

Arent Fox

October 16, 2008

BY HAND

Ruthanne G. Miller, Chairperson
Board of Zoning Adjustment
441 Fourth Street, NW Suite 210 South
Washington DC 20001

Re: BZA Appeal No. 17745
Consent Motion for Continuance

Kinley R. Bray

Attorney
202.715.8572 DIRECT
202.857.6395 FAX
dumas.kinley@arentfox.com

Reference Number
029660.00001

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17745

EXHIBIT NO. 19

2008 OCT 16 AM 9:47

BOARD OF ZONING ADJUSTMENT

Dear Chairperson Miller and Members of the Board:

With consent of the Advisory Neighborhood Commission 3E, ("Appellant") and the Office of the Zoning Administrator for the District of Columbia Department of Consumer and Regulatory Affairs ("Appellee"), Commerce Bank ("Intervenor") hereby submits this Consent Motion for Continuance of the hearing presently scheduled for Tuesday, October 21, 2008.

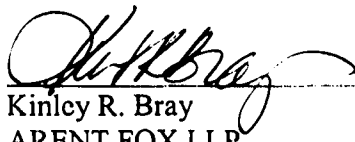
The instant matter is an appeal of the issuance of a building permit for a stand-alone bank branch, including a drive-through, at 4849 Wisconsin Avenue, NW (the "Subject Property"). As you will recall, the hearing on this matter was initially scheduled for April 22, 2008, but was postponed by consent motion prepared and filed by the Appellant. At that time, the parties were in negotiation to develop a revised site plan for the Subject Property on which all parties could agree. Based on the outcome of those negotiations, in May of 2008 the Intervenor filed a revised application for Public Space Permit (the "Revised Application") to relocate and modify curb cuts, and a revised application for Building Permit (the "Revised Building Permit Application") to allow the construction of a stand-alone bank branch on the Subject Property.

On September 11, 2008, the Appellant ANC 3E voted unanimously to recommend support of the Revised Application to the DDOT, with certain conditions. The ANC transmitted its written resolution of support, with conditions, to DDOT on or about September 19, 2008. Intervenor Commerce Bank subsequently responded to the ANC's recommended conditions in a letter to DDOT dated September 22, 2008. DDOT has not yet issued the requested Public Space Permit. The Zoning Administrator has opted to hold its action on the pending Revised Building Permit Application until DDOT takes its independent action to approve the Public Space Permit.

Approval of the Revised Building Permit Application would moot the instant appeal. All parties believe that such action is imminent, but is dependent upon the application pending before DDOT. Therefore, the Intervenor wishes to continue the hearing on the instant matter to allow DDOT to act on the Revised Application and the Zoning Administrator to act on the Revised Building Permit Application. In the event the Revised Building Permit Application is approved, thereby rendering this matter moot, the ANC will withdraw the appeal.

The Intervenor therefore respectfully requests that the Board postpone the hearing in this matter for a period of not less than 90 days to allow DDOT and the Zoning Administrator to act on the applications before each agency.

Respectfully submitted,



Kinley R. Bray
ARENT FOX LLP
1050 Connecticut Avenue, NW
Washington DC 20036
Attorney for Intervenor Commerce Bank

CONSENTED TO:



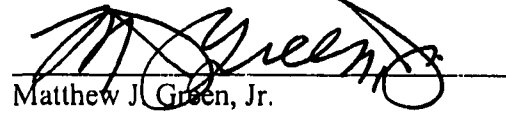
Doris Parker-Woolridge
Assistant General Counsel
Office of Attorney General
Department of Consumer and Regulatory
Affairs
941 N. Capitol Street, N.E.
Suite 9400
Washington, DC 20002
Counsel for Appellee

CONSENTED TO:



Lucy Eldridge
Advisory Neighborhood Commission 3E
c/o Lisner-Louise-Dickson-Hurt Home
5425 Western Avenue, NW
Washington, DC 20008
Appellant

CONSENTED TO:



Matthew J. Green, Jr.
Assistant Attorney General
Office of the Attorney General
941 North Capitol Street, N.E.
Washington DC 20002
Counsel for Appellee

Arent Fox

Ruthanne G. Miller
Chairperson
October 15, 2008
Page 3

Cc: Matthew LeGrant, Zoning Administrator
Matthew Marcou, District of Columbia Department of Transportation