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Appeal No. 17767

EXHIBIT NO. 19

5. The Neighborhood Overlay regulations provide that only “designated retail and service establishments” shall occupy the ground level of a building. The ground level is the floor of the building “that is nearest in grade elevation to the sidewalk.” *See* 11 DCMR § 1302.4(b). The approved “designated uses” consist of the following:

- “(a) Any use that is permitted as a matter of right in the C-1 District pursuant to §§ 701.1 or 701.4;
- (b) Library (other than public library.
- (c) Blueprinting or similar reproduction service;
- (d) Film exchange;
- (e) Interior decorating shop;
- (f) Laundry, self service;
- (g) Photographic studio;
- (h) Picture framing studio or shop;
- (i) Tailor shop or valet shop;
- (j) Telegraph office;
- (k) Antique store or shop;
- (l) Auction house;
- (m) Department store;
- (n) Display stand or store for mail order sales;
- (o) Dry goods store;
- (p) Furniture store;
- (q) Home furnishings sales;
- (r) Leather goods store;
- (s) Musical instruments and accessories sales;
- (t) Office supplies and equipment sales;
- (u) Optical goods store;
- (v) Pet shop;
- (w) Precision instrument sales; and
- (x) Theater, including motion picture theater”**

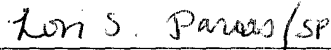
See 11 DCMR 1302.2 (emphasis added).

6. On September 19, 2007, McLean Bible Church (“MBC”) submitted information to the District of Columbia Zoning Administrator, Matthew LeGrant (“ZA”), indicating its intent to use the ground floor of the Property as a church.
7. According to the information submitted by MBC, it planned to host worship services at the Property every Sunday from approximately 6 a.m. to 12 p.m.

8. On September 27, 2007, after discussions with the ZA about MBC's proposed use of the Property as a church, MBC sent an email to the ZA stating that a Certificate of Occupancy was not required for its proposed use because the proposed use was an acceptable accessory use to the existing theater use.
9. On October 15, 2007, the ZA concluded that under the Zoning regulations, MBC's proposed use of the Property as a church was "not accessory to theatre use," but rather a separate use requiring MBC to amend the existing Certificate of Occupancy or obtain a new one.
10. The ZA also concluded, under the Zoning regulations, that because the church use was not a permitted principal use within the CP/C-2-A district, MBC must obtain a special exception to use the Property as a church.
11. In his decision, the ZA suggested that under the Zoning Regulations MBC could apply for a Certificate of Occupancy for the church use and he stated that he would refer MBC's application to the Board of Zoning Adjustment ("BZA") for special exception consideration.
12. MBC did not file an application for a Certificate of Occupancy for the church use.
13. On December 14, 2007, MBC filed an appeal of the ZA's decision with the BZA, appealing only the portion of the ZA's October 15, 2007 letter that concluded the "proposed use [was] not accessory to the theater use."
14. MBC's appeal was silent as to the ZA's recommendation that MBC apply for a Certificate of Occupancy for the proposed church use of the Property.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lauren Goss hereby certify that on May 1, 2008, a copy of the District of Columbia's Statement of Material Undisputed Facts was sent first class mail to:

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