

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 8D



P.O. BOX 54781
Washington, DC 20032

October 15, 2018

Re: Case No. 19783 Beyond Light, Inc

Mr. Clifford W. Moy
Secretary, Board of Zoning Adjustment
Office of Zoning
441 4th Street, N.W. Suite 200/210-S
Washington, DC 20001

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Dear Secretary Moy:

This letter is a follow-up to the Commissions letter to you of October 7, 2018. We would note that Advisory Neighborhood Commission submitted to the Board on July 17, 2018, our formal report indicating the Commission's disapproval of the application in Case No. 19783. This letter is to supplement our record with three (3) exhibits.

Exhibit 1 is a copy of the Zoning Handbook Exhibit two (2) is a copy of a legal opinion, from the Office of the Attorney General, dated August 6, 2004, which addresses the Office of Planning Notice requirements to ANCs. Exhibit three (3) are photographs taken on October 6, 2018, by Annie Reid of 4208 Livingston Road, S.E.

The position of the Commission has not changed, that is we are still opposed to granting an exception in the above case primarily because the presence of the facility will have an adverse impact on the residence whose property is contiguous to the proposed men's transitional home.

We would note, as we previously indicated, that the application for the exception is defective in several areas but assuming that the applicant could overcome the application deficiencies, the question of the suitability of the transitional home in the community would remain as the pivotal issue of concern to the Commission and those who are in close proximity to facility.

Sincerely,


Absalom Jordan
Commissioner 8D03

Board of Zoning Adjustment
District of Columbia
CASE NO.19783
EXHIBIT NO.55

Exhibit 1

DCOZ Home (<http://dcoz.dc.gov/main.html>)

Resources (<http://maps.dcoz.dc.gov>)

Map (<http://maps.dcoz.dc.gov/zr16/>)

Help (<http://handbook.dcoz.dc.gov/help/>)



(<http://handbook.dcoz.dc.gov>)

Zoning Handbook

INTRODUCTION ([HTTP://HANDBOOK.DCOZ.DC.GOV/](http://handbook.dcoz.dc.gov/))

ZONING RULES ▾

ZONES ▾

USE CATEGORIES ▾

DEFINITIONS/GLOSSARY ▾

ANC RESOURCES ▾

Vehicle Parking

([https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?](https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=11-C7&ChapterId=3512)

ChapterNum=11-

C7&ChapterId=3512)

The vehicle parking regulations are intended to:

- Ensure that vehicular parking (<http://handbook.dcoz.dc.gov/definitions-glossary/p-r/>) areas are located, accessed, and designed to minimize negative impacts on adjacent property, urban design, the pedestrian environment, and public spaces;
- Ensure that vehicle parking areas are safe and accessible; and
- Ensure that surface parking (<http://handbook.dcoz.dc.gov/definitions-glossary/p-r/>) areas are planted and landscaped to be compatible with their surroundings, and to reduce environmental impacts.



Any building permit application for new construction or an addition to an existing building must be accompanied by a detailed parking plan demonstrating full compliance with the vehicle parking regulations.

The Zoning Administrator may request that the District Department of Transportation review and make recommendations regarding the vehicle parking plan prior to approving the building permit application.

No certificate of occupancy will be issued unless the vehicle parking spaces have been constructed in accordance with the approved parking plans.

Parking Requirements

Use Category	Minimum number of vehicle parking spaces
Agriculture, large	1.67 per 1,000 sq. ft.
Agriculture, residential	None
Animal sales, care and boarding	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Antennas	None
Arts, design, and creation	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Basic utilities	0.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Chancery	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., or as determined by the Foreign Mission Board of Zoning Adjustment.
Community-based institutional facility	1 per 1,000 sq. ft.
Daytime care	0.5 per 1,000 sq. ft. with a minimum of 1 space required.
Eating and drinking establishments	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft. A minimum of 1 parking space shall be required for a food delivery service.
Education, college/university	For each building: 2 for each 3 teachers; plus either 1 for each 10 classroom seats or 1 for each 12 stadium seats or 1 for each 10 auditorium seats, whichever is greater, except if a campus plan has been approved by the Zoning Commission or the Board of Zoning Adjustment for the college or university, in which case the parking shall be provided as set forth in the approved campus plan.
Education, private	Elementary and middle school: 2 for each 3 teachers and other employees; High school and accessory uses: 2 for each 3 teachers and other employees, plus either 1 for each 20 classroom seats or 1 for each 10 seats in the largest auditorium, gymnasium or area usable for public assembly, whichever is greater.
Education, public	0.25 per 1,000 sq. ft.
Emergency shelter	0.5 per 1,000 sq. ft.
Entertainment, assembly, and performing arts	2 per 1,000 sq. ft.
Firearm sales	1.33 per 1,000 sq. ft. in excess of 5,000 sq. ft.

[DCOZ Home \(http://dcoz.dc.gov/main.html\)](http://dcoz.dc.gov/main.html)

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[\(http://handbook.dcoz.dc.gov\)](http://handbook.dcoz.dc.gov)

Zoning Handbook

[INTRODUCTION \(HTTP://HANDBOOK.DCOZ.DC.GOV/\)](http://handbook.dcoz.dc.gov/)

[ZONING RULES](#) ▾

[ZONES](#) ▾

[USE CATEGORIES](#) ▾

[DEFINITIONS/GLOSSARY](#) ▾

[ANC RESOURCES](#) ▾

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[ChapterNum=11-](https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=11-C7&ChapterId=3512)

[C7&ChapterId=3512\)](https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=11-C7&ChapterId=3512)

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- Ensure that vehicle parking areas are safe and accessible; and
- Ensure that surface parking [\(http://handbook.dcoz.dc.gov/definitions-glossary/p-r/\)](http://handbook.dcoz.dc.gov/definitions-glossary/p-r/) areas are planted and landscaped to be compatible with their surroundings, and to reduce environmental impacts.



Government, large-scale	None
Government, local	0.5 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; except: Public recreation and community center: 0.25 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; and Kiosk public library – no requirement.
Medical care	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., with a minimum of 1 space required.
Institutional, general	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Institutional, religious	1 for each 10 seats of occupancy capacity in the main sanctuary; provided, that where the seats are not fixed, each 7 sq. ft. usable for seating or each 18 in. of bench if benches are provided shall be considered 1 seat.
Lodging	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Marine	0.5 per 1,000 sq. ft.
Motor vehicle-related	2 per 1,000 sq. ft.
Office	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., except: a medical or dental office, clinic, or veterinary hospital: 1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Parking	None
Parks and recreation	0.5 per 1,000 sq. ft.
Production, distribution, repair	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., except warehouse or storage facility – 1 per 3,000 sq. ft.
Residential, single dwelling unit	1 per principal dwelling.
Residential, flat	1 per 2 dwelling units.
Residential, multiple dwelling unit	1 per 3 dwelling units in excess of 4 units, except: 1 per 2 dwelling units for any R or RF zone; 1 per 6 units of publicly assisted housing, reserved for the elderly and/or handicapped.
Retail	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Service, general	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Service, financial	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Sexually-based business establishment	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Transportation infrastructure	None
Waste-related services	1 per 1,000 sq. ft.

For more information on the following topics, please see the corresponding referenced sections:

- Minimum Vehicle Parking Requirements – **Subtitle C § 701**
(<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46204>)
- Exemptions from Minimum Parking Requirements – **Subtitle C § 702**
(<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46205>)
- Special Exceptions from Minimum Parking Number Requirements – **Subtitle C § 703**
(<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46206>)
- Minimum Parking Requirements for Additions to Existing Buildings or Structures – **Subtitle C § 704**
(<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46207>)

- Minimum Parking Requirements for an Expansion or Change of Use Within an Existing Building or Structure – **Subtitle** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46208>) **C § 705** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C705>)
- Maximum Parking Requirements – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 706** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46209>)
- Mitigation for Parking Significantly in Excess of the Minimum Requirement – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 707** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46210>)
- Car-Share Parking Space Provisions – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 708** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46211>)
- Rules of Calculations – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 709** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46212>)
- Location Restrictions – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 710** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46213>)
- Access Requirements – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 711** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46214>)
- Size and Layout Requirements – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 712** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46215>)
- Maintenance Requirements – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 713** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46216>)
- Screening Requirements for Surface Parking – **Subtitle** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46217>) **C § 714** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C714>)
- Landscaping Requirements for Surface Parking – **Subtitle** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46218>) **C § 715** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C715>)
- Drive-Through Queuing Lanes – **Subtitle** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C704>) **C § 716** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46219>)
- Exceptions from Parking Size, Layout and Maintenance Requirements for Attendant Parking – **Subtitle** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46220>) **C § 717** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C716>)
- Temporary Surface Parking Lots for Balipark – **Subtitle** (<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46221>) **C § 718** (<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=11-C718>)

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- Minimum Parking Requirements for Additions to Existing Buildings or Structures – **Subtitle C § 704**
(<https://dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionId=46207>)

Exhibit 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

August 16, 2004

Mr. Absalom Jordan
Treasurer, ANC 8D
4601 Martin Luther King Jr. Avenue, S.W.
Washington, D.C. 20032

Re: Notice Requirements to ANCs, Interpretation of Statutory Definitions

Dear Commissioner Jordan:

This is in response to your request to this Office for legal advice, made by letter dated July 19, 2004 and three resubmitted letters, all dated March 2, 2003.¹ We have reviewed your submissions and respond as follows:

First Letter - July 19, 2004 - Office of Planning, Notice to ANCs

You request a legal interpretation concerning the statutory notice requirements to ANCs of proposed policies or decisions regarding planning which affect a Commission. More specifically, you ask whether the Office of Planning is exempt from providing such notice prior to communicating its position to District “zoning agencies.” You assert that the Office of Planning currently develops policies which have an impact on the ANCs, but does not provide notice before “formulation of the final policy or decision.”

Notice to ANCs of certain actions or proposed action by the District government is governed by sections 13(b) and (c) of the Advisory Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000, D.C. Law 13-135, D.C. Official Code §1-309.10 (b) and (c) (2004 Supp.)(collectively, the ANC Act). Subsection (b) states:

¹ You also submitted a facsimile cover sheet directed to Darryl Gorman [Deputy Attorney General], dated August 2, 2004 to which you attach a July 1, 2004 letter from you to Denzil Noble, Administrator, Building and Land Regulation Administration, Department of Consumer and Regulatory Affairs, and two letters in response from DCRA dated July 23, 2004. The fax cover sheet to us states only that you “supplied DCRA with a copy of the OCC ‘advice’ of May 31, 2001. The response from Mr. Clark does not reference the May 31, 2001 advisory.” Insofar as this does not appear to be a request for an interpretation from this Office, we will assume that you have provided these items to us for informational purposes only.

Thirty days written notice, excluding Saturdays, Sundays and legal holidays of such District government actions or proposed actions shall be given by first-class mail to the Office of Advisory Neighborhood Commissions, each affected Commission, the Commissioner representing a single member district affected by said actions, and to each affected Ward Councilmember, except where shorter notice on good cause made and published with the notice may be provided or in the case of an emergency and such notice shall be published in the District of Columbia Register. In cases in which the 30-day written notice requirement is not satisfied, notification of such proposed government action or actions to the Commissioner representing the affected single member district shall be made by mail. The Register shall be made available, without cost, to each Commission. A central record of all such notices shall be held by the Office of Advisory Neighborhood Commissions.

Notice of actions regarding planning, streets, recreation, social services programs, education, health, safety, budget, and sanitation, must be given to each affected Commission area. See D.C. Official Code § 1-309.10 (a) and (b) (2004 Supp.). Notice must also be given to each affected Commission “before the award of any grant funds to a citizen organization or group, or before the formulation of any final policy decision or guideline with respect to grant applications, **comprehensive plans**, requested or proposed zoning changes, variances, public improvements, licenses, or permits affecting said Commission area, the District budget and city goals and priorities, proposed changes in District government service delivery, and the opening of any proposed facility systems.” See D.C. Official Code § 1-309.10(c)(1) (2004 Supp.). (Emphasis added.)

The District of Columbia Court of Appeals has interpreted the ANC notice provisions to require written notice of every proposed government decision affecting neighborhood planning and development for which a prior hearing is required by law, but the Court stopped short of categorically exempting notice in other matters for which a hearing was not required. *Kopff v. District of Columbia ABC Bd.*, 381 A.2d 1372, 1381 (D.C. 1977).² The Court focused on matters of significance to neighborhood planning and development as that which would require the statutory special notice. As a result, it is necessary to examine the functions of the Office of Planning to answer whether its impact on the ANC area is of sufficient significance to warrant the 30-day special notice.

The Office of Planning, headed by the Director of Planning, is an office within what is now called the Office of Planning and Economic Development of the Executive Office of the Mayor. It was established by Mayor’s Order 83-25 on January 3, 1983, with the purpose of assisting the Deputy Mayor for Planning and Economic Development and the Mayor in the performance of the planning functions of the District, as well as with preparation of the “Comprehensive Plan for the National Capital,” the “Downtown Plan,” neighborhood plans, and other plans for the physical and economic development of the city. Its functions include preparing, refining and implementing these different plans for

² Though the ANC law has been amended since the issuance of the *Kopff* decision, we believe that the Court’s conclusions continue to be applicable to the issue of when notice is required.

the city; managing the collection of demographic and statistical information; and serving as a liaison for the District with other regional and federal agencies, task forces and committees. Significantly, it is also required to “[e]stablish and implement procedures for citizen participation in the planning process” (emphasis added), which we understand has resulted in meetings being open to public participation.

As a result of these features, we conclude that the Office of Planning is not exempt from providing the special 30-day notice to affected ANCs where its actions will affect the ANC area in a significant manner. We base our decision on several factors: 1) The Mayor’s Order which establishes the Office of Planning expressly lists among its functions the preparation, refinement and implementation of the Comprehensive Plan, which is expressly listed in the ANC statute as one of those items for which special notice is required³; and 2) the Office of Planning is required to establish and implement procedures for citizen participation in the planning process. As in *Kopff* we believe that the requirement for public participation signals the significance of proposed activity by the Office of Planning and its impact on the community. As a result, at the very least, an ANC should be provided with special notice whenever the Office of Planning opens itself to public participation on a given matter and that subject matter will affect the ANC area.⁴

Second Letter - March 2, 2003 - Notice of Hearing, Department of Housing and Community Development

Your next request also involves the special 30-day statutory notice requirements of section 13 of the ANC Act. D.C. Official Code § 1-309.10 *et seq.* You state that the Department of Housing and Community Development (DHCD) provided notice of a hearing to the general public, but not to the ANC, for comments on a document entitled the “Draft Consolidated Plan for the District of Columbia Fiscal Year 2004 Action Plan” (Consolidated Plan). You ask: 1) whether the Consolidated Plan is subject to review and comment by ANC-8D; 2) whether DHCD was required to provide notice to ANC-8D of the proposed plan; and 3) if such notice is required, at what point does the 30-day notice period commence?

Though you have not provided us with a copy of the Consolidated Plan, we have reviewed a version from DHCD’s website dated March 27, 2003 – around the time of your letter – which we assume to be the document you reference. The Consolidated Plan is described as an “Action Plan of the Department of Housing and Community

³ That subsection provides in pertinent part: “In addition to those notices required in subsection (a) of this section, each agency, board and commission shall . . . before the formulation of any final policy decision or guideline with respect to . . . **comprehensive plans** . . . provide to each affected Commission notice of the proposed action . . .” Section 13(c)(1) of the Advisory Neighborhood Commissions Act, D.C. Official Code § 1-309.10(c)(1).

⁴ With regard to your question concerning whether special notice is required prior to formulation of a “final policy or decision,” where the Office of Planning presents a “decision” to “the zoning agencies,” we do not have enough information to give a definitive answer. Again the answer would depend upon the significance of the proposed action to an affected Commission, which significance might be indicated if the “zoning agency” was required to hold public hearings or otherwise open up the process to public participation prior to taking the action.

Exhibit 3



















