

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 20047 of the District of Columbia Department of General Services, as amended¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5, and under Subtitle C § 1610.2, from the rooftop access requirements of Subtitle C § 1603.6, and from the floor area ratio requirements of Subtitle C § 1604.2, to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone at premises 3301 Lowell Street, N.W. (Square 2088, Lots 1 and 800).

HEARING DATE: June 26, 2019

DECISION DATE: June 26, 2019

DECISION AND ORDER

The District of Columbia Department of General Services (“**DGS**”) filed an application with the Board of Zoning Adjustment (the “**Board**”) on April 30, 2019 for special exceptions under Subtitle C § 1402.1 of Title 11 of the DCMR (the “**Zoning Regulations**”, to which all references are made unless otherwise specified) for relief under Subtitle C § 1402.1 from the retaining wall height requirements of Subtitle C §§ 1401.3 through 1401.5 and under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6 and from the floor area ratio (“**FAR**”) requirements of Subtitle C § 1604.2 (the “**Application**”), to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone at premises 3301 Lowell Street, N.W. (Square 2088, Lots 1, and 800) (the “**Property**”). For the reasons explained below, the Board voted to **APPROVE** the Application.

FINDINGS OF FACT

Notice of Application and Notice of Public Hearing

1. Pursuant to Subtitle Y §§ 400.4 and 402.1, the Office of Zoning (“**OZ**”) sent notice of the Application and the June 26, 2019 public hearing by a May 9, 2019 letter to DGS; Advisory Neighborhood Commission (“**ANC**”) 3C, the affected ANC per Subtitle Y §101.8, the single-member district ANC 3C09, and the Office of ANCs; the Office of Planning (“**OP**”)

¹ DGS amended the application (Exhibit (“**Ex.**”) 28) by adding a request for a special exception under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6.

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and the District Department of Transportation (“**DDOT**”); the Councilmember for Ward 3, the Chairman of the Council, and the At-Large Councilmembers; and the owners of all property within 200 feet of the Property. (Ex. 15-27.) OZ also published notice of the June 26, 2019 public hearing in the *D.C. Register* on May 10, 2019 (66 DCR 5860) as well as through the calendar on OZ’s website.

Party Status

2. DGS and ANC 3C were automatically parties in this proceeding per Subtitle Y § 403.5. No request for party status was filed.

The Property

3. The Property is owned by the District of Columbia and operated by DGS and D.C. Public Schools (“**DCPS**”). (Ex. 7.)
4. The Property is comprised of Lots 1 and 800 and contains 66,150 square feet of land area. (Ex. 7.)
5. The Property is rectangular and is located between 33rd and 34th Streets, N.W. and bounded by Macomb Street, N.W. to the North, and Lowell Street, N.W. to the South. (Ex.7.)
6. The Property’s topography varies, with a 20-25-foot grade change between the northern and southern boundaries, and a six-foot grade change east to west along the southern boundary. (Ex. 7, p. 9.) There are a number of existing retaining walls on the Property, most of which are four feet and higher. (Ex. 33.)
7. The Property is currently improved with the existing John Eaton Elementary (“**Eaton Elementary**”) public school comprised of four buildings and associated playing fields and outdoor play areas. (Ex. 7.)
8. Three of the four existing buildings on the Property are contributing structures to the Cleveland Park Historic District. (Ex. 8.)
9. The school occupies the whole square and there are no immediately adjacent properties or structures. (Ex. 33.)
10. The surrounding neighborhood is comprised of mostly detached, single family residences. (Ex. 33.)
11. The Property is located in the R-1-B zone district. (Ex.7.)
12. The purpose and intent of the R-1-B zone is to protect quiet residential areas now developed with detached dwellings and adjoining vacant areas likely to be developed for those purposes; and stabilize the residential areas and promote a suitable environment for family

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life. The R-1-B zone specifically, is intended to provide for areas predominantly developed with detached houses on moderately sized lots. (Subtitle D §§ 300.1 and 300.3.)

13. Public schools are permitted as a matter-of-right use in R-1-B zones. (Subtitle U § 202.1(m).)
14. The Property is located less than one-half mile from the Cleveland Park Metro Station and there are ten Metrobus lines within walking distance. (Ex. 7.)

The Application

15. The Application proposes to renovate and replace the existing, three-story public school on the Property and to make related improvements to the Eaton Elementary campus including replacing retaining walls and constructing new roof areas which will serve as recreation spaces (the “**Project**”). The renovations will allow DGS to modernize the facilities and accommodate more students. (Ex. 7.)
16. A maximum height of four feet is permitted for a retaining wall in the R-1-B zone. (Subtitle C § 1401.3.)
17. The Application proposes to replace and add additional retaining walls of varying heights in excess of four feet throughout the property. (Ex. 30A1, p.10.)
18. The roof area of a public education building or structure used for open space, recreation areas, or other athletic and field equipment areas shall provide direct pedestrian access not less than ten feet in width from at least two public rights-of way to each roof area. (Subtitle C § 1603.6.)
19. The Application proposes three access stairs (one measuring seven feet and two measuring eight feet) from “Roof Area 1”, and two access stairs (one measuring seven feet, ten inches and one measuring four feet, nine inches) from “Roof Area 2.” (Ex. 28.)
20. The maximum FAR for a public education facility in the R-1-B zone is 0.9. (Subtitle C § 1604.2.)
21. The Application proposes a 1.17 FAR for the Project. (Ex. 28.)
22. The Application states that the Project complies with all other development standards for the R-1-B zone and public education buildings. (Ex. 7.)
23. DGS amended the Application to request, if the Board granted the Application, design flexibility from the final plans as a condition in the order to allow for minor modifications to the design, including exterior façade and retaining walls based on recommendations of the Historic Preservation Review Board (“**HPRB**”) (Ex. 30.)

Zoning Relief

24. The Application requested the following zoning relief²:

- a. A special exception under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5 to replace and add additional retaining walls of varying heights throughout the property.
- b. A special exception under Subtitle C § 1610.2 from the floor area ratio requirements of Subtitle C § 1604.2 to provide 1.17 FAR.
- c. A special exception under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6 to provide two access stairs less than 10 feet wide.³

OP Report

25. OP submitted a report dated June 12, 2019 (“**OP Report**”) recommending approval of the Application. (Ex. 33.)
26. The OP Report noted that the Project is not expected to have any adverse impacts on the neighboring properties as the majority of improvements would take place within the interior of the property.
27. OP also noted that DGS is proposing to install landscaping along the retaining walls and that the walls’ appearance would be an improvement over what was existing on the property.
28. On the subject of the roof access requirements, the OP Report noted that DGS proposes a total of seven access points to the two roof areas and that all access areas requiring relief exceed the egress widths for the roof’s occupancy under the D.C. Building Code.
29. With specific regard to the FAR, the OP Report concluded that the requested relief will not have an adverse impact on traffic in the surrounding area. OP concurred with DDOT’s findings, as well as DGS’s traffic study and concluded that:
 - a. The majority of the school’s attendees originate within the defined school boundaries for Eaton Elementary as defined by DCPS.

² On June 24, 2019 the Zoning Commission took emergency action on Z.C. Case No. 19-11 which proposed text amendments to the Public School Zoning Regulations, including the FAR and roof access requirements. DGS noted during its testimony that it was aware of the emergency action but was electing to proceed with the requested relief out of an abundance of caution. (BZA Public Hearing Transcript of June 26, 2019 (“**Tr.**”) at 31-32.)

³ DGS added this relief in a supplementary filing. (Ex. 28.)

- b. The site is well served by non-automotive transportation options including pedestrian sidewalks, Metrobus, and Metrorail.
 - c. While there is no on-site parking provided, there are dedicated spaces on the Property's periphery for employee parking and student pick-up/drop-off.
30. The OP Report stated no objection to DGS's requested design flexibility from the final plans, provided that no additional relief is required.

DDOT Report

31. DDOT submitted a report dated June 7, 2019 ("**DDOT Report**") stating that it had no objection to the Application. (Ex. 31.)
32. The DDOT Report concluded that the Project would not have any adverse impacts on the District's transportation network.

ANC Report

33. ANC 3C submitted a written report (the "**ANC Report**") stating that DGS had presented the Application to the surrounding neighborhood at an ANC Community meeting on June 17, 2019. (Ex. 34.) At that June 17, 2019 public meeting, which had been duly noticed and scheduled, and at which a quorum was present, the ANC voted to conditionally support the Application.
34. The ANC Report noted that the Property is unable to support onsite parking due to its size, and further, that the Project is not required under the Zoning Regulations to provide onsite parking due to its location in a historic district. However, the ANC Report raised concerns about the lack of unrestricted parking near the school.
35. The ANC Report requested that the Board impose three conditions to address its concerns regarding the Project:
- a. Require DGS to work with DDOT to create a parking plan to provide dedicated curb parking spaces for John Eaton Elementary teachers and staff during the school day.
 - b. Require DGS to negotiate a construction management plan with the ANC.
 - c. Require that the John Eaton Elementary playground be open to the public during the day when not in use by the school.

Persons in Support

36. The Board did not receive any letters in support of the Application. Four persons testified in conditional support at the public hearing. (Ex. 38.)

37. All of the witnesses expressed their general support for the improvements to the school but noted their concerns with the impacts on parking in the surrounding area. Upon questioning by the Board, the witnesses confirmed that their support was conditional upon the Board adopting the conditions proposed in the ANC Report. (Tr. at 65-77.)

Persons in Opposition

38. The Board received no letters in opposition to the Application and no persons testified in opposition at the hearing.

Public Hearing

39. At the public hearing of June 26, 2019, DGS presented testimony from Julianna Von Zumbusch of Cox Graae Spack Architects⁴, Andrea Swiatocha of DCPS, and Patrick Moloney of DGS.
40. At the Board's request, DGS explained the status of the Project's historic preservation review with HPRB and HPO. (Tr. at 48-50, 82.)
41. DGS also outlined the specific areas of design flexibility from the final plans that it is seeking in connection with its HPRB review (Tr. at 49-50, 91):
- a. Minor changes to the building footprint and site plan, provided that the modifications do not increase the gross floor area ("GFA") or the FAR.
 - b. Permit adjustments to the final location of the retaining walls, provided that the final retaining wall heights would be no greater than requested in the Application.
 - c. Permit modifications to the location and size of the rooftop mechanical screening, provided that the changes do not trigger any additional zoning relief from penthouse height or setback requirements.
 - d. Permit minor changes to the building envelope, specifically the location, size and materiality of the fenestration on the Lowell Street N.W. façade.
42. Nancy MacWood, Chair of ANC 3C, testified as the authorized representative of the ANC. (Ex. 34.) Commissioner MacWood reiterated the ANC's concerns about parking and detailed the ANC's coordination efforts with DDOT to develop a parking plan. She also clarified that the ANC's desire for a condition requiring DGS to enter into a construction management plan stemmed mainly from concerns about traffic and parking during construction. (Tr. at 54-55.) Finally, Commissioner MacWood explained that the ANC also wanted to ensure that the playground would be available to the public. (Tr. at 56.)

⁴ Ms. Von Zumbusch was admitted as an expert witness in architecture. (Tr. at 32-33.)

43. In response to the testimony of the ANC and the community members, DGS reiterated that per Subtitle C § 704.2, it was not required to provide on-site parking as it was not increasing the GFA by more than 50%. (Tr. at 78.)
44. In addition, Ms. Swiatocha confirmed that it is DCPS policy that all public school playgrounds are open to the public during non-school hours. (Tr. at 81.)
45. DGS stated that it was willing to continue working with the ANC and DDOT in order to reach a solution regarding the traffic, parking and construction concerns. DGS also noted that it was willing to enter into private agreements with the ANC on these matters. (Tr. at 62, 78-80.)

CONCLUSIONS OF LAW

Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(2) (2018 Repl.); *see also* Subtitle X § 901.2) authorizes the Board to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Board, the special exception:

- i. will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map,
- ii. will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and
- iii. complies with the special conditions specified in the Zoning Regulations.

For the relief requested by the Application, the “specific conditions” are those of Subtitle C § 1402.1 and Subtitle C § 1610.2.

Relief granted by the Board through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Board’s discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and “if the applicant meets its burden, the Board ordinarily must grant the application.” *First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).

Subtitle C § 1402.1 - Relief from Retaining Wall Height Requirements of Subtitle C §§ 1401.3 through 1401.5

To qualify for a special exception from the retaining wall height requirements of Subtitle C §§ 1401.3 through 1401.5 under Subtitle C § 1402.1, DGS must demonstrate that conditions relating to the building, terrain, or surrounding area would make full compliance unduly restrictive, prohibitively costly, or unreasonable.

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The Board concludes that the Application meets these requirements due to the site's existing variable topography, which necessitates retaining walls of various heights in order to provide the outdoor recreational and green space required by District educational standards. (Finding of Fact ("FF") 6.)

The Board also notes that the presence of contributing historic structures on the site restricts DGS's ability to more fully regrade portions of the site in order to comply with the regulations. (FF 7-8.)

Subtitle C § 1610.2 - Relief from the Requirements of Subtitle C §§ 1603.6 and 1604.2

Under Subtitle C § 1610.2, to qualify for special exceptions from the rooftop access requirements of Subtitle C § 1603.6 and from the floor area ratio requirements of Subtitle C § 1604.2, DGS must demonstrate that the Application meets the general special exception requirements of Subtitle X § 901.

The Board concludes that the Application meets the general special exception criteria as explained below.

General Special Exception Relief – Subtitle X § 901

The Board concludes that the Application, in addition to meeting the specific conditions of the special exceptions from the retaining wall requirements, also meets the general special exception standards in Subtitle X § 901.2 to be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps and to not adversely affect the surrounding properties.

The Board concludes that granting the requested special exceptions would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because the Project meets the intent of the R-1-B zone to permit a new three-story public education building that meets the other development standards of the R-1-B zone. (FF 12-13.)

The Board also notes that the relief from the FAR will allow Eaton Elementary to provide additional classroom and activity spaces which will allow it to accommodate more students. (FF 15.)

The Board concludes that granting the requested special exceptions would not tend to adversely affect the use of neighboring properties because Eaton Elementary is an existing use, separated from the surrounding residential development, and the proposed zoning relief will not result in any adverse impacts beyond the Property's boundaries. (FF 25.)

Specifically, the Board concludes that the changes to the retaining walls will create a more uniform appearance to the Property and allow for more effective use of the site for various facilities. (FF 26.)

The Board also notes that DGS is providing three egress stairways from the roof areas with widths that exceed what is required by the DC Building Code. (FF 27.)

Finally, the Board notes that the concerns regarding the adverse traffic and parking impacts raised by the ANC and the community are preexisting and “independent” of the relief being requested. (Tr. at 60.)

The Board therefore concludes that DGS met its burden of proof to demonstrate that the Application met the general conditions, as well as the specific conditions, for the requested special exceptions from Subtitle C §§ 1401.3 through 1401.5, Subtitle C § 1603.6 and Subtitle C § 1604.2.

“Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of the Office of Planning (D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8).

The Board concludes that the OP Report, which provided an-depth analysis of how the Application met each of the requirements for the requested special exception relief, is persuasive and it concurs with OP’s recommendation that the Application be approved, as discussed above.

“Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 3C. (§ 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 Y § 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).

The only issue or concern specifically referenced in the ANC Report is the matter of the parking and traffic impacts of the Project. The ANC Report did not include any specific reference to construction issues or concerns regarding site access, beyond requested conditions number two and three. The basis for these two conditions was only explained during the ANC’s oral testimony at the public hearing.

On the matter of parking, the Board concurs with the findings of the DDOT report that the requested relief will not result in any adverse impacts to the District transportation system. Further, the DDOT Report did not note that there would be any adverse impacts on parking in the surrounding area, a finding which was also supported by the OP Report. The Board notes that DGS is not seeking any parking relief for the Project. As such, the Board concludes that requiring DGS to enter into a parking agreement would not help mitigate any impacts related to the requested zoning relief. (Tr. at 85-86.)

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The Board also notes that construction-related issues are beyond the Board's purview and subject to regulation and enforcement by the Zoning Administrator of the Department of Consumer and Regulatory Affairs. As such, the Board cannot impose the requirement that DGS enter into a construction management agreement with the ANC. (Tr. at 85-86.)

The Board also concludes that requiring DGS to open the playground and playing fields to the public, when not used by Eaton Elementary, does not serve to mitigate any adverse impacts of the requested zoning relief. Further, DGS has stated on the record that it is District policy to keep public school playgrounds and sports fields open to the public during non-school hours. (Tr. at 81.)

The Board notes that DGS expressed its willingness to enter into private agreements with the ANC and community to address the traffic and construction issues. (Tr. at 62). The Board concludes that this would be the most appropriate course of action. (Tr. at 94-95.)

Based on the foregoing, the Board concludes that the concerns raised by the ANC in its report and reflected in its requested conditions do not constitute "legally relevant issues and concerns" as they do not serve to mitigate any adverse effects created by the requested relief.

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that DGS has satisfied the burden of proof with respect to the request for special exceptions under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5, and under Subtitle C § 1610.2, from the rooftop access requirements of Subtitle C § 1603.6, and from the floor area ratio requirements of Subtitle C § 1604.2, to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS⁵ AT EXHIBIT 36B1 – 36B3 AND WITH THE FOLLOWING CONDITION:**

1. DGS shall have flexibility to make minor design modifications to the rooftop mechanical screen, the retaining wall height, landscape plan, and the fenestration

⁵ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6 (Exhibit 28). In granting the requested self-certified relief subject to the plans submitted with the Application, the Board made no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application that would require additional or different zoning relief from that is granted by this order.

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pattern, size and materiality along the Lowell Street N.W. facade, as required and approved by HPRB, provided that no additional zoning relief is required.

VOTE: 4-0-1 (Carlton E. Hart, Lorna L. John, Lesylleé M. White, Robert E. Miller, to APPROVE; Frederick L. Hill not present, not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 12, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, DGS FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR DGS FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN DGS SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART

THERE TO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.