

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 19-03
Z.C Case No. 19-03
Masjid Muhammad, Inc.
(Map Amendment @ Square 5790)
September 9, 2019

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on July 15, 2019 to consider an application for a map amendment (the “Application”) submitted by Masjid Muhammad, Inc. (the “Applicant”) pursuant to Subtitle X, Chapter 4 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “Zoning Regulations,” to which all references are made unless otherwise specified), to amend the Zoning Map from the MU-4 zone to the MU-5A zone for Lots 32, 33, 34, 35, 39, 40, 47, 818, and 819 in Square 5790 (the “Property”). For the reasons set forth below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

Notice of Rulemaking

1. On January 16, 2019, the Office of Zoning received a petition from the Applicant requesting that the Commission rezone the Property from the MU-4 zone to the MU-5A zone. (Exhibits [“Ex”] 1, 2-2O, 3.) The Applicant submitted the proposed map amendment as a rulemaking pursuant to Subtitle Z § 201.7(b)(1).
2. At the March 11, 2019 public meeting, the Commission set the case down as a rulemaking and subsequently scheduled it for a hearing on May 16, 2019. (Ex. 16.)
3. Pursuant to the rulemaking notice requirements of Subtitle Z § 502, notice of public hearing was mailed to all property owners within 200 feet of the Property as well as to Advisory Neighborhood Commission (“ANC”) 8A on March 22, 2019. A description of the proposed map amendment and the notice of the public hearing for the petition were published in the *D.C. Register* on March 29, 2019. (Ex. 15, 17.)

Notice of Contested Case

4. At the May 16, 2019 public hearing, the Commission determined that upon further review the case would be re-setdown as a contested case rather than a rulemaking and therefore required re-noticing for the new hearing date of July 15, 2019.

5. The Commission waived the requirement that the Applicant serve a notice of intent to the affected ANC and property owners within 200 feet pursuant to Subtitle Z §§ 304.5 and 304.6.
6. Pursuant to the contested case notice requirements of Subtitle Z § 402, the notice of public hearing was mailed to all property owners within 200 feet of the Property as well as to ANC 8A on May 28, 2019. A description of the proposed map amendment and the notice of the public hearing for the petition were published in the *D.C. Register* on May 31, 2019. (Ex. 32, 33A.)

Parties

7. The only party other than the Applicant was ANC 8A, the “affected” ANC pursuant to Subtitle Z § 101.8.

The Property

8. The property that is the subject of the map amendment consists of Lots 32, 33, 34, 35, 39, 40, 47, 818, and 819 in Square 5790.
9. Lot 819 in Square 5790 is currently improved with the former Clara Muhammad School, which is occupied by the America’s Islamic Heritage Museum.
10. According to the records of the District of Columbia Office of Tax and Revenue, the Property has a combined land area of 46,859 square feet.
11. The Property is located within the Anacostia neighborhood and is bounded by Martin Luther King, Jr. Avenue, S.E. on the south; Chicago Street, S.E. to the east; Talbert Street, S.E. to the west; and a 20-foot public alley to the north.

Current Zoning

12. The Property is currently zoned MU-4. The MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate-bulk mixed-use centers. (Subtitle G § 400.3.)
13. As a matter of right, the MU-4 zone permits:
 - a. A maximum density of 2.5 floor area ratio (“FAR”), or 3.0 with Inclusionary Zoning (“IZ”), of which no more than 1.5 FAR can be devoted to nonresidential uses; (Subtitle G § 402.1.)
 - b. A maximum height of 50 feet; and (Subtitle G § 403.1.)
 - c. A maximum residential lot occupancy of 60% or 75% with IZ. (Subtitle G § 404.1.)
14. The lots to the southwest of the Property along both sides of Martin Luther King, Jr. Avenue are currently zoned MU-4, a moderate-density commercial zone, and are primarily

improved with two- to three-story buildings devoted to commercial and residential uses. Thurgood Marshall Academy, a public charter college preparatory high school, is also located to the southwest. Other development in close proximity includes the Barry Farm Recreation Center and Barry Farm housing community.

15. The lots to the northeast of the Property along both sides of Martin Luther King, Jr. Avenue are zoned MU-7, a medium-density commercial zone, and are primarily improved with two- to four-story commercial buildings and several large surface parking lots. The Reunion Square project, a planned unit development (“PUD”) approved by the Commission pursuant to Z.C. Order Nos. 08-07, 08-07A, 08-07B, and 08-07C, is also located to the northeast of the Property. As part of the Reunion Square PUD development, the Commission approved a PUD-related map amendment which rezoned the site from MU-4 and PDR-1 to MU-7.
16. The areas to the northwest and southeast of Martin Luther King, Jr. Avenue are zoned R-3, RF-1, and RA-1, which are all generally considered to be moderate-density residential zones per the Comprehensive Plan’s Future Land Use Map (“FLUM”).

Comprehensive Plan

17. The Property is designated on the Comprehensive Plan FLUM as Mixed Use (Medium Density Commercial/Medium Density Residential). (Ex. 2E.)
 18. In the Comprehensive Plan Amendment Act of 2010, Council voted to change the FLUM and increased the density from moderate to medium density.
 19. According to the Comprehensive Plan Framework Element, a “Mixed Use” designation on the FLUM is assigned to areas where the mixing of two or more land uses is encouraged and is generally applied to:
 - a. Established, pedestrian-oriented commercial areas that also include substantial amounts of housing;
 - b. Commercial corridors or districts which may not currently contain substantial amounts of housing but where more housing is desired; and
 - c. Large sites where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared.
- (10A DCMR § 225.18.)
20. The Property most appropriately falls into the second of these circumstances.
 21. For areas with a mixed-use designation, the general density and intensity of development is determined by the specific mix of uses shown on the FLUM. If the desired outcome is to emphasize one use over the other, the FLUM may note the dominant use by showing it at a slightly higher density than other uses in the mix. The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. (10A DCMR § 225.19.)

22. In this instance, the FLUM does not place an emphasis on one use over another since the Mixed-Use designation assigned to the Property includes both medium-density residential and medium-density commercial uses.
23. The Property is located on the Comprehensive Plan Generalized Policy Map (“GPM”) within an area designated as a Main Street Mixed Use Corridor (Ex. 2D.)
24. The Comprehensive Plan Framework Element describes Main Street Mixed Use Corridors as:
 - a. Traditional commercial business corridors that have a concentration of older storefronts along the street and can have a service area ranging from one neighborhood to multiple neighborhoods;
 - b. Typically, pedestrian-oriented environments with traditional storefronts, including many with upper-story residential or office uses;
 - c. Conservation and enhancement of Main Street Mixed Use Corridors is desired to foster economic and housing opportunities and to serve neighborhood needs; and
 - d. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.

(10A DCMR § 223.14.)

25. The Property is also subject to the Anacostia Transit-Area Strategic Investment and Development Plan, a small area plan adopted by the D.C. Council in June of 2006 (the “SAP”), as well as the Martin Luther King Jr. Avenue, S.E. and South Capitol Street Great Streets initiative (the “Great Streets Initiative”), and the Far Southeast/Southwest Area Element which incorporates aspects of the SAP and the Great Streets Initiative. The SAP’s recommendations for increased density lead to the Council’s further changes to the FLUM.

The Application

26. The Application requests to rezone the Property from MU-4 to MU-5A to make it consistent with the Comprehensive Plan. The MU-5 zones are intended to permit medium-density, compact mixed-use development with an emphasis on residential use and to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and to be located on arterial streets, in uptown and regional centers, and at rapid transit stops. (Subtitle G § 400.3.)
27. As a matter of right, the MU-5A zone permits:
 - a. A maximum overall density of 3.5 FAR, or 4.2 FAR with IZ, of which no more than 1.5 FAR can be devoted to nonresidential uses; (Subtitle G § 402.1.)
 - b. A maximum height of 65 feet, or 70 feet with IZ; and (Subtitle G § 403.1.)
 - c. A maximum residential lot occupancy of 80%. (Subtitle G § 404.1.)
28. When compared to the current MU-4 zoning, this Application would result in:

- a. A 1.0 increase in FAR, or a 1.2 increase in FAR with IZ. (There is no change to the FAR that can be devoted to non-residential uses);
- b. An increase in building height of 15 feet, or 20 feet with IZ; and
- c. An increase in lot occupancy of 20%, or 5% with IZ.

Office of Planning Report

29. By report dated March 1, 2019, and through testimony at the public meeting held on March 11, 2019, the Office of Planning (“OP”) recommended that the Commission set down the case for a public hearing, as the requested map amendment was not inconsistent with the Comprehensive Plan. (Ex. 11-12.)
30. On May 6, 2019, OP submitted a report recommending approval of the map amendment request stating that the map amendment would not be inconsistent with the Comprehensive Plan. (Ex. 22.)

District Department of Transportation Report

31. On May 1, 2019, the District Department of Transportation (“DDOT”) submitted a report expressing no objection to the map amendment request. (Ex. 21.)
32. The DDOT report noted that the additional vehicular trip generated from the full build-out in the MU-5A zone would result in minimal impacts to the District transportation network. DDOT further noted that the rezoning was consistent with DDOT’s approach to infill sites which encourages dense, compact, transit-oriented developments.

ANC Report

33. On May 16, 2019, ANC 8A submitted a resolution indicating that at a properly noticed meeting, and with a quorum present, ANC 8A voted in support of the Applicant’s request to rezone the Property from MU-4 to MU-5A. (Ex. 31.)
34. After the Commission re-set down the Application as a contested case, ANC 8A submitted an updated resolution reiterating its support of the map amendment. (Ex. 37.)

Persons in Support

35. Six letters and a petition signed by multiple persons were submitted in support of the map amendment. (Ex. 24-29, 42.)

Persons in Opposition

36. Two letters were submitted in opposition to the map amendment. (Ex. 39, 40.)

Hearing of July 15, 2019

37. At the public hearing, the Applicant presented one expert witness, Mr. Shane L. Dettman, Director of Planning Services, Holland & Knight LLP. Mr. Dettman was accepted by the Commission as an expert in land use planning and zoning.
38. As part of the Applicant’s presentation, Mr. Dettman provided testimony regarding the standard for evaluation applicable to for a map amendment. Specifically, Mr. Dettman

testified that pursuant to the Comprehensive Plan Amendment Act of 2010, as recommended by the SAP, the FLUM designation for the Property, was changed from Mixed Use (Moderate Density Commercial / Moderate Density Residential) to Mixed Use (Medium Density Commercial/Medium Density Residential). (July 15, 2019 Hearing Transcript [“Tr.”] at 14.)

39. Mr. Dettman testified that the existing MU-4 zoning of the Property was inconsistent with the Comprehensive Plan, including the Property’s Mixed Use (Medium Density Commercial/Residential) FLUM designation, because the MU-4 zone is generally compatible with the Low Density Commercial FLUM designation and only permits moderate-density mixed-use development. Mr. Dettman also noted that the MU-4 zoning is inconsistent with the policies of the Far Southeast/Southwest Area Element that encourage increased housing, and increased access to transit. (Tr. at 15-16.)
40. In contrast, Mr. Dettman testified that the requested MU-5A zone is not inconsistent with the Comprehensive Plan. According to the Framework Element, the MU-5A zone is generally consistent with both the Moderate Density Commercial and Medium Density Commercial land use designations and permits medium-density mixed-use development. Furthermore, the MU-5A zone is consistent with the emphasis on creating additional housing in the Far Southeast/Southwest Area Element and the SAP as the MU-5A zone provides an increase in overall permitted density from 3.0 FAR to 4.2 FAR but maintains the amount of density that may be devoted to non-residential uses to 1.5 FAR. (Tr. at 15-16.)
41. With respect to consistency with the FLUM, Mr. Dettman testified that the Property currently does not contain a substantial amount of housing. However, housing development on the Property is encouraged by both the Comprehensive Plan and SAP given its location along the Martin Luther King, Jr. Avenue, S.E. - a pedestrian-oriented, transit-accessible, commercial corridor. (Tr. at 14.)
42. Mr. Dettman testified that the requested map amendment would favorably serve the public health, safety, and welfare by:
 - a. Helping to address the need for more housing in the District and more neighborhood serving amenities in Anacostia;
 - b. Promoting the continued revitalization of the Martin Luther King, Jr. Avenue, S.E. “Great Street” corridor;
 - c. Increasing utilization of land and the supply of housing in close proximity to Metrorail at a height and density that is compatible with the surrounding context; and
 - d. Improving connections along the Martin Luther King, Jr. Avenue, S.E. corridor and to Metrorail.

(Tr. at 16.)

43. Lastly, Mr. Dettman testified that the Comprehensive Plan would support the rezoning of the Property to the MU-5B, MU-7 or MU-8 zone, all of which permit greater height and density than the MU-5A zone. However, the Applicant determined that the MU-5A zone was the most appropriate considering the zoning and existing development context around the Property, and the potential impacts that could result from a rezoning of the Property. (Tr. at 17.)
44. OP testified in support of the Application and reiterated its conclusion that it was not inconsistent with the Comprehensive Plan. (Tr. at 19.)
45. Ms. Holly Muhammad, Commissioner for ANC 8A01, testified on behalf of her single member district. Commissioner Muhammad noted that the proposed map amendment would encourage economic development and the creation of more affordable housing and she also noted the extensive outreach efforts of the Applicant. (Tr. at 21-22.)
46. Three individuals and one organization testified at the public hearing in support of the map amendment request. The three individuals included Sanquan Bradford; Amir Muhammad, President of America's Islamic Heritage Museum; and Stuart Anderson. The one organization was the Fort Stanton Civic Association, which was represented by its President, Barbara Jones. All three individuals testified generally as to their support of the Application and to the outreach efforts of the Applicant. (Tr. at 24-29.)
47. Dr. William Richard Day, testified in opposition to the requested map amendment. Dr. Day's testimony focused on one of the properties proposed to be rezoned as part of the proposed map amendment – Lot 819 in Square 5790. Dr. Day testified he was opposed to the map amendment because:
 - a. The Applicant has not made any statements regarding preservation of its historic context. The former Clara Muhammad School is subject to historic designation in the D.C. Inventory of Historic Sites and the National Register of Historic Places, although Dr. Day recognized that it is not currently listed by either; and
 - b. That “upon moral and religious grounds,” he opposed the naming of any future development that may occur on Lot 819 as a result of the map amendment after Clara Muhammad.

(Tr. at 31-37.)

NCPC Referral and Report

48. By a letter dated August 26, 2019, NCPC concluded that the Application qualified for Exception No. 12 in Chapter 8 of NCPC's submission guidelines and is exempt from NCPC review. (Ex. 46.)

CONCLUSIONS OF LAW

1. The Commission’s authority to amend the Zoning Map derives from the Zoning Act of 1938, effective June 20, 1938. (52 Stat. 797. D.C. Official Code § 6-641.01, et seq.) (“Zoning Act”).)

2. Section 1 of the Zoning Act authorizes the Commission to regulate the uses of property in order to “promote health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.” (D.C. Official Code § 6-641.01.) Section 2 further provides that:

...zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

(D.C. Official Code § 6-641.02.)

3. In amending the Zoning Map, the Commission is constrained by the limitation in the District Charter that the Zoning Map be “not inconsistent” with the Comprehensive Plan. (§ 492(b)(1) of the District of Columbia Home Rule Act: D.C. Official Code § 6-641.02.) Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be “not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.”

4. Based upon the following analysis of the Comprehensive Plan, the Applicant’s exhibits in the record, the testimony of Mr. Dettman at the Public Hearing, the reports and testimony of DDOT, OP, and ANC 8A, the Commission concludes that the Application is consistent with the purpose of the Zoning Act and also concludes that the request is not inconsistent with the policies and maps of the Comprehensive Plan, as supplemented by the Council approved SAP and the Great Streets Initiative and therefore complies with D.C. Official Code § 6-641.02 and Subtitle X § 500.3.

Not Inconsistent with the Comprehensive Plan and Adopted Public Policies

5. The Commission concludes that approval of the requested map amendment is not inconsistent with the Comprehensive Plan because the requested map amendment furthers the goals of the Comprehensive Plan and promotes orderly development in conformity with the Zone Plan as embodied in the Zoning Regulations and Map. The Commission further concludes that the requested map amendment is in the best interest of the District of Columbia and will benefit the community in which the Property is located.

Consistent with the FLUM

6. The Commission concludes that the proposed map amendment would make the Property consistent with the FLUM which designates the Property as Mixed Use (Medium Density Commercial/Medium Density Residential), unlike the current MU-4 Zone which limits the Property to only moderate density.
7. The Commission notes that the Property is located in an existing commercial corridor in which the FLUM encourages the development of additional housing stock to support the mix of commercial and retail uses. The Commission credits the statements of the Applicant and the OP Report that the increased height and density allowed by the MU-5A zone would better encourage the development of this mix of uses.
8. The Commission also notes that in 2010, the Council revised the FLUM designation for the property from moderate to medium density. Therefore, the Commission concludes that the Application is furthering the intent of the Council in its modifications to the Comprehensive Plan.

Consistent with the GPM

9. The Commission concludes that the map amendment will allow for a greater mixture of residential, retail, office and other uses along a mixed-use corridor and designated Great Street.
10. The Commission finds that the Property is currently underutilized relative to its location along one of the District's Great Streets and its proximity to Metrorail. The map amendment will allow for greater overall density, particularly greater residential density which the Commission concludes will support the existing and potential non-residential uses in the surrounding area.

Land Use Element

11. The Commission concludes that the map amendment will encourage higher-density mixed-use development, including housing that is proximate to a Metrorail station, thereby revitalizing and enhancing the surrounding neighborhood while remaining consistent with the scale and density of much of the surrounding development.

Transportation Element

12. The Commission concludes that the map amendment will facilitate the development of housing and retail uses in close proximity to Metrorail and Metrobus lines and other transportation options along the Martin Luther King, Jr. Avenue, S.E. corridor.

Housing Element

13. The Commission concludes that the requested map amendment will help address the need for more housing and affordable housing in the District and more neighborhood-serving amenities in Anacostia.

Economic Development Element

14. The Commission concludes that the map amendment would allow for new neighborhood serving retail and other commercial uses which will serve residents of and visitors to the surrounding area. The Commission finds that this will serve to generate tax revenue and aid in job creation for District residents.

Anacostia Transit Area – Strategic Investment and Development Plan

15. The Commission concludes that the map amendment will promote the continued revitalization of the Martin Luther King, Jr. Avenue, S.E. “Great Street” corridor, by:
 - a. Allowing for the development of a diverse mix of uses, including ground-floor retail uses; and
 - b. Increasing the supply of housing in close proximity to commercial uses and Metrorail at a height and density that is compatible with the surrounding context.

Contested Issues

16. The Commission concludes that the issues raised by Dr. Day fall outside of the Commission’s general authority and outside the standard of review the Commission applies to map amendment applications, which is limited to a determination of whether the map amendment is not inconsistent with the Comprehensive Plan and other adopted policies and active programs.
17. As to the historic preservation concerns, the Commission concludes that they are regulated by the District’s historic preservation laws and the District of Columbia Historic Preservation Review Board. Further, the Commission’s approval of the requested map amendment would not in any way directly impact the potential for the former Clara Muhammad School to be designated a historic landmark in accordance with applicable District laws and regulations.
18. As to the project naming concerns, the Commission concludes that these are beyond the Commission’s authority, particularly for a map amendment application that does not involve review of a specific project.

“Great Weight” to the Written ANC Report

19. The Commission is required to give “great weight” to the issues and concerns of the affected ANC expressed in its written report. (§ 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) (2012 Repl.) and Subtitle Z § 406.2.) To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
20. The Commission finds the ANC reports persuasive in recommending support for the Application and concurs with that recommendation.

“Great Weight” to the Recommendations of OP

- 21. The Commission is also required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04 and Subtitle Z § 405.8)
- 22. The Commission concludes that the OP reports, which provided an-depth analysis of the proposed map amendment, are persuasive and concurs with OP’s recommendation that the Property be rezoned, as discussed above.

DECISION


At the conclusion of its July 15, 2019 public hearing, the Zoning Commission for the District of Columbia, upon the motion of Commissioner Turnbull, as seconded by Commissioner Shapiro, took **PROPOSED ACTION** to **APPROVE** the Application by a vote of **4-0-1** (Anthony J. Hood, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve; Robert E. Miller not present, not voting).

At its September 9, 2019 public meeting, in consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia, upon the motion of Commissioner Turnbull, as seconded by Commissioner Shapiro, took **FINAL ACTION** to **APPROVE** the Application for an amendment of the Zoning Map to change the zoning for Lots 32, 33, 34, 35, 39, 40, 47, 818, and 819 in Square 5790 that are currently zoned MU-4 to MU-5 by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve).


In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on October 11, 2019.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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.