

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

RECEIVED
D.C. OFFICE OF ZONING
2009 NOV -9 PM 4: 55

KOO YUEN

Appellant,

v.

BZA Case No. 17988

DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER
AND REGULATORY AFFAIRS,

Appellee.

D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS'
OPPOSITION TO APPELLANT'S MOTION FOR SUMMARY JUDGMENT

Appellee, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), by and through undersigned counsel, files its Opposition to the Motion for Summary Judgment filed by Koo Yuen ("Appellant or Koo Yuen"). The Board of Zoning Adjustment ("Board") should deny the Appellant's Motion for Summary Judgment and uphold the Zoning Administrator's Proposed Notice to Revoke Building Permit No. B85608. (Exhibit 1). The Appellant should have obtained Board approval after the owners discontinued using the property as a gasoline service station from 1986, for over 23 years, pursuant to 11 DCMR § 706.1. Appellant intends to operate a gasoline service station at 5010 Benning Road, Southeast, Washington, D.C., in an C-1 District, Square 5340 and Lot 68 ("Property").

SUMMARY OF FACTS

Before November 17, 1965, Eli Busa, et al., filed a Special Exception application for use of the property as a gasoline service station. On November 24, 1965, the Board granted a Special Exception for 5010 Benning Road, southeast as a gasoline station in

BOARD OF ZONING ADJUSTMENT
District of Columbia
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EXHIBIT NO. 20

Board of Zoning Adjustment
District of Columbia
CASE NO. 17988
EXHIBIT NO. 20

BZA Case No. 8427. (Exhibit 2) The Board approved a gasoline station with 3 bays and 2 service islands.¹ On or about November 4, 1966, James Epps filed an application to obtain a Certificate of Occupancy (“C of O”) for use of the first floor of the building for grease and oil changes, and to operate a gasoline service station. (Exhibit 3) The 1966 C of O application reflects that the previous use of the property was unknown to Mr. Epps. On January 20, 1967, DCRA issued to James Epps a C of O for use of the property as a gasoline station in accordance with the decision rendered by the Board in BZA Order No. 8427. (Exhibit 4) On September 4, 1969 and June 16, 1970, the property changed business owners, but the use as a gasoline station remained the same. (Exhibits 5, 6, 7, 8) Subsequently, on March 26, 1978, DCRA approved C of O No. B106803 for a gasoline service station with 6 pumps. (Exhibit 9, 10) Again on April 11, 1979, the property changed business owners, but the use as a gasoline station with 6 pumps remained the same until July 29, 1982. (Exhibits 11, 12, 13)

On or before July 29, 1982, a business owner filed an application for a change of use of the first floor of the property to a Delicatessen. On July 29, 1982, DCRA approved C of O No. B129794 for use of the first floor of the building as a Delicatessen. (Exhibit 14) On April 21, 1986, Joey Suter filed an application for a C of O to change the use of the first floor to a coin operated laundry business. (Exhibit 15) The 1986 application indicated the previous use was a “Carry-out.” On April 21, 1986, the District approved the use change and issued C of O No. B145184 to Joey Suter to use the first floor of the property as a coin operated laundry. (Exhibit 16) On September 16, 1986, February 7,

¹ The Board granted a Special Exception in BZA Case No. 8427. In its 1965 Opinion, the Board held “the 3 Bay and 2 Island gasoline station would not create a dangerous or objectionable traffic conditions; the station will not create any serious increase in traffic nor become a hazard to life and limb; the operation of the gas station would be in harmony with the general purpose and intent of the zoning regulations and maps; and will not tend to affect adversely the use of the neighboring property.”

1990 and May 28, 1993, the property changed business owners, but the use as a coin operated laundry business remained the same. (Exhibits 17, 18, 19, 20, 21, 22)

On or before March 12, 2008, Koo Yuen filed a Building Permit Application, plans and plat to renovate “an *existing gas station building*, new footing where required, new roof, store front material D.P.C. and install new island with gas pumps for the operation of a gas station.” (Exhibit 23, 24). Based on the information on the Appellant’s application and plans, which reflected an *existing* gas station, DCRA approved the issuance of Building Permit No. 85608. (Exhibit 25) On or about April 30, 2009, DCRA received a complaint regarding the construction of a new gas station at the Property. In response, DCRA immediately conducted an investigation. The Zoning Administrator determined based on an inspection that there was no existing gas station at the Property and that Building Permit No. B85608 was issued in error. (Exhibit 26 – 34)

On April 30, 2009, DCRA issued a Notice to Revoke Building Permit No. B85608 because the building permit application and plans contained misrepresentation and false statements. (Exhibit 1) On June 29, 2009, Koo Yuen appealed Notice to Revoke Building Permit No. B85608 to the Board. (Exhibit 35)

STATEMENT OF DISPUTED FACTS

In this appeal, the Parties factually dispute the following: (1) Appellant was not served with Notice to Revoke Building Permit No. B85608; (2) the existing gasoline station was grandfathered in, on May 12, 1958; (3) the gasoline station is a conforming use; (4) the use changed from a gasoline station in 1986 to a delicatessen, then in 1993 to 2009 a coin operated laundry; (5) the use of the property as a gasoline station was discontinued for approximately 21 years, and therefore the use was abandoned; (6) in

1978, the business owner installed additional pumps, beyond the approval of BZA decision in BZA Case No. 8427; (7) the renovation of the building at 5010 Benning Road, southeast is for a “new” gas station and not an “existing” gasoline station; (8) the plans show an existing gasoline station with a canopy; (9) the Building Permit No. B85608 was approved based on information false and misleading information submitted to DCRA; (10) the Zoning Administrator did not err when issuing the Notice to Revoke to Appellant; (11) Board approval is required for the renovation of a new gasoline station, and (12) the installation of a canopy at the site is an enlargement of the gas station.

SUMMARY JUDGMENT STANDARD

Summary judgment requires that “no genuine issue as to any material fact” exist. Super. Ct. Civ. R. 56 (2005); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986). A “party opposing a motion for summary judgment must produce at least enough admissible evidence to make a prima facie case in support of [its position].” *Jane W. v. President and Dirs. of Georgetown College*, 863 A.2d 821, 826 (D.C. 2004) (internal citations omitted).

As movants for summary judgment, a party seeking summary judgment must “show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” SCR-Civil 56(c). The Board’s threshold inquiry is whether there are “any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party.” *Anderson*, 477 U.S. at 250 (noting that no issue for trial exists unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict in its favor).

Once a movant for summary judgment has made the required showing under the rule, the burden shifts to the opposing party to show the existence of an issue of material fact. *See, Nader v. de Toledano*, 408 A.2d 31, 48 (D.C. 1979), *cert. denied*, 444 U.S. 1078 (1980). A motion for summary judgment should be granted unless the party opposing the motion counters the factual allegations with specificity. *See, Miller v. American Coalition of Citizens*, 485 A.2d 186, 191 (D.C. 1984). The party opposing a motion for summary judgment “may not rest upon the mere allegations or denials of his pleading, but...must set forth specific facts showing that there is a genuine issue for trial.” *Id.* The non-moving party must provide evidence that would permit a reasonable jury to find in its favor. *See, Laningham v. United States Navy*, 813 F.2d 1236, 1242 (D.C. 1987).

The non-moving party must “go beyond the pleadings and by [its] own affidavits, or by the ‘depositions, answers to interrogatories, and admissions on file,’ designate ‘specific facts showing that there is a genuine issue for trial.’” *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986); *Anderson*, 477 U.S. at 249; *Big Apple BMW, Inc. v. BMW of N. Am., Inc.*, 974 F.2d 1358, 1363 (3d Cir. 1992) (“to raise a genuine issue of material fact . . . the [non-movant party] . . . must exceed the “‘mere scintilla’ threshold”), *cert. denied*, 507 U.S. 912 (1993). “Mere inferences, conjecture, speculation or suspicion are insufficient to establish a material fact upon which to base a denial of summary judgment.” *Huggins v. Teamsters Local 312*, 585 F. Supp. 148, 150-151 (D.C.Pa. 1984) (citing *Robin Const. Co. v. U.S.*, 345 F.2d 610 (3d Cir. 1965)).

Material facts are those that “might affect the outcome of the suit under the governing law.” *Anderson*, 477 U.S. at 248. In deciding whether there is a disputed

issue of material fact, the Court must view the underlying facts and draw all reasonable inferences in favor of the non-moving party. *See, Meyer v. Riegel Prods. Corp.*, 720 F.2d 303, 307 n.2 (3d. Cir. 1983), *cert. dismissed*, 465 U.S. 1091 (1984).

The movant is not required to produce evidence showing the absence of a material fact. *Jeffrey V. Robinson v. District of Columbia, et al.*, 97CV787 (RWR) Slip op. at 11 (D.D.C. March 31, 1998). Rather, “the burden on the moving party may be discharged by ‘showing’ . . . that there is an absence of evidence to support the nonmoving party’s case.” *Celotex*, 477 U.S. at 325. Although all reasonable inferences are drawn in favor of the non-movant, that party “bear[s] the burden of pointing to ‘affirmative evidence’ establishing a genuine factual dispute.” *Coward v. ADT Security Sys. Inc.*, 140 F.3d 271, 273 (D.C. 1998).

In this case as Appellant disputes the material facts, this matter cannot be adjudicated with a Motion for Summary Judgment.

ARGUMENT

1. Appellant’s right to use the Property as a gasoline station terminated when the C of O was changed by a previous owner.

In 1965, a previous owner obtained Board approval to operate a gasoline station at the Property. Appellant incorrectly argues that the Board’s decision in MLW, LLC, BZA Order No. 17591, issued in 1962, is applicable in this matter. (Exhibit 38) Like the current matter, MLW, LLC was an appeal of the Zoning Administrator’s action. But that is where the similarities end. In MLW, LLC, the property had been consistently used as a five unit apartment house for decades. Furthermore, in MLW, LLC, all C of Os issued since the Board granted the original 1962 appeal authorizing the use property to be used as a five unit apartment building, also reflected the use of “five unit apartment building.”

By contrast, the Property in the current case has been used as both a carry-out/deli and a coin-operated laundry. Additionally, C of Os issued for the Property has authorized the use as first a carry-out/deli and then a coin-operated laundry. Therefore, MLW, LLC must be distinguished from the current case. Once the owners of the Property changed the use from a gasoline station and began operations as first a carry-out/deli and then a coin-operated laundry, the Appellant's right to use the gasoline station terminated. He must seek a special exception from the Board to use the Property as a gasoline station as a result of the change of use. Accordingly, this is a material fact in dispute and Appellant's motion for summary judgment must be denied.

2. The Building Permit application and Plans contained false statements and were misleading.

The building permit application and plans submitted to DCRA on March 12, 2008 show an existing² gas station at 5010 Benning Road, southeast that requires renovation to its building. (See Statement of Facts in Dispute No. 7) It is the duty and responsibility of the applicant at the time of filing a building permit application to provide the agency with accurate information. At the time of filing this building permit application, the Applicant attested that the information provided in the application is true. In this case, the Appellant argues that the "plans show a vacant site, with an unoccupied building." However, this plan failed to represent by appropriate architectural standards a denotation that shows installation of new pumps and tanks, gas island, and other gasoline station infrastructure. The plans and the application indicated an "existing gas station." In the Appellant's motion he indicates that DCRA should have known based on the drawings and plans that there was no existing gas station at the property.

² Webster New World Dictionary, 2nd Edition, (2002), defines Exist in part as: "to have reality, being; be, occur or present, continue being."

The purpose of a building application is for the Applicant to provide DCRA with clear and concise drawings and truthful information of the current status of the property for which they are seeking a building permit. When DCRA received a complaint in March 2009, about the construction of a new gas station and an inspection was conducted, it was discovered that the site consisted of a vacant building and no existing gas station. On October 5, 2004, and January 22, 2009, photographs of the site was taken, which revealed that there was no existing gas station at 5010 Benning Road, Southeast. (Exhibits 26 to 34). Therefore, when Appellant provided DCRA with an application and plans of an existing gasoline station, it was a false statement and a clear misrepresentation of the facts.³ (See Statement of Facts in Dispute Nos. 7, 8)

DCRA relied on the information that was provided by the Appellant at the time of filing the building permit application and plans that a gasoline station existed at the property. DCRA approved the issuance of Building Permit No. B85608 based on the false statement and misrepresentation.⁴ (See Statement of Facts in Dispute No. 9) A new gasoline station requires the plan reviewer to ensure that all disciplines have conducted the required review for approval of a new gas station. The Zoning Administrator would have disapproved a new gasoline station, unless it met all the requirements on its plans and application. Therefore, the Zoning Administrator did not err when issuing the Proposed Notice to Revoke. (See Statement of Disputed fact No. 10) Appellant recanted

³ 11 DCMR 3202.6 provides in part: "All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date those orders are promulgated; provided, that all applications for building permits shall be accompanied by the plans and other information required by Section 3202.2, which shall be sufficiently complete to permit processing without substantial change or deviation.

⁴ 11 DCMR 3202.2(a)(2) provides in part: "To determine compliance with the provisions of this title, each application for a building permit shall be accompanied by any of the following that is deemed necessary: Plan, elevation, and location by dimensions of all existing and proposed structures, and the proposed use of those structures.

the gasoline station's existence at the property in its Motion for Summary Judgment. (Exhibit 37, p. 2, History of the Site, paragraph 5). The allegation that the application and plans contained false statements and misrepresentation of an existing gas station at the property is in dispute, therefore a summary judgment should not be granted.

3. The Gas Station was Enlarged

On November 24, 1965, the Board in its BZA Order No. 8427, granted a Special Exception for the Property to be used as a gas station. (Exhibit 2) The Board approved a gas station with 3 bays and 2 service islands.⁵ On January 20, 1967, James Epps received a C of O for use of the first floor of the building on the property for grease and oil changes, and gasoline service station in accordance with the decision rendered by the Board in BZA Order No. 8427. (Exhibit 4) Subsequently, on March 26, 1978, the District approved C of O No. B106803 for a gasoline service station with 6 pumps. (Exhibit) Sometime after the issuance of BZA Order No. 8427, the business owners increased the number of pumps, therefore, creating an enlargement of the gas station, without BZA approval.⁶ 11 DCMR § 3104.2. This is a material fact in dispute and Appellant's motion for summary judgment cannot be granted.

4. BZA Order No. 8427 dated November 24, 1965 did not approve a canopy, as an accessory use.

A canopy is an accessory use to the gas station pursuant to 11 DCMR § 2500.2(b). On November 24, 1965, the BZA Order did not approve a canopy. (See Statement of Disputed Fact No. 8) That order authorized DCRA to approve a building

⁵ The Board granted a Special Exception in BZA Order No. 8427. In its 1965 Opinion, the Board determined that: the 3 Bay and 2 Island gasoline station would not create a dangerous or objectionable traffic conditions; the station will not create any serious increase in traffic nor become a hazard to life and limb; the operation of the gas station would be in harmony with the general purpose and intent of the zoning regulations and maps; and will not tend to affect adversely the use of the neighboring property.

⁶ 11 DCMR 3104.2 provides in part: "In the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the Board."

permit, specifically for a gasoline station with 3 bays and 2 service islands. The current 2008 site plans have a canopy and is different than what was approved by the Board in 1967. This accessory use requires BZA approval.⁷ (See, Statement of Disputed Fact No. 12) This too is a material fact in dispute which prevents granting the Appellant's motion for summary judgment.

5. **The Proposed Notice to Revoke Building Permit No. B85608 was served on the owner.**

On April 30, 2009, the Proposed Notice to Revoke Building Permit No. B85608 was served on Koo Yuen, the Owner, via Certified Mail and U.S. first-class mail to 4225 Connecticut Avenue, N.W., Washington, D.C. 20008-1159. (12A DCMR §105.6.3(3)) (Exhibit 36) The notice was also mailed to Leonard & Stephanie Carroll, the Agents for Mr. Yuen, at 820 Kentucky Avenue, Southeast, Washington, D.C. 20019-5838 pursuant to 12A DCMR § 105.6.3(2). (Exhibit 36) This statement is a disputed fact. See, Statement of Disputed Fact No. 1. The notice sent via regular mail was not returned to DCRA. Hence, the presumption is that the owner and his agent received the notice. The notice sent Certified Mail- Receipt to Mr. Koo Yuen was not returned, however, the notice sent Certified Mail-Receipt to Mr. Leonard and Stephanie Carroll, the Agents was returned unclaimed. Further, the Appellant indicated in his argument, page 1, Procedural History, paragraph 1, that the Zoning Administrator notified the Appellant by letter dated April 30, 2009 of his intent to revoke the Building Permit No. B85608, which is the appeal pending before this Board. (Exhibit 37). Service of the notice is a material disputed fact for which the Summary Judgment should not be granted.

⁷ 11 DCMR 3104.2 provides in part: "In the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the Board"

WHEREFORE, for all of the foregoing reasons, the Appellant has failed to meet its burden and the Appellant's Motion for Summary Judgment should be denied.

Respectfully submitted,

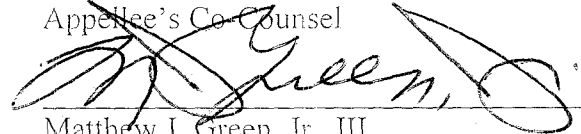
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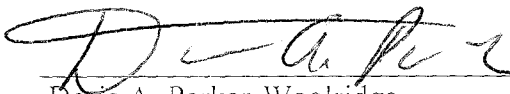
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CERTIFICATE OF SERVICE

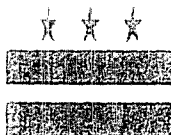
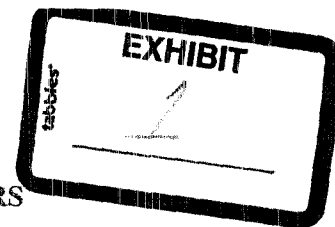
I hereby certify that on November 9, 2009, a copy of the District's Opposition to the Appellants's Motion for Summary Judgment was sent electronically to tfd@erols.com and postage pre-paid to:

Thomas F. DeCaro, Jr.
DeCaro & Howell PC
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5001 Hanna Pl., S.E.
Washington, D.C. 20019


Doris A. Parker-Woolridge

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



April 30, 2009

VIA CERTIFIED MAIL;
U.S. FIRST CLASS MAIL

Koo Yuen, Owner
4225 Connecticut Ave., N.W.
Washington, D.C. 20008-1159

Leonard & Stephanie Carroll, Agents
820 Kentucky Ave., S.E.
Washington, D.C. 20019-5838

Dear Mr. Yuen:

NOTICE OF INTENT TO REVOKE BUILDING PERMIT #B85608

This is official notice from the Department of Consumer and Regulatory Affairs ("DCRA"), that Building Permit ("Permit") #B85608 for 5010 Benning Rd., S.E., Washington, D.C., 20019-5838, ("Property") is revoked ten (10) days after service of this notice. This action is taken pursuant to District of Columbia Municipal Regulations ("DCMR") Title 11 § 3202.1, Title 12A § 105.6.2, and D.C. Official Code Title 6 § 641.10, which authorizes revocation of a Building Permit for failure to comply with D.C. laws.

On May 28, 1993, Certificate of Occupancy No. B165654 was issued to Koo Yuen ("Applicant") for the approved use of the property as a "coin operated laundromat". On March 12, 2008, the Permit was issued to the Applicant for the approved "renovation of an existing gas station building, a new footing where required, a new roof, a store front material, D.P.C. and installation of a new island with gas pumps." The Permit should not have been issued because new gasoline service stations require the Board of Zoning Adjustment to grant a special exception to the zoning regulations. Specifically, 11 DCMR § 706.1 provides that "a gasoline service station established or enlarged after May 12, 1958, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment."

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Here, the facts indicate that Certificate of Occupancy No. B165654 was issued for a coin operated laundromat at the Property. The record further revealed that no change in the original business operations has been noted since issuance of the Certificate of Occupancy. However, the building permit application reflected an "existing gas station building" implying that the authorized current and ongoing use of the Property was a gas station. The Permit was therefore issued in error as the Board of Zoning Adjustment had not granted a special exception for the change of use from a coin operated laundromat to a gas station. Consequently, the Permit should be revoked, as it was granted based on a misrepresentation of facts or a false statement in the application and plans on which the approval of the Permit was based in violation of 11 DCMR § 706.1.

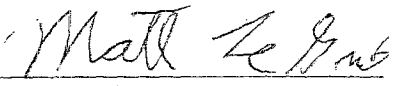
If you continue to engage in construction at the Property with the aforementioned Permit, you risk criminal and/or civil prosecution in accordance with the laws of this jurisdiction.

RIGHT TO APPEAL

You have the right to appeal this decision to the Board of Zoning Adjustment within sixty (60) days of receipt of this notice. 12A DCMR § 105.6.1.1. Complete filing instructions may be found at 11 DCMR § 3112. Filing an appeal of this revocation does not automatically stay the execution of the revocation.

Any questions about this Notice may be directed to the Office of the Zoning Administrator at (202) 442-4576.

Date: April 30, 2009


Matt LeGrant
Zoning Administrator

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING. -Nov. 17, 1965

Appeal #8427 Eli Busada, et ux appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Messrs. McIntosh and Hatton dissenting, the following Order was entered on November 24, 1965:

ORDERED:

That the appeal to establish a gasoline service station adjoining 5008 Benning Road, N.E., lot 68, square 5340, be granted.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's lot, which has a frontage of 129.99 feet on Benning Road and a depth of 125.05 feet is located in the C-1 District and contains an area in excess of 16,250 square feet.

(2) The site in question is located approximately 118 feet south of the intersection of H Street and Benning Road being between two stores.

(3) Appellant proposes to erect a three bay gasoline station with two service islands. He will provide a 25 foot wide approach and a 15 foot common access .

(4) The Department of Highways and Traffic offers no objection to the granting of this appeal stating that past usage of the existing driveways by store in the area provide sufficient indication that the establishment of this service station should not have an adverse effect on traffic.

(5) There was opposition to the granting of this appeal registered at the public hearing. The Benning Ridge Civic Association contends that the gasoline station would increase traffic, the non-existence of a pedestrian controlled light at the intersection makes the possibility of vehicle travel as well as pedestrian safety a problem; that the station would create additional neighborhood disturbances; that it would endanger children and adults and that there are sufficient stations in this area.

OPINION:

We are of the opinion that the establishment of this gasoline service station at this location will not create dangerous or other objectionable traffic conditions. We are further of the opinion that the contention of the objectors is not substantiated by the facts, the Board being of the opinion that this station will not create any serious increase in traffic nor become a hazard to life and limb.

In view of the above it is our further opinion that the granting of this exception will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said zoning regulations and maps.

on L.P. 101-A
January 1964
2-1045

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF LICENSES AND PERMITS
PERMIT BRANCH

EXHIBIT

3

NOV 4 1966

PERMIT BRANCH

APPLICATION FOR CERTIFICATE OF OCCUPANCY
(WRITE WITH TYPEWRITER OR INK)

Do NOT use this form if Certificate is to be issued for Hotel, Flat or Apartment, Rooming, Boarding or Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Use.

Date November 4, 1966

To THE DIRECTOR OF INSPECTION:

The applicant(s) request the issuance of a Certificate of Occupancy for the use of the premises described below, and agree to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business James Epps
(See instruction on reverse side) (PRINT) (FIRST) (MIDDLE) (LAST)

Trade Name of Business Epps Texaco
(See instruction on reverse side) (PRINT) (This trade name must be identical with that shown in application for business license)

Description of Premises for which Certificate is Requested

Address 5010 Benning Road NE Lot 68 Square 5340
(of building to be occupied)

Name and address of owner of building 4411 Southern Ave. SE

To the best of your knowledge is the building now being condemned? NO

Material of building Brick No. of Stories High ONE Basement? No

Proposed use Service Station

How many floor(s) will be occupied for above use First

Previous use N/A

If previous use was residential, how many living unit are being abandoned?

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk
Use District C-1
Height District 11-4-66
Area District
Transcript of No.
E. D. No.
B. Z. A. No.
Bldg. Permit No.
Previous use
Name of Clerk

IF OWNER OF BUSINESS SIGNS:
Signature of Owner James Epps
(in ink)
Home Address 4730 Southern Ave. SE Tel. No. 984-8167

IF AUTHORIZED AGENT FOR OWNER/OF BUSINESS SIGNS:
Name of Agent
Address of Agent
Name of Owner(s) of Business
Signature of Agent
(in ink)

APPROVED:
F.B.
Bldg. Insp.
Elec.
1-19-67

RESERVED FOR APPROVALS
Date
Date
Date
Date
Approved for Mayor of District
1-19-67

Permit No. B-57922
Issued 1-20-67

SECRETARY
TREASURER

PRESIDENT
VICE-PRESIDENT

PROSPECTIVE PURCHASER: This application will not be approved and Certificate issued until all inspections have been made and inspection agencies have certified compliance.

CERTIFICATE OF OCCUPANCY

No. **D 58922**Washington, D.C., JAN. 20TH, 19 67Permission is hereby granted to JAMES EPPSto use the FIRST floor(s) of the building located on lot 64 Square 2300known as premises 5010 BENNING ROAD, N.E. for the followingpurpose(s): GASOLINE STATION

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF LICENSES & INSPECTIONS, GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE C-1FEE \$ 12.00

Chief, Permit Branch

Nancy Savage
Permit Clerk



Form 112-101 A
January 1961 A C P
Rev. 2-15-57

NO HOLD NOTICE
AGAINST PROPERTY

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF LICENSES AND INSPECTIONS
LICENSE AND PERMIT DIVISION
PERMIT BRANCH
WASHINGTON, D. C. 20004

APPLICATION FOR CERTIFICATE OF OCCUPANCY--COMMERCIAL
(WRITE WITH TYPEWRITER OR INK)

Do NOT use this form if Certificate is to be issued for Hotel, Flat or Apartment Building, Boarding or Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Use.

Date 7-4-62

To THE DIRECTOR OF INSPECTIONS:

The applicant(s) request the issuance of a Certificate of Occupancy for the use of the premises described below, and agree to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business LIOU P S Y T O V T H O N
(See instruction on reverse side) (PRINT) (FIRST) (MIDDLE) (LAST)

Trade Name of Business T O I S O N S T E X H C O
(See instruction on reverse side) (PRINT) This trade name must be identical with that shown in application for business license

Description of Premises for which Certificate is Requested

Address 5010 Benning Road S W Lot 64 Square 5340
(of building to be occupied)

Name and address of owner of building Elmer T Bundy 912 1st St NW 3800 - Pickett

To the best of your knowledge is the building now being condemned? No

Material of building Concrete No. of Stories High 14, Basement? 0

Proposed use Grease & oil changer Gasoline station

Which Floor(s) will be occupied for above use 1st floor

Previous use Grease & oil changer & Gasoline station

If previous use was residential, how many living unit are being abandoned? 2

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk

Use District C-1

Height District 9-3-69

Area District T-7

Transcript of No

E. D. No.

B. Z. A. No.

Bldg. Permit No

Previous use Gas station

lot 11 No. A-37922

Name of Clerk R. J.

IF OWNER OF BUSINESS SIGNS:

Signature of Owner George P. T. Olson

(in ink)

Home Address 730 H. H. St. Tel. No. 581-8437

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent

Address of Agent

Name of Owner

of Business

Signature of Agent

(in ink)

APPROVED:

RESERVED FOR APPROVALS

F.S.

Bldg.

Plbg.

Elec.

Date

Date

Date

Date

APPROVED FOR ISSUANCE OF PERMIT

Date 7-4-62

Date 7-4-62

Date 7-4-62

NOTICE TO PROSPECTIVE PURCHASER:
Your application will not be approved and Certificate issued until all inspections have been made and inspection agencies have certified compliance with all applicable laws and regulations.

5961 SEP 5 1962

Washington, D.C., SEPT. 4TH 1962

Permission is hereby granted to LLOYD REYTON YOLSON
 to use the FIRST floor(s) of the building located on Lot 38-66 Square 6340
 known as premises 5010 BENNING ROAD, S.E. for the following
 purpose(s): GASOLINE STATION

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
 AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
 ONLY for the premises, or part thereof, and for the purpose(s), indicated
 above, and IS NOT TRANSFERABLE to another person or premises under ANY
 conditions. ANY CHANGE in the type of business, ownership of business, or
 part of premises used therefor, will render this Certificate VOID and a NEW
 Certificate must be obtained.

BUR. OF LICENSES & INSPECTIONS, GOVT. OF DIST. OF COL.
 DEPT. OF ECONOMIC DEVELOPMENT

TONE C-1

FEE \$ 12.00

Chief, Permit Branch

Mary Savage
 Permit Clerk

OFFICE COPY

SEE IMPORTANT NOTICE ON REVERSE SIDE HEREOF

EXHIBIT

tabbies

APPLICATION MUST BE ACCOMPANIED BY CHECK OR MONEY ORDER IN THE AMOUNT OF \$12.00 PAYABLE TO "D. C. TREASURER"

EXHIBIT

7

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF ECONOMIC DEVELOPMENT
BUREAU OF LICENSES AND INSPECTIONS
LICENSE AND PERMIT DIVISION
PERMIT BRANCH

APPLICATION FOR CERTIFICATE OF OCCUPANCY - COMMERCIAL
(WRITE WITH TYPE WRITER OR INK)

DO NOT use this form if Certificate is to be issued for Hotel, Flat or Apartment, Rooming, Boarding or Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Use.

JUN 16 1970

NO HOLD NOTICE
AGAINST PROPERTY

Date 6-16-70

To the Director of Inspection

The applicant(s) request the issuance of a Certificate of Occupancy for the use of the premises described below, and agree to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application, and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business LLOYD PETERSON TOLSON
(PRINT) (FIRST) (MIDDLE) (LAST)

Trade Name of Business TOISON'S TEXACO
(PRINT) (If trade name must be identical with that shown in application for business license)

Description of Premises for which Certificate is Requested

Address 5010- Benny Road S.E. Lot 58 Square 5344
(of building to be occupied)

Name and address of owner of building Elan + Bundy D. Tolson 3800 Park Rd

To the best of your knowledge is the building now being condemned? No

Material of building Cinderblock No. of Stories High 1 Basement? No

Proposed use Greene + oil change Gasoline station

Which Floor(s) will be occupied for above use 1 floor

Previous use Greene oil change + Gasoline station

If previous use was residential, how many living unit are being abandoned?

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk

Use District C-1
Height District 1
Area District 1
Transcript of No. 1
E. D. No. 1
B. Z. A. No. 1
Bldg. Permit No. 1
Previous use 1
Name of Clerk 1

IF OWNER OF BUSINESS SIGNS:

Signature of Owner Lloyd P. Tolson
(in ink)
Home Address 730-11th St N.E. Tel. No. 581-8437

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent 1
Address of Agent 1 Tel. No. 1
Name of Owner(s) of Business 1
(as shown above)
Signature of Agent 1
(in ink)

APPROVED:

RESERVED FOR APPROVALS

F.S. _____
Bldg. _____
Plbg. _____
Elec. _____

Date _____
Date _____
Date _____
Date _____

APPROVED FOR ISSUANCE OF PERMIT

1
Date 6-16-70
(By Approval Clerk)

16 JUN 1970
COMPLIES WITH REQUIREMENTS OF ZONING REGULATIONS

NOTICE TO PROSPECTIVE PURCHASER:
Your application will not be approved and Certificate issued until all inspections have been made and inspection agencies have certified compliance.

Permit No. 24639
Issued 6-16-70

SECRETARY
TREASURER

PRESIDENT
VICE-PRESIDENT

CERTIFICATE OF OCCUPANCY

No. **B 74639**Washington, D.C., **JUNE 16**, 19**70**

EXHIBIT

8

Permission is hereby granted to **LLOYD PEYTON TOLSON**to use the **FIRST** floor(s) of the building located on Lot **88 66** Square **5240**known as premises **5010 BENNING ROAD S.E.** for the followingpurpose(s): **GASOLINE STATION**

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

BUR. OF LIC. & INSPECTIONS, GOVT. OF DIST. OF COL.
DEPT. OF ECONOMIC DEVELOPMENT

OFFICE COPY

ZONE **C-1**

(DUPLICATE)

FEE \$ **X 2.00**

Chief, Permit Branch

By

Permit Clerk

EXHIBIT

9, 10

NO HOLD-NOTICE AGAINST PROPERTY

LDP 1000
Rev. 11-12-76

W. M. A. T. A.-O.

MAR 26 1978

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF LICENSES AND PERMITS
PERMIT BRANCHAPPROVED
E. R. SMITH

MAR 24 1978

It is unlawful to operate before a license is actually issued and to

APPLICATION FOR CERTIFICATE OF OCCUPANCY—COMMERCIAL
(WRITE WITH TYPEWRITER OR INK)

ENVIRONMENTAL SERVICES

Do NOT use this form if Certificate is to be issued for Hotel, Flat or Apartment, Rooming, Boarding or Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Use.

THIS OCCUPANCY ENCOMPASSES

700 SQUARE FEET

FEE \$20.00

Eng. Initials [Signature]

Date

3-28-78

To THE DIRECTOR OF INSPECTION:

The applicant(s) request the issuance of a Certificate of Occupancy for the use of the premises described below, and agree to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business [Signature]

(See instructions on reverse side)

(PRINT)

(FIRST)

(MIDDLE)

(LAST)

Trade Name of Business [Signature]

(See instructions on reverse side)

(PRINT)

(This trade name must be identical with that shown in application for business license)

Description of Premises for which Certificate is Requested

Address 5010 Pennings Road S.W. Tot 68 Square 5340

(of building to be occupied)

Name and address of owner of building E.L. [Signature] 4911 Southern Ave.

To the best of your knowledge is the building now being condemned? No

Material of building Brick & stone No. of Stories High 1 Basement 1 No

Proposed use Service Station (Gasoline Station)

6 Pumps in underground

Which Floor(s) will be occupied for above use

Previous use Service Station Gasoline Station

If previous use was residential, how many living unit are being abandoned?

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk

Use District C-1

Bright District 3-25-78

Area District 3-25-78

Transcript of No.

E. D. No.

B. Z. A. No.

Bldg. Permit No.

Previous use [Signature]

[Signature]

[Signature]

Name of Clerk [Signature]

IF OWNER OF BUSINESS SIGNS:

Signature of Owner [Signature]

(in ink)

Home Address [Signature] Tel. No. 292-6479

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent

Address of Agent

Tel. No.

Name of Owner(s)
of BusinessSignature of Agent
(in ink)

(See instructions above)

APPROVED:

RESERVED FOR APPROVALS

F.S.

Bldg.

Plbg.

Elec.

Date

Date

Date

Date

APPROVED FOR ISSUANCE OF PERMIT

(By Approval Clerk)

NOTICE TO PROSPECTIVE PURCHASER

Your application will not be approved and Certificate issued until inspections have been made and inspection agency have certified compliance with applicable laws and regulations.

BUILDING WITH REQUIREMENTS OF DISTRICT OF COLUMBIA REGULATIONS

Permit No. 13-166-803-2-98
Issued 4/1/78SECRETARY
TREASURERPRESIDENT
VICE-PRESIDENT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF LICENSING, INVESTIGATIONS, AND INSPECTIONS
OFFICE OF LICENSES AND PERMITS
PERMIT BRANCH

EXHIBIT

Duplicate

- 3106803

CB

APPLICATION FOR CERTIFICATE OF OCCUPANCY COMMERCIAL
(WRITE WITH TYPEWRITER OR INK)

Do NOT fill out this form if Certificate is to be issued for Hotel, Flat or Apartment, Rooming, Boarding, Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Building.

THIS OCCUPANCY ENCOMPASSES
SQUARE FEET

FEE 5.00 Eng Initials

Date April 11, 1979

To: THE DIRECTOR OF INSPECTIONS:

The applicant(s) request the issuance of a Certificate of Occupancy for the use of the premises described below, and agree to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business Maurice LeRoy Hottel
(PRINT) (FIRST) (MIDDLE) (LAST)

Trade Name of Business Hottel's Terrace
(PRINT) (This trade name must be identical with that shown in application for business license)

Description of Premises for which Certificate is Requested

Address 5010 Benning Road S.E. Lot 6814 Square 5340
(of building to be occupied)

Name and address of owner of building Eli Busaba 4411 Southern Ave S.E.

To the best of your knowledge is the building now being condemned? No

Material of building Brick & Sheet Metal No. of Stories High 1 Basement? No

Proposed use Sewer Station
6 Pumps

Which Floor(s) will be occupied for above use? Ground Floor

Previous use Sewer Station

If previous use was residential, how many living unit are being abandoned?

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk

Ex District
Height District
Area District
Transcript of No
E D No
B Z A No
Bldg Permit No
Previous use
No
Name of Clerk

IF OWNER OF BUSINESS SIGNS:

Signature of Owner Maurice LeRoy Hottel
(in ink)
Home Address 12203 Duke Rd Tel. No. 242-4520

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent
Address of Agent Tel. No.
Name of Owner(s) of Business
(as shown above)
Signature of Agent
(in ink)

APPROVED:

RESERVED FOR APPROVALS

APPROVED FOR ISSUANCE OF PERMIT

Date 4-11-79
(Bldg Approval Clerk)

F.S.
Bldg.
Plbg.
Elec.

Date
Date
Date
Date

SECRETARY
TREASURER

PRESIDENT
VICE-PRESIDENT

NOTICE TO PROSECUTIVE AGENCIES: This Certificate has not been approved and Certificate issued until all inspections have been made and inspection agencies have verified compliance.

Permit No. 3113810-03-006
Issued April 11, 1979
4045
4/11/79

CERTIFICATE OF OCCUPANCY

No. **0113810**

Washington, D.C., **April 11,** 19 **79**

Permission is hereby granted to **Maurice LeRoy Huff**
to use the **Ground floor** floor(s) of the building located on Lot **-68 66** Square **5340**
known as premises **5010 Banning Rd. SE** for the following
purpose(s): **Service Station (6 Pumps)**

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained.

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT. OF DIST. OF COL.
OFFICE COPY.

Duplicate

ZONE

FEE \$ **5.00**

C-1

Chief, Permit Branch

Permit Clerk

EXHIBIT

tabbies

12

CERTIFICATE OF OCCUPANCY

No. B106803

Washington, D.C.

MARCH 28, 1978

Permission is hereby granted to HAIRICE LEROY HUFF
to use the ground floor floor(s) of the building located on Lot 68 Square 5340
known as premises 5/20 BENNING ROAD, SE for the following
purpose(s): GASOLINE STATION & pumps

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE

C-1

FEE \$ 20.00

By Deborah Lyons Chief, Permit Branch
Permit Clerk

EXHIBIT

tabbles

13

CERTIFICATE OF OCCUPANCY

No. **B129794**

Washington, D.C., June 29, 19 82

Permission is hereby granted to RALPH TERRY PALMER
to use the 1st floor(s) of the building located on Lot 68 Square 5340
known as premises 5010 Benning Rd. S.E. for the following
purpose(s). Delicatessen—no seating.

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained

ZONE

C/1

FEE \$

27.00

[Signature]
Chief, Permit Branch

Permit Clerk

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT OF DIST OF COL

OFFICE COPY

EXHIBIT

tabbies

14



(PRINT OR TYPE WITH BLACK INK ONLY — DO NOT WRITE IN SHADED AREAS)

 GOVERNMENT OF THE DISTRICT OF COLUMBIA
 Department of Consumer and Regulatory Affairs
 APPLICATION FOR CERTIFICATE OF OCCUPANCY

 CRA-5
 Rev. 8/20/83

(22) Receipt #

(23) Treas. #

Date April 21, 1986

 16325
 4467 x 043

 INFORMATION
 ON PROPOSED
 BUSINESS

 (1) Address of Business 5010 Benning Rd SE Suite/Room #
 (2) Telephone No. of Business 5410181 Lot 168 Square 5340
 (3) Trade Name of Business 24 Hr Coin Operated Laundry
 (4) Is Business Incorporated? ☒ No ☐ Yes (Attach Letter of Good Standing and complete Line 5)
 (5) President Joey Suter Vice President Secretary/Treasurer
 (6) Is Business a Partnership? ☐ No ☐ Yes
 (7) Business Owner Joey Suter
 (8) Business Owner's Home Address 936 Clavis Ave NE, Wash DC Tel. No. (days)
 Zip Code

 INFORMATION
 ON
 OCCUPANCY

 (9) ☐ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☒ Use Change ☐ Load Change BZA No.
 (10) Proposed Use of Business Coin Operated Laundry
 (11) Is Business Sexually Oriented According to D.C. Zoning Regulations? ☒ No ☐ Yes
 (12) Proposed Occupancy Load N/A Square Feet Occupied 1500
 (13) Which Floors to be Occupied 1st Basement? NO
 (14) Prior Use Coin Staircase

 INFORMATION
 ON ENTIRE
 BUILDING

 (15) Building Owner Joey Suter Tel. No. (days) 5820181
 (16) Building Owner's Address 936 Clavis Ave NE 5010 Benning Rd SE Zip Code
 (17) Materials of Building Stone Aluminum S
 (18) Square Feet Occupied 1500 No. of Floors 1 Basement? NO

 ATTESTATION
 AND
 SIGNATURE

 I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.
 (19) IF OWNER OF BUSINESS Signature Date
 IF AUTHORIZED AGENT FOR OWNER OF BUSINESS (Attach Authorization)
 (20) Name of Agent Roderick C. Willis Signature Date April 21, 1986
 (21) Address of Agent 524 9th St SE Wash DC Zip Code 20003

OFFICE USE ONLY

 INFORMATION
 DESK

 (24) Premises Condemned ☒ No ☐ Yes Cleared By Date
 (25) Building in RLA Zone ☐ No ☐ Yes Cleared By Date
 (26) Residential ☐ No ☐ Yes Smoke Det. Info. Given By Date

 LICENSE
 BRANCH

 (27) Licenses Required Coin Operator (Laundry) license required
 (28) Reviewed By J. Spencer Date 4/21/86

 ZONING
 OFFICE

 (29) Zone C-1 BZA No.
 (30) Prior Use Coin op
 (31) Certificate # Date Issued BZA No. ☒ Approved ☐ Disapproved
 (32) Accepted for Filing by Date 4/21/86

 EXAMINER'S
 USE

 (33) Prior Use Code C-10 Proposed Use Code E-15
 (34) Use Change ☐ No ☒ Yes Inspect. Required ☐ No ☒ Yes By Date 4/21/86
 (35) Inspection Fee \$ Issuance Fee \$ 27.00
 (36) Approved for Issuance by Date 4/21/86

 INSPECTION
 BRANCH

 (37) Date of Scheduled C/O Inspections AM/PM
 (38) Inspection Status Approved ☐ Disapproved ☐ By Branch Date
 (39) Inspector's Signature Printed Name
 (40) Reason for Disapproval

 OCCUPANCY
 PERSONNEL

 (41) ☐ Approved ☐ Denied ☐ Cancelled
 By
 (42) Reason for Cancellation/Denial
 (43) Certificate of Occupancy No. B14-3184/40774019 Date of Issuance 4/21/86
 (44) Bldg. 4/21/86 Elec. 4/21/86 Plumb. 4/21/86 Fire 4/21/86 Zoning

EXHIBIT

16

Form LI-P-601
(Rev. 2/82)

CERTIFICATE OF OCCUPANCY

No. B145184

Washington, D.C., 4/21/86, 19

Permission is hereby granted to

JOEY SUTER

to use the FIRST FLOOR floor(s) of the building located on Lot 68 Square 5340

known as premises 5010 BENNING RD., S.E. for the following

purpose(s):

COIN-OPERATED LAUNDRY
(NOT SEXUALLY ORIENTED)

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C-1

FEE \$ 27.00

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOV'T. OF DIST. OF COL.

LICENSE BRANCH COPY

Chief, Permit Branch

By

Permit Clerk



Form LII-P-601
(Rev 2/82)

CERTIFICATE OF OCCUPANCY

No. B146638

Washington, D.C., 9/16, 19 86

Permission is hereby granted to B.B.B. INVESTMENT, INC.

to use the first floor(s) of the building located on Lot 68 Square 5340

known as premises 5010 Penning Rd., S.E. for the following

purpose(s): Coin Operated Laundry.

(Not sexually oriented)

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained.

ZONE

C1 FEE \$ 27.00

Chief, Permit Branch

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOV'T. OF DIST. OF COL.

LICENSE BRANCH COPY



(PRINT OR TYPE WITH BLACK INK ONLY — DO NOT WRITE IN SHADED AREAS.)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

APPLICATION FOR CERTIFICATE OF OCCUPANCY

CRA-5
Rev. 8/20/83

(22) Receipt #

(23) Treas. #

Date 9/16/86

EXHIBIT

18

INFORMATION
ON PROPOSED
BUSINESS

- (1) Address of Business 5010 BENNING RD SE Suite/Room # _____
(2) Telephone No. of Business 582-6618 Lot 68 Square 5346
(3) Trade Name of Business 24hr BBB Investment Inc. / 24hr Wash n' Dry
(4) Is Business Incorporated? ☒ No ☐ Yes (Attach Letter of Good Standing and complete Line 5)
(5) President Joseph B. Sulevick Vice President Grayson C. Duvall Secretary/Treasurer William Sulevick
(6) Is Business a Partnership? ☐ No ☐ Yes
(7) Business Owner BBB Investment Inc Tel. No. (days) 582-6618
(8) Business Owner's Home Address 5010 Benning Rd SE Tel. No. (days) _____
Zip Code 20015
(9) ☒ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☐ Use Change ☐ Load Change BZA No. _____
(10) Proposed Use of Business COIN OPERATED LAUNDRY

INFORMATION
ON
OCCUPANCY

- (11) Is Business Sexually Oriented According to D.C. Zoning Regulations? ☒ No ☐ Yes
(12) Proposed Occupancy Load N/A Square Feet Occupied 1500
(13) Which Floors to be Occupied 1st Basement? N/A
(14) Prior Use GAS STATION

INFORMATION
ON ENTIRE
BUILDING

- (15) Building Owner William & Theresa Sulevick Tel. No. (days) 582-6618
(16) Building Owner's Address 7044 Parsimmon Trl Rd Zip Code 20817
(17) Materials of Building Stone Aluminum
(18) Square Feet Occupied 1500 No. of Floors 1 Basement? NO

ATTESTATION
AND
SIGNATURE

- I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.
(19) IF OWNER OF BUSINESS Grayson C. Duvall Signature _____ Date 9/16/86
IF AUTHORIZED AGENT FOR OWNER OF BUSINESS (Attach Authorization)
(20) Name of Agent Grayson C. Duvall Signature _____ Date 9/16/86
PRINT CLEARLY
(21) Address of Agent 5010 Benning Rd SE Zip Code 20015

OFFICE USE ONLY

INFORMATION
DESK

- (24) Premises Condemned ☒ No ☐ Yes Cleared By _____ Date 9/16/86
(25) Building in RLA Zone ☒ No ☐ Yes Cleared By _____ Date 9/16/86
(26) Residential ☒ No ☐ Yes Smoke Det. Info. Given By _____ Date 9/16/86

LICENSE
BRANCH

- (27) Licenses Required Powdered Laundry Bus. Lic. Reg.
(28) Reviewed By Shirley S. Morgan Date 9/16/86

ZONING
OFFICE

- (29) Zone C-1 BZA No. _____
(30) Prior Use coin operated Laundry - 1st floor
(31) Certificate # B145184 Date Issued 4/21/86 BZA No. _____ ☒ Approved ☐ Disapproved
(32) Accepted for Filing by Grayson C. Duvall Date 9/16/86

EXAMINER'S
USE

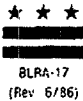
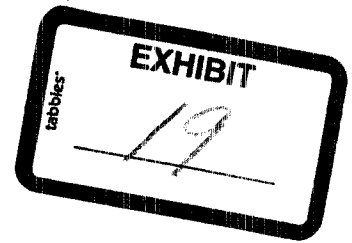
- (33) Prior Use Code E15 Proposed Use Code E15
(34) Use Change ☒ No ☐ Yes Inspect. Required ☒ No ☐ Yes By Grayson C. Duvall Date 9/16/86
(35) Inspection Fee \$ _____ Issuance Fee \$ 27.00
(36) Approved for Issuance by Grayson C. Duvall Date 9/16/86

INSPECTION
BRANCH

- (37) Date of Scheduled C/O Inspections _____ A.M.
(38) Inspection Status Approved ☐ Disapproved ☐ By _____ Branch _____ Date _____
(39) Inspector's Signature _____ Printed Name _____
(40) Reason for Disapproval _____

OCCUPANCY
PERSONNEL

- (41) ☐ Approved ☐ Denied ☐ Cancelled
By _____
(42) Reason for Cancellation/Denial _____
(43) Certificate of Occupancy No. B1466389109 Date of Issuance 9/16/86
(44) Bldg. _____ Elec. _____ Plumb. _____ Fire _____ Zoning _____



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

No. B 158261

CERTIFICATE OF OCCUPANCY

020790
(date)

Permission is hereby granted to Cordon Inc.
to use suite(s) _____ on the First floor(s)
of the building located on lot(s) 68 square 5340
known as premises 5010 Benning Rd. S.E. for the following
purpose(s) Coin Operated Laundromat
Not Sexually Oriented [su]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY
for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT
TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE
in the type of business, ownership of business, or part of premises used therefor, will
render this Certificate VOID and a NEW Certificate must be obtained.

ZONE : FEE \$ 27.00

C-1
Donald G. Murray, Director

By [Signature]
Designee

86-P-3801 wd112

OFFICE COPY



(PRINT OR TYPE WITH BLACK INK ONLY — DO NOT WRITE IN SHADED AREAS)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 2-7-90

CRAS MARK OUTS & WHITE OUTS NOT ACCEPTED

(22) Receipt # 33962
(23) Treas. # 14738026

INFORMATION
ON PROPOSED
BUSINESS

(1) Address of Business 5010 BLANCK RD. S.E. Suite/Room # N/A
(2) Telephone No. of Business 582-6618 Lot 68 Square 5340
(3) Trade Name of Business 24HR WASH AND DRY
(4) Is Business Incorporated? ☐ No ☒ Yes (Attach Letter of Good Standing and complete Line 5)
(5) President Donald Morgan Vice President Don Smith Secretary/Treasurer Ken Smith
(6) Is Business a Partnership? ☐ No ☒ Yes
(7) Business Owner (DONALD MORGAN) CORDON, Inc
(8) Business Owner's Home Address 2049 Park Pl S.E. Wash D.C. Tel. No. (days) 369-6728 Zip Code 20020

INFORMATION
ON
OCCUPANCY

(9) ☒ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☐ Use Change ☐ Load Change BZA No. ☐
(10) Proposed Use of Business COIN operated laundromat
(11) Is Business Sexually Oriented According to D.C. Zoning Regulations? ☒ No ☐ Yes
(12) Proposed Occupancy Load N/A Square Feet Occupied 2500
(13) Which Floors to be Occupied 1st floor Basement? None
(14) Prior Use Laundromat

INFORMATION
ON ENTIRE
BUILDING

(15) Building Owner Billy Suter Tel. No. (days) 369-6728
(16) Building Owner's Address 4801 MASS. AVE N.W. Zip Code 20004
(17) Materials of Building Brick
(18) Square Feet Occupied 2500 No. of Floors 1 Basement? None

ATTESTATION
AND
SIGNATURE

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.
(19) IF OWNER OF BUSINESS Donald Morgan Signature 2-1-90 Date
IF AUTHORIZED AGENT FOR OWNER OF BUSINESS (Attach Authorization)
(20) Name of Agent DONALD MORGAN Signature 2-1-90 Date
(21) Address of Agent 2049 Park Pl S.E. Zip Code 20020

OFFICE USE ONLY

INFORMATION
DESK

(24) Premises Condemned ☐ No ☒ Yes Cleared By 2/7/90 Date
(25) Building in RIA Zone ☐ No ☒ Yes Cleared By 2/7/90 Date
(26) Residential ☐ No ☒ Yes Smoke Det. Info. Given By 2/7/90 Date
(27) Licenses Required Laundromat
(28) Reviewed By 2/7/90 Date

LICENSE
BRANCH

ZONING
OFFICE

(29) Zone C-1 BZA No. 801
(30) Prior Use COIN operated laundry
(31) Certificate # B146638 Date Issued 9/16/86 BZA No. 801 ☒ Approved ☐ Disapproved
(32) Accepted for Filing by 2/7/90 Date

EXAMINER'S
USE

(33) Prior Use Code 8 Proposed Use Code 8
(34) Use Change ☐ No ☒ Yes Inspect. Required ☐ No ☒ Yes By 2/7/90 Date
(35) Inspection Fee \$ 27.00 Issuance Fee \$ 27.00
(36) Approved for Issuance by 2/7/90 Date

INSPECTION
BRANCH

(37) Date of Scheduled C/O Inspections AM/PM
(38) Inspection Status ☒ Approved ☐ Disapproved ☐ By 2/7/90 Date
(39) Inspector's Signature 2/7/90 Printed Name 2/7/90
(40) Reason for Disapproval

OCCUPANCY
PERSONNEL

(41) ☐ Approved ☐ Denied ☐ Cancelled
By 2-7-90
(42) Reason for Cancellation/Denial 2-7-90
(43) Certificate of Occupancy No. B158261/5007-003 Date of Issuance 2-7-90
(44) Bldg. 2049 Park Pl S.E. Elec. 2049 Park Pl S.E. Plumb. 2049 Park Pl S.E. Fire 2049 Park Pl S.E. Zoning 2049 Park Pl S.E.

44-0P176 wde7

WHITE-CRA

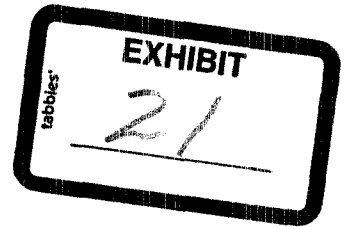
CANARY-Fire Department

PINK-Applicant

INTAKE: 9:00 - 3:00

EXHIBIT

20



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

No. B 165654

May 28, 1993

(date)

CERTIFICATE OF OCCUPANCY

MOON SOO LEE

Permission is hereby granted to _____
to use suite(s) _____ on the **first** _____ floor(s)
of the building located on lot(s) **68** square **534**
known as premises **5010 Benning Road, S.E.** for the following
purpose(s) **Coin Operated Laundromat**
Not sexually oriented. [su]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE **C-1** FEE \$ **27.00**

Aubrey H. Edwards, Director

By _____ Designee

OFFICE COPY



(PRINT OR TYPE WITH BLACK INK ONLY — DO NOT WRITE IN SHADED AREAS)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 5/28/93

CRA-5
Rev. 8/20/83

APPLICATION FEE
\$20.00
NON-REFUNDABLE

ISSUANCE FEE
(see fee schedule)

(22) Receipt # 47728
(23) Treas. # 2832X036

INFORMATION
ON PROPOSED
BUSINESS

(1) Address of Business 5010 Benning Rd SE Suite/Room # N/A
(2) Telephone No. of Business 502-3699 Lot 600 Square 5340
(3) Trade Name of Business SUNNY Wash n Dry
(4) Is Business Incorporated? ☒ No ☐ Yes (Attach Letter of Good Standing and complete Line 5)
(5) President _____ Vice President _____ Secretary/Treasurer _____
(6) Is Business a Partnership? ☐ No ☐ Yes
(7) Business Owner MOON SOO LEE
(8) Business Owner's Home Address 7212 sunset place Greenbelt MD Tel. No. (days) _____ Zip Code 20770

INFORMATION
ON
OCCUPANCY

(9) ☒ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☐ Use Change ☐ Load Change BZA No. ☐
(10) Proposed Use of Business Com operated Landmat
(11) Is Business Sexually Oriented According to D.C. Zoning Regulations? ☒ No ☐ Yes
(12) Proposed Occupancy Load N/A Square Feet Occupied 2500
(13) Which Floors to be Occupied 1st FL Basement? None
(14) Prior Use Landmat

INFORMATION
ON ENTIRE
BUILDING

(15) Building Owner Benning Rd H M Tel. No. (days) 301-3696728
(16) Building Owner's Address P.O. Box 40300 Wash DC 20016 Zip Code 20016
(17) Materials of Building Brick
(18) Square Feet Occupied 2500 No. of Floors 1 Basement? None

ATTESTATION
AND
SIGNATURE

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.
(19) IF OWNER OF BUSINESS MOON SOO LEE Signature MOON SOO LEE Date 5/28/93
IF AUTHORIZED AGENT FOR OWNER OF BUSINESS (Attach Authorization)
(20) Name of Agent MOON SOO LEE Signature MOON SOO LEE Date 5/28/93
(21) Address of Agent 7212 sunset place Greenbelt MD Zip Code 20770

INFORMATION
DESK

(24) Premises Condemned ☐ No ☐ Yes Cleared By John Doe Date 5/28/93
(25) Building in RLA Zone ☐ No ☐ Yes Cleared By John Doe Date 5/28/93
(26) Residential ☐ No ☐ Yes Smoke Det. Info. Given By John Doe Date 5/28/93

LICENSE
BRANCH

(27) Licenses Required License Required
(28) Laundry Mat Reviewed By John Doe Date 5/28/93

ZONING
OFFICE

(29) Zone C-1 BZA No. _____
(30) Prior Use Coin Operated Landmat
(31) Certificate # B158261 Date Issued 2/7/90 BZA No. _____ Approved ☒ Disapproved ☐
(32) Accepted for Filing by John Doe Date 5/28/93

EXAMINER'S
USE

(33) Prior Use Code _____ Proposed Use Code _____
(34) Use Change ☒ No ☐ Yes Inspect. Required ☒ No ☐ Yes By John Doe Date 5/28/93
(35) Inspection Fee \$ _____ Issuance Fee \$ 27.00
(36) Approved for issuance by John Doe Date 5/28/93

INSPECTION
BRANCH

(37) Date of Scheduled C/O Inspections _____ AM/PM
(38) Inspection Status Approved ☐ Disapproved ☐ By _____ Branch _____ Date _____
(39) Inspector's Signature _____ Printed Name _____
(40) Reason for Disapproval _____

OCCUPANCY
PERSONNEL

(41) ☐ Approved ☐ Denied ☐ Cancelled
By _____
(42) Reason for Cancellation/Denial 115054 2000X036
(43) Certificate of Occupancy No. 115054 Date of Issuance 5/28/93
(44) Bldg. _____ Elec. _____ Plumb. _____ Fire _____ Zoning _____

EXHIBIT

22

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
N.C.P.C. No:	O.G. No:	<i>C-1</i>	<i>85608</i>	By:	
H.P.A. No:	S.L. No:	Ward No:	Receipt No:	Date:	Receipt No:



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION PERMIT SERVICE CENTER
 Tel 202-442-4589 Fax 202-442-4862

08.000 66

BLRA-33
(Rev. 2/04)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY
 (PRINT IN INK OR TYPE, DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

EXHIBIT
23

CLEARANCE TO FILE By _____ Date _____		ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION			
(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27					
1 Address of Proposed Work: <i>5010 Benning Road SE</i>		Suite No.	2 Lot <i>68</i>	3 Square <i>5340</i>	4 Application Date <i>10/25/05</i>
5 Owner of Building or Property <i>Koo Yuen</i>		6 Address (include Zip Code) <i>4225 Conn Ave. NW DC</i>		7 Phone <i>202 5461216</i>	
8 Agent for Owner: (if applicable) <i>Leonard & Stephanie Carroll</i>		9 Address (include Zip Code) <i>820 Ky Ave SE DC</i>		10 Phone <i>202 5461216</i>	
11. Type of Proposed Work (check all applicable boxes)					
☐ New Building ☐ Retaining Wall ☐ Garage ☐ Addition ☐ Fence ☐ Sign ☒ Alteration and Repair ☐ Shed ☐ Projection ☐ Raze Building ☐ Awning ☐ Other (Specify) _____					
12. Description of Proposed Work <i>Renovation of Existing ^{1-story} gas station Building as convenience store new footing where required. New roof, store front material D.P.C. and install new island w/ gas pumps</i>					
13 Existing Use(s) of Building or Property <i>Service station</i>		14 Ex. No of Stories of Bldg <i>1</i>	15 Ex No of Dwelling Units <i>—</i>	Official Use Only Miscellaneous FEE \$ _____	
16 Proposed Use(s) of Building or Property <i>service station</i>		17 Prop No of Stories of Bldg <i>1</i>	18 Prop. No of Dwelling Units <i>—</i>	By:	Date:
19 Starting Date <i>ASAP</i>	20 Completion Date of work <i>11/1/06</i>	21 Method of Removing Construction Debris ☒ Pick-up Truck ☐ Dumpster ☐ Other (specify) _____		22 Does the proposed work involve disturbing the earth or razing a building? ☒ Yes, answer q. 23 ☐ No, SKIP q. 23-27	
23. Is the area of disturbed earth more than 50 sq. ft? ☐ Yes, answer q. 24-25 ☒ No, SKIP q. 24-25	24. Soil Erosion Control Methods <i>As per Drawings</i>	25. Area of Offsite Drainage <i>—</i> sq. ft	26. No of Footings or Columns <i>4</i>	27 Size of Footings or Columns <i>6'x5'</i>	

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I)

Complete Section B if the proposed work is new building, addition or alteration. (Page 2)
 Complete Section C if the proposed work is razing a building. (Page 2)
 Complete Section D if the proposed work is a retaining wall. (Page 2)
 Complete Section E if the proposed work is a fence. (Page 3)
 Complete Section F if the proposed work is a shed/garage. (Page 3)
 Complete Section G if the proposed work is an awning. (Page 3)
 Complete Section H if the proposed work is a sign. (Page 3)

OFFICIAL USE ONLY					
	R	P	H	A	
M					
P					
E					W ☐ Yes ☐ No
F					PLANS
S					☐ No ☐ Sm ☐ Lg

Fire

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name: LEONARD CARROLL		29. D.C. Lic. No.:		30. Architect's Address: (include Zip Code) 800 K_Y AVE SE DC 20003		31. Phone: 21546126																																	
32. Engineer's Name:		33. D.C. Lic. No.:		34. Engineer's Address: (include Zip Code)		35. Phone																																	
36. Building Contractor's Name:		36A. D.C. Lic. No.		37. Contractor's Address		38. Phone:																																	
39. Type of Construction ☒ Masonry ☐ Steel ☒ Wood ☐ Other ☐ Concrete		40. Fire Suppression: ☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other N/A		41. Booster Pump ☐ New ☐ Existing ☐ None		42. Total Lot Area 16,890 sq. ft.																																	
44. Present Gross Floor Area of Bldg. sq. ft.		45. Proposed Gross Floor Area of Bldg. sq. ft.		46. Floors involved in this permit ☐ All ☐ Floors _____		43. Breakdown of Lot Area (= 100 %) a. building _____ % b. paved area _____ % c. greenery _____ %																																	
48. Number and type of projection: N/A		49. Distance of projection: N/A		50. Width of projection: N/A		51. Width of building frontage ft. 52. Signature of Owner (projection only):																																	
53. Water or Sewer Excavation? ☐ Yes ☐ No		54. Driveway Construction? ☐ Yes ☐ No		55. Sheeting/Shoring Necessary? ☐ Yes ☐ No		56. Elevators Involved? ☐ Yes, answer q. 57 ☒ No																																	
57. No and type of elevator _____		58. Plans Certified by Engineer? ☐ Yes, cert. attached ☐ No																																					
59. Estimated Cost of Work (a) New/Add.: \$ 15,000.00 (b) Alt/ Repair \$ 5,000.00 Total \$ 125,000.00		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="8">OFFICIAL USE ONLY</th> </tr> <tr> <td colspan="2">Alter/Repair FEE</td> <td colspan="2">New Const. FEE</td> <td colspan="2">Filing Fee</td> <td colspan="2">TOTAL PERMIT FEE</td> </tr> <tr> <td colspan="2">\$ 2530.5</td> <td colspan="2">\$ _____</td> <td colspan="2">\$ 125.5</td> <td colspan="2">\$ 2405.5</td> </tr> <tr> <td colspan="2">By: N</td> <td colspan="2">Date: 2/29/08</td> <td colspan="2">By: _____</td> <td colspan="2">Date: 2/29/08</td> </tr> </table>						OFFICIAL USE ONLY								Alter/Repair FEE		New Const. FEE		Filing Fee		TOTAL PERMIT FEE		\$ 2530.5		\$ _____		\$ 125.5		\$ 2405.5		By: N		Date: 2/29/08		By: _____		Date: 2/29/08	
OFFICIAL USE ONLY																																							
Alter/Repair FEE		New Const. FEE		Filing Fee		TOTAL PERMIT FEE																																	
\$ 2530.5		\$ _____		\$ 125.5		\$ 2405.5																																	
By: N		Date: 2/29/08		By: _____		Date: 2/29/08																																	
60. Volume of New Bldg. or Addition cubic ft.																																							

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:		62. Contractor's Address: (include Zip Code)		63. Phone: (2567-50)										
64. Insurance Company		65. Policy or Cert. Number		66. Expiration Date										
67. Raze Method														
68. Building Material		69. Raze Entire Building? ☐ Yes ☐ No		70. Building Condemned? ☐ Yes ☐ No										
70A. Building Vacant? ☐ Yes ☐ No		71. Public Space Vault? ☐ Yes ☐ No		72. Disconnect Water and/or Sewer? ☐ Yes ☐ No										
73. Size of Water Connection in.														
74. Plumber's Name:		75. D.C. Lic. No.		76. Length ft.										
77. Width ft.		78. Height ft.		79. Volume ft.										
80. Party Wall? ☐ Yes ☐ No														
81. Asbestos in the Building? ☐ No ☐ Yes, location _____		82. Raze Contractor Signature		83. Owner's Signature										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="3">OFFICIAL USE ONLY</th> </tr> <tr> <td>FEE</td> <td>By:</td> <td>Date:</td> </tr> <tr> <td>\$</td> <td></td> <td></td> </tr> </table>						OFFICIAL USE ONLY			FEE	By:	Date:	\$		
OFFICIAL USE ONLY														
FEE	By:	Date:												
\$														

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work \$		85. Material:		86. Height		87. Color		88. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *										
If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application																		
89. Signature of Adjoining Owner:				90. Phone: Home Work				<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="3">OFFICIAL USE ONLY</th> </tr> <tr> <td>FEE</td> <td>By:</td> <td>Date:</td> </tr> <tr> <td>\$</td> <td></td> <td></td> </tr> </table>		OFFICIAL USE ONLY			FEE	By:	Date:	\$		
OFFICIAL USE ONLY																		
FEE	By:	Date:																
\$																		
91. Address of Adjoining Owner:				92. Lot:		93. Square:												

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations.

94. Material and type:	95. Height ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *
------------------------	-------------------	------------	---

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application

98. Signature of Adjoining Owner:	99. Phone: Work Home		OFFICIAL USE ONLY	
	100. Address of Adjoining Owner:	101. Lot	102. Square	FEE
\$				
			By:	Date:

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number	104. Length: ft.	105. Width ft.	106. Area: sq.ft	107. Height ft.	108. Volume cu.ft	109. Est. Cost of Work \$	OFFICIAL USE ONLY	
							FEE	
110. Material of Roof	111. Material of Sides		112. Wall Thickness: ☐ External () inches ☐ Party () inches			113. Color	\$	
							By:	Date:

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt of attachm _____ in		118. Height of Lowest Part of awning	OFFICIAL USE ONLY	
119. Material of Frame	120. Material of Covering	121. Lettering on awning? ☐ Yes ☐ No	122. Fixed Posts? ☐ Yes ☐ No	123. Over Side- walk café? ☐ Yes ☐ No	(a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade	FEE	
						\$	
						By:	Date:

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No. SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor License Number:
-------------	---	---	------------------------	---

129. Address of Electrical Contractor (<i>include Zip</i>)	130. Signature of Licensed Electrician	131. Phone No.	132. License No.
--	--	----------------	------------------

133. Height relative to building and ground	134. Material of Sign		135. Type of Sign	136. Color
(a) _____ ft _____ in above sidewalk				
(b) _____ ft _____ in above roof				
(c) _____ ft _____ in is building height				
(d) _____ ft _____ in above projection of window	137. Width	138. Length	139. Area of Sign	140. Wide of Business frontage
(e) _____ ft _____ in from roof to sign's bottom	ft.	ft.	sq. ft.	ft.

141. C of O No for Bldg.		142. Sign Contractor:		OFFICIAL USE ONLY					
		License No.		Sign FEE		Elect. FEE		Total FEE	
143. Sign Contractor's Address:		144. Phone:		\$		\$		\$	
				By: Date:		By: Date:		By: Date:	

(I) APPLICANT'S SIGNATURE

A. **OWNER:** I hereby certify that I am the owner of the property, that the application and plans are complete and correct to the best of my knowledge, that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner _____ Address _____ Date _____

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia. *A*

Signature of Agent Leonard J. Stephens Address 800 K^y Ave SE DC 20003 Date 10/25/05

**ENVIRONMENTAL HEALTH ADMINISTRATION
CONSTRUCTION PERMIT APPLICATION – SUPPLEMENTAL FORM – ENVIRONMENTAL QUESTIONNAIRE**

PROJECT ADDRESS: 5010 Benning Rd. LOT: 68 SQUARE: 5340
 PROJECT DESCRIPTION: Renovate an existing sewerage station

PLEASE answer all 12 questions in this questionnaire, by checking either column "Yes" or "No" for each question. If you answer "Yes" to any of the questions, you should contact the corresponding office(s) indicated in column "contact person/office" as soon as possible. Until this application is reviewed and approved by the concerned office(s), the permit will not be issued.

SCOPE OF PROJECT	YES	NO	CONTACT PERSON/OFFICE	OFFICE USE (Initial/Date)
Will the proposed use involve the construction of a facility for the handling, transfer, storage, disposal or treatment of solid waste, medical waste, or recyclable materials?		☒	(202) 535-2289, EIS Coordinator, EHA	
Will the work to be performed involve the assessment or clean-up of soils associated with the release of materials from an underground storage tank (UST)?	☒	☒	(202) 535-2525, Underground Storage Tank Division, EHA <i>R. Thompson</i> 2008053	2/29/08
Will the work to be performed involve the assessment or clean-up of groundwater associated with the release of materials from an underground storage tank (UST)?		☒	(202) 535-2250, Air Quality Division, EHA (202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2190, Water Quality Division, EHA (202) 535-2260 Air Quality Division, EHA	
Will the proposed project involve the installation or drilling of wells other than for the purposes stated in questions 3 and 4?		☒	(202) 535-2190, Water Quality Division, EHA	
Will the proposed project involve the generation, treatment, storage, disposal or transportation of chemicals or other substances which may be considered hazardous?		☒	(202) 535-2290, Hazardous Waste Division, EHA	
Will the proposed project involve construction that will disturb the sediment in rivers, streams or wetlands?		☒	(202) 535-2190, Water Quality Division, EHA	
Will the work to be performed involve the installation, removal, abandonment, or repair of an underground storage tank (UST) system?	☒	☒	(202) 535-2525, Underground Storage Tank Division, EHA <i>R. Thompson</i> 2008053	2/29/08
Will the proposed project result in the discharge into the air of gases, dust, or the creation of any objectionable odors?			(202) 535-2250, Air Quality Division, EHA	
Will the proposed project involve the removal, handling, transportation, disposal, or encapsulation of asbestos? **Please bring with you a copy of your asbestos survey, ten-day notification form, and asbestos abatement permit fee		☒	(202) 535-2250, Air Quality Division, EHA	
Was the building built before 1978? (Lead paint may be present.)	☒		If you answer "Yes" to this question, please answer the questions and follow the instructions on the "Lead Hazard Control Questionnaire" to determine if you need a permit to conduct a Lead Abatement Project	

AFFIDAVIT

I hereby certify that I have the authority of the owner of the property to make this application. I declare that the answers to the above questions in this questionnaire are complete and correct to the best of my knowledge.

Name (print) KOO Yuen
 Address 4225 Conn Ave NW DC Date 10/25/05 Phone 202/5461216

OFFICE USE ONLY

COMMENTS AND PERMIT RESTRICTIONS:

(USE REVERSE IF NECESSARY)

DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS
Building and Land Regulation Administration
 941 North Capitol Street NE, Suite 2000
 Washington DC 20002

ENVIRONMENTAL INTAKE FORM

Project Name: 5010 Benning Road	Project Address: 5010 Benning Road	Lot: 68	Square: 5340
Filed Job Application # (if applicable):	Project Description: Service station		

Owner: Kad Yaen **Date:** 10/25/05

Owner's address and phone #: 4225 Conn. Ave NW DC 20254/216

Authorized agent: Leonard & Stephanie Carroll

Address and Phone # of authorized agent: 820 Ky Ave SE DC 20003 2/546/216

Scope of the Project	Yes	No	Instructions
1. Does the owner of this site own adjacent or abutting property?		X	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
2. Does the owner of this site plan to acquire property that is adjacent to or abutting this site within the next three years?		X	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
3. Is additional activity planned by the applicant for this site or any site within the same square during the next three years that requires a permit?		X	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
4. Is this a residential project within the R-1 through R-5-A zoning districts?		X	If yes, skip to signature line.
5. Is this project a single-family residence that is not in conjunction with the building of two or more units?		X	If yes, skip to signature line.
6. Is this project an accessory structure such as a garage, patio, swimming pool, or fence?		X	If yes, skip to signature line.
7. Is the project solely an interior renovation with no change in the use or capacity of the structure being renovated?		X	If yes, skip to signature line.
8. Is the project located in an Economic Development Zone, as defined in DC Code 5-1401 et seq (DC Law 7-177)?		X	If yes, skip to signature line.
9. Is the project located within the Central Employment Area as defined in DC Zoning Regulations? (Title 11DCMR)			If yes, skip to signature line.
10. Does the project involve only the operation, repair, maintenance, or minor alteration of public structures, facilities, mechanical equipment, or topographical features and involve negligible or no expansion of use beyond that previously existing?		X	If yes, skip to signature line.
11. Has an Environmental Impact Statement (EIS) been prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), or a determination made that no EIS is needed, or has the functional equivalent of an EIS been prepared?		X	If yes, submit documentation to EIS Coordinator, DCRA.

-OVER-

CONTRACT AGREEMENT

Name of Contractor/Owner Koo Yuen Contractor's License No. _____Address of Contractor/Owner 4225 Conn. Ave NW DC Date: 10/25/05

ADDRESS OF PROPOSED WORK: <u>5010 Benning Road SE</u>		LOT: <u>68</u> SQUARE: <u>5340</u>
OWNER OF BUILDING OR BUSINESS: <u>Koo Yuen</u>		PHONE No: <u>215461216</u>
DESCRIPTION OF PROPOSED WORK: <u>Renovation of existing gas station building new footing where required new roof, store front material D.P.C. and install new island w/ gas pumps</u>		
COST ESTIMATE		
CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	\$ <u>38,000.00</u>	
ELECTRICAL	\$ <u>27,000.00</u>	
MECHANICAL	\$ <u>24,000.00</u>	
PLUMBING	\$ <u>27,000.00</u>	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	\$ <u>4,500.00</u>	
DEMOLITION	\$ <u>6,000.00</u>	
MISC/OTHER (please specify)	\$ <u>1,500.00</u>	
TOTAL	\$ <u>125,000.00</u>	
The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.		
The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.		
CONTRACTOR <u>[Signature]</u> Signature & print		Date: <u>10/05</u>
OWNER OF BUILDING/BUSINESS <u>Koo Yuen</u> Signature & print		Date: <u>10/25/05</u>
Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge		

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.

**ENVIRONMENTAL HEALTH ADMINISTRATION
CONSTRUCTION PERMIT APPLICATION - SUPPLEMENTAL FORM - ENVIRONMENTAL QUESTIONNAIRE**

PROJECT ADDRESS: 6420 BARNARD STREET LOT: 89 SQUARE: 2352
PROJECT DESCRIPTION: KENNEL & PATIO

Note: please answer all 12 questions in this questionnaire, by checking either column "Yes" or "No" for each question. If you answer "Yes" to any of the questions, you should contact the corresponding office(s) indicated in column 'contact person/office' as soon as possible. Until this application is reviewed and approved by the concerned office(s), the permit will not be issued.

SCOPE OF PROJECT	YES	NO	CONTACT PERSON/OFFICE	OFFICE USE (Initial/Date)
1. Will the proposed use involve the construction of a facility for the handling, transfer, storage, disposal or treatment of solid waste, medical waste, or recyclable materials?		☒	(202) 535-2289, EIS Coordinator, EHA	
2. Will the work to be performed involve the assessment or clean-up of soils associated with the release of materials from an underground storage tank (UST)?		☒	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2250, Air Quality Division, EHA	
3. Will the work to be performed involve the assessment or clean-up of groundwater associated with the release of materials from an underground storage tank (UST)?		☒	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2190, Water Quality Division, EHA (202) 535-2250 Air Quality Division, EHA	
4. Will the proposed project involve the installation or drilling of wells other than for the purposes stated in questions 3 and 4?		☒	(202) 535-2190, Water Quality Division, EHA	
5. Will the proposed project involve the generation, treatment, storage, disposal or transportation of chemicals or other substances which may be considered hazardous?		☒	(202) 535-2290, Hazardous Waste Division, EHA	
6. Will the proposed project involve construction that will disturb the sediment in rivers, streams or wetlands?		☒	(202) 535-2190, Water Quality Division, EHA	
7. Will the work to be performed involve the installation, removal, abandonment, or repair of an underground storage tank (UST) system?		☒	(202) 535-2525, Underground Storage Tank Division, EHA	
8. Will the proposed project result in the discharge into the air of gases, dust, or the creation of any objectionable odors?		☒	(202) 535-2250, Air Quality Division, EHA	
9. Will the proposed project involve the removal, handling, transportation, disposal, or encapsulation of asbestos? **Please bring with you a copy of your asbestos survey, ten-day notification form, and asbestos abatement permit fee		☒	(202) 535-2250, Air Quality Division, EHA	
10. Was the building built before 1978? (Lead paint may be present)		☒	If you answer "Yes" to this question, please answer the questions and follow the instructions on the "Lead Hazard Control Questionnaire" to determine if you need a permit to conduct a Lead Abatement Project	

AFFIDAVIT

I hereby certify that I have the authority of the owner of the property to make this application. I declare that the answers to the above questions in this Questionnaire are complete and correct to the best of my knowledge.

Signature: Robert M. Gurney Name (print): ROBERT M. GURNEY
Address: 113 S. PATRICK ST. ALEXANDRIA, VA 22314 Date: 5/22/08 Phone: _____

OFFICE USE ONLY

COMMENTS AND PERMIT RESTRICTIONS:

BLRA 33C

CONTRACT AGREEMENT

Name of Contractor/Owner ROBERT M. GURNEY Contractor's License No. _____Address of Contractor/Owner 113 S. Patrick Street Date: May 23, 2008
Alexandria, VA 22304

ADDRESS OF PROPOSED WORK <u>6420 BARNABY STREET NW Washington, DC 20015</u>		LOT: SQUARE:
OWNER OF BUILDING OR BUSINESS: <u>ROBERT M. GURNEY</u>		PHONE No:
DESCRIPTION OF PROPOSED WORK: <u>New Construction</u>		
ESTIMATE BY DATE		
CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	\$	
ELECTRICAL	\$	
MECHANICAL	\$	
PLUMBING	\$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	\$	
DEMOLITION	\$	
MISC/OTHER (please specify)	\$	<u>18,000.00</u>
TOTAL	\$	
The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.		
The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.		
CONTRACTOR _____		Date: _____
Signature & print		
OWNER OF BUILDING/BUSINESS <u>Robert M Gurney</u>		Date: <u>05/23/08</u>
Signature & print		
Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge		

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.

Sent By: ; LEONARD CARROLL
202-546-1216 ext

2000000000 17 01/05/00; PAGE 2

1

1 of 2

FROM: [REDACTED]

FAX NO.: [REDACTED]

Dec. [REDACTED]

[REDACTED]

WASHINGTON, D.C. DEPT. OF ECON. DEV. JUL 22 1964

Registration is hereby granted to LEONARD JEFFERSON TOLSON
to use the FIRST floor of the building located on lot 62-16 Section 5348
situated between 1510 BENNING ROAD, N.W. for the following
purpose(s) GASOLINE STATION

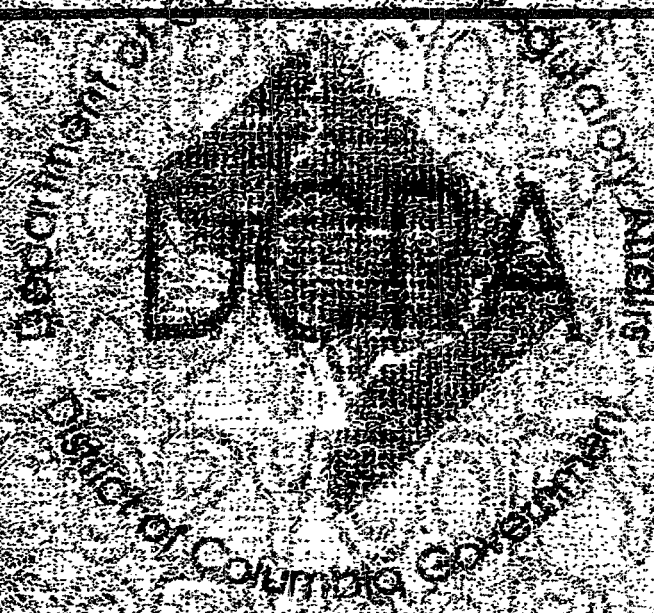
THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated.
ONLY for the premises, or part thereof, and for the purposes indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of building, or
any of premises and location will render this Certificate VOID, and a NEW
Certificate must be obtained.

ZONE B-1 FEE \$ 12.00

FOR: UNITED STATES NATIONAL DEPT. OF ECON. DEV.
DEPT. OF ECONOMIC DEVELOPMENT

Chief, Permit Branch
Mary B. Savage

SEE IMPORTANT NOTICE ON REVERSE SIDE HE-207



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

September 25, 2007 *En*

Washington, D.C., February 10, 2006



Plat for Building Permit of SQUARE 5340 LOT 66

Scale: 1 inch = 30 feet Recorded in Book 146 Page 58

Receipt No. *17434 00295 En*

Furnished to: KARLA LEWIS

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat, and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

[Signature]
Surveyor, D.C.

Date: *9/25/07*

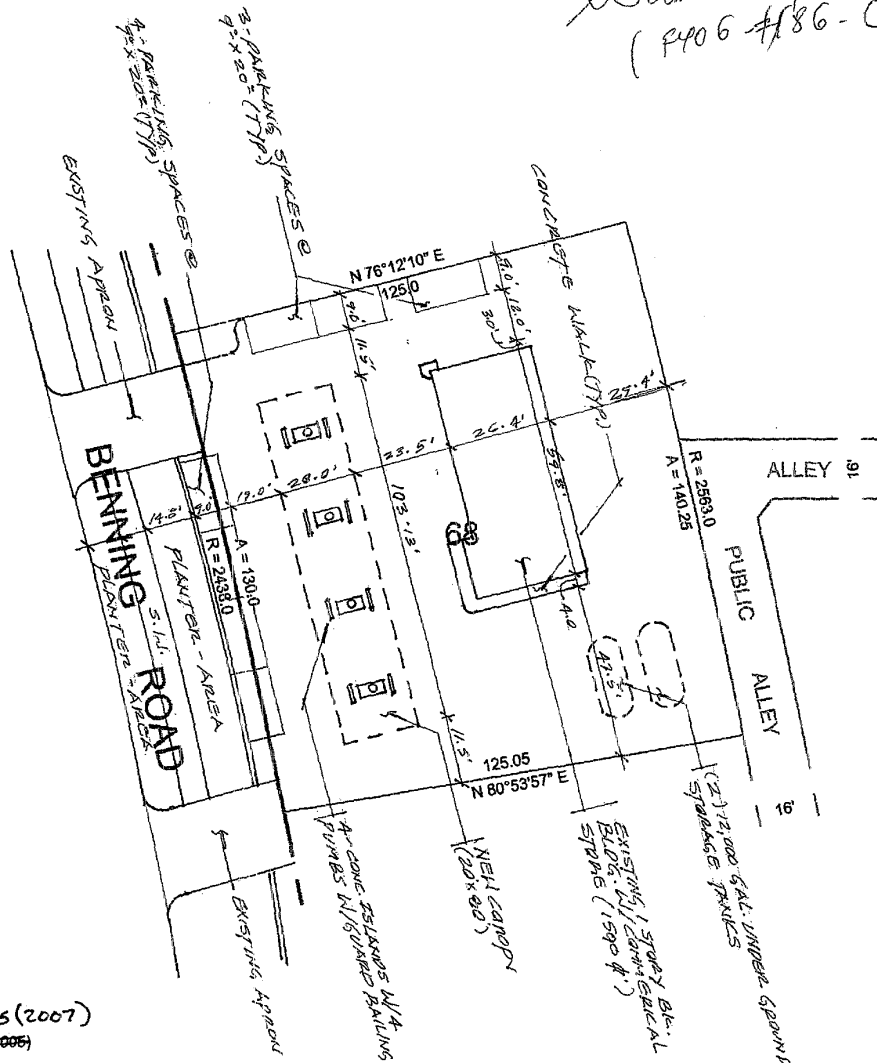
By: L.E.S. *[Signature]*

[Signature]
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

DC/HA/OFFICE OF THE ZONING
ADMINISTRATOR/COMPLIES
WITH REQUIREMENTS OF
DC ZONING REGULATIONS (DDCMR)

Koathar 9/25/07
(P406 #186-C)



SO-00295(2007)
SO-17434(2006)



Department of Consumer and Regulatory Affairs
Permit Center

941 North Capitol St. NE Room 2100

Washington DC 20002

Tel: (202) 442-4589

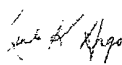
B

Building Permit

THIS PERMIT IS VALID ONLY FOR THE PREMISES
OF THE PROJECT ADDRESS

PERMIT NO. 85608

DATE: 3/12/2008

ADDRESS OF PROJECT: 5010 BENNING RD SE		S S L: SQ: 5340 SX: LOT: 68 WARD: 7 ZONE C-1	
DESCRIPTION OF WORK: RENOVATION OF EXISTING GAS STATION BLDG. NEW FOOTING WHERE REQUIRED. NEW ROOF, STORE FRONT MATERIAL D.P.C. AND INSTALL NEW ISLAND W/GAS PUMPS.			
PERMIT TYPE:	PLANS (Y/N):	EXISTING USE: BUSINESS	PROPOSED USE: Business
PERMISSION IS HEREBY GRANTED TO OWNER: KOO YUEN		PERMIT FEE: \$2,567.50	
AGENT NAME: LEONARD CARROLL 202-546-1216			
CONDITIONS / RESTRICTIONS: ALL CONSTRUCTION DONE ACCORDING TO THE CURRENT BUILDING CODES ; ALL CONSTRUCTION DONE ACCORDING TO THE CURRENT ZONING REGULATIONS ; SEPARATE ELECTRICAL, PLUMBING AND MECHANICAL INSTALLATION PERMITS ARE REQUIRED ; TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639:			
Acting DIRECTOR:  Linda K. Argo		PERMIT CLERK: 	EXPIRATION DATE: 3/12/2009

CONDITIONS: As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all the work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under the Permit must start within one (1) year of the date appearing on this permit or this permit is automatically void. If work is not started, any application for partial refund must be made within six months of the date appearing on this permit.

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT ADDRESS OF WORK UNTIL WORK IS COMPLETED.

NOTIFY THE BUILDING INSPECTOR THE DAY THE WORK STARTS. PHONE (202) 442-9557 at 941 NORTH CAPITOL ST NE WASHINGTON DC 20002

Separate permits are required for all Plumbing, Refrigeration, Gas Fitting, and Electrical Work.











EXHIBIT
31

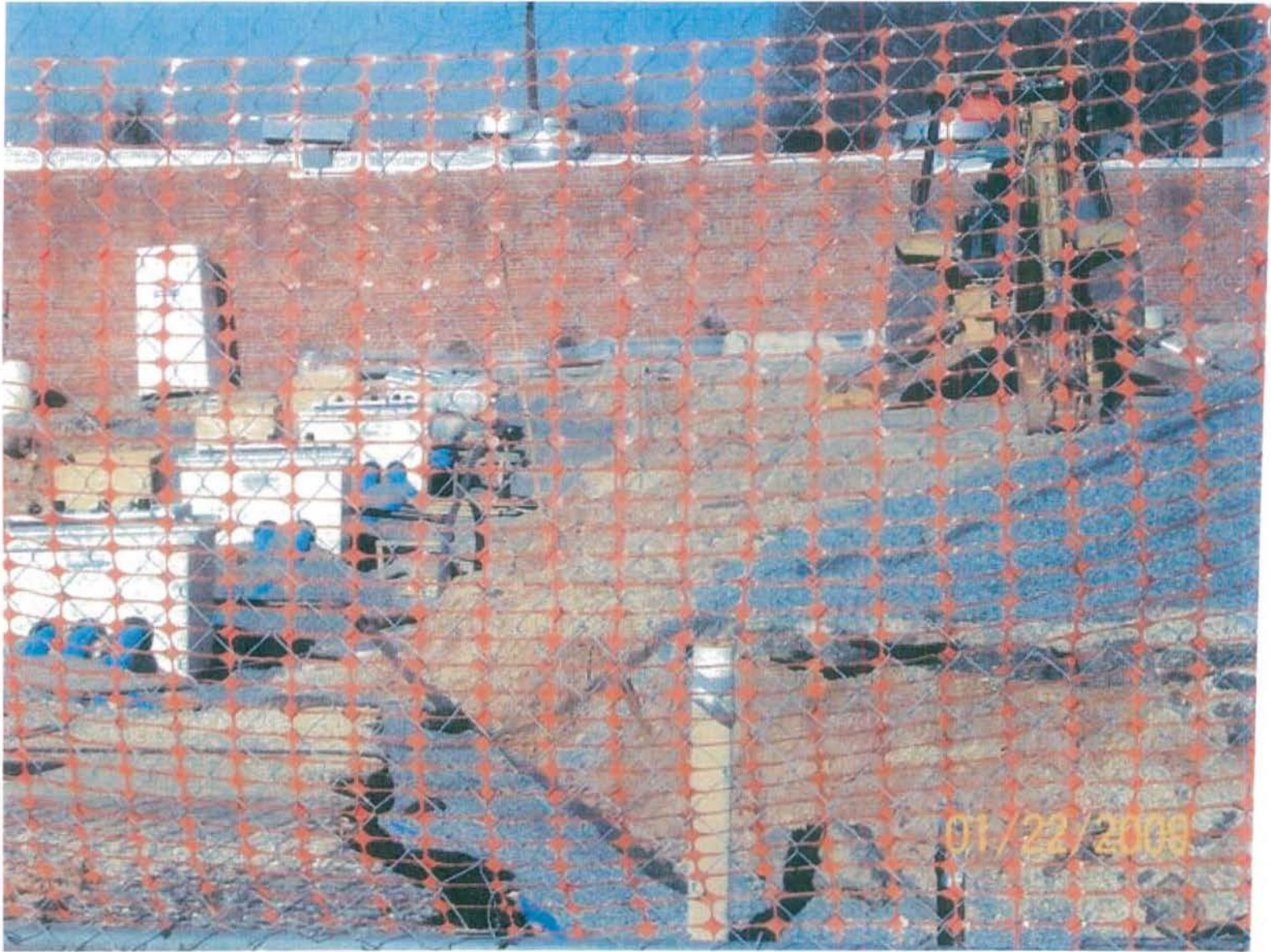


EXHIBIT
32
tabbles



EXHIBIT

33





5340 0068 10/05/2004

Owners

Owners : No. of Records = 1

Address	Unit	SSL	Owner
- 5010 BENNING RD SE	null	5340 0068	5010 BENNING ASSOCIATES LLC

Details:
 Use Code :041
 Exemption Code :null
 Tax Class :null
 Tax Rate :0
 Sale Price :\$550000
 Sale Date :2005/01/21
 Deed :9519
 Sale Type :MARKET
 Deed Date :2005/01/21
 Other Owner :null
 CPMS Address :null

Residential Cases

Residential Cases : No. of Records = 4

Address	Unit	SSL	Id	Type	Completion Status	Completion Date	Detailed Description
- 5010 BENNING		5340	ECH78651	Compliance/Housing/Open	No Cause	2005/09/23	Complainant Description: Deanwood Qual PlanComments:



Form 125 - Exhibit 1
(Revised 05/01/08)

Case No.

17988



BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA



APPEAL

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated.

Pursuant to Section (s) §3100 and §3101 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken

from the administrative decision of:

Name of administrative officer and title

Matt Ligrant, Zoning Administrator

made on

Date of decision
4/30/2009

, to the effect that

revocation of building permit #85608

See attached letter

Address(es) of Affected Premises	Square(s)	Lot(s)	Zoning District(s)
5010 Benning Rd. SE	5340	68	

Present use of Property:

vacant (former gasoline service station)

Proposed use of Property:

gasoline service station

Owner of Property:

Koo L. Yuen (agent)

Telephone No.:

202-437-5293

Address of Owner:

PO Box 9492, Washington DC 20016

Name, address and telephone number of lessee:

Name, address and telephone number of appellant, if other than owner:

State specifically manner in which appellant is aggrieved by the administrative decision, the allegations of error in the administrative decision, and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation).

Please use a separate piece of 8 1/2" x 11" to respond and attach it to the Form 125 Appeal.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22-2405)

Date:

June 29, 2009

Signature:

Appellant*

Thomas DeCaro, Esq. for Appellant

* If appeal is filed by agent of the Appellant, Form 125 Appeal shall be accompanied by a letter signed by the appellant authorizing the agent to act on his behalf in this appeal.

To be notified of hearing and decision (Appellant or Authorized Agent*):

Name:

Thomas DeCaro

Address:

Suite 201, 14406 Old Mill Rd., Upper Marlboro, MD 20772

Phone No.:

301-464-1400

Fax No.:

301-464-4776

E-Mail:

tfd@erols.com

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

mail box
done

**ATTACHMENT TO BZA APPEAL
5010 Benning Rd. SE**

This is an appeal from a determination letter dated April 30, 2009, copy attached, to the effect that the zoning for 5010 Benning Rd. SE as a gasoline service station violates the applicable zoning regulations of the District of Colombia.

This appeal arises in connection with an appeal of a permit revocation related to the same Premises.

EXCEPTIONS

1. The use of the Premises as a gasoline service station is proper; therefore, no further zoning approval is required.

With respect to the Premises, there was a gasoline service station on the site from prior to May 12, 1958 into the early 1990's and for this reason, re-building a gasoline service station does not constitute a nonconforming use.

11 DCMR § 3104 of the Zoning Regulations state that "no use lawfully in existence at the time of adoption or amendment of this title that would thereafter require special exception approval from the Board of Zoning Adjustment shall not be deemed a nonconforming use." Since our facility meets this definition, it is considered a conforming use for all purposes. As a conforming use, the gasoline service station may be established and maintained at any time without [Unless otherwise referenced, all DCMR citations are to 11 DCMR].

§701.1(h) provides, with respect to a C-1 zone, that, "The following service establishment shall be permitted in a C-1 District as a matter of right: * * * (h) Gasoline service station existing on May 12, 1958."

§3104 also provides that in the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, only any extension or enlargement of that use shall require special exception approval from the Board.

The scope of work in this case does not involve any enlargement or extension to the site. A canopy is to be installed and no other construction is planned for the site other than installation of the gas station tanks and pumps. §2500 defines an accessory use for a gasoline service station as any accessory use located on the same lot. Clearly, the canopy, and the tank and pump islands, which are the sole installations involved at 5010 Benning Rd. SE, are accessory uses to a gasoline service station.

§2500.2(b) states that a canopy and kiosk for the service station attendant may be considered an accessory uses not requiring special exception if they meet the requirements of that provision. Since the canopy meets the requirements, it does not require a special exception.

The Premises is located in a C-1 zone.

The Acting Zoning Administrator argues that the Applicant, Koo L. Yuen, obtained an occupancy permit for a laundry at the site in 1993. This is erroneous. Mr. Yuen never operated any businesses at the site, and his sole interest in the site is development of the gasoline service station as agent for the landowner since 2005. The current landowner did not have any interest in the property prior to 2005.

In any event, even if there was a laundry or other use of the site other than as a gas station after May 12, 1958, such other use is not an "abandonment" of the conforming gas station use.

§2005.1 reads as follows: Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for a period of more than three (3) years, shall be construed as prima facie evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located. [Emphasis added].

In the case of 5010 Benning Rd. SE, we do not have a discontinuance of a nonconforming use. Because of the fact that a gasoline service station is a permitted use on the site under the circumstances, where there was a gasoline service station on the premises prior to May 12, 1958, ~~and continuing into the early 1990's, a gasoline service station is permitted at that Premises as a~~ matter of right not requiring special exception or any other zoning activity.

The Zoning Administrator states that the application requests a "renovation of an existing gas station." However, the permit as issued allows, "Renovation of existing gas station bldg." The building on the site is an existing building and it was originally constructed as a gas station. The permitting process involves the review of the existing site uses and the history of occupancy of the site by the District of Columbia permitting officials. There was absolutely no indication that anyone was misled in connection with the issuance of the permit in this case.

2. The Zoning Determination Letter Was Never Served.

In this instance, the District of Columbia never served the April 30, 2009 letter which forms the basis for this Appeal. Submission of this Appeal under the circumstances is protective, and the Appellant does not waive any defects in service of process.

Despite the fact that this letter was never served and the Appellant was never notified of

this letter, the District of Columbia repeatedly refused to issue permits to tradesmen, such as plumbing permits and the like, without any explanation. When investigating this refusal, the applicant eventually obtained a copy of the partially illegible letter, attached hereto, from officials at the permitting office.

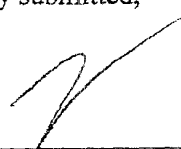
DETAILED DESCRIPTION OF HOW APPELLANT INTENDS PROVING CASE

The Appellant will prove its case by demonstrating that there was a gasoline service station on the Premises owner before May 12, 1958, operating continuously into the 1990's. Proof of this will consist of the records of the District of Colombia which showed that a gasoline service station was built on the site in prior to 1958 and that the gasoline service station was permitted through the 1990's. The Appellant will also show that the scope of work in the instant case consists solely of installing underground gasoline storage tanks and fuel dispensers and not an enlargement of the site. The Owner will show that in all respects the permit application was proper, and that in issuing the permit, the District of Columbia officials were fully aware of the status of the site and the proposed scope of the work.

I hereby certify that I am the authorized agent of Koo L. Yuen who, in turn, is the authorized agent for the owner.

Koo L. Yuen

Respectfully submitted,



Thomas F. DeCaro, Jr.
Attorney for Appellant
14406 Old Mill Rd. #201
Upper Marlboro, MD 20772

301-464-1400



7008 0150 0001 4760 9130

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To <u>LEONARD & STEPHANIE CARROLL, AGENTS</u>	
Street, Apt. No., or PO Box No. <u>820 KENTUCKY AVE. S.E.</u>	
City, State, ZIP+4 [®] <u>WASH. D.C. 20019-5838</u>	
PS Form 3800, August 2006 See Reverse for Instructions	

7008 0150 0001 4760 9123

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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To <u>KOO YUEN, OWNER</u>	
Street, Apt. No., or PO Box No. <u>4225 TOWNESEND AVE. N.W.</u>	

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**



KOO L. YUEN
Appellant

v.

**DISTRICT OF COLUMBIA DEPARTMENT
OF CONSUMER & REGULATORY AFFAIRS**
Appellee

BZA Appeal No. **17988**

APPELLANT'S MOTION FOR SUMMARY JUDGMENT

Comes now Appellant and moves for summary judgment on the grounds that the undisputed facts of this case, based on the public records, definitively establish that the Appellant is entitled to proceed under the Building Permit which had been issued for the premises, and that the proposed revocation of this Building Permit by the Zoning Administrator is not proper.

None of the facts stated below is subject to a *bona fide* dispute.

PREMISES

This appeal relates to the premises commonly known as 5010 Benning Rd. SE, Washington DC, Lot 68 in Square 5340.

The premises is currently zoned C-1.

PROCEDURAL HISTORY

① By letter dated April 30, 2009, Matt Ligrant, Zoning Administrator, notified Appellant of intent to revoke Building Permit No. 85608. A copy of this letter is attached to the Appeal.

On June 29, 2009, the Appellant ("Yuen") filed a timely appeal to this action, which was accepted by the Board by letter dated September 3, 2009. A hearing was set for November 17, 2009 at 1:00 PM.

HISTORY OF THE SITE

By Certificate of Occupancy dated January 20, 1967, James Epps was permitted to use the premises located at the premises as a gasoline service station, pursuant to BZA No. 8427 (special exception granted by BZA No. 8427). A copy of this Occupancy Permit is attached hereto as Exhibit A.

There is a certificate of occupancy dated May 28, 1993 for a coin-operated laundry. A copy of this Occupancy Permit is attached hereto as Exhibit B.

At the time the property was acquired by Yuen, it was vacant.

Yuen was issued Building Permit No. 85608 on March 12, 2008. A copy of the Permit is attached to the Appeal. The Building Permit is issued for, "Renovation of existing gas station bldg., new fixtures where required, new roof, store front material D.P.C. and install new island w/gas pumps." A copy of the Permit is attached to the Appeal.

In connection with the application for the Building Permit, Yuen submitted a set of plans, copies of which were submitted with the Appeal. ⁽²⁾ These plans show that the site consists of a vacant building with no existing gas tanks or gas pumps, and no existing gas station business.

The Notice of Intent to Revoke Building Permit, a copy of which was attached to the Appeal, states that, because the most current approved use of the premises is as a coin-operated laundry, plans requiring a new footing, new roof and store front and installation of a new gas station island require a special exception. The Notice of Intent to Revoke states as follows on

page 2:

Here, the facts indicate that Certificate of Occupancy No. B165654 was issued for a coin-operated laundromat at the Property. The record further revealed that no change in the original business operations has been noted since issuance of the Certificate of

Occupancy.

The letter from the Zoning Administrator does not reference the special exception granted to James Epp in 1967, or the status of the site as a conforming use since that date.

APPLICABLE LAW AND ARGUMENT

1. The granting of a certificate of occupancy permitting the use as a gasoline service station on January 20, 1967 was not restricted as to time. Therefore, using the site as a gasoline service station at the present time is a conforming use.

In the case of *Appeal No. 17591 of MLW, LLC*, (copy of opinion attached as Exhibit C) the Board interpreted this regulation to allow an applicant to construct a five unit apartment building, overruling the Zoning Administrator's determination that this use was non-conforming and had been abandoned for more than 3 years.

The Board in that case held that approval of the apartment building site without time limitation in 1962 rendered the apartment building use which was the functional equivalent of a conforming use. The Board analyzed §2005.1, and held that once a site in the District of Columbia has been approved for a zoning classification, without time restrictions on that use, the use becomes either a conforming use, or a use which cannot be said to be a nonconforming use.

11 DCMR §2005.1 reads as follows; it relates only to a use which is a nonconforming use:

Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for a period of more than three (3) years, shall be construed as prima facie evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located.

The Board in Appeal No. 17591 of MLW, LLC noted that, “[r]egardless whether the use of the subject property . . . is considered a conforming use, it is undisputed that the use is not a nonconforming use”

As an approved use, whether strictly conforming or whether not-nonconforming, the zoning classification becomes a vested right which runs with the land, according to the opinion in that case.

In the instant case, the grounds of revocation of the Building Permit by the Zoning Administrator is that the use of the premises as a gasoline service station is a nonconforming use. However, this determination by the Zoning Administrator is clearly erroneous.

The Zoning Administrator relies on 11 DCMR §706.1 for the proposition that a the gasoline station at issue is “established” or “enlarged” after May 12, 1958. However, this regulation is not applicable for the reasons stated above. The site has already been approved for a gasoline service station use and this use cannot be withdrawn or terminated. It is a vested right which runs with the title to the real estate and becomes an attribute of the land. It is not a “grandfathered” use under §706.1, but rather a separately approved use, approved without reference to its status as conforming or nonconforming.

The Zoning Administrator may be implying that the grant of an Occupancy Permit to establish a coin-operated laundromat in 1993 discontinued the conforming gas station use. However, according to the ruling in Appeal No. 17591 of MLW, LLC, the discontinuance of a conforming use has no bearing on whether the site may be used for the same conforming purpose in the future. Since the use as a gas station is treated for these purposes as a conforming use, no further zoning proceedings are required to allow the same use currently.

2. The application for the Building Permit is not so misleading so as to invalidate the Permit.

The Zoning Administrator bases revocation on the grounds that the Building Permit describes the site as an “existing gas station.” However, it is clear from the site drawings submitted with the Building Permit application that the site is vacant and that the building is not occupied. Page 1 of the plans describes the site as being improved with an existing one story brick building with commercial store. The plans do not show any existing gasoline storage tanks, gas pumps, gas island or other gasoline station infrastructure. It is impossible that the officials who reviewed these plans and issued the Building Permit were under any misapprehension as to the character of the site.

Moreover, the site had been used as a gasoline station beginning in 1967. Therefore, calling the site an “existing” gasoline station is not misleading. Had, for example, the permit used the term “operating” instead of “existing,” this would possibly provide some support to the Zoning Administrator’s position.

3. The site plan is not an “establishment” or “enlargement.”

As set forth above, the gasoline station use was “established” conclusively when the Occupancy Permit was issued in 1967 by BZA No. 8427. The plans in the instant case provide for at best a rebuilding of a gas station on the site where a gas station is subject to the special exception granted back in 1967.

The scope of work in this case does not involve any enlargement or extension to the site. A canopy is to be installed and no other construction is planned for the site other than installation of the gas station tanks and pumps. The changes to the building are in the nature of repairs and

do not increase the area of the building.

11 DCMR §2500 defines an accessory use for a gasoline service station as any accessory use located on the same lot. Clearly, the canopy, and the tank and pump islands, which are the sole installations involved at 5010 Benning Rd. SE, are accessory uses to a gasoline service station.

11 DCMR §2500.2(b) states that a canopy and kiosk for the service station attendant may be considered an accessory uses not requiring special exception if they meet the requirements of that provision. Since the canopy meets the requirements, it does not require a special exception. Had the canopy not met the requirements, the Building Permit would not have been issued.

CONCLUSION

The gasoline service station for which the Building Permit was issued is a conforming use, or, in the alternative, it is to be treated for zoning purposes as if it were a conforming use. In any event, given the approval of the site as a gas station in 1967, the site may not now be treated as if it were a nonconforming use.

The documentation submitted with the Building Permit, including the plans, establish that the gas station is being rebuilt on the site. The application, taken as a whole as it must be, and not out of context, clearly states the character of the site and the scope of the work, and there is nothing false or misleading in the plans or other submission.

Since there is no issue as to the propriety of the zoning on the site, the gas station cannot be said to have been newly “established” by the Appellant. Since the scope of the work does not expand the existing building, the gas station cannot be said to be “expanded” by the Appellant.

For these reasons, the Building Permit should be allowed to stand and not be revoked.

Respectfully submitted,



/s/ Thomas F. DeCaro, Jr.

Thomas F. DeCaro, Jr.
Attorney for Appellant
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CERTIFICATE OF SERVICE

I, Thomas F. DeCaro, Jr. do hereby certify that on October 12, 2009, I did mail, postage prepaid, a copy of the foregoing

Matthew Green
Office of the General Counsel
Consumer & Regulatory Affairs
Suite 9400
9410 North Capitol St. NE
Washington, DC 20003

Doris Parker Woolridge
District of Columbia Attorney Genl
Suite 9400
941 North Capitol St. NE
Washington, DC 20002

Mary D. Jackson
Chairperson of ANC #7E
5001 Hanna Pl. SE
Washington, DC 20019



/s/ Thomas F. DeCaro, Jr.

Thomas F. DeCaro, Jr.

Form LI-P-487

CERTIFICATE OF OCCUPANCY

No. **B 58922**Washington, D.C., **JAN. 20TH**, 19 **67**Permission is hereby granted to **JAMES EPPS**to use the **FIRST** floor(s) of the building located on Lot **65** Square **6340**known as premises **5010 BENNING ROAD, D.E.** for the followingpurpose(s): **GASOLINE STATION***B. 8A-8427*

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF LICENSES & INSPECTIONS, GOVT. OF DIST. OF COL.

ZONE **C-1**FEE **\$ 12.00**

Chief, Permit Branch

Mary Savage
Permit Clerk

OFFICE COPY

Exhibit A



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

No. B 165654

May 28, 1993

CERTIFICATE OF OCCUPANCY

MOON SOO LEE

(date)

Permission is hereby granted to _____
to use suite(s) _____ on the first floor(s) _____
of the building located on lot(s) 68 square 534
known as premises 5010 Benning Road, S.E. for the following
purpose(s) Coin Operated Laundromat
Not sexually oriented. []

BZA # _____

EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY
for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT
TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE
in the type of business, ownership of business, or part of premises used therefor, will
render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C-1 FEE \$ 27.00

Aubrey H. Edwards, Director

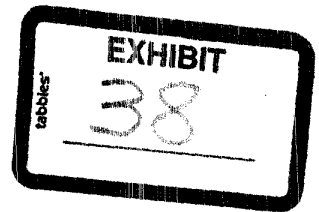
By _____ Designee

OFFICE COPY

Exhibit B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

★ ★ ★
[REDACTED]
[REDACTED]



Appeal No. 17591 of MLW, LLC pursuant to 11 DCMR § 3112, from the October 19, 2006 administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to revoke Certificate of Occupancy Permit No. CO 61776, dated September 9, 2003, that approved a five (5) unit apartment building. The subject property is located in the R-3 District at premises 3256 N Street, N.W. (Square 1218, Lot 104).

HEARING DATE: May 1, 2007

DECISION DATE: May 1, 2007

DECISION AND ORDER

INTRODUCTION

MLW, LLC ("Appellant") filed this appeal with the Board of Zoning Adjustment ("BZA" or "Board") on December 1, 2006, pursuant to 11 DCMR § 3112, challenging the October 19, 2006 administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs ("DCRA"), to revoke Certificate of Occupancy Permit ("CO") 61776, dated September 9, 2003, approving a five-unit apartment building. The Zoning Administrator revoked the CO pursuant to 11 DCMR § 2005.1 on grounds that the use was non-conforming and had been discontinued for more than three years.

Appellant alleged that the Zoning Administrator erred in revoking the CO because the use of the subject property as a five-unit apartment building was not a nonconforming use for the following reasons: First, use of the property as a five-unit apartment building was approved by the Board in BZA Order No. 6885 (1962) without time limitation or other conditions. Second, use of the property does not fall within the definition of nonconforming use as set forth in 11 DCMR § 199. Therefore, the approved use as a five-unit apartment building is not subject to the discontinuance provisions of 11 DCMR § 2005.1. Appellant also argued that there was no discontinuance of the use for more than three years and that DCRA is estopped and barred by the doctrine of laches from revoking CO 61776.

A public hearing on the appeal was duly noticed and held on May 1, 2007. On the day of the hearing, counsel for DCRA submitted a Praecipe to the Board that indicated that DCRA had notified MLW in writing that the revocation of CO 61776 would be withdrawn; this Withdrawal of Notice of Revocation would affirm the validity of the CO; and, the Withdrawal would be delivered to Appellant's counsel by that afternoon. *See*, Exhibit 14. DCRA sought postponement of the hearing on the basis that the issues would become moot. Appellant opposed postponement. Finding that the issues were not moot and that DCRA had

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Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcz@dc.gov

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Exhibit C

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not provided good cause for the requested delay, the Board denied the request for postponement and proceeded with the hearing.

Upon hearing from the parties to the matter, the Board rendered its decision, voting to grant the Appellant's Motion for Summary Judgment and, thereby, to grant the appeal.

An explanation of the facts and law that support that conclusion follows.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Public Hearing

The Notice of Appeal, as well as a Motion for Summary Judgment and/or an Expedited Hearing, was filed on December 1, 2006 by MLW, LLC. The Office of Zoning scheduled a public hearing for May 1, 2007. In accordance with 11 DCMR § 3112.14, the Office of Zoning mailed notice of the hearing to the Appellant, ANC 2E03, and DCRA. The Office of Zoning advertised the hearing notice in the D.C. Register at 54 D.C. Reg. 1873 (March 2, 2007).

Motion for Summary Judgment

On December 1, 2006, the Appellant simultaneously filed this Appeal and a Motion for Summary Judgment and/or an Expedited Hearing. See, Exhibit 1, Tab 28. The Motion was heard on May 1, 2007. The Board, upon determining that there was no genuine issue as to any material fact, granted the Motion for Summary Judgment and thereby granted the appeal as a matter of law on the grounds that the five-unit apartment building that was approved by BZA Order 6885 is not a nonconforming use and therefore is not subject to discontinuance under § 2005.1 The Board expressly did not reach the issues of estoppel or laches, as such a determination was not necessary to granting the relief in this case. See, Tr. at 113.

Standard for Motion for Summary Judgment

Summary judgment is appropriate if there is "no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." Super. Ct. Civ. R. 56 (2005); see also, *Musa v. Continental Ins. Co.*, 644 A.2d 999, 1001-02 (D.C. 1994). Only disputes over facts, viewed in the light most favorable to the non-moving party, which might legitimately affect the outcome of a trial, are "material" under Rule 56. See, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250; 106 S Ct. 2505 (1986) Disputed material facts are those that might affect the outcome of the suit under governing law. *Clayton v. Owens-Corning Fiberglass Corp.*, 662 A.2d 1374, 1381 (D.C. 1995)

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The United States Supreme Court has articulated a policy favoring the summary judgment procedure. See, e.g., *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986); *Anderson v. Liberty Lobby, Inc.*, *supra*; *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 106 S.Ct. 1348 (1986). In *Celotex*, the U.S. Supreme Court stated:

Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of [Court Rules] as a whole, which are designed to secure the just, speedy and inexpensive determination of every action.

Celotex, 477 U.S. at 327.

The District of Columbia Court of Appeals has also noted that summary judgment is a valuable tool, and that public policy favors disposing of issues summarily, where possible. *Hercules & Co., Ltd. v. Beltway Carpet Services, Inc.*, 592 A.2d 1069, 1075 (D.C. 1991); *Vessels v. District of Columbia*, 531 A.2d 1016, 1019 (D.C. 1987). In administrative proceedings, summary judgment is also a well-accepted practice. *District of Columbia Department of Consumer and Regulatory Affairs v. Vu*, CR-C-06-100009 (OAH, October 16, 2006.)

The Positions of the Parties

The Appellant maintained that there were no material facts in dispute and that, as a matter of law, the use of the subject property as a five-unit apartment building was not a non-conforming use under the definition set forth in 11 DCMR §2005.1; and based on BZA Order No. 6885, dated August 21, 1962, it became and continued to be a conforming use. Consequently, the regulations pertaining to discontinuance of a nonconforming use did not apply to the property and the Zoning Administrator erred in seeking to revoke CO 61776.

At the hearing, DCRA conceded that the regulations pertaining to discontinuance at § 2005.1 did not apply to the property, but argued that the Board could and should resolve the matter without reaching the question of whether the use of the property was conforming.

Material Facts Not in Dispute

1. The property that is the subject of this appeal is located at 3256 N Street, N.W. in the R-3 zone district of the Georgetown Historic District.

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2. MLW, LLC is the owner of the subject property. *See*, Exhibit 1, Tabs 3 and 6.
3. In the early 1960's, the prior owners of the subject property, Mr. and Mrs. Aubrey W. Williams, filed an appeal¹ with the Board, seeking to change a nonconforming use from a rooming house to an apartment house. On August 21, 1962, the Board issued BZA Order No. 6885, authorizing the use of the subject property as a five-unit apartment building. While the BZA limited the apartment building to five units, it did not impose a time limitation or other conditions on the use. *See*, Exhibit 1, Tab 2.
4. Mr. Jerome Wagshal ("Mr. Wagshal") acquired the subject property in the early 1970's. On November 3, 1978, DCRA issued CO No. B111434 for the subject property (the "1978 CO"). The 1978 CO authorized the property to be occupied as a five-unit apartment house, the same as the prior Certificate of Occupancy for the subject property. *See*, Exhibit 1, Tab 4. On August 22, 2002, the Estate of Jerome Wagshal executed a deed to the subject property in favor of Ms. Mary Wagshal ("Ms. Wagshal"). *See*, Exhibit 1, Tab 5. On September 6, 2002, Ms. Wagshal transferred ownership of the subject property to MLW, LLC. *See*, Exhibit 1, Tab 6.
5. On September 9, 2003, DCRA issued the current Certificate of Occupancy No. 61776 to MLW, LLC based on a change of ownership and authorizing continued use of the subject property as a five-unit apartment building. *See*, Exhibit 1, Tab 7.
6. On March 16, 2005, DCRA issued Building Permit No. B470714 (the "March 2005 Permit") authorizing the exterior work on the subject property. *See*, Exhibit 1, Tab 10.
7. On June 21, 2005, DCRA issued a permit, Building Permit No. B474036 (the "June 2005 Permit"), authorizing interior work on the Subject Property. *See*, Exhibit 1, Tab 11.
8. Having received the necessary permits and approvals, MLW began construction at the property on November 3, 2005. (*See* Exhibit 1, Tabs 3 and 13.)
9. On December 7, 2005, DCRA issued a Stop Work Order (the "First SWO") at the subject property alleging a violation of 11 DCMR § 2002 (nonconforming uses within structures). *See*, Exhibit 1, Tab 14.
10. On January 23, 2006, DCRA lifted the First SWO and MLW resumed construction at the subject property. *See*, Exhibit 1, Tab 20.

¹ In 1962, a BZA appeal was the functional and legal equivalent of a modern "use variance" and/or a "special exception" granted by the Board. *See*, 11 DCMR §§ 3103 and 3104 and Tr. at 84.

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11. On March 28, 2006, DCRA issued a Second Stop Work Order (the "Second SWO"), alleging a violation of 11 DCMR § 2005.1 (discontinuance of nonconforming use). *See*, Exhibit 1, Tab 22.

12. The second SWO was accompanied by a letter from the Zoning Administrator dated March 22, 2006, acknowledging that the use of the subject property as a five-unit apartment was authorized by order of the BZA in Appeal No. 6885. The letter required the Appellant to "provide proof of rental of all 5 units for past 10 years" and contained a handwritten note that read "Stop Work Order place [sic] by Mr. Bill Crews, authorization of the Director, DCRA will be lifted upon verification of requested documentation." *See*, Exhibit 1, Tab 23.

13. On April 12, 2006, DCRA lifted the Second SWO and MLW resumed construction at the Property. *See*, Exhibit 1, Tab 28.

14. On or about October 19, 2006, the Zoning Administrator sent a Notice of Revocation of CO 61776 to MLW. *See*, Exhibit 1, Tab 1. The Zoning Administrator alleged that on "information and belief, the Zoning Administrator has determined that the nonconforming use was discontinued for a period of three (3) or more years" and, as a result, under 11 DCMR § 2005.1, "the current use as a five (5) unit apartment building is not allowed by the Zoning Regulations." *Id.*

Legal Analysis

Revocation of Appellant's certificate of occupancy was based on the Zoning Administrator's determination that the apartment building was a nonconforming use and therefore subject to the discontinuance of nonconforming use provision set forth in § 2005.1. As set forth below, and based on the undisputed facts in this case and the law governing nonconforming and conforming uses, the Zoning Administrator erred in this finding.

The term "nonconforming" use is specifically defined under the Zoning Regulations as follows:

[A]ny use of land or of a structure, or of a structure and land in combination, lawfully in existence at the time this title or any amendment to this title became effective, that does not conform to the use provisions for the district in which the use is located. A use lawfully in existence at the time of adoption or amendment of this title that would thereafter

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require special exception approval from the Board of Zoning Adjustment shall not be deemed a nonconforming use. That nonconforming use shall be considered a conforming use, subject to the further provisions of §§ 3104.2 and 3102.3.

11 DCMR § 199.1.

It is undisputed that use of this building as an apartment building was authorized by the Board in 1962 – after the Zoning Regulations that require special exception approval from the Board for this use were adopted in 1958. (See Undisputed Material Fact #3.) Accordingly, this use was not lawfully in existence prior to the adoption of the zoning regulations and, therefore, does not fall within the definition of nonconforming use.

Further, it is undisputed that the Board expressly authorized this use without time limitation or other conditions. See, Finding of Fact # 3. The Appellant argued that because the use was approved and authorized by the Board, it became a “conforming use” and use of the property runs with the land. Although the District’s courts have not addressed this precise question, courts in other parts of the country have upheld the concept that a use approved by a variance or special exception “becomes a conforming use and otherwise partakes to a large degree the character of a vested right running with the land.” See, Anderson, American Law of Zoning, §§ 6.1, 20.2 (4th Ed.) citing *Industrial Lessors, Inc. v. Garfield*, 119 NJ Super 181, 290 A.2d 737 (1972), cert. den., 61 NJ 160, 293 A2d 390. The Board concurs with this reasoning.

Regardless of whether the use of the subject property as a five-unit apartment building as authorized by BZA Order No. 8665 is considered a conforming use, it is undisputed that the use is not a nonconforming use and it thereby is not subject to the discontinuance restrictions of § 2005.1. The discontinuance restrictions under § 2005.1 are by definition only applicable to a “nonconforming use.” Subsection 2005.1 provides:

Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for a period of more than three (3) years, shall be construed as *prima facie* evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located.

11 DCMR § 2005.1 (Emphasis added).

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Grant of Motion for Summary Judgment

The Board finds that there was not a nonconforming use in this case. The undisputed facts show that use of this five-unit apartment building was not in existence prior to 1958 and, thereby, it does not fit the definition of a "nonconforming use" as set forth in the regulations. That section of the regulations specifically requires that the nonconformity be in existence at the time the title or an amendment became effective, which was not the case in this instance. See, 11 DCMR § 199.1.

Further, the Board finds use of the subject property as a five-unit apartment building was authorized in 1962 by BZA Order No. 6885. As a result, use of the subject property, as a five-unit apartment building pursuant to that order is a conforming use.

Finally, the Board finds as a matter of law that there was no discontinuance of a nonconforming use under § 2005.1 because the use of the subject property as a five-unit apartment building was not a nonconforming use.

Accordingly, DCRA erred when it issued the Notice of Revocation of the Certificate of Occupancy.

For the reasons discussed above, it is hereby **ORDERED** that:

The Motion for Summary Judgment and the appeal of the Notice of Revocation are **GRANTED**.

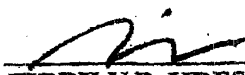
Vote taken on May 1, 2007

VOTE: 3-1-1 (Ruthanne G. Miller, Curtis L. Etherly, Jr., and John A. Mann II to grant; Marc D. Loud to deny. No Zoning Commission member participating or voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Three Board members have approved the issuance of this Decision and Order and authorized the undersigned to execute the Decision and Order on his or her behalf.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning 

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FINAL DATE OF ORDER: OCTOBER 18, 2007

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.