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**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of Chaney Enterprises LP
ANC 8D

BZA Application No.
Hearing Date:

APPLICANT'S STATEMENT

This is the application of the Chaney Enterprises LP ("**Applicant**") for special exception relief for a concrete plant.¹ The property that is the subject of this application is 3 DC Village Lane, SW (Square 6264, part of Lot 801) (the "**Property**"). A Surveyor's Plat is included in Exhibit C. The Property is included in the C-M-1 Zone District. An excerpt of the Zoning Map is included in Exhibit D.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment ("**Board**" or "**BZA**") approve a special exception, pursuant to Section 802.17 of the Zoning Regulations (11 DCMR § 802.17), to allow a facility that manufactures, processes, mixes, stores, and distributes concrete. Under Section 3104.1, the Board may grant the requested special exception if it is in harmony with the general purpose and intent of the Zoning Regulations and Zone Map and will not tend to adversely affect the use of neighboring property.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the special exception relief requested pursuant to Section 3104.1 of the Zoning Regulations (11 DCMR § 3104.1).

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 18404

EXHIBIT NO. 4

¹ The Applicant is the ground lessee of the Property, which is owned by the District of Columbia. Under the terms of the ground lease, the Applicant is obligated to comply with all applicable regulatory requirements, including the filing and approval of this special exception application. A copy of the ground lease is included in Exhibit E.

III. DESCRIPTION OF THE PROPERTY

The Property is an irregularly shaped parcel containing approximately three (3) acres of land area. The Property is located in Ward 8 and the DC Village neighborhood of Southwest Washington. The Property is roughly bounded by DC Village Lane to the north; the Maryland border to the south; industrial land to the east; and an automobile impound lot to the west. The Property contains a portable concrete batch plant.

IV. DESCRIPTION OF THE PROJECT AND HISTORY

The D.C. Department of Real Estate Services issued a Request for Offers (“RFO”) in April 2011 to ground lease the Property. The Applicant was selected to lease the Property as a “state of the art” portable concrete batch plant. The purpose of the plant is to manufacture and provide concrete for the DC Water Blue Plains facility just northwest of the Property so that DC Water can construct mandated facilities pursuant to a consent decree.

On November 28, 2011, the Applicant received a building permit (No. B111984) to construct a portable concrete manufacturing facility and office trailer. Pursuant to this building permit, the Applicant subsequently constructed the facility. Subsequently, on December 22, 2011, the Applicant received a Certificate of Occupancy (“CO”) (No. CO1200713) for the concrete manufacturing facility. The concrete manufacturing facility has been in operation since that date. On March 26, 2011, the Department of Consumer and Regulatory Affairs (“DCRA”) issued a letter to the Applicant revoking the building permit and CO, effective 60 days after the notice, because the Applicant did not receive special exception approval from the Board pursuant to Section 802.17. Nevertheless, the facility has been operating in accordance with the requirements of Section 802.17 since they were addressed at the time of the building permit application review.

**V. THIS APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION FOR A
CONCRETE MANUFACTURING FACILITY**

The standard for special exception relief is that the project is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and that relief can be granted without adversely affecting neighboring properties. Section 802.17 provides requirements that must be met so that the project is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not adversely affect neighboring properties. As demonstrated below, this application satisfies these requirements.

- A. No portion of the facility, including the land used by such facility, shall be located within two hundred feet (200 feet) of a residential property line or of any property that is a public park or is used for retail, office, church, school, or institutional purposes*

The closest residentially zoned property is more than 1,300 feet from the edge of the Property, and no portion of the Property is within 200 feet of a public park, retail space, office, church, school, or institution.

- B. There shall be no truck access, parking, standing, or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are used for residential purposes*

Truck access to the facility is along DC Village Lane and Shepherds Parkway. No more than 50% of the properties abutting these roads are used for residential purposes. All parking, standing, and queuing will be limited to the interior of the Property. No vehicles will queue along the public streets.

- C. No truck dumping or picking up concrete or asphalt or related materials shall park, stand, or queue for the facility along any public right-of-way. Vehicular traffic resulting from operations at the facility shall not obstruct traffic and the location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits*

No dumping or picking up of concrete or related materials will adversely impact any public right-of-way since all dumping and picking up will occur within the Property.

- D. Any facility located within five hundred feet (500 feet) of a residence district shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks*

The concrete batch plant is located within the bounds of the Property at least 1,400 feet from the closest residentially zoned property.

- E. The use shall not have unacceptable adverse impacts on the character of the neighborhood due to traffic, parking, or other objectionable conditions*

The facility is compatible with the surrounding neighborhood and zoning and will not adversely affect the character of the neighborhood due to traffic, parking or other objectionable conditions. The facility is well-removed from non-industrial properties, and loading and traffic will all be managed on-site.

- F. The facility shall meet the "Standards of External Effects" pursuant to § 804*

1. All uses established in a C-M District under authority of § 801.7 and any uses accessory to those uses shall be operated so as to comply with the standards of external effects in this section

The concrete manufacturing facility will comply with the standards of external effects.

2. The volume of sound inherently and recurrently generated shall not exceed the standards in §§ 804.3 through 804.6 at any point along the boundaries of the zone district in which the use is located.

Based upon sound data and analysis performed at an equivalent ready mix batch plant facility, sound levels from the concrete batch plant a distance of 1,457 feet shall not exceed acceptable noise levels. The facility is located approximately 1,457 feet from the zone district boundaries, so it shall not exceed acceptable levels at the boundaries of the zone district at any point. At the zone boundary line, the conservatively estimated sound shall be no more than 49 dba.

3. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association on May 12, 1958.

The sound data referenced in the response to the section above was measured with a sound level meter that meets or exceeds the standards prescribed by the American Standards Association on May 12, 1958.

4. Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses

No objectionable intermittent sounds are anticipated, but the Applicant will implement controls as needed and/or required.

5. Except as provided in § 804.7, maximum sound pressure levels shall not exceed those provided in the referenced table.

As previously stated, at the zone boundary line, the conservatively estimated sound shall be no more than 49 dba.

6. Where a C-M District abuts an M District, the standards in § 825 shall apply along the zone boundary separating the C-M and M Districts

Not applicable.

7. The emission of any smoke from any source to a density greater than that density described as No. 2 on the Ringelmann Smoke Chart shall be prohibited. The Ringelmann Smoke Chart, published by the Bureau of Mines, U.S. Department of the Interior, in Information Circular 8333, shall be adopted by reference and made a part of this title

The emission of smoke is not anticipated due to the nature of equipment to be used at this site. However, as mandated this Section, the Ringelmann Smoke Chart will be adopted for reference at the facility.

8. The emission of any odorous gases or other odorous matter or steam in quantities that are offensive or noisome at any point along the boundaries of the zone district in which the use is located shall be prohibited.

No odorous gases or matter are anticipated, but the Applicant will adopt preventative measures if necessary.

9. No noxious, toxic, or corrosive fumes or gases shall be permitted to escape or to be discharged from any use permitted in a C-M District

No such fumes are anticipated, but the Applicant will adopt preventative measures if necessary.

10. No objectionable amounts of cinders, dust, or fly-ash shall be permitted to escape or to be discharged from any use permitted in a C-M District.

Emission control equipment on the ready mix hatch plant is a fabric filter. Per the manufacturer's specifications, this filter has a 99.9% efficiency for controlling dust from operations at the batch plant. The Applicant filed an application for a Permit to Construct/Operate Process equipment with DDOE Air Quality Division. Additionally, best management practices on site will include sweeping and wetting surfaces to control fugitive emissions from other sources (e.g., truck tires, aggregate storage bins). Sediment and erosion control measures include swales to capture site runoff, a stormwater management pond, and a four-tiered sediment basin system that collects and allows settling of captured sediment. All three of these measures, as well as emission control equipment and best management practices, work together to prevent any objectionable amount of dust, fly-ash, or sediment from escaping the Property.

11. No direct or reflected glare or heat from any source shall be detectable in objectionable amounts beyond the boundaries of the zone district in which the use is located.

No such glare or heat is anticipated, but the Applicant will adopt preventative measures if necessary.

12. Every use shall be operated so that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point along any boundary of the zone district in which the use is located.

No such ground vibrations are anticipated, but the Applicant will adopt preventative measures if necessary.

- G. *The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 feet) in height. The public view side and the side of the facility facing residence districts or nearby or adjacent property used as a public park or for retail, office, church, school, or institutional purposes shall be landscaped and shall have an opaque screen, fence or wall, not less than ten feet (10 feet) in height. The use of barbed wire or razor wire that is visible from residential or public space is prohibited*

The facility is enclosed by a 10 foot high fence that is opaque in the appropriate locations (i.e., where visual impacts would be greatest to nearby properties).

- H. *Landscaping standards shall be applied as follow:*

1. A landscape area of evergreen trees shall be maintained in the front, side and rear yards, and along all public rights-of-way

Landscaping includes Leyland Cyprus trees in the appropriate locations, and as shown on the landscaping plan attached as Exhibit G and approved by DCRA.

2. The landscaping shall be maintained in healthy growing condition

Proposed landscaping, as shown on the landscaping plan, shall be maintained in a healthy growing condition and any mandated tree which dies shall be replaced of at least the minimum required size.

3. The trees shall be a minimum of eight (8) feet in height when planted

Trees are eight feet (8 ft.) in height, in accordance with a previous sketch reviewed and approved by DCRA.

The location of the concrete manufacturing facility will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not adversely affect the use of neighboring property. As discussed above, the facility satisfies the requirements in Section 802.17 and is well removed from non-industrial uses such that surrounding neighborhoods will not be adversely affected. The siting and use of the Property is exactly the type of use contemplated for

an industrial zone. Accordingly, the concrete manufacturing plant is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.

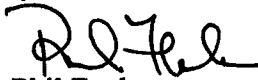
VI. EXHIBITS

EXHIBIT A	Application Form, Self-Certification Form, and Letter of Authorization
EXHIBIT B	Applicant's Statement
EXHIBIT C	Surveyor's Plat
EXHIBIT D	Excerpt of Zoning Map
EXHIBIT E	Ground Lease
EXHIBIT F	Architectural Plans and Elevations, including Photos of Property
EXHIBIT G	Landscape Plan
EXHIBIT H	List of Property Owners within 200 Feet of the Property

VII. CONCLUSION

For the reasons stated above, the Applicant respectfully requests that the Board approve the requested special exception relief.

Respectfully submitted,
GOULSTON & STORRS, P.C.


Phil Feola


Cary Kadlecek