


**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:

DC Department of Consumer and Regulatory Affairs (DCRA) / Zoning Administrator

made on

April 19, 2011

, to the effect that

there is error in a decision made by any administration officer in the

administration of the zoning regulations. Specifically, we appeal the granting of permit # B1103503 in that errors flow from original error that the Lot is incorrectly listed and the Zoning analysis consequently was in error and incomplete. Please see attached sheet of paper for complete appeal.

|                | Square(s) | Lot(s) | Zoning Districts |
|----------------|-----------|--------|------------------|
| L'Enfant Plaza | 0387      | 870    | C3C              |
|                |           |        |                  |
|                |           |        |                  |

Present use of Property:

Retail Plaza

Proposed use of Property:

Retail Plaza

Owner of Property:

Potomac Creek Associates, LLC

Telephone No.:

(202) 485-3300

Address of Owner:

955 L'Enfant Plaza #1208, Washington, DC 20024

BOARD OF ZONING ADJUSTMENT  
District of Columbia

Name, address and telephone number of lessee:

Unknown

CASE NO.

18249

EXHIBIT NO.

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

Larry Heyman, Vice President, The Old Colony Company,

Administrative Manager of L'Enfant Colony LLC; 333 Post Road West Westport, Connecticut, USA, 06880; (203) 221-3910

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:

April 20, 2011

Signature:

Appellant:

[Signature]

\* 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:

Larry Heyman

Address:

333 Post Road West, Westport, Connecticut, USA, 06880

Phone No.:

(203) 221-3910

Fax No.:

(203) 226-4597

E-Mail:

lheyman@heymanproperties.com

District of Columbia

CASE NO. 18249

EXHIBIT NO. 1

20 April 2011

### Zoning

The Board (DC Board of Zoning Adjustment) is authorized by Section 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001), to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer in the administration of the Zoning Regulations. 11DCMR §§ 3100.2, 3200.2. In an appeal, the Board may reverse or affirm, in whole or in part, or modify the decision appealed from 11 DCMR §3100.4.

An appeal must be filed within 60 days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier. 11 DCMR § 3112.2(a). The Board may extend the 60-day deadline in case of exceptional circumstances outside the appellant's control. 11 DCMR §3112.2(d).

### Appeal:

Appeal the granting of permit #B1103503

Error: Lot is incorrectly listed and Zoning analysis was in error and incomplete.

Errors flow from original error that Lot is incorrectly listed and Zoning analysis was in error and incomplete.

If as listed on Permit #B1103503, the correct property lot is 7000, then error has occurred in the Zoning Administrator's issuing of permit as the owner/permit applicant did not submit satisfactory evidence that all requirements of DCMR Title 11 were met, as per §3202.2 and §3202.3 in accordance with §2517 as the permit application listed a lot 870 in Square 0387.

In addition, an error of zoning administrator has occurred in the review, interpretation and in carrying out or enforcement of any zoning regulation, DC Code Sec 5-424, as application listed incorrect lot which would have lead Zoning Administrator to review false site information.

If Lot is as listed on the permit application, the correct property lot is 870 in Square 0387, then the Zoning Administrator erred in issuing this permit because the Zoning Administrator's analysis and decisions were not based on complete and accurate information about the applicants property, reflecting all existing and planned improvements which resulted in the issuance of permits that were not reviewed correctly and to insure conformity to the applicable zoning provisions especially height §770.1, rear yard §774 and FAR §771.

In addition, the applicant misrepresented the nature of the work as alteration to below grade levels. The work to be performed under this permit will provide the structural support for a multi-story building that may well be non-conforming, and which is also an addition to above grade stories and thus must be reviewed for permit by the Zoning Administrator as such.

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The applicant for permit is additionally misrepresenting to the DC Department of Consumer and Regulatory Affairs (DCRA) the scope of work to be performed. There is evidence that the applicant for permit is demolishing the existing structure in preparation for new non conforming structure with respect to Height, Rear yard, and FAR by piecemeal demolition of existing structure and building a new non conforming structure as an alteration.

The Zoning Administrator is required to view new construction as such and in conformance with current DC Zoning Regulations and did not do so.

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