

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



October 15, 2007

Steven Sher
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006

Re: Proposal for Church Use of Uptown Theater –
3426 Connecticut Avenue NW

Dear Mr. Sher:

I have had an opportunity to review the material you provided me on September 19, 2007 and that you further inquired about in your email to me of September 27, 2007 regarding the proposal of the McLean Bible Church (your client) to use the ground floor portion of the Uptown Theater at 3426 Connecticut Avenue NW, Washington DC, for Sunday morning worship services. The property is, as you know, presently approved for the use as set forth in Certificate of Occupancy #B147230 which was granted on February 4, 1989 for "motion picture theater with a concession stand". The property is zoned CP/C-2-A which is the Community Business Center District, in the Cleveland Park Neighborhood Commercial Overlay.

In your material that you provided me on September 19, 2007 it was your assertion that the use was an acceptable accessory use of the theater. You also stated to me that you did not believe that the present Certificate of Occupancy needed amendment due to the "accessory nature" of the proposed church use.

After careful review of this matter, I have concluded the following:

1. The proposed church use is not accessory to the theater use, but is, in fact, a separate use that will necessitate that Certificate of Occupancy #B147230 be amended, or a new Certificate of Occupancy obtained, to cover the church use.

BOARD OF ZONING ADJUSTMENT
District of Columbia

941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002

Phone: (202) 442-4576 Fax: (202) 442-4871

CASE NO. 17767

EXHIBIT NO. 4

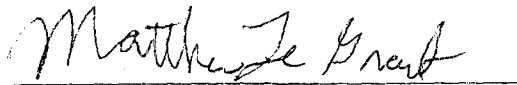
Board of Zoning Adjustment
District of Columbia
CASE NO. 17767
EXHIBIT NO. 44

2. Under the applicable Cleveland Park Neighborhood Commercial Overlay District list of allowable uses, permitted ground floor uses of a building are limited to those listed retail and service establishments set forth in 11 DCMR 1302.1. These uses are then enumerated under 11 DCMR 1302.2 and include, under subsection 1302.2 (a), specified commercial uses set forth in 11 DCMR 701.1 and 701.4, theaters (subsection 1302.2 (x)), and other listed uses, but does not include a church. Use for a "church or other place of worship" is not a permitted use in Neighborhood Commercial Districts on the ground floor because such use is not one of the listed uses; the permitted uses are limited to those enumerated in 11 DCMR 1302.2, which applies to the subject case. Accordingly, the proposed use would require the review and approval of the Board of Zoning Adjustment of a special exception as set forth in 11 DCMR 1304.1.

In order to pursue the proposed use, I suggest that the Church apply for a new Certificate of Occupancy, which I will refer to the Board of Zoning Adjustment for consideration of a Special Exception. Once the Board has decided on the Special Exception, I will be able to act on the Certificate of Occupancy application in accordance with the Board's decision.

Please let me know if this determination has addressed your inquiry.

Sincerely,



Matthew Le Grant
Acting Zoning Administrator

cc: Councilmember Mary Cheh
Linda Argo, DCRA Director