

Committee Chair Cheh, \_\_, \_\_,

Good morning and thank you for allowing me time to present testimony on Bill 23-859. My name is Corey Holman, commissioner for ANC 6B06 though I am here testifying as an individual. I wanted to highlight four items related to this bill.

- 1) Zoning orders over the last 10 years generally coalesce around language restricting RPP through condo documents and lease provisions. In my submitted testimony I have included example provisions. A lease or condo provision like this is obviously unenforceable at DMV and there is no interest to property owners to enforce these provisions privately. Despite over a year of effort with DMW, I have further been unable to get RPP data in my ANC through FOIA or asking nicely to confirm that RPP ineligible buildings are complying. A few orders with particularly litigious and involved opponents have harder stronger conditions written. Sometimes VPP is included in restrictions but usually not. What I'm saying is, you're right, there is functionally no way to prevent a building from being added to the RPP database and functionally no way to verify these private provisions in Zoning Orders unless you happened to be privileged and involved enough to know you needed to ask for verification. ***[Appendix A has some representative portions of BZA Order conditions]***
- 2) At many zoning hearings, you will hear DDOT representatives say that RPP is not allowed on commercial blocks. This seemingly arbitrary language is not included in regulation and not enforced in practice and I don't understand why DDOT keeps trotting it out. For example, looking only at blocks added to the RPP database in 2018 and 2019, my colleague at 6B was able to add the 800 block of Virginia Avenue to the database, despite the fact that block that is mixed-use zoning and whose only building is a small mixed-use building with ground floor retail. Elsewhere, picking the most obvious example, the 1200 blocks of 24th and 25th St NW were added, two dense blocks with large commercial buildings and no existing RPP spaces. These are hardly exclusive, of course, but I wanted to highlight the policy as it's being implemented now.
- 3) No matter how well tailored your legislation is, implementation will take multiple years and likely require appropriation to DMV. I don't need to explain this to you, after all RPP still only costs \$35 a year after legislation was passed and appropriations given for implementation. And this legislation would require coordination of both DDOT and DMV and, well, yeah, you know where this is going.
- 4) Finally related to this bill, I would encourage the committee to work with OAG's detailed lawyers at the Office of Zoning to get this language right if you want it to apply to 3400 Connecticut Avenue. The draft order on the record from the applicant is clear that that removal from the RPP database is not a condition of approval of this BZA application and includes the standard language regarding lease provisions (which, again, are seemingly unverifiable through FOIA or ANC action) ***[Appendix B has relevant portion of the Applicant's Draft Order in the 3400 Connecticut Ave BZA case]***

This bill is an obvious fix to an obvious problem at the Office of Zoning. But this obvious problem is simply not that important city-wide and it does not address the multitude of ways in which RPP is fundamentally broken and in need of complete overhaul.

At the zoning hearing for 3400 Connecticut Avenue, many neighbors complained about intra-Ward 3 parking being one reason for parking spot scarcity. I see this too living near the Potomac Avenue Metro Station, though likely on a much smaller scale. But the solution to this problem isn't to prevent neighbors at 3400 Connecticut Avenue from RPP. It's to prevent neighbors from the 3400 block of Wisconsin Avenue or the 3400 block McArthur Boulevard or the 3400 block of Massachusetts Avenue or residents on 34th Street NW in Forest Hills from parking near this project.

Also, preventing people living in these 17 residences at 3400 Connecticut Avenue from getting RPP while houses with multiple off-street parking spaces are eligible RPP is also backwards. The impacts from street parking by convenience more than outweigh whatever impact these building residents will have. Street parking by convenience should simply cost more than street parking by necessity. And right now we are in ways punishing this building for not having parking while rewarding those who do not use their off-street parking. And we should point out near this project, most of the off-street parking often comes with curb cuts, further privatizing public space and adding to the parking crunch. And for the record, our family has a car, we mostly street park by convenience, and we use our street parking space for a play area, garden, and patio. We are part of the problem here too for my neighbors who do not have alley access and we should pay more for on-street parking since we also have off-street parking.

But underlying this entire testimony is the original foundation of RPP as a policy fully directed by legislation and not executive regulation, down to moving some blocks from one zone to another. So now it's on the Council to fix the problems. This bill is an obvious fix to an obvious problem at the Office of Zoning. But this obvious problem is simply not that important city-wide. Understanding politics the way they are and the electoral consequence of tweaking a program that provides so much subsidized value to voters, I would encourage the Council to look at this bill as the first step in devolving as much regulatory authority of this program as possible to the executive while setting reasonable and enforceable guide rails to ensure the district uses every possible tool to address the systemic equity, safety, and environmental damage done by the current RPP system. What does a functional RPP system look like:

- 1) Zones should be set by land use and neighborhood patterns, not political boundaries, and there should be a lot more zones. For example, in Arlington the vast majority of the county is not eligible for RPP and the remaining areas near transit and major trip generators are split into 24 parking zones. Apply that rate to the district and Arlington being  $\frac{1}{3}$  of the size of the District, there would be 72 parking zones in the District. **Parking zones must be separated from Ward boundaries and devolved to the executive's transportation experts to draw boundaries.**
- 2) Permit prices should reflect access to off-street parking to reduce street parking by convenience. In Toronto, for example, applications for residential street parking must make clear their number of off-street parking spaces available to them and street parking by convenience costs more. I shared my anecdote above. I share an alley with residents that do not have alley access. It boggles my mind that we pay the same price. **Residents with access to off-street parking should be required to pay more for RPP, by counting available spots as permits in the graduated permit fee system. So if I have two**

off-street parking spaces, my first RPP would be the cost of someone without off street parking's third RPP permit.

- 3) **Furthering the fee structure passed in 2019, the Council should continue to increase the price on multiple permits per household.**
- 4) The above three things simply reduce the *value* of a RPP and thus reduce demand. While so much recrimination is focused on the price of the RPP, we should refocus on value and then worry about prices. For example, implementing the above three steps would dramatically reduce the demand for RPP and in some cases the costs likely could be adjusted down. However, in areas like Dupont or Adams Morgan, \$35/year or \$50/year simply does not deter anyone from paying for the permit. **To that end, the council should devolve pricing to the executive, allowing for dynamic demand driven by-zone pricing and setting an annual cap for price increases but no floor for price decreases, much like performance meter parking.**
- 5) At this point with all other aspects included, the Zoning Commission, BZA, and DDOT could then analyze the requested special exception to provide zero of the five required parking spaces and if necessary require this building to not be eligible for RPP. **Removal from RPP eligibility for parking-free projects should be allowed as a condition of approval when seeking a parking-free project as long as those findings are supported by DDOT and the BZA/Zoning Commission.**

## Appendix A--Conditions of Approval for BZA Cases

### #19026: 1300 H Street, N.E.

*The Applicant shall prohibit owners and/or tenants from obtaining a Residential Parking Pass (“RPP”) or a Visitor Parking Pass (“VPP”) from the District Department of Motor Vehicles. If the units are offered for-sale, a provision in the condominium declaration and a non-amendable provision of the bylaws shall include consent and authorization to the Condominium Board to police and enforce this prohibition for the life of the project. If the units are offered for lease, a provision in the lease of each residential unit shall be included. The restriction will be recorded as a covenant against the property in the Land Records of the District of Columbia prohibiting any owner or lessee of the property from obtaining an RPP or VPP for the life of the project.*

(Reason for inclusion: this one has VPP exclusion with no indication whether DDOT can exclude an address from VPP)

### #18306, 1905-1917 14th St NW

*The Applicant shall include language in all documents related to the lease or sale of the residential units that residents of the building are prohibited from applying for residential permit parking stickers from the District of Columbia, regardless of the building's ownership, and for the life of the building. Prior to the issuance of a Certificate of Occupancy for the building, the Applicant shall record a covenant, satisfactory to the Office of the Attorney General, binding any future owners of the building and any of its residential units to include this restriction in any future leases or sales agreements.*

(Reason for inclusion: This is the standard language that is in dozens or orders)

### #18544, 1600 Pennsylvania Ave SE

*The Applicant shall restrict residential parking permits to 25% less than what the building is eligible for by working with the Department of Transportation and, if necessary, provide in 25% of the residential lease agreements that the tenant may not apply for a permit.*

(Reason for inclusion: There are conditions that wouldn't be addressable by this legislation as DMV or DDOT have no ability to enforce this. Things like those show up in multiple other orders)

### #18845, 3000 M St NW

*2. Residential Parking Permits. The property is located in a commercial zone and along a block that is not listed as eligible for Residential Parking Permits (“RPP”).*

*a. The Applicant shall not seek or support any change to designate the property as eligible for RPP.*

*b. The Applicant shall notify all residential tenants of the fact that RPP is not available to them. Furthermore, the Applicant shall cause all residential tenants to agree not to apply for or obtain a residential parking permit. The Applicant shall require that each residential tenant agree to either (a) not maintain an owned or leased automobile within the District of Columbia for the term of the lease; or (b) maintain a monthly parking pass for and park any owned or leased automobile on an off-street parking space.*

*i. All residential tenants who own or lease an automobile in the District shall be required to notify the landlord of such fact and provide evidence of such monthly parking pass.*

*ii. If, for any reason, the tenant does not obtain or maintain such monthly parking pass, the landlord shall furnish to the tenant, at tenant's expense, a monthly parking permit in a nearby*

*garage (which may be one of the monthly parking Passes defined above) and shall require the tenant to park in the garage.*

*c. Each tenant shall be prohibited from parking overnight on any of the streets within Georgetown, whether or not street parking is otherwise permitted.*

*d. Each of the above parking restrictions shall be prominently featured in each residential lease as a rider that is separately initialed by each residential tenant. Any violations of the above parking restrictions shall be treated as an automatic default under the lease and provide grounds for termination of such lease. Landlord shall use prompt and reasonable efforts to terminate such lease and remove the tenant from the premises.*

(Reason for inclusion: Zoning Order restrictions get way more detailed when opponents have attorneys and neighbors with party status in opposition. The current structures privileges these opponents with more enforceable restrictions)

### **#19230, 4424 Georgia Ave NW**

*(a) If the units are rentals, all residential leases shall include provisions that prohibit residents from obtaining RPP under penalty of fines and possible lease termination. If the units are owned as condominium, the condominium documents, public offering statement and bylaws shall include language restricting owners from obtaining RPP. Those documents shall state that an owner who violated the RPP restriction could be subject to fines, as well as potential notification to the mortgagor that could trigger default and/or condominium liens.*

*(b) Before obtaining a Certificate of Occupancy, the Applicant shall record a covenant against the property among the land records prohibiting any lessee or owner of residential units from obtaining an RPP.*

*(c) Condominium Documents and/or leases shall include written authorization from each unit owner or tenant that allows the Department of Motor Vehicles (“DMV”) to release to the condominium board and/or the Applicant any and all records of that owner/tenant requesting or receiving an RPP for the Property.*

*(d) The condominium board or the Applicant shall monitor owner/ tenant compliance with the RPP lease restriction by requesting from the DMV, every six months, any and all records of residential tenants requesting or receiving RPPs for the Property. Either the condominium board or the Applicant, as applicable, shall provide updates on the status of these FOIA requests semi-annually to the Single Member District representative for the Property to share with the other the ANC Commissioners.*

*(e) Marketing for the sale or rental of the units in the Project, be it on the Project’s marketing webpage, MRIS or written handouts, shall clearly identify that the Project is “car-free” and that potential owners and/or tenants are restricted from obtaining RPP*

(Reason for inclusion: This language seems to include language that signs away privacy rights of tenants and I presume would be unenforceable, but wanted to highlight expansive language that shows up)

**Appendix B--Draft BZA Order from Applicant at 3400 Connecticut Ave**

Exhibit 137A, Case # 20266

Condition 2(r) on Page 17:

Will incorporate a clause into all new leases, lease renewals, or lease amendments, which prohibits residents from participating in the District's Residential Permit Parking ("RPP") and Visitor Parking Permit ("VPP") programs; provided that for existing tenants of the Macklin, the Applicant will make commercially reasonable efforts to amend existing leases to incorporate this clause to the extent permitted by landlord-tenant law;