

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 66-68A**  
**Z.C. Case No. 66-68A**  
**Enterprise Community Development, Inc.**  
**Modification of Significance to an Approved Large Scale Planned Development**  
**@ Edgewood Commons (Square 3630, Lots 2, 5, 803, 805, 807, & 810 – 813)**  
**December 17, 2020**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on November 9, 2020, to consider the application (the “Application”) of Enterprise Community Development, Inc. (the “Applicant”) for a Modification of Significance (the “Modification Project”) to the approved Large Scale Planned Development (“Original LSPD”) originally approved by Z.C. Order No. 66-68 (the “Original Order”), for Lots 2, 5, 803, 805, 807, & 810 – 813 in Square 3630, known as Edgewood Commons (the “Property”).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations”, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**Background**

1. Pursuant to the Original Order, the Commission approved the Original LSPD and a rezoning for the Property in 1966. An LSPD was a voluntary entitlement process provided by the Zoning Regulations in effect at the time of the Original Order and was a precursor to a planned unit development (“PUD”). The design of a specific building or buildings in an LSPD was then approved by the Board of Zoning Adjustment (“BZA”) as a further processing. The Original LSPD included a general site plan with multiple apartment buildings consisting of both low-rise and high-rise types containing a total 1,179 residential units, of which “no less than 500 units” shall be for low income tenants. Pursuant to the Original Order and subsequent Commission actions, the Property is located in the RA-4 Zone.
2. In 1970, pursuant to Order No. 10335, the BZA approved a further processing of the Original LSPD for a final site plan and to allow the construction of the buildings in phases. Then, in 1974, pursuant to Order No. 11459, the BZA approved another further

processing to allow community service facilities, re-subdivision of the site, and increase the amount of commercial space in one of the buildings.

3. Currently, the Edgewood Commons campus consists of seven apartment buildings – three of which are large and approximately 90 feet tall and four of which are smaller with 3-4 stories – an above-grade parking structure, surface parking, and landscaping and outdoor recreation space on the Property (the “Original Project”).

### Notice

4. On February 4, 2020, the Applicant mailed a Notice of Intent to file an application for a Modification of Significance to all property owners within 200 feet of the Property and Advisory Neighborhood Commission (“ANC”) 5E, the “affected ANC” per Subtitle Z, Section 101.8. (Exhibit (“Ex”) 3C)
5. On September 16, 2020, the Office of Zoning (“**OZ**”) sent notice of the November 9, 2020 virtual public hearing to:
  - The affected ANC 5E;
  - The affected ANC Single Member District (“**SMD**”) 5E02;
  - The Office of Planning (“**OP**”);
  - The District Department of Transportation (“**DDOT**”);
  - The Department of Consumer and Regulatory Affairs (“**DCRA**”);
  - The Office of Attorney General (“**OAG**”);
  - The Department of Energy and Environment (“**DOEE**”);
  - The DC Housing Authority (“**DCHA**”);
  - The DC Council; and
  - Property owners within 200 feet of the Property.(Ex. 16A)
6. OZ also published notice of the virtual public hearing in the *D.C. Register* on September 16, 2020 (67 DCR 40) as well as through the calendar on OZ’s website. (Ex. 15)
7. Pursuant to Subtitle Z, §402.3, the Applicant posted notice of the hearing on the Property on September 29, 2020 and maintained such notice in accordance with the Zoning Regulations. (Ex. 20, 29.) The Applicant requested a waiver of the notarization requirements for the postings. (Ex. 19.)<sup>1</sup> Such waiver was granted at the public hearing on November 9, 2020. (November 9, 2020 Public Hearing Transcript (“Tr.”) at [REDACTED])

### Parties

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<sup>1</sup> The Applicant stated that the need for the notarization waiver was because of the ongoing COVID-19 pandemic and its impact on the ability to obtain notarizations due to the District of Columbia not yet having put in place remote notarization protocols. As detailed in the Affirmation of Posting and Affirmation of Maintenance, the Applicant did post and maintain notice of the hearing in accordance with the requirements of the Zoning Regulations.

8. The parties to the case were the Applicant and ANC 5E. There were no additional requests for party status.

### The Property

9. The Property is located on the south side of Edgewood Street NE between 4<sup>th</sup> and 7<sup>th</sup> Streets NE and is otherwise bounded by 4<sup>th</sup> Street NE to the west, a large mixed-use development to the south, and industrial properties to the east. The Property has a land area of approximately 650,913 square feet (14.9 acres). The Property is located in Ward 5 within the Edgewood neighborhood and approximately 0.4 miles from the Rhode Island Avenue Metrorail Station. (Ex. 3, 18A)
10. The Modification Project site is Lot 812 on the Property (the “Tax Lot”). The Tax Lot is located on the south side of the Property and contains 43,774 square feet of land area. (Ex. 3, 3H)

### Application

#### The Modification Project

11. The Modification Project will continue to provide affordable residential housing and supportive services for residents on the Edgewood campus. The Modification Project proposes to construct a new residential building on a currently unimproved portion of the Property, which will bring the total number of buildings on the Property to eight (8). (Ex. 3)
12. The Modification Project will provide a new age-restricted, all-affordable residential building with 151 apartments designed specifically for seniors and approximately 7,000 square feet of adult daycare use on the ground floor. The residential units will be restricted to those who are 60 or older and will be affordable to those making, at a maximum, up to 60% of the Median Family Income (“MFI”). The adult day care center will be available for up to 60 seniors to provide meals, daily programming, including art and fitness, and for seniors to have a variety of social and intellectual activities. (Ex. 3).
13. The building is proposed to be 90 feet tall with nine stories and include approximately 150,601 square feet of gross floor area. It will occupy 41% of the Tax Lot, and the overall lot occupancy for the full campus will be approximately 26% of the Property. The Modification Project will have a floor area ratio (“FAR”) of 3.44 based on the Tax Lot and will increase the FAR on the entire Property by 0.23, resulting in a total FAR at the Property of 1.48, below the 2.08 approved by the Original Order. (Ex. 3, 3H, 25A)
14. The Modification Project will provide five (5) new parking spaces adjacent to the building and will use other parking spaces on campus to fulfil the parking requirement. The Modification Project will provide a loading zone along the private drive to the south of the building which has immediate access to the below-grade portion of the building through which deliveries will be made. (Ex. 3, 25, 25A)

15. The proposed building is a slightly curved structure with setbacks, terraces, bay windows, and modulating materials that will provide context and scale. The building will be located on the south side of the Property with the other tall buildings and the larger buildings at the separate project to the south. Also, the Modification Project's siting will allow an appropriate transition to the lower-density buildings on the north side of the Property. (Ex. 3)
16. The Modification Project's materials and colors will allow the building to blend into its surroundings. The building's materials pull in the brick color from some other Property buildings and the lighter colored fiber cement panel system from another building on the Property, thereby tying the new building to the Property through the materials palette. Further, the building's slight curve reflects the overall topography of this area of the Property. (Ex. 3,  )
17. The new building will be served by the existing Property's circulation as well as new improvements constructed as part of the Modification Project. Vehicular access to the Modification Project will be via the rear private drive for the Property, which passes along the south side of the Tax Lot. The Modification Project will include a pick-up/drop-off area from this drive for ease of access for building residents and visitors. The Property also provides trails and pathways, many ADA accessible, that will facilitate access within and to the outside of the Property from the Modification Project. The Modification Project also includes site improvements that will improve pedestrian facilities on the Property, including a commitment that all sidewalks will include at least four (4) feet clear access. The adjacent development to the south (the "Bryant Street Project") is also developing two staircase connections from the private drive adjacent to the Modification Project to provide access to the Metrorail station. (Ex. 3, 14)
18. The Property includes open space and landscaping that will allow Modification Project residents to enjoy green space and community. The Modification Project also will include a fitness center located on the second floor directly adjacent to an existing active playground. In addition, the siting and configuration of the Modification Project will create a new ADA accessible pedestrian connection to the active playground from the north side of the Property. (Ex. 3)

#### Changes to Approved Plans and Uses

19. The Modification Project refines the overall site plan, but stays within the originally-approved development standards and does not deviate from the overall residential campus character approved by the Original Order. (Ex. 3)
20. The Modification Project will nominally change the uses that the Commission previously approved, as follows (Ex. 3):
  - a. *Residential Use*: The Modification Project will provide an additional 151 units, still within the overall FAR and number of units that the Original Order approved. All of these units will be affordable and age-restricted for seniors, providing the

opportunity for existing Edgewood Commons residents to age in place and increasing the supply of such desperately needed housing in the District. The addition of the Modification Project to the campus will maintain the overall residential character of the Original Project in a location appropriate for high-density residential development.

- b. *Senior Care Use*: The Modification Project's inclusion of 7,000 square feet of adult daycare use on the ground floor will provided activities and services for residents and other area seniors. This use will complement the senior housing and serve the overall Edgewood Campus population. (Ex. 3)

#### Changes to Development Flexibility

- 21. As part of the Modification Project, the Applicant requested the following areas of flexibility:
  - a. From the long-term bicycle parking requirements in Subtitle C § 802.1;
  - b. To allow the adult daycare use for more than 25 individuals pursuant to Subtitle U § 203.1(h);
  - c. From the requirement to provide a loading berth in Subtitle C § 901.1;
  - d. From the requirement to provide an adjacent loading platform in Subtitle C § 901.4;
  - e. From the requirement that a loading berth be used only for loading in Subtitle C § 901.10; and
  - f. From the screening requirement for loading spaces outside of a building in Subtitle C § 908.1.

#### Changes to Public Benefits

- 22. The Modification Project will continue the same public benefits and amenities proffered in the Original Project, which were largely centered around affordable housing and efficient site planning. The Original Order included a condition that at least 500 dwelling units be available for low income tenants, which is more than satisfied with the existing buildings. (Ex. 3)
- 23. In addition, the Modification Project will provide 151 affordable units for seniors in addition to the 500 already conditioned in the Original Order. Importantly, all of these units will be provided as affordable to seniors aged 60+ earning up to 60% of the Median Family Income ("MFI"), but the Applicant noted the exact affordability levels of the units will be determined by the final funding schemes. (Ex. 3)
- 24. The Applicant has also committed that after the affordability requirements for the initial financing end in at least 30-40 years, the Modification Project will maintain an

Inclusionary Zoning set-aside of 25% of the residential gross floor area, well above the 8% required. (Ex. 23)

25. Additionally, the Modification Project's senior daytime care will provide a benefit to the neighborhood and the District by providing resources for seniors to age within their communities and have daily activities. (Ex. 3)
26. As part of the Modification Project, the Applicant is committed to execute a First Source Employment Agreement with the Department of Employment Services and a Certified Business Enterprise Utilization Agreement with the D.C. Department of Small and Local Business Development. (Ex. 14)
27. Further, the Modification Project includes significant sustainability commitments beyond those required for a matter-of-right project, including being designed to meet or exceed Enterprise Green Communities 2020 requirements and providing a minimum of 1,868 square feet of solar panels. (Ex. 14, 23)

#### The Modification Project is Not Inconsistent with the Comprehensive Plan

28. The Modification Project is not inconsistent with the Original Project approval or the Comprehensive Plan ("Plan"). Specifically, the Modification Project will deliver significant all-affordable senior housing where it is desperately needed. (Ex. 3)
29. With respect to the Plan's maps, the Plan notes that they provide "generalized guidance" and are "soft-edged," and not parcel specific. Further, the Framework Element notes that in interpreting the maps, it is important to interpret them "broadly" and "in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements." (10 DCMR § 228) (Ex. 3)

#### *Future Land Use Map*

30. The Property is designated for High Density Residential Use on the Future Land Use Map ("FLUM") of the Comprehensive Plan. The Modification Project is directly consistent by providing residential and resident-supporting uses within a height and FAR typical for high-density use. (Ex. 3, 11)

#### *Generalized Policy Map*

31. The Property is located in a Neighborhood Conservation Area on the Generalized Policy Map ("GPM") of the Comprehensive Plan. The Neighborhood Conservation Area "does not preclude development" but new development should be "compatible with the existing scale, natural features, and character of each area." (10 DCMR § 225.5) The Modification Project would not alter the way the 12.9-acre PUD site has been used since 1976 and is overall consistent with the present mostly residential character of the Property and surrounding community. (Ex. 11)

#### *Citywide Elements*

32. The Modification Project furthers the following policies of the Land Use Element by expanding housing opportunities in a high-density residential area with development that weaves into the fabric of the existing neighborhood: (Ex. 3)

**Policy LU-1.3.3: Housing Around Metrorail Stations:** Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations. § 306.12

**Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods:** Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others. § 309.8

**Policy LU-2.1.10: Multi-Family Neighborhoods:** Maintain the multi-family residential character of the District’s Medium and High-Density residential areas. Limit the encroachment of large scale, incompatible commercial uses into these areas, and make these areas more attractive, pedestrian-friendly, and transit accessible. § 309.15

33. The Modification Project furthers the following policies of the Transportation Element by utilizing existing parking, providing ADA access to the Modification Project, improving pedestrian access, and facilitating connections to the Metro station: (Ex. 3)

**Policy T-1.2.3: Discouraging Auto-Oriented Uses:** Discourage certain uses, like “drive-through” businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas. § 404.8

**Policy T-2.6.1: Special Needs:** Address the transportation needs of all District residents, including those with special physical requirements and trip needs, such as access to medical centers or senior centers. § 412.2

34. The Modification Project furthers the following policies of the Housing Element by providing senior-housing and senior care uses in a community of residents who wish to age in their neighborhood, all at affordable levels: (Ex. 3, 11)

**H-1.1 Expanding Housing Supply:** Expanding the housing supply is a key part of the District’s vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city’s fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs, recognizing and responding to the needs of all segments of the

community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs. The overarching goal for housing is: Develop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia. § 503.1

**Policy H-1.1.1: Private Sector Support:** Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. § 503.2

**Policy H-1.1.3: Balanced Growth:** Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. § 503.4

**Policy H-1.1.5: Housing Quality:** Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance and should address the need for open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood. § 503.6

**Policy H-1.2.1: Affordable Housing Production as a Civic Priority:** Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city. § 504.6

**Policy H-1.4.6: Whole Neighborhood Approach:** Ensure that the construction of housing is accompanied by concurrent programs to improve neighborhood services, schools, job training, child care, parks, health care facilities, police and fire facilities, transportation, and emergency response capacity. § 506.12

**Policy H-4.2.2: Housing Choice for Seniors:** Provide a wide variety of affordable housing choices for the District's seniors, taking into account the income range and health-care needs of this population. Recognize the coming growth in the senior population so that the production and rehabilitation of publicly-assisted senior housing that meets universal design standards becomes a major governmental priority. Acknowledge and support the establishment of Senior Villages throughout the city that allow seniors to remain in their homes and age in-place. § 516.8

**Policy H-4.2.3: Neighborhood-Based Senior Housing:** Encourage the production of multi-family senior housing in those neighborhoods characterized by large numbers of seniors living alone in single family homes. This will enable senior residents to remain in their neighborhoods and reduce their home maintenance costs and obligations. § 516.9

35. The Modification Project furthers the following Environmental Protection Element's focus on environmentally sustainable features including Enterprise Green Community certification, green roof, and solar panels: (Ex.3, 11)



**Policy E-1.1.3: Landscaping:** Encourage the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity. § 603.6

**Policy E-1.3.1: Preventing Erosion:** Ensure that public and private construction activities do not result in soil erosion or the creation of unstable soil conditions. Support the use of retaining walls and other “best management practices” that reduce erosion hazards. Erosion requirements should be implemented through building permit and plan reviews, and enforced through the permitting and regulatory processes. § 605.2

**Policy E-2.2.4: Alternative Energy Sources:** Support the development and application of renewable energy technologies such as active, passive, and photovoltaic solar energy, fuel cells, and other sustainable sources. Such technology should be used to reduce the dependence on imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive-solar homes relying on the sun as a primary energy source. § 610.6

**Policy E-2.2.5: Energy Efficient Building and Site Planning:** Include provisions for energy efficiency and for the use of alternative energy sources in the District’s planning, zoning, and building standards. The planning and design of new development should contribute to energy efficiency goals. § 610.7

**Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff:** Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. § 613.3

**Policy E-3.2.1: Support for Green Building:** Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities. § 614.2

36. The Modification Project furthers the Urban Design Element policies, as follows, by providing a new residential building on an already-residential campus within the natural slope of the Property in a high-quality design: (Ex. 3)

**Policy UD-1.2.1: Respecting Natural Features in Development:** Respect and perpetuate the natural features of Washington’s landscape. In low-density, wooded or hilly areas, new construction should preserve natural features rather than altering them to accommodate development. Density in such areas should be limited and setbacks should be provided as needed to protect natural features such as streams and wetlands. Where appropriate, clustering of development should be considered as a way to protect natural resources. § 904.3

**Policy UD-2.2.5: Creating Attractive Facades:** Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid

monolithic or box-like building forms, or long blank walls which detract from the human quality of the street. (see Figure 9.12) § 910.12

**Policy UD-2.2.7: Infill Development:** Regardless of neighborhood identity, avoid overpowering contrasts of scale, height and density as infill development occurs. § 910.15

37. The Modification Project furthers the following policy of the Community Services and Facilities Element by providing senior housing and senior care uses: (Ex. 3)

**Policy CSF-2.3.1: Senior Care Facilities:** Establish new senior centers in areas that have large elderly populations, particularly neighborhoods in Upper Northwest and Far Northeast. These centers could be co-located in community health facilities or near other public facilities such as libraries or elementary schools to increase the interaction and learning between senior citizens, youth, and others. § 1108.3

#### *Area Element*

38. Finally, the Modification Project furthers the explicit goals of the Upper Northeast Area Element by providing affordable, senior housing where it is desperately needed: (Ex. 3)

**Policy UNE-1.1.2: Compatible Infill:** Encourage compatible residential infill development throughout Upper Northeast neighborhoods, especially in Brentwood, Ivy City, and Trinidad, where numerous scattered vacant residentially-zoned properties exist. Such development should be consistent with the designations on the Future Land Use Map. New and rehabilitated housing in these areas should meet the needs of a diverse community that includes renters and owners; seniors, young adults, and families; and persons of low and very low income as well as those of moderate and higher incomes. § 2408.3

#### Consistency with the Original Order

39. As detailed above, the Modification Project is consistent with the Original Order. The Modification Project is consistent with the overall concept of a residential campus approved as part of the Original Project and is within the overall density originally approved. (Ex. 3)

#### The Modification Project Has No Unacceptable Impacts

40. The Commission previously concluded that the Original Project was appropriate and met the evaluation criteria for approval. With the addition of the Modification Project, the location, mix, and size of buildings, uses, and the amount and location of parking and loading facilities will remain generally consistent with the Original Project. Given the size and type of development already on the campus, the Modification Project will not add density, massing, or traffic that materially exceeds what the Original Project approved. The Original Project as constructed, is already a mostly affordable large residential campus with multiple buildings of varying scales and accessory non-residential uses to

serve residents. Accordingly, the Commission's conclusion that the impact of the Original LSPD is acceptable remains intact with the addition of the Modification Project that will be consistent with that overall concept. (Ex. 3)

41. The Applicant prepared a detailed analysis of the potential impacts of the Modification Project, including a Transportation Report. The Transportation Report concluded that the Modification Project is surrounded by an excellent environment for safe and effective non-vehicular transportation, will provide sufficient short- and long-term bicycle parking, and will not have a detrimental impact on the surrounding transportation network. The Modification Project also maintains the significant open space, provides ample parking and loading, and is proximate to the Metrorail station. (Ex. 3, 18A)

#### Applicant's Submissions

42. The Application as detailed above was the result of a total of six (6) submissions to the record. In addition to the initial application, the Applicant provided the following submissions, as well as its testimony at the public hearing: (Ex. 1-3H)
  - a. A supplemental initial filing dated May 28, 2020, addressing outstanding questions from OP (the "Supplemental Initial Filing"); (Ex. 10, 10A)
  - b. A prehearing submission dated September 2, 2020, responding to OP and the Commission's requests from setdown (the "Prehearing Submission"); (Ex. 14, 14A-B)
  - c. A submission including the Transportation Report dated September 28, 2020 (the "Transportation Submission"); (Ex. 18, 18A-B)
  - d. A supplemental submission dated October 20, 2020, further addressing comments from OP, DDOT, DOEE, DHCD, and the ANC (the "First Supplemental Submission"); (Ex. 23, 23A-C)
  - e. A motion and additional supplemental submission to respond to comments from OP and DDOT regarding loading (the "Second Supplemental Submission"); (Ex. 25, 25A) and
  - f. A post-hearing submission dated December 3, 2020, responding to issues raised at the public hearing (the "Post-Hearing Submission"). (Ex. [REDACTED])

#### *Responses to OP*

43. The Applicant responded to OP's setdown comments in the Supplemental Initial Filing, Prehearing Submission, First Supplemental Submission, and Second Supplemental Submission by: (Ex. 10, 14, 23, and 25)
  - a. Providing opaque screening to separate the communal laundry rooms on each floor from the lounge areas;
  - b. Increase common area outdoor spaces by additional balconies on each residential floor and terraces adjacent to the lounges on the third and ninth floors;
  - c. Increasing the IZ set aside to 25% of the gross floor area to apply after the initial affordable requirement period expires;
  - d. Relocating the previous internal loading facilities to be a loading zone along the private drive in order to preserve the initially-proposed outdoor dining area;

- e. Committing to participate in the First Source and Certified Business Enterprise programs;
- f. Detailing the sustainability commitments, including a commitment to providing 1,868 square feet of solar panels and certification of Enterprise Green Communities 2020; and
- g. Providing additional articulation and refinements to the façade and materials.

#### *Responses to DDOT*

44. The Applicant responded to DDOT’s comments in the Transportation Submission, the First Supplemental Submission, and the Second Supplemental Submission, as well as through public testimony at the hearing (Ex. 18A, 23, 25; Tr. at [REDACTED]). The Applicant’s response to DDOT included:
- a. Providing a Transportation Demand Management Plan (“TDMP”) and Loading Management Plan (“LMP”);
  - b. Ensuring that all sidewalks at the Modification Project will have a minimum four feet of clearance;
  - c. If not completed by others, striping a high-visibility crosswalk and installing curb ramps on the Property connecting the sidewalk adjacent to the proposed building to the new westernmost staircase to the project to the south, no later than one (1) year after the staircase is constructed; and
  - d. Including a comprehensive set of conditions detailing all of the TDMP and LMP commitments for the Modification Project. (Ex. [REDACTED])

#### *Responses to Commission*

45. At the public hearing, the Commission raised concerns about the design of the building, specifically the bay pattern on the south façade and the lightness of the materials. The Applicant responded to these concerns in the Post-Hearing Submission (Ex. [REDACTED]), including:
- a. Refining the façade and materials on the building to make it more uniform and darken the color of the building; and
  - b. Revising the green wall on the west elevation of the building adjacent to the below-grade loading entrance to allow for a mural.

#### Public Hearing

46. At the November 9, 2020 public hearing, the Applicant presented one witnesses on behalf of the Applicant and two experts: Scott Matties as an expert in architecture and Daniel Solomon as an expert in transportation analysis and engineering. The BZA had previously accepted Scott Matties as an expert, so the Commission also accepted him, and the Commission qualified Daniel Solomon as a new expert. (Tr. at [REDACTED]) Therefore, the Applicant’s representatives and the experts presented testimony about the Modification Project. (Ex. 31; Tr. at [REDACTED])

#### **Reports on and Responses to the Application**

## Office of Planning

47. OP submitted two reports to the record in addition to public testimony at the public meeting for setdown and at the public hearing:
  - a. A June 19, 2020, setdown report recommending that the Commission set down the Application for a public hearing and requesting additional information and changes to the Application (the “OP Setdown Report”); and (Ex. 11)
  - b. An October 30, 2020, hearing report that recommended approval of the Modification Project (the “OP Hearing Report”). (Ex. 26)
48. The OP Setdown Report recommended the Commission set down the Application for a public hearing but raised concerns and requests for additional information regarding the Modification Project. OP requested further study of outdoor space at the building, in-unit laundry facilities, refinements to the façade, enhanced sustainability and affordable housing commitments, and additional information regarding benefits. OP also noted it was generally supportive of the flexibility requested. (Ex. 11)
49. The OP Hearing Report recommended the Commission approve the Modification Application without any additional conditions. In the OP Hearing Report, OP noted that the Applicant had adequately addressed the concerns raised in the OP Setdown Report. Specifically, OP noted that (1) OP appreciated the additional outdoor common space; (2) OP accepted it was appropriate to provide common laundry facilities including the privacy modifications made by the Applicant; (3) the increase of the IZ set-aside was acceptable; (4) the façade refinements were acceptable and responsive to OP’s concerns; and (5) the Applicant had provided confirmation acceptable to OP and DOEE regarding the Modification Project’s sustainability commitments. (Ex. 26)
50. At the public hearing, OP testified in support of the Modification Project and noted that the Applicant had addressed the issues OP raised, including the loading revision. OP noted the Applicant had an updated flexibility request regarding loading to allow the private drive loading area, which OP supported. OP recommended the Commission approve the Modification Project. (Tr. [REDACTED])

## District Department of Transportation

51. DDOT filed a report dated October 30, 2020, (the “DDOT Report”) that stated DDOT had no objections to the Application, subject to conditions, including (1) implementation of the TDM plan, (2) implementation of the LMP, (3) ensuring that sidewalks are ADA accessible, and (4) if not completed by others, the striping of a high-visibility crosswalk and installation of curb ramps connecting the sidewalk adjacent to the proposed building to the new westernmost staircase to the Bryant Street Project. (Ex. 27)
52. The DDOT Report also noted DDOT’s support for the long-term bicycle parking and loading flexibility requested by the Applicant. (Ex. 27)

53. At the hearing, the Applicant testified that they were in agreement with DDOT regarding the enhanced conditions requested in the DDOT Report. DDOT also testified that they supported the Modification Project and concurred with the Applicant's confirmation of agreed-upon conditions. (Tr. at [REDACTED])

#### Other Agencies

54. OP's Hearing Report noted that the Applicant met with OP, DDOT, DOEE, DCRA, the Department of Housing and Community Development ("DHCD"), and the Department of Parks and Recreation regarding the Modification Project. (Ex. 26)
55. OP's Hearing Report noted that DOEE found the Applicant's sustainability commitments acceptable. (Ex. 26)
56. OP's Hearing Report also noted that DHCD worked with the Applicant regarding the IZ proffer. (Ex. 26)

#### ANC 5E

57. ANC 5E filed a report in support of the Application, noting that at a regularly scheduled, properly noticed meeting, the ANC voted unanimously to support the Modification Project and did not raise any concerns. (Ex. 30)

#### Other Agencies/Persons/Groups

58. No other individuals or groups filed any materials in the record or testified at the public hearing regarding the Application.

### **CONCLUSIONS OF LAW**

#### **MODIFICATION OF SIGNIFICANCE APPROVAL**

1. Since an LPSD is no longer a valid process or entitlement, this Application is being reviewed in accordance with the analogous PUD provisions in Subtitle X, Chapter 3 and Subtitle Z, Chapter 7 of the Zoning Regulations.
2. Subtitle Z, Section 704 authorizes the Commission to review and approve Modifications of Significance to final orders of the Zoning Commission.
3. Subtitle Z, Section 703.5 defines a Modification of Significance as a "modification to a contested case order or the approved plans of greater significance than a modification of consequence." Subtitle Z, Section 703.6 includes "change in use" and "additional relief or flexibility" as examples of a Modification of Significance.
4. As set forth in Subtitle Z, Section 703.5, Modifications of Significance require a public hearing. Pursuant to Subtitle Z, Section 704.4, the scope of the hearing is limited to the impact of the modification on the subject of the original application.

5. The Commission concludes that the Applicant has satisfied the requirement of Subtitle Z, Section 703.13 to serve the Modification on all parties to the original proceeding, in this case ANC 5E.
6. The Commission concludes that the application qualifies as a Modification of Significance within the meaning of Subtitle Z, Sections 703.5 and 703.6, as a request to add a new building, construct campus access improvements, and request different areas of flexibility.

#### Consistency with the Original Order

7. The Commission concludes that the Modification Project is generally consistent with the Original Order's approval for a residential campus and serves the aging population of the Edgewood Commons campus originally contemplated. While the Modification Project will add a new building, the overall development at Edgewood Commons will remain within the approved FAR and number of units. The Modification Project continues to propose affordable residential housing -here specifically for seniors - that is consistent with the Original Order.
8. The Commission credits the submissions and testimony of the Applicant regarding the appropriateness and beneficial aspects of the overall site design, the use, and the general Modification Project's consistency with the needs of the Edgewood Commons community, as contemplated by the Original Order. The Commission finds that the new age-restricted, all-affordable housing continues to be a benefit as contemplated in the Original Order.

#### **PUD APPROVAL**

9. The Commission notes that as part of the Original Order, the Commission concluded the Original Project met the requirements at the time for LSPD approval. Additionally, the Commission concludes that the Modification Project satisfies the now-relevant PUD approval requirements. Additionally, the Modification Project continues to meet the PUD balancing test required for approval.
10. The Commission concludes that the Modification Project includes multiple architectural and urban design benefits that make the Modification Project a higher quality development that exceeds those of a project developed under the matter-of-right standards.
11. The Commission concludes that the Application accords with the PUD process based on the determinations below that the Application is a superior high-quality development and that the Application's public benefits, development flexibility, and mitigation of any adverse impacts satisfies the PUD balancing test.
12. The Commission therefore concludes that the Modification Project is in accordance with the Zoning Regulations because the Modification of Significance Application complies with the Zoning Regulations, including the PUD requirements, and the Original Order.

**Not Inconsistent with the Comprehensive Plan (Subtitle X § 304.3(a))**

13. The Commission concludes that the Modification Project is not inconsistent with the Comprehensive Plan. First, the Commission notes that the Modification Project is not inconsistent with the FLUM and GPM.
  - a. The Modification Project is not inconsistent with the FLUM designation for High Density Residential given the high-density residential development.
  - b. The Modification Project is also not inconsistent with the GPM's designation for the Property as a Neighborhood Conservation Area. The Modification Project fits within the character of the Edgewood Commons campus and the surrounding community, as called for in a Neighborhood Conservation Area.
14. The Commission further concludes that the Modification Project furthers several important Citywide Element policies, including the Land Use Element's focus on high-density residential projects, the Housing Element, Transportation Element, Environmental Protection, Urban Design, and Community Services and Facilities Element, especially given the affordable senior housing and daycare facilities.
15. Finally, the Commission concludes that the Modification Project is not inconsistent with the Upper Northeast Area Element. The Modification Project will provide housing and services for seniors, of which there is a large population in this area. The Modification Project will also provide compatible infill development as called for by the Area Element.
16. Therefore, the Commission concludes that the Modification Project is not inconsistent with the Comprehensive Plan taken as a whole.

**Public Benefits Sufficient to Balance the Requested Development Flexibility (Subtitle X § 304.3)**

17. The Commission concludes that the Application provides significant public benefits exceeding those from the Original Order. Specifically, the Commission concludes the provision of all-affordable, age-restricted apartments for a period of 30-40 years at a minimum, the provision of 25% of the total residential gross floor area as affordable for the life of the Modification Project, the Enterprise Green Communities commitment, and the over 1,800 square feet of solar panels are all significant public benefits that balance the requested development flexibility.
18. The commission notes that the Modification Project's requested development flexibility is minor, supported by the ANC, OP, and DDOT, and allows the Modification Project to have a better design than a matter-of-right project, and is consistent with the benefits and amenities provided by the Modification Project. Therefore, the Commission concludes that the following development flexibilities are appropriate:
  - a. The loading requirements;



- b. The long-term bicycle parking requirements; and
- c. The limitations on the total capacity for the adult day care facility.

**Potential Adverse Impacts – How Mitigated or Outweighed (Subtitle X §§ 304.3 & 304.4(b))**

19. The Commission concludes that the potential adverse impacts of the Modification Project do not exceed those reviewed by the Commission in approving the Original Project because the proposed new building is within the overall density approved and is interior to the Edgewood Commons campus. The Commission also concludes that the Modification Project is consistent with the surrounding context and will only have minimal light and air impacts on others. The Commission credits the analyses of OP and the Applicant that the Modification Project would not have unmitigated potential adverse effects.

**Transportation Management and Mitigation**

20. The Commission concludes that the Application provides sufficient mitigation of the potential adverse transportation impacts, including parking and loading, based on DDOT’s finding that the Applicant’s proposed parking, loading, and TDM and LMP plans as detailed in the Transportation Report and supplemental filings are sufficient to mitigate any potential adverse impacts, and the Applicant’s agreement to all of DDOT’s suggested conditions. The Commission credits the analyses of DDOT and the Applicant that the Modification Project would not have unmitigated potential transportation-related adverse effects. Further, the Commission concludes that any potential adverse transportation impacts would be outweighed by the Modification Project’s public benefits, particularly the significant provision of affordable housing for seniors.

**“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP**

21. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)
22. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgement.

**“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC**

23. Pursuant to § 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)) and Subtitle Z §406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. 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. *Metropole Condo. Ass’n v. D.C. Bd.*

*of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016) 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).

24. The Commission finds persuasive ANC 5E’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for a Modification of Significance. This approval is subject to the following conditions, standards, and flexibility:

#### **Modification Project Development**

1. The Modification Project shall be built in accordance with the plans and elevations dated July 24, 2020, and marked as Exhibits 3H1-3H4 and supplemented by Exhibits 10A, 14B1-14B4, 23A1-23A3, 25A1-25A9, and Exhibit [ ] of the record (the “**Final Plans**”), and with the following design flexibility relating to the Final Plans:
  - a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the building;
  - b. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials;
  - c. To make minor refinements to exterior details, dimensions, and locations, including belt courses, sills, bases, cornices, railings, balconies, trim, frames, mullions, spandrels, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems;
  - d. To vary the number of residential units by plus or minus 10%;
  - e. To vary the number of parking spaces by plus or minus 10% provided that no additional relief is required; and
  - f. To vary the roof plan as it relates to the configuration of solar panels and green roof areas, provided that the square footage of the solar panels and green roof are not reduced.
2. The Applicant shall have flexibility from the following development standards:

- a. The loading requirements for (1) a loading berth, (2) a loading platform, (3) sole use of loading area for loading purposes, and (4) screening requirements for outdoor loading;
- b. The number of required long-term bicycle parking spaces, where 28 will be provided and 52 are required; and
- c. The limitation on an in-building adult day care facility to serve a maximum of 25-people, as the day care facility will serve up to 60 people.

**Public Benefits**

- 3. The Applicant shall provide affordable housing as set forth in this condition. Compliance with this condition does not reduce the affordable housing requirements from the original Order 66-68.
  - a. The Applicant shall provide the affordable housing set forth in the following chart. The chart assumes that the Applicant will be granted an exemption from the Inclusionary Zoning regulations (“IZ Regulations”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6 (“IZ Exemption”). However, the Commission takes no position as to whether the IZ Exemption should be granted;

<b>Residential Unit Type</b>	<b>Floor Area/% of Total*</b>	<b># of Units</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>
Total	143,643/100%	151	Mixed		
Affordable Non-IZ	107,732/75%	89	Up to 60% of MFI	30-40 years**	Rental
Affordable Non-IZ***	35,911/25%	62	Up to 60% of MFI	Life of the Modification Project	Rental

*\* Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.*

*\*\* Affordable control period will be determined by financing requirements*

*\*\*\* If the IZ exemption is denied, these units shall be Inclusionary Zoning units instead of Affordable Non-IZ units.*

- b. Each control period shall commence upon the issuance of the first certificate of occupancy;
- c. Should the IZ Exemption be granted, the affordable housing requirements of this condition shall be stated in the covenant required by 11-C DCMR § 1001.6(a)(4); and
- d. Should the IZ Exemption be denied, the Applicant shall nevertheless provide affordable housing in accordance with this condition, unless the IZ Regulations

impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 8% of the residential gross floor of the building, and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area.

4. **Prior to the issuance of a Building Permit for the Modification Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed First Source Employment Agreement with the Department of Employment Services.
5. **Prior to the issuance of a Building Permit for the Modification Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed Certified Business Enterprise Utilization Agreement with the D.C. Department of Small and Local Business Development.
6. **Prior to the issuance of a Certificate of Occupancy for the Modification Project**, the Applicant shall furnish a copy of its preliminary Enterprise Green Communities certification application to the Zoning Administrator demonstrating that the building has been designed to meet the Enterprise Green Communities standard for residential buildings, as shown on the Enterprise Green Communities Checklist on Sheet 38 of the Final Plans.
7. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall demonstrate that it has designed and constructed a minimum of 1,868 square feet of solar arrays located on the building.
8. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall demonstrate that it has installed pedestrian striping along the private drive of the Property as shown on Sheet 9A of Exhibit 25A1 in the record.

#### **Transportation Demand Management Measures**

9. **For the life of the Modification Project**, the Applicant shall adhere to the following TDM plan measures:
  - a. The Applicant will identify Transportation Coordinators for the planning, construction, and operations phases of development, who will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;
  - b. The Applicant will provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year;
  - c. The Applicant will ensure Transportation Coordinators develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on the property website and in any internal building newsletters or communications;

- d. The Applicant will ensure Transportation Coordinators receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
- e. The Applicant will provide welcome packets to all new residents and staff that, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map;
- f. The Applicant will ensure the Transportation Coordinator subscribes to goDCgo's residential newsletter;
- g. The Applicant will post all TDM commitments on the development's website, publicize availability, and allow the public to see what commitments have been promised;
- h. The Applicant will install a Transportation Information Center Display within the lobby of the facility that contains information related to local transportation alternatives;
- i. The Applicant will provide links to [CommuterConnections.com](http://CommuterConnections.com) and [goDCgo.com](http://goDCgo.com) on property websites;
- j. The Applicant will distribute information to employees on the Commuter Connections Guaranteed Ride Home (GRH) program, which provides commuters who regularly carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency;
- k. The Applicant will maintain a four (4) foot sidewalk width from 4<sup>th</sup> Street NE to the Modification Project site; and
- l. If not completed by others, the Applicant will stripe a high-visibility crosswalk and install curb ramps on their property connecting the sidewalk adjacent to the proposed building to the new westernmost staircase to the Bryant Street project, no later than one (1) year after the staircase is constructed.

### **Loading Management Measures**

- 10. **For the life of the Modification Project**, the Applicant shall adhere to the following Loading Management Plan measures:
  - a. A loading zone manager will be designated by the building management who will be on duty during delivery hours. The loading zone manager will be responsible for coordinating with vendors and residential tenants to schedule deliveries and move-ins/move-outs.
  - b. Deliveries and move-in/outs will be scheduled outside of peak hours.

- c. Trash pick-up will occur curbside next to the trash room. Bins will be rolled to the truck, and trash trucks will not be permitted to block both lanes of travel.
- d. The loading zone manager will instruct all move-ins/move-outs to use an available parking space or the pick-up/drop-off loop, to the extent possible.
- e. The loading zone manager will monitor the loading area so that vehicles are only stopped in the loading area while actively loading or unloading.
- f. The loading zone manager will schedule deliveries such that the loading zone's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the loading zone is full, that driver will be directed to return at a later time when the loading zone will be available.
- g. Trucks using the loading zone will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map ([godcgo.com/freight](http://godcgo.com/freight)).
- h. The loading zone manager will be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading zone. The loading zone manager will also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The loading zone manager will also post these materials and other relevant notices in a prominent location within the loading area.

## **General**

- 11. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
- 12. This Application approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in 11-Z DCMR §702.2. Construction must begin within three years after the effective date of this Order. (11-Z DCMR §702.3.)
- 13. 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.

14. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the applicable conditions of this Order (*i.e.*, only those conditions that are required to be satisfied for the particular entitlement the Applicant is seeking at the time) at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

**VOTE (December 17, 2020):**

**\_-\_-\_ ([ZCM making motion], [ZCM seconding motion], Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to APPROVE).**

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 66-68A shall become final and effective upon publication in the *DC Register*; that is, on \_\_\_\_\_, 2021.

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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

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**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.