DETAILED STATEMENT OF EXISTING AND INTENDED USE

LG Industries, Inc. (the "Applicant") has filed this appeal to the Board of Zoning Adjustment (the "BZA") based on the denial of its Certificate of Occupancy Application #512228. The denial letter was executed by Mr. Edgar T. Nunley of the Zoning Review Branch on February 4, 1997, and personally served on Mr. Christopher D. Bell on that date. This letter indicated that it would be necessary to obtain a special exception under the provisions of the DCMR Title 11 in order to obtain this requested use in an M Zone. As indicated in its September 3, 1996 letter to the Buildings and Land Administration, the Applicant filed its application under protest and compulsion in order to comply with provisions of its August 2, 1996, "Interim Solid Waste Permit."

The Applicant had requested the certificate with the intended purpose of using its premises at 1140 3rd Street, N.E. for "Shipping, Freight and Cargo, Transfer Station, Warehousing, Trucking, Carting or Hauling Terminal or Yard, Processing Establishment, Solid Waste Handling Facility that will be used for the receipt, loading, compacting, processing, and transfer for final disposal outside the District of Columbia of solid waste and/or construction or demolition debris (all material nonhazardous)." The Applicant had previously received a Certificate of Occupancy dated July 14, 1994 for the same location. On this certificate, the facility had been approved to be used for "Shipping, Freight & Cargo, Transfer Station, Warehouse & Trucking." Applicant believes its 1994 Certificate of Occupancy validly authorizes it to conduct its current transfer station activities. Applicant applied for the new Certificate solely because it was required to do so under the terms of its Interim Permit.

The facility is leased and operated by the Applicant. The facility has been operational since 1994. The facility serves as a transfer station for municipal solid waste to Lorton and other landfills. Only municipal solid waste is handled at the facility. No chemical or hazardous material is processed at the facility. The facility serves many solid waste contractors who collect waste from commercial properties throughout the District. The facility serves as an economic engine for its host community. The facility itself employs eleven (11) people, while its business supports the activities of twenty (20) businesses and

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Board of Zoning Adjustment
District of Columbia
CASE NO.16239
EXHIBIT NO.11

approximately sixty (60) people.

The Applicant has attempted to operate its facility in a way that reconciles the competing demands of the solid waste industry with that of area residents who live in close proximity with the facility. The Applicant has gone through considerable expense in modifying the building to accommodate the needs of a transfer station and area residents. Towards this end, the Applicant has undertaken noise, dust, odor, and pest control measures. The Applicant maintains a misting operation within the facility, has controls on the amount of organic solid waste that can be delivered to the facility, operates a quality air filtration system, and requires that the floors of the facility be washed down at night with a special preparation that kills germs. The Applicant also regularly polices the premises to remove trash buildup and to prevent illegal dumping.

The Applicant has attempted to operate its facility so that much of the actual business activity takes place in the building and/or away from neighborhood residences. All trucks are required to cover their loads and are hosed down frequently. Additionally, air from the facility is vented away from residences. The Applicant has sought to conduct its transfer station in a way that is efficient for drivers, while minimizing the impact to the industrial area and its residents. In this regard, trucks are told not to travel on residential routes and are "staged" in a non-residential area prior to coming to the facility to reduce queuing. The Applicant has made many efforts to ensure that residents are spared, to the extent feasible, the inconvenience of truck noise and congestion. It should also be noted that the Applicant has met with area residents to address their concerns and undertaken initiatives to benefit the community in this regard.

Applicant maintains that it has been improperly denied this Certificate of Occupancy. The recent Zoning Commission hearings on the Text Amendment 96-5 reflected the concern of the community at large with respect to the operation of transfer stations. While the Applicant is sympathetic to concerns of area residents, the Applicant believes that neither the text amendments nor the outright denial of its Certificate of Occupancy will serve to broker a resolution to this complex issue or advance the interests of the District as a whole. Transfer stations are a necessary part of the urban infrastructure. Many successful urban communities have found ways to promote the needs of transfer

stations within urban confines. Consequently, more attention should be devoted to policy initiatives that integrate health and safety options for these facilities, rather than promote burdensome government regulations that stifle business opportunity. Myopic, piecemeal government intervention will not bring about answers that are needed to this problem. Instead, such interventions will promote market upheavals that do not advance the interests of area residents, but have the unintended affect of undermining the economic viability of transfer stations. Given the expected increases that are anticipated for municipal solid waste for the District, the District can ill-afford poorly designed regulatory approaches that impede social goals in this area.

The District's trash needs compel the existence of transfer stations so that it can effectively manage it trash generation. Failure to properly plan and prepare for transfer stations can produce harmful consequences. For example, poor policy initiatives can raise the cost of trash service to District residents. As the operation costs for transfer stations increase, these costs are passed on to commercial and residential consumers. Additionally, high trash costs and perceived problems of service delivery and execution can negatively impact the business climate and make new businesses and residents more apt to locate in surrounding suburban areas, thereby denying the District of needed tax revenues. Therefore, the regulatory framework that is ultimately adopted must harmonize competing residential and economic visions of prosperity for the District.

The Applicant is aware that its transfer station has been a source of concern for some individuals. The Applicant has attempted to address these concerns in a timely and forthright manner. Despite its well-intentioned efforts, the Applicant realizes that some detractors of the facility will never be satisfied with any effort by the Applicant to respond to resident concerns. Nonetheless, the Applicant is confident that this facility is a quality facility that is being run in a responsible manner. The Applicant's transfer station performs a vital service to the District. Although the benefits of the transfer station are dispersed over a large group, the Applicant is aware that the area residents feel that they bear a disproportionate share of the costs. In this regard, the Applicant would like to continue dialogue with community activists, area residents, and government officials to promote a harmonious relationship of peaceful coexistence.

The Applicant strongly maintains that it has the legal right to operate this transfer station. The terms of the original Certificate of Occupancy provided that a transfer station would be allowed. The Applicant has sought to operate this facility in a professional manner with due regard for area residents and business concerns. Consequently, the Applicant should be granted the relief requested herein so that it can continue its operations. In so doing, the Applicant can continue its business in the area while trying to reach meaningful compromise that advances and respects the interests of all parties involved.

Signed: _____ Date: 2/21/97
Agent for Applicant

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