

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

**APPLICATION OF
DISTANCE EDUCATION AND TRAINING
COUNCIL**

**BZA APPLICATION NO. 18903
HEARING DATE: JAN. 27, 2015
ANC 2B03**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of Distance Education and Training Council, ("DETC" or the "Applicant"), owner of condominium Unit 2A (Square 155, Lot 2288) within the building located at 1601 18th Street, N.W. (Square 155, Lots 50-56) (the "Site") in support of its application to the Board of Zoning Adjustment pursuant to 11 DCMR § 3104.1 for special exception relief under section 508 of the Zoning Regulations for office use in Unit 2A in the DC/SP-1 District at the Site.

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the special exception requested herein pursuant to 11 DCMR § 3104.

**III.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION**

- Exhibit A: A portion of the Zoning Map showing the Site.
- Exhibit B: A portion of the Baist Atlas and Sanborn Map showing the Site.
- Exhibit C: Excerpt of the Imperial House Condominium – Condominium Declaration.
- Exhibit D: Floor plans of the ground floor of the Site.

Exhibit E: 1980 Certificate of Occupancy for Unit 2A.

Exhibit F: Outline of Testimony.

IV. BACKGROUND

A. Description of the Site and Surrounding Area

Square 155 is located in the northwest quadrant of the District and is two blocks in size. Square 155 is bounded by R Street to the north, 17th Street to the east, Q Street to the south, and New Hampshire Avenue and 18th Street to the west, and is bisected laterally by Corcoran Street. Square 155 is split-zoned: the eastern portion along 17th Street is zoned DC/C-2-B; the middle portion between R Street and Q Street is zoned DC/R-5-B; and the western portion along 18th Street and New Hampshire Avenue is zoned DC/SP-1. The square is developed with a mix of uses, primarily with taller commercial and residential buildings along 17th and 18th Streets and New Hampshire Avenue, and row dwellings along R Street and Q Street in the center of the square.

As indicated on the Zoning Map attached as Exhibit A, the Site is zoned DC/SP-1 and is located in the southwest corner of Square 155 with frontage on New Hampshire Avenue, 18th Street, and Q Street. The Site is improved with a ten story condominium building known as the Imperial House, which contains 160 residential units, four units on the ground floor that are designated in the condominium documents as “non-residential,” and 40 parking spaces. Pursuant to the Imperial House Condominium – Condominium Declaration (“Condominium Declaration”), dated September 10, 1980, and attached as Exhibit C, the non-residential units are defined as units “designed for commercial, office, or other non-residential use permitted under

the zoning law and regulations of the District of Columbia which are applicable to the Condominium” (see Exhibit C, p. 3).

The entrance lobby to Imperial House is on 18th Street. The Applicant owns Unit 2A, which is accessed directly from the lobby. As shown on the floor plans attached as Exhibit D, Unit 2A is long and rectangular, extending for the majority of the Site’s Q Street frontage, and has approximately 3,178 square feet of gross floor area. The other non-residential units in the building include a custom window and drapery business; a dentist office; a psychotherapist office; and two taxpayers advocate firms.

The Applicant has occupied Unit 2A since 1962 when the apartment house was a rental building. The Applicant was a rental tenant in the building from 1962 to 1980. When the building was converted to condominiums in 1980, the Applicant purchased Unit 2A. A Certificate of Occupancy for Private Club use with a 30 person maximum was issued on March 18, 1980 (Exhibit E). The records of the District of Columbia do not include copies of any prior Certificates of Occupancy for Unit 2A. This application seeks to allow the Applicant to obtain a new Certificate of Occupancy for Unit 2A for office use.

B. The Applicant

The Distance Education and Training Council is a private, non-profit organization founded in 1926¹ to promote education quality and ethical business practices for correspondence education programs. DETC is recognized by the U.S. Secretary of Education and by the Council for Higher Education Accreditation as a national institutional accrediting organization for postsecondary distance education institutions. DETC’s goal is to ensure a high standard of

¹ DETC was founded under the name National Home Study Council (“NHSC”). In 1994, the organization’s name changed from NHSC to DETC (see <http://www.detc.org/>).

educational quality in the distance education institutions it accredits by requiring compliance with its published standards, policies, and procedures.

C. Relief Requested

Recently, the current DETC leadership became aware that its Certificate of Occupancy is for a Private Club. The Zoning Regulations define “Private Club” as a:

building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization (emphasis added)

11 DCMR § 199. The Applicant is a non-profit educational organization and has operated as such in Unit 2A since 1962. In order to have been issued a certificate of occupancy in 1980 as a Private Club, the Office of the Zoning Administrator must have been satisfied at that time that the organization met the definition of a Private Club. The Applicant has no correspondence in its files explaining or otherwise relating to its classification by the District as a private club. The Applicant’s operations more closely fit the zoning classification as a non-profit office.

Pursuant to section 508 of the Zoning Regulations, office use is permitted in the SP-1 District with special exception approval from the Board. The Applicant wishes to correct the District of Columbia’s records regarding its use, and therefore requests special exception approval from the Board for office use in Unit 2A.

V.
THE APPLICANT MEETS THE BURDEN
OF PROOF FOR SPECIAL EXCEPTION RELIEF

A. Standard of Review

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695 (1981).

B. Special Exception per Section 508 to Allow Office Use in the DC/SP-1 District

Section 508.1 of the Zoning Regulations provides, in relevant part, that "[c]onstruction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use, shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section."

1. *Section 508.3 – The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.*

Office use of Unit 2A is in harmony with the existing uses on the neighboring properties. The Site contains a mixed-use condominium building. The other three condominium units on the ground floor of the building are also designated for non-residential use and house offices. There are a number of other office and non-residential uses in the area. The neighboring

property to the east along Q Street is a row dwelling converted to a doctor's office; the neighboring property to the north is a four story building owned and occupied by the Embassy of the Republic of Namibia. Both of these neighboring buildings are separated from the Site by public alleys. The Site is otherwise bounded by public streets. Across 18th Street and New Hampshire Avenue to the west are the Embassies of Argentina, Zimbabwe, and Montenegro, and the office of Phi Beta Kappa. Office uses to the south of the Site along 18th Street and New Hampshire Avenue include the Women's National Democratic Club, the Embassies or Embassy Annexes of Jamaica, Botswana, Iraq, Turkey, China, Malaysia, and Mozambique, the Mathematical Association of America, the School for Ethics and Global Leadership, the American Political Science Association, and the Assembly of Turkish American Associations. To the north, at the corner of 18th Street and New Hampshire Avenue is the General Grand Chapter of the Order of the Eastern Star.

Office use of Unit 2A is appropriate and in harmony with the non-residential uses in the surrounding buildings. The office use is within the existing building, on the ground floor, not readily visible from the street, and will not change the existing height, bulk, or design of the building at all. The ground floor location of Unit 2A has minimal visual impact on the neighboring properties. No exterior lighting is required or proposed, so lighting will not have an adverse impact. The office use does not generate any discernable noise outside of its enclosing walls.

2. *Section 508.4 – The use shall not create dangerous or other objectionable traffic conditions.*

Office use of Unit 2A will not create any dangerous or other objectionable traffic conditions. The Site is located in a mixed-use, walkable neighborhood, less than two blocks from the Dupont Circle Metrorail station and in close proximity to multiple Metrobus lines, car-

share locations, and Capital Bikeshare docks. The rich options for alternative transportation modes that exist around the Site result in very few employees using a car to access the Site. The Site has a walk score of 99, a transit score of 91, and a bike score of 92, and is dubbed a “paradise” for walking, transit, and cycling (*see* www.walkscore.com). More than ten Metrobus routes have stops within 0.2 miles of the Site; ten permanent carshare spaces are within 0.3 miles of the Site; and Capital Bikeshare docks are located in close proximity in all directions. Taxis, Car2Go vehicles, and other point-to-point transportation options are prevalent and easily accessible throughout the neighborhood.

Furthermore, the office area of 3,178 square feet is below the minimum threshold for a parking requirement for office use in the SP District, as required by section 2101.1 of the Zoning Regulations. Nonetheless, the Applicant owns four on-site parking spaces that are designated specifically for Unit 2A employees. The Applicant’s occupancy of Unit 2A since 1962 has not resulted in any dangerous or objectionable traffic conditions.

3. *Section 508.5 – The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it deems necessary to protect the value of neighboring property.*

Special treatment is not necessary in this case. The Applicant has been using Unit 2A for essentially office functions since 1962 (approximately 52 years) without impacting the value of neighboring properties. The Applicant is not proposing any exterior height, bulk, or design changes to the building.

VI. COMMUNITY SUPPORT

The Applicant presented the application to Advisory Neighborhood Commission (“ANC”) 2B Zoning, Preservation and Development Committee on January 7, 2015, which

voted to recommend approval of the application to the full ANC. The Applicant is scheduled to present the project to the full ANC on January 14, 2015.

VII.
WITNESS

A. Leah Matthews, DETC Executive Director

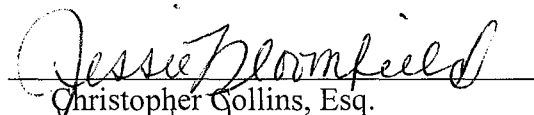
VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

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*Admitted to practice in Pennsylvania. Practicing in the District of Columbia pursuant to D.C. Court of Appeals Rule 49(c)(8).