

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: March 2, 2021

SUBJECT: Report on PR 24-21, “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2021”

The Committee of the Whole, to which PR 24-21, the “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2021,” was referred, reports favorably thereon and recommends approval by the Council.

CONTENTS

I.	Background and Need.....	1
II.	Legislative Chronology.....	4
III.	Position of The Executive.....	4
IV.	Comments of Advisory Neighborhood Commissions.....	5
V.	Summary of Testimony.....	5
VI.	Impact on Existing Law.....	5
VII.	Fiscal Impact.....	6
VIII.	Section-By-Section Analysis.....	6
IX.	Committee Action.....	6
X.	Attachments.....	6

I. BACKGROUND AND NEED

On November 18, 2020, PR 23-1047, the “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2020” was introduced by Chairman Mendelson at the request of the Mayor. PR 23-1047 was held over from Council Period 23 and designated as PR 24-21, the “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2021.” The purpose of PR 24-21 is to confirm the appointment of Carl Blake as a member of the Board of Zoning Adjustment (BZA) for a term to expire September 30, 2023. Mr. Blake would replace Ms. Lesylleé White whose term ended on September 30, 2019.

Mr. Blake is a long-time financial services professional and resident of the District since 2003. He currently is a Ward 4 resident and owns a residence there. In addition, he owns a number of other residential investment properties throughout the District. He is Director of Financial Planning for BlueWater Group, Inc., a risk management and financial consulting firm focusing on public and private utilities, as well as founder of Blake Properties NETT LLC, a real estate investment management and financial services consulting firm. The latter firm manages a portfolio of rental properties including mid-income single family and multi-family properties

throughout the District, New York, New Jersey, and North Carolina. Through this he has extensive experience with affordable and subsidized segments of the housing market. As a securities analyst for over 25 years, he has experience in providing in-depth fundamental analysis to investors and analyzing complex capital structures.

Mr. Blake approached the Executive with a desire to serve the District in some capacity. According to Mr. Blake, the Mayor’s Office of Talent and Appointments reached out to him to ask of his interest in the Board of Zoning Adjustment. After researching the position, Mr. Blake expressed his interest and thought he could lend his skill set – analytical skills gained through his investment career – to the Board. While Mr. Blake has no formal training or education in land use or zoning issues, he has studied extensively on variances and special exceptions and seems to have a good understanding as evidenced by a detailed discussion of these key issues during his confirmation hearing. He appears had a sound knowledge of this concept and a capacity to apply the standards as intended.

Mr. Blake stated that he does not have any conflicts of interest that would interfere with his duties as a member of the BZA. However, if a conflict of interest were to arise, Mr. Blake stated that he would recuse himself. Lastly, Mr. Blake stated that he is able to continue to meet the time commitment required as a member of the BZA, understanding that the Board could take several hours of work each week.

The Board of Zoning Adjustment is a creation of federal law.¹ The BZA is composed of a member of the National Capital Planning Commission or an NCPC staff member; a rotating member of the Zoning Commission; and three members appointed by the Mayor of the District of Columbia with the advice and consent of the Council.² Of the three members appointed by the Mayor, each must have been a resident of the District of Columbia for at least three years immediately preceding his or her appointment, and at least one of those three members must own his or her own home.³ The terms of the three members appointed by the Mayor are for three years.⁴

Table 1: Membership of the Historic Preservation Review Board

Resolution #	Position	Appointee	Term Expiring:	Residency
R23-636	Member, District Resident (Chairperson)	Fred Hill	September 30, 2023	Ward 2
PR23-1047	Member, District Resident	Carl Blake*	September 30, 2022	Ward 4
R22-636	Member, District Resident	Lorna John	September 30, 2021	Ward 6
N/A	National Capital Planning Commission	Chrishaun Smith	N/A	N/A
N/A	Zoning Commission Designee	Rotating	N/A	N/A

¹ Ch. 534, 52 Stat. 797 (1938), An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes.

² D.C. OFFICIAL CODE § 6-641.07(a) (2008 Supp.).

³ See *id.*

⁴ *Id.* § 6-641.07(b).

* Currently under Council review.

The BZA is authorized to consider applications for special exceptions and variances, as well as to hear appeals from decisions granting or refusing a building permit or granting or withholding a certificate of occupancy or appeals from other administrative decisions based on the zoning regulations or zoning map.⁵ The BZA addresses the following types of cases, and each case includes a public hearing before the BZA:

- **Appeals** - appeals from any order, requirement, decision, determination, or refusal made by the Mayor, Zoning Administrator, or any other administrative officer or body in the carrying out or enforcement of the zoning regulations.
- **Special Exceptions** - requests for special exceptions to the zoning regulations, regarding approval of certain aspects of the development or use of property, where "in the judgment of the BZA, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps"⁶ Special exceptions are explicitly contemplated in the zoning regulations and are subject to special conditions specified in the regulations.
- **Variances** - Relief from the strict application of the zoning regulations, specifically: "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any [zoning regulation] would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property"⁷ Such relief may be granted in order to relieve the resulting hardship or practical difficulties; however, relief can only be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map."⁸
- **Other** - Decisions on other special questions which the BZA is authorized by its regulations to opine on, including map interpretations.⁹

The Board of Zoning Adjustment is distinct from the Zoning Commission; the latter has plenary authority over zoning, including formulation of the zoning regulations. The Zoning Commission has exclusive jurisdiction over all matters concerning zoning in the District of Columbia.¹⁰ In addition to being responsible for the zoning regulations (Title 11 of the D.C. Municipal Regulations), the Commission reviews all cases relating to the zoning map and text. These include planned unit developments (PUDs) and campus plans for colleges and universities. The Zoning Commission is also responsible for implementing the land use aspects of the Comprehensive Plan—a plan which is proposed by the Mayor and adopted by the Council. The

⁵ Id. § 6-64 I .07(t).

⁶ D.C. MUN. REGS. tit. 11, § 3104.1 (2011).

⁷ D.C. OFACIALCODE § 6-641.07(g)(3) (2008 Supp.).

⁸ *Id.*

⁹ d.(f)-(g). The law also specifies that the Zoning Commission may authorize the BZA to interpret the zoning maps, and address questions of lot line or district boundary line disputes, or similar questions that may arise. *Id.* § 6-641.07(d).

¹⁰ *Tenley & Cleveland Park Emergency Comm. v. Dist. of Columbia Bd. Of Zoning Adjustment*, 550A.2d 331 (D.C. 1988).

Commission's plenary authority includes the right to review, *sua sponte*, any decision of the Board of Zoning Adjustment.¹¹

Mr. Blake would fill a vacant seat last held by Ms. Leslyee White whose term expired September 30, 2019. The Committee finds Mr. Blake sincere in his commitment to approach this role with rigor and apply his training and professional experience as a securities analyst to identify the critical issues and relevant facts of each case and evaluate them relative to the zoning regulations. The Committee believes that Mr. Blake has the capacity to gain expertise in this new field and hopes that he will be a collaborative member of this important Board. Thus, the Committee recommends the confirmation of Mr. Carl Blake as a member of the Board of Zoning Adjustment for a term to expire on September 30, 2023.

II. LEGISLATIVE CHRONOLOGY

- November 18, 2020 PR 23-1047, “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 202” is introduced by Chairman Mendelson at the request of the Mayor.
- December 1, 2020 PR 23-1047 is officially “read” at the legislative meeting; on this date the referral of the proposed resolution to the Committee of the Whole is official and the 90-day period for Council review begins. If the measure is not acted upon by the Council before March 11, 2021, PR 24-21 will be deemed disapproved.
- December 4, 2020 Notice of Intent to Act on PR 23-1047 is published in the *District of Columbia Register*.
- January 4, 2021 PR 24-21 is held over from Council Period 23 and designated as PR 24-21, “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2021”
- January 8, 2021 Notice of Intent to Act on PR 24-21 is published in the *District of Columbia Register*.
- January 29, 2021 Notice of a Public Roundtable on PR 24-21 is published in the *District of Columbia Register*.
- February 4, 2021 The Committee of the Whole holds a public roundtable on PR 24-21.
- March 2, 2021 The Committee of the Whole marks-up PR 24-21.

III. POSITION OF THE EXECUTIVE

Mr. Carl Blake is the Mayor’s nominee for appointment as one of three District resident members of the Board of Zoning Adjustment.

¹¹ See D.C. MUN.REGS., title 11, § 3128 (2000).

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from any Advisory Neighborhood Commission on PR 24-21.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public roundtable on PR 24-21 on Thursday, February 4, 2021. The testimony summarized below. Copies of the written testimony are attached to this report.

Mark Eckenwiler, Commissioner, ANC 6C04, testified to the important role of BZA in exercising quasi-judicial power that can have lasting impacts on residents across the District. He also stated that in considering nominees, the Council should look not merely for good citizenship or life success but on concrete experience and expertise as a condition of confirmation.. With regard to Mr. Blake’s nomination, Mr. Eckenwiler testified that the Council should inquire closely to determine whether Mr. Blake has the qualifications and temperament to be a Board member.

Carl Blake, Nominee, testified and answered questions regarding his background and experience as it pertains to the Board, and his interest in continuing to serve on the Board. Ms. Heath noted that the Board continued to consider cases at a similar pace during the pandemic on an online platform, which is convenient for the public, but lacks some effectiveness and immediacy.¹²

The Committee received no other written comments regarding Mr. Blake’s nomination to the Board.

VI. IMPACT ON EXISTING LAW

This confirmation is consistent with existing law. Pursuant to D.C. Official Code § 6-641.07(a), the BZA shall be composed of one representative of the National Capital Planning Commission; one representative of the Zoning Commission; and three other members appointed by the Mayor with the advice and consent of the Council. Of those three members confirmed by the Council, each must have been a resident of the District for at least three years immediately preceding his or her appointment, and at least one shall own his or her own home. By operation of law, the appointment is deemed disapproved on the 90th day (excluding days of Council recess) following submission of the nomination by the Mayor, absent Council action.¹³

¹² Oral Testimony of Carl Blake, before the Committee of the Whole, at a February 4, 2021 public roundtable on PR24-21, the “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2021”

¹³ See D.C. OFFICIAL CODE§ 1-523.01(e). The 90 day period of review for PR 23-1034 expires on March 11, 2021.

VII. FISCAL IMPACT

PR 24-21 will have no fiscal impact on the District of Columbia budget or financial plan. Pursuant to D.C. Official Code § 1-611.08(c)(2)(A), the three District members of the Board of Zoning Adjustment are compensated for their services at a rate of \$25 per hour, with a cap of \$12,000 per board member per year.¹⁴ The compensation for members of the BZA is included in the annual budget for the Office of Zoning.

VIII. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	States the short title of PR 24-21.
<u>Section 2</u>	Confirms the appointment of Mr. Blake as a member of the Board of Zoning Adjustment for a term to expire September 20, 2023.
<u>Section 3</u>	Requires that a copy of the resolution, upon adoption, be transmitted to the nominee and to the Office of the Mayor.
<u>Section 4</u>	Provides that PR 24-21 shall take effect immediately.

IX. COMMITTEE ACTION

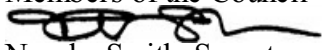
X. ATTACHMENTS

1. PR 24-21 as introduced
2. Nominee's response to Committee questions
3. Written testimony of nominee
4. Legal sufficiency determination
5. Committee Print for PR 24-21

¹⁴ See D.C. OFFICIAL CODE § 1-611.08(c)(2)(A).

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council
Date : Monday, January 4, 2021
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, November 23, 2020. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2020",
PR24-0021

INTRODUCED BY: Chairman Mendelson, at the request of Mayor

The Chairman is referring this legislation to Committee of the Whole. This resolution will be deemed disapproved on Thursday, March 11, 2021 without Council action.

Attachment
cc: General Counsel
Budget Director
Legislative Services



MURIEL BOWSER
MAYOR

November 23, 2020

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building

1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

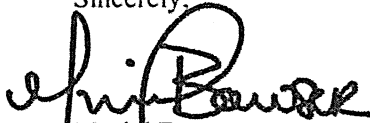
In accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), and pursuant to section 8 of An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), I am pleased to nominate the following individual:

Mr. Carl Blake
Crittenden Street, NW
Washington, DC 20011
(Ward 4)

for appointment as a member of the Board of Zoning Adjustment, replacing Lesyllee White, for a term to end September 30, 2022. Enclosed you will find biographical information detailing the experience of Mr. Blake, together with a proposed resolution to assist the Council during the confirmation process.

I would appreciate the Council's earliest consideration of this nomination for confirmation. Please do not hesitate to contact me, or Steven Walker, Director, Mayor's Office of Talent and Appointments, should the Council require additional information.

Sincerely,


Muriel Bowser
Mayor



Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To confirm the appointment of Mr. Carl Blake to the Board of Zoning Adjustment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Carl Blake
Crittenden Street, NW
Washington, DC 20011
(Ward 4)

as a member of the Board of Zoning Adjustment, pursuant to section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), replacing Lesyllee White, for a term to end September 30, 2022.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

CARL H. BLAKE, CFA

2019 - Present, Director, Financial Planning **BlueWater Group, Inc.**, overseeing the development of forward-looking quantitative models used in both short and long-term budgeting. These models are designed to minimize operational/performance risk, balance rate affordability, level of service requirements and optimize capital reinvestment efficiency. BlueWater is a risk management and financial consulting firm that develops and implements FMECA, business and process analytics, and life cycle performance optimization for public and private utilities in the water, power and gas industries.

2010 – Present, Founder/Managing Partner, **Blake Properties NETT LLC**, a real estate investment management and financial services consulting firm. Primarily a buy and hold investor, with a portfolio consisting of both passive and actively managed investments focused on residential multi-family and mixed-use properties in The District of Columbia, New York, New Jersey and North Carolina. Extensive experience with the affordable and subsidized segments of the housing market.

2016 – 2018, Managing Director, **GARA Consulting and Capital** responsible for analytics, which includes identifying and evaluating investment opportunities, structuring transactions and directing deal due diligence.

2010 – 2016, Managing Partner, **CENTAURUS Greene Street** provided advisory services to small to medium size business on strategic planning matters and capital structure optimization.

2014 – 2016, Advisor, **North Avenue Research, LLC** a firm comprised of renewable energy technology and finance veterans founded in 2012 to provide proprietary, independent research and due diligence support to equity and fixed income managers and to a range of clients involved in the renewable energy and energy efficiency sectors.

1992 – 2010, Fundamental investment research relating to all levels of the capital structure. His experience as a credit analyst covered a diverse set of industries including telecommunications, media, energy, metals and mining, chemicals, industrials and financial institutions. Prior to becoming a credit analyst in 1994, Carl was an equity analyst covering the telecommunications industry with a focus on the RBOC, Long-distance and CLEC sectors. For eight consecutive years (while at **Smith Barney, Lehman Brothers, and TD Securities**) Carl was a senior analyst on research teams ranked among the top 3 by Institutional Investor. He most recently served as a Managing Director at **Gimme Credit Publications** and Senior Vice President and Group Leader of the High Yield Research Group at **Friedman Billings Ramsey**.

1984 – 1990, Carl began his Wall Street research career first as an analyst at **Morgan Stanley** and later at **Kidder Peabody**, where he also worked as an associate covering distressed credits and special situations.

EDUCATION

MBA, Finance, Colgate Darden Graduate School of Business Administration, University of Virginia, Charlottesville, VA

BA, Economics, Bowdoin College, Brunswick, ME

PROFESSIONAL CERTIFICATIONS

Chartered Financial Analyst (1992)



Executive Office of the Mayor - Office of Talent and Appointments
John A. Wilson Building | 1350 Pennsylvania Avenue, Suite 600 | Washington, DC 20004

Carl Blake



Mr. Carl Blake is Director of Financial Planning BlueWater Group, Inc, where he oversees the development of forward-looking quantitative models used in both short and long-term budgeting. BlueWater is a risk management and financial consulting firm that develops and implements FMECA, business and process analytics, and life cycle performance optimization for public and private utilities in the water, power, and gas industries.

Mr. Blake also serves as founder and managing Partner at Blake Properties NETT LLC, a real estate investment management and financial services consulting firm. The firm is primarily a buy and hold investor, with a portfolio consisting of both passive and actively managed investments focused on residential multi-family and mixed-use properties in the District of Columbia, New York, New Jersey, and North Carolina. Extensive experience with the affordable and subsidized segments of the housing market.

A Ward 4 resident, Mr. Stanley has an MBA in Finance from the Colgate Darden Graduate School of Business Administration, University of Virginia, Charlottesville, VA and a BA in Economics from Bowdoin College in Brunswick, ME.



Mr. Carl Blake, BZA Nominee
February 2, 2021

1. Please provide a copy of the Financial Disclosure Statement you filed with the Office of Campaign Finance or the Board of Ethics and Government Accountability. If you have not filed a disclosure form, please provide answers to questions no. 2-8 in lieu of that statement.

A. See below

2. Please provide the name of each business entity transacting any business with the District Government in which you have a beneficial interest valued in excess of \$1,000, including publicly traded stock.

A. Webster Commons, LLC

3. Please provide the name of each business entity transacting any business (including consulting) with the District Government from which you or your immediate family have received (or are receiving) income for services rendered in excess of \$200 during the past two years.

A. None

4. Please provide the name of each business entity transacting business with the District Government in which you or any member of your immediate family serves as an officer, director, partner, or agent. Also list the position(s) held, a brief description of the entity, and any other pertinent details.

A. None

5. Please provide the name of any lender and the amount of liability for each outstanding liability borrowed by you or any member of your immediate family in excess of \$1,000. Do not include loans from a federal or state insured or regulated financial institution, or from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts.

A. None

6. Please list the location of all real property located in the District of Columbia in which you have an interest with a fair market value in excess of \$1000.

A. 1607 Crittenden St. NW (personal residence), 2113 1st Street NW, 116 V Street, NW, 213 Adams Street, NW, 2401 1st Street NW, 2403 1st Street NW, 116 V Street, NW, 2712 4th Street NE, 3900 7th Street NE, 70 Webster Street, NE, 78 Webster Street NE, 4816 New Hampshire Ave, NW, 4905 1st Street NW.

7. Please list all professional and occupational licenses held by you.

A. None

8. Please list any professional organizations of which you are currently a member.

A. None

9. Please list all board and commissions connected with the District Government on which you are or have been a member and include the term of service for each.

A. None

10. Please list any other boards (e.g., Board of Directors for a non-profit) on which you are currently a member.

A. Ben's Chili Bowl Foundation, Treasurer

11. Do you have any outstanding liability for taxes, fees, or other payments to the District, federal or other state or local governments, either contested or uncontested? If so, please provide documentation of attempts to pay the amount owed or to resolve the disputed claim.

A. No

12. Do you or any member of your immediate family have any interest, financial or otherwise, that may directly or indirectly pose a conflict of interest for you in performance of your duties as a member of the BZA?

A. No

13. Please describe any local political activity (i.e. the District of Columbia local elections or campaigns) that you have engaged in over the past six years, including all campaign contributions to a D.C. candidate or political committee.

A. Muriel Bowser for Mayor-- Kenyon McDuffie for Ward 5, Brandon Todd for Ward 4

14. Are you registered with any local, state, or federal government to lobby? If so, list the jurisdiction(s) in which you are registered.

A. No.

15. Why have you agreed to serve, and how do you plan to help BZA fulfill its role and mission? Include in your answer what you believe should be the priorities for BZA and specific challenges you see for BZA.

A. I accepted the nomination to serve on this Board because it provides an excellent opportunity to use my skills and training to benefit and serve our community. I worked in the financial services sector as a securities analyst for more than 25 years providing in-depth fundamental analysis to institutional investors, such as mutual funds and insurance companies. In my work as a securities analyst, I would conduct rigorous analysis to provide insightful commentary and unbiased investment recommendations. As a member of the BZA, I would apply my analytic training and professional experience to identify the critical issues and relevant facts of each case and evaluate them relative to the zoning regulations.

16. Please discuss your experience with and knowledge of land use and zoning. Include any past and present experiences that you believe are relevant to support your appointment as a member of the BZA.

A. I am a resident of the District, my family currently owns a small portfolio of missing middle housing type rental properties in Wards 4,5 and 7. And, we at one time or another, held interests in properties in six of the District's eight wards. Although I have done renovations to my personal property and provided financial support for development projects, I have never functioned as a developer nor have I ever had direct dealings the BZA. As such, I approach this appointment with an open-mind, without an agenda and unbiased by past hurts or harm. I believe my perspective as a home owner, a resident of the District of Columbia, an investor and missing-middle property owner, will enable to empathize with both the applicants and community members as they appear before the BZA to present their concerns. I am confident that my background and perspective have prepared me to be a fair, impartial and an effective member of the Board of Zoning Adjustment.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Public Roundtable on

PR24-0021, the “Board of Zoning Adjustment Carl Blake Confirmation Resolution of 2020.”

**Testimony of
Carl Blake**

Before the
Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairman

Virtual Meeting Platform
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

February 4, 2021
10:00 AM

Good morning, Mr. Chairman and members of the Committee. My name is Carl Blake, and I would like to thank you for providing this opportunity to appear before you today. I would also like to express my gratitude to Mayor Bowser for nominating me to the Board of Zoning Adjustment (BZA). I am honored to be considered to serve on a board that is so vital to the character and development of our city.

I was raised in Newark, New Jersey. I obtained my undergraduate degree in Economics from Bowdoin College and a master's degree from The Darden School of Business at the University of Virginia. I was a Chartered Financial Analyst (CFA) Charterholder between 1992 and 2009.

I accepted the nomination to serve on this Board because it provides an excellent opportunity to use my skills and training to benefit and serve my community. I worked in the financial services sector for more than 25 years, serving in a variety of roles with increasing levels of responsibility for major investment and commercial banking institutions. As a securities analyst I provided in-depth fundamental analysis to institutional investors, such as mutual funds and insurance companies. Over the years, I developed subject matter expertise in several industries, including telecommunications, oil and gas, and financial services. As part of my work, I analyzed complex capital structures, performed detailed examinations of covenants in corporate bond indentures, deciphered diffuse regulatory frameworks and parsed an assortment of multi-layered business models. This work was often done under tight time frames and in highly pressurized situations, where speed and accuracy were critically important. In conducting my work as an analyst, I would interview company management teams, consult with customers, competitors, suppliers and other sources of knowledge in the industry to develop an unbiased investment opinion.

I expect to approach this role with the same rigor, applying my training and professional experience as a securities analyst to identify the critical issues and relevant facts of each case and evaluate them relative to the zoning regulations. I am aware of, and committed to the many hours needed for preparation, study and review of cases for the weekly BZA public meetings.

I moved to the District of Columbia in 2003, and I currently reside in Ward 4's Crestwood neighborhood. I first took up residence in Dupont Circle, but have lived in the neighborhoods of Brookland and Bloomingdale as well. My family currently owns a small portfolio of missing middle housing rental properties in Wards 4, 5 and 7 and, over the years, have held interests in properties in six of the District's eight wards.

Although I have done renovations to my personal property and provided financial support for development projects, I have never functioned as a developer nor have I ever had direct dealings with the BZA. As such, I approach this appointment with an open-mind, without an agenda, and unbiased by past hurts or harm.

I have witnessed the rapid growth that has taken place in the District since I have been here. I recognize the importance of the District's zoning laws and regulations in sustaining

viable residential and commercial neighborhoods. I have come to appreciate the BZA's role in promoting careful and healthy development, hearing requests for variances, special exceptions and appeals from administrative orders.

Through my research of previous public hearings, I have seen the BZA review both large and small cases; I have observed matter-of-fact discussions as well as some very emotionally charged testimonies from both applicants and community members.

If confirmed, I will work diligently to quickly develop a practical understanding of the zoning regulations, consulting with the technical experts who serve on, or support, the Board. I believe my perspective as a homeowner, a resident of the District of Columbia, an investor, and missing middle housing property owner, will enable me to empathize with both the applicants and community members as they appear before the BZA to present their concerns.

I am confident that my background and perspective have prepared me to be a fair, impartial and an effective member of the Board of Zoning Adjustment.

I appreciate this opportunity and I thank you for your consideration of my appointment. I am available to answer any questions.

**Written Testimony of
Mark Eckenwiler (ANC 6C04)
Before the Committee of the Whole**

**Public Roundtable on
PR 24-21, Board of Zoning Adjustment
Carl Blake Confirmation Resolution of 2020**

February 4, 2021

Mr. Chairman and Members of the Committee,

The Board of Zoning Adjustment (BZA) plays a crucial role in upholding the District’s land-use rules in deciding whether to approve or deny applications for special exceptions and variances. Those decisions, when made in conformity with the zoning regulations, can improve not only individual properties but also their environs. Unsound decisions, on the other hand, can stifle needed growth and/or impose substantial hardships on adjacent properties and nearby communities.

Surprisingly, the local law establishing the BZA imposes only the most minimal requirements for appointment. The three members appointed by the Mayor and approved by the Council need only demonstrate residency in the District over the previous three years, and one must be a homeowner.¹

By contrast, the statutes applicable to the Historic Preservation Review Board require, at a minimum, that a majority of the members be “professionals qualified in history, prehistoric and historic archeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, landscape

¹ See D.C. Official Code § 6-641.07(a).

architecture, and related disciplines.”² The regulations impose even more stringent criteria, including a mandate that “[a]ll Review Board members must have demonstrated competence, interest, or knowledge in historic preservation.”³

The disparity here makes no sense. BZA members must grapple with the District’s complex, detailed zoning regulations. Interpreting those regulations is a demanding task; it requires members not just to understand scores of nuanced definitions and zone-specific rules, but also to make informed judgments on architectural and aesthetic questions. (These questions include the meaning of “cornice,” a term undefined in the regulations, and whether an addition would “substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage.”⁴)

I speak here from personal experience. For the past ten years, I have chaired ANC 6C’s extremely busy zoning committee. In that capacity, I have testified at scores of BZA hearings, filed five BZA appeals, and observed countless other hearings. Even as a licensed attorney with 30 years of experience interpreting other statutory and regulatory frameworks, I personally find it challenging at times to understand parts of the DC zoning regulations.

Moreover, those regulations are a moving target. The Zoning Commission continues to make adjustments, either to address gaps or inconsistencies in the 2016 rewrite or to address entirely new issues.

² 54 U.S.C. § 300318(2). HPRB’s organic statute, D.C. Official Code § 6-1103, refers to the regulations issued pursuant to 16 U.S.C. § 470 *et seq.* These federal statutes were repealed in 2014 when Congress enacted a new U.S. Code Title 54. The regulations, however, remain in place; see below.

³ 36 CFR § 61.4(f)(1).

⁴ 11-E DCMR § 5201.3(c).

My point is this: BZA members should bring substantial experience to the position, and the Council should look closely to see whether nominees have the necessary qualifications. A record of accomplishment in urban land-use planning, architecture, or law, or at least a demonstrated interest in District zoning issues, should be a *de facto* prerequisite. Even participation in zoning matters via a local neighborhood association or other civic group would be helpful, both in preparing nominees for BZA service and in affirming their genuine enthusiasm for the subject matter.

In recent years, the BZA has not always covered itself in glory. Its members have struggled to understand the regulations, often reaching conclusions that cannot be squared with the language or intent of the law.⁵ More professionalism is needed, given that BZA serves, in the words of the public notice for this hearing, as a “quasi-judicial body.”

Having reviewed Mr. Blake’s nomination package, I see much evidence of a successful career in finance and property ownership, but nothing that suggests the kinds of skills and experience needed to serve on the BZA. I don’t know anything else about Mr. Blake, and it may well be that he has the necessary qualifications and temperament. The Council should inquire closely to make that determination.

To sum up: the BZA plays an important role, exercising quasi-judicial power that can have lasting impacts on residents across the District. In considering nominees, the Council should look not merely for good citizenship or life success; instead, I urge you insist on relevant and concrete experience and expertise as a condition of confirmation.

⁵ In December 2018, the BZA denied ANC 6C’s meritorious appeal in BZA 19550. Despite the passage of more than two years since then, the Board still has not issued a written decision. My personal view is that the delay has resulted, at least in part, from the challenges OAG faces in writing an order justifying that vote consistent with the regulations.

Thank you for the opportunity to testify. I welcome any follow-up questions the Committee may have.

1 **DRAFT COMMITTEE PRINT**
2 Committee of the Whole
3 March 2, 2021
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8 A PROPOSED RESOLUTION
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11 24-21
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14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 _____
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18
19 To confirm the appointment of Mr. Carl Blake to the Board of Zoning Adjustment.
20

21 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this
22 resolution may be cited as the “Board of Zoning Adjustment Carl Blake Confirmation Resolution
23 of 2021”.

24 Sec. 2. The Council of the District of Columbia confirms the re-appointment of:
25

26 Mr. Fred Hill
27 Crittenden Street, NW
28 Washington, DC 20011
29 (Ward 4)
30

31 as a member of the Board of Zoning Adjustment, pursuant to section 8 of An Act Providing for
32 the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses
33 of buildings and other structures and of the uses of land in the District of Columbia, and for other
34 purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), replacing
35 Lesyllee White for a term to end September 30, 2023.

36 Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution,
37 upon its adoption, to the nominee and to the Office of the Mayor.

38 Sec. 4. This resolution shall take effect immediately.