104.1 that the design not adversely affect neighboring property or the intent and purposes of the Zone Maps and Zoning Regulations.

Last, the proposed text changes would be entirely consistent with the Transportation Element of the Plan, Policy T-1.2.3: Discouraging Auto-Oriented Uses, which discourages large surface parking lots along key boulevards, such as Alabama Avenue, which is a major arterial road, and calls for minimizing curb cuts.

V. CONCLUSION

For the reasons set forth in this statement, the Petitioners respectfully request that the Zoning Commission schedule a public hearing to consider adoption of the proposed text amendments.

Respectfully submitted,

ARENT FOX LLP



Kinley R. Bray

BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

PETITION TO AMEND THE TEXT OF THE ZONING REGULATIONS

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated.

In accordance with the provisions of §102 of Title 11 DCMR – Zoning Regulations, request is hereby made for an amendment to the text of the Zoning Regulations as follows:

Reason and justification for proposed text amendment: To provide flexibility from certain area requirements of the zoning Regulations for public libraries on government-owned property by special exception.

Existing Language (include section or paragraph number): None.

Proposed Language: See attached.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22-2405)

Signature: District of Columbia Public Library

Date: 10/9/09

Petitioner's Name:

[Signature]

Petitioner's Filing Status (check one):

☐

ANC

☒

DC Government Agency

☐

Federal Government Department

☐

Other

Person to be notified of all actions:

Name: Kinley R. Bray, Esq., Arent Fox LLP

Address: 1050 Connecticut Ave., NW

Zip Code: 20036

Phone No.:

(202) 715-8572

DO NOT WRITE BELOW THIS LINE

Date Received:

Date Accepted:

ANY PETITION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM
WILL NOT BE ACCEPTED