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September 24, 2001

BY HAND

Ms. Sherri M. Pruitt
Secretary
D.C. Board of Zoning Adjustment
441 Fourth Street, N.W.
Suite 210
Washington, D.C. 20001

Re: BZA Application No. 16736

Dear Ms. Pruitt:

This firm is counsel for the Applicant. I have reviewed the Board's recently issued Summary Order in this case and have determined that it appears to not reflect the Board's complete approval action in this matter.

Specifically, the Board, *sua sponte* at the last minute amended the application to approve retail uses as well as the originally requested professional office uses. I have now obtained a copy of the hearing transcript and attached the relevant portions for your review. In seconding the approval motion made by Chairperson Reid, Mr. Griffis offered a friendly amendment "that would specify the variance of use for these units to retail and/or professional use." Transcript, page 195. This friendly amendment was accepted by Chairperson Reid and the members approved the amended application for retail or professional use. Subsequently, on the record, Ms. Bailey, on the Board's staff, recorded the vote to approve use of Units 10 and 20 for "retail and/or professional office space." Transcript, pages 195-196.

After you have had an opportunity to review this information and the Transcript, the Applicant would appreciate receiving a

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Board of Zoning Adjustment
District of Columbia
CASE NO.16736
EXHIBIT NO.30

corrected Summary Order. If you have any questions, please do not hesitate to contact me.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
John Patrick Brown, Jr.

JPB/sp
Enclosure
cc: Mr. Kevin P. O'Malley (w/encl.)
Mr. Desmond Dodd, Advisory Neighborhood Commission 1E (w/encl.)
166995

as a valid nonconforming use provided there's no discontinuance of three years or more.

MR. GRIFFIS: So, you don't see it as an issue?

MR. BROWN: I don't anticipate that a problem. I hope it isn't.

CHAIRPERSON REID: All right. Board members, I move approval of the application.

I think that the applicant has demonstrated to meet the three-prong test in regards to the variance under section 350, that the property is unique in that it is small and it does not have any windows of any type or any of the other features that would be conducive to retail habitation, and that the property had been used previously for commercial use. It's been vacant for some time which is contributing to blight in that particular area.

I think that given the fact -- the practical difficulty is because of the configuration, because of the size, because of the lack of residential features that it would not be conducive for retail use and, therefore, it would be the practical difficulty to comply with the existing zoning regulations.

As far as we know, there is no adverse

impact. We've had no opposition as far as noise, traffic, parking, light, and the like.

The building is segregated from the rest of this area. These two units, ten and 20, are separated from the rest of the building and it does not tend impair the intent and integrity of the zoning regulations and map.

MR. GRIFFIS: Second.

CHAIRPERSON REID: Board discussion.

MR. GRIFFIS: I would actually like to briefly see if you would entertain a friendly amendment that would specify the variance of use for these units to retail and/or professional use.

CHAIRPERSON REID: Okay. Specifically retail or professional use.

MR. GRIFFIS: Correct.

CHAIRPERSON REID: All right. All in favor?

(Ayes.)

CHAIRPERSON REID: Opposed?

MS. BAILEY: Staff will record the vote as 5-0 to approve the application. Motion made by Ms. Reid. Seconded by Mr. Griffis. Mr. Levy, Mr. Parsons, and Ms. Renshaw in agreement to approve the application for units ten and 20 to be used for retail

and/or professional office space.

CHAIRPERSON REID: Okay. Some other question I forgot. I know that the record's been already -- the votes been taken, but did you say that it had been marketed or you tried to get residential tenants in those units?

MR. O'MALLEY: We've never attempted to obtain residential uses for those spaces. They don't have bathrooms. They don't have kitchens.

CHAIRPERSON REID: Oh, right. Right. It's unrealistic.

MR. O'MALLEY: Yes.

CHAIRPERSON REID: Okay. All right. Thank you.

MR. O'MALLEY: You're welcome.

CHAIRPERSON REID: All right.

MR. BROWN: Thank you, Madam Chair, members of the Board.

CHAIRPERSON REID: Quite welcome.

Why don't we take a ten-minute break before we finish the last one?

MR. GRIFFIS: Yes.

VICE CHAIRPERSON RENSHAW: Yes. Yes, I have to go at --

CHAIRPERSON REID: Okay. Ten minutes.