BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Jemal's Liggins LLC

BZA Application No. 17063
Public Hearing: October 14, 2003
ANC 6C

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR §3103.2, for variance relief from the off-street parking (§2101.1) and loading requirements (§2201.1) of the Zoning Regulations, to continue the use of the existing building for general office in the DD/C-2-C District, at premises address of 450 H Street, NW (Square 518, Lot 103)(the "Subject Property").

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief pursuant to §3103.2 of the Zoning Regulations. Section 3103.2 provides,

> [w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code, 2001 Ed., §§6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA
Case No. 17063
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 17063
EXHIBIT NO. 24

III.
EXHIBITS IN SUPPORT OF THE APPLICATION

Before proceeding with the discussion of the merits of this application, the following additional materials are submitted:

Exhibit A:	A portion of the Sanborn Atlas showing the Subject Property outlined in red ink.
Exhibit B:	A portion of the Zoning Map showing Square 518 outlined in red ink, with zoning designation of DD/C-2-C.
Exhibit C:	Copy of BZA Order No. 14002, Application of Judiciary Tower Associates.
Exhibit D:	Copy of Certificate of Occupancy No. 190235 issued March 16, 2001 to Douglas Development to use 1st through 10th Floors and Basement of 450 H Street, NW, for office use.
Exhibit E:	Copy of Certificate of Occupancy No. 28793 issued February 15, 2002 to D.C. Youth Services Agency to use 2nd through 10th Floors of 450 H Street, NW, for office use.
Exhibit F:	Copy of Notice of Intent to Revoke Certificate of Occupancy, issued July 14, 2003.
Exhibit G:	Letter of support from Advisory Neighborhood Commission 6C dated September 22, 2003.
Exhibit H:	Outline of testimony of Representative of Jemal's Liggins LLC, Applicant.
Exhibit I:	Outline of testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.

IV.
BACKGROUND

A. Site and Vicinity Characteristics

1) The Subject Property:

The Subject Property is located on the south side of H Street, NW, between 4th Street and 5th Street, NW.(Exhibit A). It is rectangular in shape, contains a lot area of approximately 3,834 square feet, and approximately 54 feet of frontage along H Street, NW. The current zoning for the Subject Property is C-2-C within the Downtown Development District ("DD") Overlay. (Exhibit B).

The Subject Property is improved with a 10-story building, which includes one level of below-grade parking accessible from the ramp serving the parking garage in the General Accounting Office ("GAO") headquarters building to the immediate east. The building on the Subject Property contains a gross floor area of approximately 31,685 square feet, giving the building an FAR of approximately 8.26. At the time of the building's construction in 1984, the Subject Property was zoned HR/SP-2, and the building was constructed pursuant to HR/SP-2 zoning restrictions, along with certain area variances and special exceptions approved by the BZA in Order No. 14002, a copy of which is attached as Exhibit C.

Notably, in Order No. 14002 the Board approved variance relief from the off-street parking requirements, permitting a fewer number of spaces than required and spaces with non-compliant dimensions, based upon the site constraints of the Subject Property. The Board also approved a rear yard variance for the Subject Property and special exception to construct an office building in a SP District, but did not approve a FAR variance, resulting in approval of a mixed-use building with floors 1 through 4 as office and 5 through 10 as residential.

The Subject Property is located on the eastern edge of Chinatown, with its mix of retail, office and residential uses, and on the northern edge of the Judiciary Square area, which is primarily developed for offices. The site is located within the boundaries of Advisory Neighborhood Commission 6C.

The Subject Property is located less than 1,000 feet from both the Gallery Place/Chinatown and Judiciary Square Metrorail stations. The site is well-served by public transportation, including multiple Metrobus routes passing along H Street, NW, in front of the Subject Property.

2) Vicinity:

As referenced above, the 110-foot tall headquarters of the U.S. General Accounting Office is located immediately east of the Subject Property and occupies a significant portion of Square 518. (Exhibit A). Elsewhere within Square 518 is the St. Mary Mother of God Church and accessory buildings located to the west and south of the Subject Property. Directly north across H Street, NW is the Judiciary House apartment building, operated by the District of Columbia Housing Authority. To the northwest of the Subject Property, at the northeast corner of H and 5th Streets, are four small townhouse-type office buildings; and to the northeast of the Subject Property, at the northwest corner of 4th and H Streets, is a 13-story apartment building under construction at 400 Massachusetts Avenue, NW.

B. Zoning History:

At the time of the Board's approval of Order No. 14002 and the construction of the building in the mid-1980s, the Subject Property was controlled by the HR/SP-2 zoning, which allowed a floor area ratio ("FAR") of 8.5, of which a maximum of 3.5 FAR was permitted for

other than residential use. Since that time, the Subject Property has been rezoned from HR/SP-2 to DD/C-2-C. This latter zoning category likewise provides a maximum FAR of 8.5 as a matter of right (0.5 FAR of which is by transferable development rights) all of which may be devoted to office use so long as not less than 4.5 FAR of residential use is provided on-site or accounted for off-site in a combined lot development.

The provisions of the DD Overlay apply to the Subject Property pursuant to §1700.5 of the Zoning Regulations, which establishes the applicability of the DD provisions to all new buildings within the Overlay as well as to all other buildings therein where any additions, alterations, or repairs within any 12-month period exceed 100 percent of the assessed value of the building, per the records of the District of Columbia Office of Tax and Revenue. In the present case, the alterations and repairs undertaken by the Applicant far exceeded 100% of the assessed value of the building as of the date of the building permit application in 2001. Whereas, at the time of the building permit issuance, the improvements were assessed by the District's Office of Tax and Revenue at approximately $31,880, the Applicant has expended more than $750,000 in tenant finishes alone, pursuant to building permits. As a result, the provisions of 11 DCMR Chapter 17, including the combined lot provisions of §1708, are applicable to the Subject Property.

In the present case, the Applicant shall transfer the residential FAR required pursuant to the DD/C-2-C zoning by combined lot development to property located immediately northwest of the Subject Property, Lot 51 in Square 517, with premises address of 400 Massachusetts Avenue, NW, where a 13-story apartment building is currently under construction. As a result of the combined lot development, use of the building as an office on the Subject Property, which occupies approximately 8.26 FAR on its own lot, is permitted as a matter of right.

Given that office use of the building on the Subject Property is permissible under this scenario, the building does not provide appropriate parking and loading facilities as required under §§2100 and 2200 of the Zoning Regulations. Pursuant to the approval of the BZA in Order No. 14002, the Applicant was granted a parking variance to provide eight spaces, none of which complied with the dimensional requirements of the Regulations. At the time of construction, the HR/SP-2 zoning required 11 spaces for the mixed use contemplated. The Subject Property also provides no loading facilities. Because the amount of space in the building that was contemplated for office use was less than 30,000 square feet and the number of residential units was less than 50, no loading was required for the building under the then-applicable HR/SP-2 zoning.

Given the size of the existing building (approximately 31,685 square feet total gross floor area) and the C-2-C zoning for the Subject Property, the building, if entirely devoted to office use, is required to provide 17 parking spaces, pursuant to §2101.1, whereas only 8 spaces are provided. With respect to loading, §2201.1 requires for an office building in the C-2-C District, with between 20,000 and 50,000 square feet of gross floor area, a minimum of one loading berth at 30 feet deep, one loading platform at 100 square feet, and one service/delivery loading space at 20 feet deep. As set forth above, no dedicated off-street loading area is currently provided.

E. Other Significant Aspects of the Project

At its September 10, 2003 public meeting, Advisory Neighborhood Commission 6C voted unanimously (6-0) to support the application. The ANC 6C letter in support of the application is attached as Exhibit G.

V.
DISCUSSION

At the time of the Applicant's purchase of the building in December, 1999, the interior finish of the structure still had not been completed and no certificate of occupancy had ever been issued for the building. In March of 2001, the Applicant was issued a certificate of occupancy for office use of the entire building (Certificate of Occupancy No. 190235 issued March 16, 2001, attached as Exhibit D). The Applicant subsequently entered into a lease with the District of Columbia Department of Human Services, Youth Services Administration and completed tenant improvements for that tenant. The Youth Services Administration was then issued a certificate of occupancy for the second through tenth floors of the building for office use (Certificate of Occupancy No. CO28793, issued to "Youth Services Agency February 15, 2002, attached as Exhibit E).

The Applicant and the Youth Services Administration have recently been advised by the D.C. Building and Land Regulation Administration ("BLRA") of that office's intention to revoke Certificate of Occupancy No. CO28793, "based upon an unauthorized 'use' of the building space."(Exhibit F)." The BLRA asserts that the approved use of the building is not for office use but rather as a mixed development pursuant to BZA Order No. 14002. Based upon the zoning/use-related nature of the controversy, the Applicant has filed an appeal to the BZA of this revocation notice issued by the BLRA. Notwithstanding that appeal, the Applicant here seeks variance relief from the parking requirements (§2101.1) and the loading requirements (§2201.1) of the Zoning Regulations pertaining to the building on the Subject Property. The approval of these variances and the utilization of the combined lot development process established in Chapter 17 of the Zoning Regulations, would render moot the issues underlying the BLRA's revocation notice (along with the Applicant's appeal of same) in that office use of the existing

structure would then be permitted and the use permitted by Certificate of Occupancy No. CO28793 will continue in place.

VI.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF FROM THE ZONING REGULATIONS

As set forth below, the Applicant satisfies the three-prong test for variance relief as established in §3103.2. Variance relief is therefore appropriate in the present case.

A. The Property is Affected by an Exceptional Or Extraordinary Situation or Condition

As the Board has previously found in Application No. 14002, the Subject Property is exceptional in that it is a comparatively small site for commercial development in the downtown area, is located mid-block, and has only one public frontage, along H Street, NW. There is no alley access for the Property, nor is there room for the Subject Property to be expanded as the site is surrounded by the sprawling GAO facility and the landmark St. Mary's Church. The Subject Property is further exceptional in that this Board, in Order No. 14002, has determined that the size of the site, along with the existence of water conditions on the site, constitute an exceptional condition in that the site cannot accommodate more than one level of parking. Ramping is impossible on a site with such a small footprint, and the board has previously found that the site is burdened with a relatively high water table, making construction of an additional level of below-grade parking unworkable.

While in 1983 the Board found the Subject Property to be exceptional as a result of physical conditions affecting the site itself, the Subject Property today is even further exceptional

in that it is now improved with a 10-story building that has been issued numerous permits and two certificates of occupancy by the District of Columbia for general office use.

As found by the District of Columbia Court of Appeals in *Clerics of St. Viator, Inc. v. District of Columbia Board of Zoning Adjustment*, "[i]t makes no practical difference whether the inability to use property in accordance with zoning regulations stems from topographical conditions of the land itself or from the existence of a structure on the land," (320 A.2d 291, at 294). Further, that Court has likewise held that the term "extraordinary or exceptional condition" was designed to allow the Board of Zoning Adjustment to temper the strict application of the Zoning Regulations in appropriate cases. Such conditions need not be inherent in the land and can be caused by subsequent events extraneous to the land. *De Azcarate v. D.C. Board of Zoning Adjustment*, 388 A.2d 1233, at 1237. In this case, the Subject Property's exceptional nature stems both from the conditions affecting the land as well as the existence of a structure on the land.

B. <u>The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty</u>

In order to obtain an area variance, an owner must prove peculiar and exceptional practical difficulties caused by compliance with the applicable regulation. Furthermore, these difficulties must be related to a property's exceptional circumstances and not to general conditions in the neighborhood.

As demonstrated and approved by the BZA in Order No. 14002, the strict application of the parking regulations rendered a practical difficulty upon the applicant in that case (the "Original Applicant") in attempting to redevelop the Subject Property. The practical difficulty imposed upon the current owner of the Subject Property is dramatically even greater than that

faced by the Original Applicant. Here, the Applicant is dealing with all the site limitations faced by the Original Applicant, but also with the additional difficulty of complying with the parking and loading regulations on a property that is already improved with a 10-story building that has been developed and leased for general office use. Whereas the site limitations of the Subject Property were of such a magnitude when the BZA considered Application No. 14002 (namely, a site too small to provide ramping to multiple levels of parking and a high water table further complicating such an endeavor) to deserve area variance relief, here, a subsequent owner is faced with these same physical constraints that the Original Applicant faced, along with the additional practical difficulty of having to address the parking and loading requirements of the Zoning Regulations with a 10-story building already constructed and occupying virtually the entirety of the site.

Given this reality, the Applicant has no real opportunity to provide any additional off-street parking and loading than is currently in existence at the Subject Property. With the relatively high water table on the site and the diminutive footprint making more than a single level of parking infeasible, the Applicant does not have any viable opportunity to provide additional parking or loading on site, not even by tunneling and creating a second level of parking under the building.

For all these reasons, a strict interpretation of the Zoning Regulations would cause a practical difficulty to the Applicant deserving of relief from the Board.

C. **Variance Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.**

The Application can be approved by the Board with no substantial detriment to the public good and with no impairment to the intent, purpose and integrity of the Zone Plan, as set forth below.

1. Public Good:

The building, when devoted entirely to office use, generates a requirement of only 17 parking spaces, only six more than generated under the mixed use plan originally approved by the Board. As in Application No. 14002, where the Board found that the parking variance could be approved without harm to the public good or the zone plan, in the present case, the parking and loading variances here requested will work no such detriment. With respect to parking, the number of spaces in issue is very slight. As will be demonstrated by the Applicant in its evidence presented at the hearing, there is adequate and convenient off-street parking available elsewhere in the area to occupants and visitors to the site. Public parking options have only increased in all directions of the Subject Property since the Board's approval in Application No. 14002, where the Department of Transportation concluded, that from a traffic capacity standpoint, that application would have a negligible impact on surrounding streets, and the Board there found that there would be no adverse traffic impact resulting from traffic related to the building. Likewise, there is an abundance of public transportation alternatives to occupants and visitors of the Subject Property, including two Metrorail stations in close proximity to the site and Metrobus routes passing in front of the site.

Likewise, with respect to loading, the Applicant notes that the schedule set forth in §2201.1 provides a threshold of 20,000 square feet before establishing any off-street loading requirement for office use in the C-2-C District. Below that number, no loading accommodation

is required to be provided. In the present case, the building on the Subject Property under the mixed use scenario originally approved had no loading requirement. However, when the very same building is devoted exclusively to office use, it exceeds the 20,000 square foot threshold, and therefore now requires a loading berth and service delivery space. Nonetheless, as has been accomplished for the past few years that the Youth Service Administration has occupied the building, office use of the Subject Property has been undertaken without disruption to traffic or other harm to the general public.

2. Zone Plan:

The grant of variance relief in the present case will likewise not impair the District's zone plan. Importantly, the Applicant is not requesting permission to construct a 10-story office building on the Subject Property, nor even requesting a use variance to utilize the site entirely for office use and not to provide residential use. Instead, the Applicant is attempting to remedy, with the least disruption possible to the current occupant of the site, a nonconformity of the Subject Property with the Zoning Regulations now in effect.

As discussed above, the Applicant is accounting for the required amount of residential use on the site through the utilization of the combined lot development mechanism provided for in §1708 of the Regulations. In fact, the Applicant is providing for combined lot development with the 13-story residential building under construction immediately north across H Street, NW, from the Subject Property, at 400 Massachusetts Avenue. While this undertaking will prove expensive to the Applicant in terms of opportunity costs, in that the combined lot development rights are to be transferred to a site that has already been certified for occupancy by the District as an office building, the Applicant is encouraged that this approach will lend further integrity to

the Zone Plan. Given this approach taken by the Applicant, the only remaining nonconformities with the Zone Plan are the parking and loading requirements, for which relief is here requested. The Board has already found in Order No. 14002 that the site alone, without the existing 10-story building, qualified for variance relief from the parking regulations. Thus, approval of this application by the Board, with the additional information here provided regarding the existing building on the site, is in keeping with Board's decisions and furthers the integrity of the Zone Plan.

For all the above reasons, variance relief from §§ 2101.1 and 2201.1 of the Regulations can be granted without detriment to the public good or without substantial impairment to the Zone Plan.

VII.
WITNESSES

A. Representative of Jemal's Liggins LLC, Applicant.

B. Steven E. Sher, Director of Zoning and Land Use Services,
Holland & Knight, LLP.

VIII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

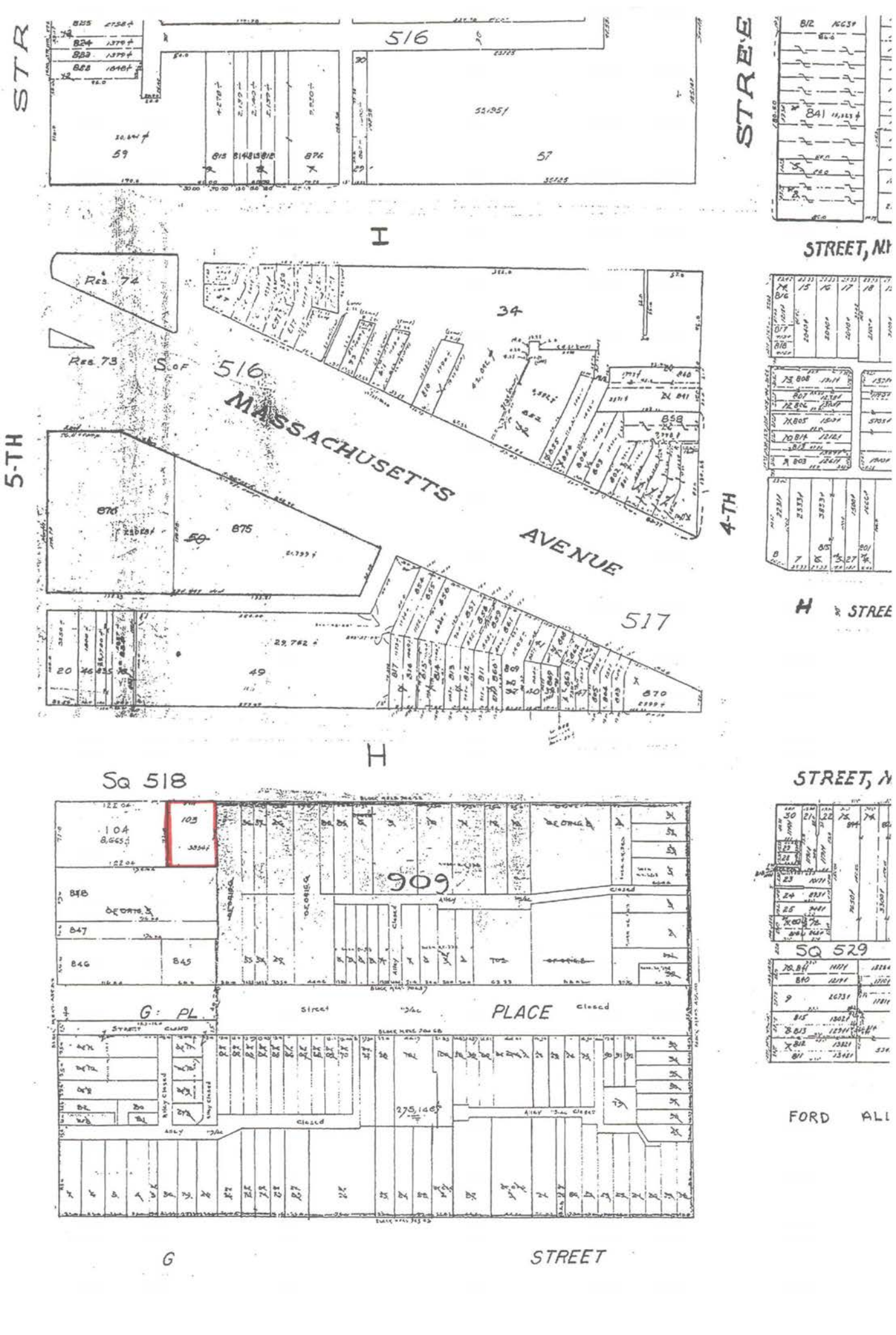
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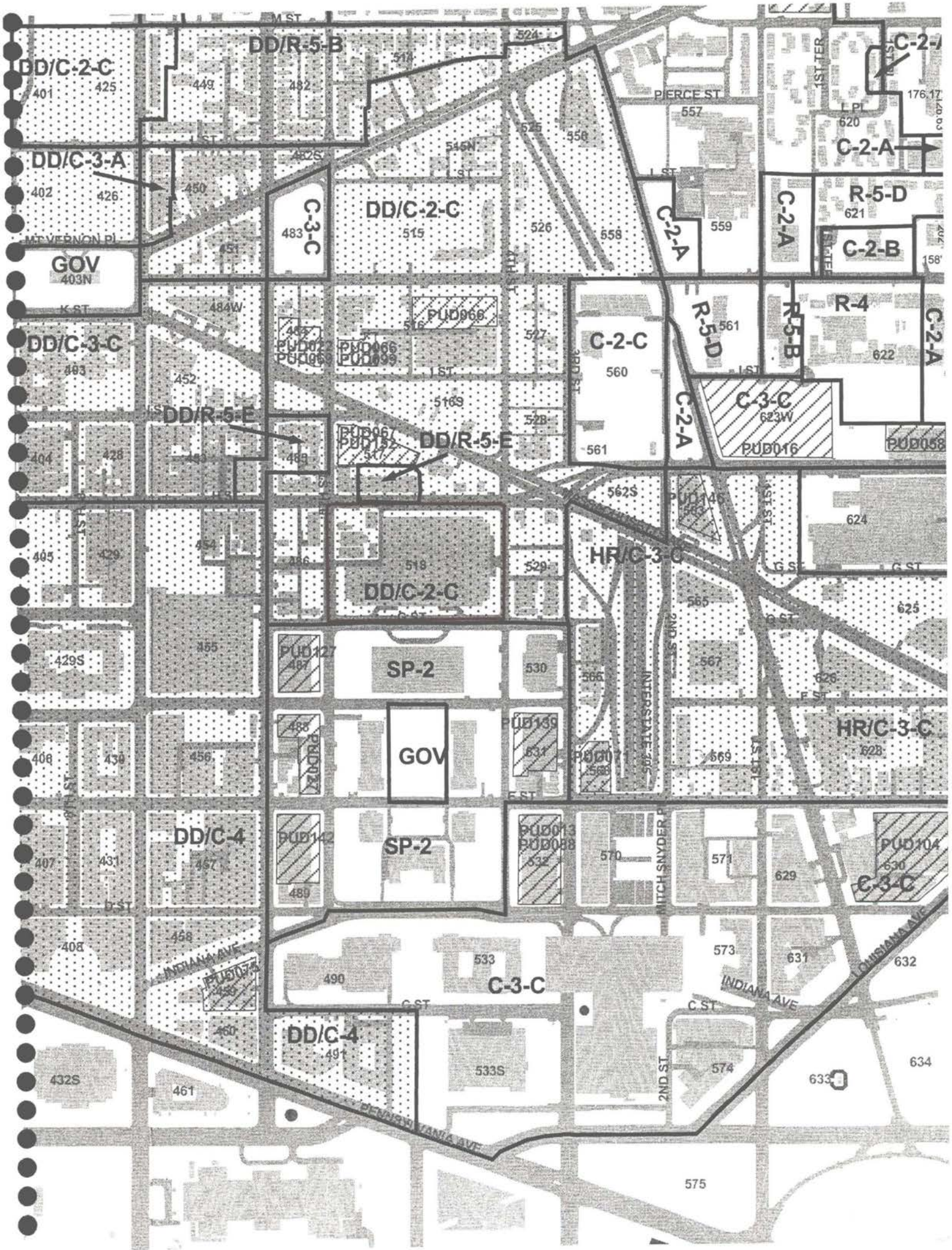
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September, 2003

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C

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14002 of Judiciary Tower Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.44 to construct a special purpose office building and under Sub-section 4303.4 to waive the rear yard requirements and for variances from the floor area ratio requirements (Sub-section 4301.1), and the parking requirements (Sub-section 7202.1) or in the alternative variances from three parking spaces (Sub-section 7202.1) and from the prohibition against required parking spaces measuring less than nine feet by nineteen feet for two spaces (Sub-section 7204.1) to permit the proposed construction of a new special purpose office building and an apartment house of eight units in an HR/SP-2 District at premises 450 H Street, N.W., (Square 518, Lots 5,6 and 7).

HEARING DATE: August 3, 1983
DECISION DATE: September 7, 1983

FINDINGS OF FACT:

1. The opposition, as a preliminary matter at the public hearing, requested that the hearing on the subject application be continued. The opposition argued that the property was not posted for the full fifteen days as required under the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment. On several days during the fifteen day period there was no sign on the property. Secondly, the Office of Planning report was not in the file and available to the opposition's careful review. Thirdly, there was no evidence in the file that the General Accounting Office (GAO) had given permission to the applicant to use its ramp. Upon review of the file and questioning of the witnesses, the Chairman ruled that the property had been sufficiently posted and that the Office of Planning report had been filed properly. As to the issue of the easement from the GAO, the Chairman ruled that this was a substantive issue that would be addressed as the merits of the case were heard.

2. The subject site is located on the south side of H Street between 4th and 5th Streets, N.W., approximately 122 feet east of the intersection of 5th and H Streets. The site is known as premises 450 H Street, N.W. It is in an HR/SP-2 District.

3. The site is rectangular in shape, containing 3,834 square feet of land with fifty-four feet of frontage on H Street. The site is improved with a one-story structure located on Lot 7 which is occupied by a dry cleaning establishment, a nonconforming use.

4. To the east of the site is the General Accounting Office, a 110 foot high structure with a garage ramp entrance abutting the site to the east. The GAO building visually dominates the area, and occupies all of the subject square other than the subject site and the adjacent religious institution.

5. Immediately to the west and south of the site is the St. Mary Mother of God Church, its parking lot, its rectory, an orphanage and the parish house. A portion of the parish house continues in church use. A second portion was approved by the Board for SP office use in Application No. 13911, by order dated June 28, 1983. Built in 1891, the St. Mary's Church is a Category III Landmark. Further south of the Church is the GAO building occupying the remainder of the square.

6. To the north across H Street from the site is the ten-story Judiciary House apartment complex as well as three and four-story row dwellings occupied with office uses permitted in the SP District.

7. The site is located on the eastern edge of Chinatown which contains a mix of retail, housing and office uses. The site is also on the northern edge of the Judiciary Square area, a governmental center around which new privately owned office buildings are being developed.

8. The zoning pattern is generally C-3-C and C-4 to the east, west and south, outside of the three block wide Judiciary Square area zoned SP-2. Within the SP-2 area, there have been three approved planned unit developments and map changes to C-3-C.

9. The applicant proposes to demolish the existing building, terminate the nonconforming use and build a new mixed-use office and apartment structure. The mixed-use structure will be 110 feet in height and is proposed to contain six floors of office use and four floors of residential use.

10. The ground through sixth floors of the proposed structure are proposed to be leased to professional office firms. The seventh through tenth floors are proposed to be developed as eight apartment units, with two units per floor. Eight parking spaces are proposed to be located on the first sub-grade level with access from the GAO Building

garage ramp. There will be two additional levels below the parking level with leasable space.

11. The Commission of Fine Arts has architectural review authority over the proposed development under the Shipstead-Luce Act. On February 3, 1983, the Commission of Fine Arts approved preliminary design of the proposed project including a finishing material of limestone and glass.

12. The architect for the applicant testified that the Commission of Fine Arts found that the project was an urban design asset in that a building of the proposed height prevented the massive GAO Building from visually over-powering both the site in question and the St. Mary's Church. The Board concurs.

13. No windows for the proposed apartment units are located within forty feet directly in front of another building. The GAO Building steps back twenty-five feet from the H Street building face at a point just below the lowest residential level of the proposed project. Thus, while residents on the east side of the proposed structure would see the nearby western face of the GAO Building, the space directly in front of them would be clear. The closest adjacent buildings opposite the residential windows on the north, south and west sides of the proposed project are substantially more than forty feet away. The project's upper residential floors will be approximately fifty feet on a diagonal from the louvers of the GAO Building's mechanical floor. However, the 8.67 feet of the rear yard for which relief is requested will not make an appreciable difference.

14. The office windows along approximately forty-four feet of the ground floor and approximately twenty-nine feet of floors two through six, on the east side of the proposed structure, face on windows of the GAO Building twenty-six feet away across its parking ramp. While this separation is less than the required thirty feet, it is not critical and is not a direct result of the reduced size of the rear yard. There is also a very minor six foot overlap of the Church on the southwest side of the subject structure, resulting in a twelve foot separation between office windows at the ground floor and the blank wall of the church at that point.

15. Service activities will be provided to the proposed structure through the GAO ramp. Trash would be loaded from the GAO ramp. Major deliveries to the apartment units would occur on H Street.

16. The applicant testified that the provision of residential as well as commercial use on the site, in accordance with the HR overlay zone results in the necessity of devoting further area in the building to a double

elevator service core. Problems with security and the desire of the residents of the building to maintain their privacy and be out of the flow of visitors and occasional deliveries to office functions on the SP office floors necessitate a separate elevator for their use. This results in an unusually high core factor for the building. The Board concurs with the applicant. The Board finds however, that due to the smallness of the site, the core area to accommodate the mixed use is of minimal size and would in any case consume a high percentage of the floor area.

17. No new residential housing has been provided in the general area of the site that has not received a government subsidy.

18. The subject site is surrounded by existing office and institutional uses, none of which front directly upon it. The site fronts on the ninety foot wide right-of-way of H Street to the north and is separated from the GAO Building by the twenty-two foot wide ramp on the GAO property on the east and a 14.25 rear yard is provided. Therefore, there is sufficient area to protect the light, air, and privacy of users of the proposed structure as well as neighboring uses.

19. The General Services Administration has agreed to grant the applicant an easement for the use of the GAO Building's ramp, as set forth in Exhibit No. 30 of the record.

20. The applicant proposes to provide a total of eight parking spaces to serve the building. Six spaces measure 8.5 feet by 18.5 feet and two spaces for compact cars measure seven feet by 18.5 feet.

21. Within a two block radius of the site, there are sixty-one curbside metered parking spaces and 418 off-street spaces available in three parking lots and one garage. There is adequate and convenient off-street parking available to the site.

22. The applicant's traffic expert determined that the proposed office space would contain approximately fifty-four employees. It is expected that approximately eighty percent of the employees would use public transportation, approximately five percent would walk to work or be dropped off by others and approximately fifteen percent would arrive at work by private car. An average car occupancy is expected to be 1.8 persons. It is anticipated that the ownership among the residents of the eight apartment units will be one car per four units or two cars. The total peak hour traffic that would be generated by the proposed development would be six trips. The expert was of the opinion that there would be no effect on current traffic operating conditions. The Board concurs.

23. H Street is a minor arterial street, seventy feet wide in front of the site, which provides six lanes of traffic. The curb lane is restricted to buses and right-turning vehicles in the peak direction during the peak periods. During the rest of the day, one-hour metered parking is allowed on both sides of the street. Fifth Street is a local street, forty-four feet wide in the immediate vicinity of the site. Two-hour metered parking is allowed between 7:00 A.M. and 6:30 P.M. on both sides of the street.

24. The site is approximately 1500 feet from both the Gallery Place and Judiciary Square Stations on Metrorail's Red Line. Five Metrobus lines pass through the intersection of 5th and H Streets. The 80 and 81 Metrobus routes pass in front of the site every five minutes.

25. The applicant testified that the subject site is a relatively narrow one for undertaking development such as is allowed at the height and bulk permitted under the Zoning Regulations. The applicant testified that with a lot width of fifty-four feet and area of approximately 3,800 square feet, parking can only be provided on one subgrade level since additional below grade level parking use would be impractical given the amount of area required for ramping down to additional below grade areas. The applicant further testified that a geotechnical report of the site revealed the existence of a relatively high water table which precluded further excavation.

26. The HR/SP-2 District allows a maximum floor area ratio of 8.5. Of the 8.5 FAR or 32,589 square feet of gross floor area, a maximum of 3.5 FAR or 13,419 square feet is permitted for office use. The remaining 5.0 FAR or 19,170 square feet, is available for residential use. The subject building contains 19,079 square feet of floor area proposed for office use, requiring a variance of 5,660 square feet. As proposed, 12,335.5 square feet of floor area would be for residential use.

27. The applicant testified that the small site area dictates that at least the minimum SP office floor area needed is the 3.5 FAR maximum. In order to accomplish the residential component of the project, a form of subsidy is needed to generate sufficient income from rental of office space on the site and is the basis for the FAR variance. The Board does not concur with the applicant's basis for the FAR variance. The economic considerations as stated are not an acceptable basis for a variance.

28. A rear yard of 22.92 feet is required and 14.25 feet is provided. The applicant is requesting a waiver of 8.67 feet or thirty-seven percent.

29. Nine off-street parking spaces are required for the proposed office use and two spaces are required for the apartments, totaling eleven spaces. Eight spaces are provided requiring a variance of three spaces or thirty-seven percent. None of these spaces are nine feet by nineteen feet.

30. The Office of Planning, by report dated July 27, 1983, recommended that the application be approved. The Office of Planning reported that the granting of the special exception for both SP office use and a partial rear yard waiver coupled with variances for office FAR and parking would not impair the intent or purpose of the Zoning Regulations. Existing plans and policies support the mix of uses in the area, particularly encouraging residential and hotel uses.

31. The Office of Planning was of the opinion that the size and location of the site are major contributors to the substantial practical difficulty the applicant faces in developing the subject site. The site is so small that the elevator core is twenty-five percent of a typical floor, resulting in a tremendously inefficient building. The site cannot be expanded because it is hemmed in by the GAO building and historic St. Mary's Church. Adding to this is the high cost of land Downtown and the free standing nature of the structure yielding expensive exterior materials in order to gain the necessary Fine Arts approval. The combination of mixed use policies and unique site, with no opportunity for a PUD (Planned Unit Development) results in a structure for which the proposed office and residential uses are permitted, the overall height and mass are permitted and the mix or relative proportion of uses, while not permitted without a variance, is essential to the viability of the project. The Board, for reasons discussed below, does not concur with the Office of Planning recommendations as to the FAR variance.

32. The D.C. Department of Transportation, by report dated July 26, 1983, indicated that it reviewed the application and found that, in recognition of the limited site, the proposed parking layout be revised to provide three to four spaces for full-sized cars and four to five spaces for compact cars. The eight spaces provided should be allocated to provide six spaces for office use and two spaces for residential use. The office parking spaces should be made available to residents in the evenings and on weekends. The applicant has agreed to the recommendations of the D.C. D.O.T. The D.C. Department of Transportation concluded that from a traffic capacity standpoint, the application will have a negligible impact on the surrounding streets. The Board concurs with the D.O.T. recommendations as to impact, but find that the parking layout as submitted by the applicant is reasonable.

33. The D.C. Department of Environmental Services by report dated July 8, 1983, stated it had no objections to the application.

34. Letters supporting the development were filed into the record from the D.C. Office of Business and Economic Development and the Department of Housing and Community Development.

35. A representative of St. Mary Mother of God Church, the property immediately to the west of the subject site, testified to the applicant's sensitivity to Church needs in terms of parking access, location and building materials for the proposed project. The Church concluded that, after careful study, it believed that no adverse impact on the Church will result and that granting the application will result in a good mix of uses for the neighborhood.

36. City Councilman John A. Wilson by letter dated July 26, 1983 stated his support of the application. He stated that it will provide needed jobs, housing and other services to the downtown without adverse impact on existing structures in the surrounding area.

37. There was opposition from the owner of property on the north side of H Street, across from the subject site. The opposition stated that a primary concern was the size of the proposed structure, which he realized was permitted as a matter of right. He testified that seven years experience in occupying office properties led him to believe that parking was difficult in the area and that curbside parking was always occupied. It was his opinion that the FAR variance requested would, if granted, exacerbate what is already a bad parking situation. He argued that the question of egress on GAO property was unresolved and that the applicant's use was likely to result in objection from GAO and have an adverse traffic impact on the neighborhood. He further testified that the parking layout was awkward at best. He further testified that three to four story commercial use is economic as his own use of property across the street from the subject site indicates.

38. The current occupant of the nonconforming dry cleaning establishment on a portion of the subject site also appeared in opposition. He testified that frequently his customers have to double park in front of the store because the parking demand on the street is so heavy.

39. A third opposing witness, an architect, testified that he saw no way to supply the three standard nine foot by nineteen foot spaces in the subject garage. He stated that the goal of SP zoning is to encourage mixed-uses so that granting the FAR variance here would be undesirable. A building would be "designable" on the subject site with five

floors devoted to apartment use and five floors to commercial use within the limits of the Zoning Regulations. There was a potential for the windows on the west elevation being completely blanked out if the building were sited face on the property line on the abutting property now occupied by St. Mary's Church. He offered no specific observations as to how, in his opinion, the applicant failed to meet any of the conditions to entitle it to the relief requested as set forth in the Zoning Regulations.

40. In response to the opposition, the Board finds that the assessment of the impact on parking and traffic in the neighborhood and the viability of the parking layout proposed are addressed by both the Department of Transportation and the applicant's expert traffic consultant and were found to be adequate on the basis of confirmed specific numerical surveys, which were not undertaken by opposing witnesses. The Board further finds that the applicant's proposal for new construction on the site is distinguishable from the opposing witness' experience in that he stated his property was a rehabilitation project rather than new construction and provided no residential use. There was no opposing economic analysis proffered to contradict the assessment made by applicant.

41. The applicant submitted a letter from the General Services Administration whereby the appropriate contracting officer agreed to enter an easement to permit use of the GAO ramp by the applicant. The Board finds that in light of the discussions the applicant had with GSA officials and GSA's agreement to use by the applicant of the ramp, the concerns raised by opposing witnesses are not well founded.

42. As a result of the analysis undertaken by the applicant's traffic engineer and by the D.C. Department of Transportation, the Board finds that there will be no adverse traffic impact resulting from traffic related to the proposed building.

43. As to the opposition architect's first observation, the Board notes that if the application is approved, any standard size parking spaces required by this Board must be provided or appropriate permits will not be issued. The Board, however, agrees that the FAR variance can not be granted but not solely for reasons stated by the opposition. The applicant has not substantiated the FAR variance. The Board further notes that Paragraph 8207.11 of the Zoning Regulations specifically give this Board authority to moderate the strict application of the Zoning Regulations, provided the applicant has met its burden of proof thereon. The Board notes, as to the third point, that no side yard is required.

44. Advisory Neighborhood 2C filed no recommendation on the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions to use part of the subject premises for SP office use, and for waiver of the rear yard requirements. The record further shows that the applicant is seeking area variances from the floor area ratio requirements of Sub-section 4301.1 and the parking requirements of Article 72. The granting of the special exception relief requires that the applicant must demonstrate compliance with Paragraph 4101.44 and, as to rear yard waiver with the conditions of Sub-section 4303.4, and with the requirements of Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The Board concludes that the use, height, bulk and design of the structure are in harmony with the existing uses and structures on neighboring properties. The use of the structure will not create any dangerous or other objectionable traffic conditions. The Board further concludes that the approval of the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and map.

The Board further concludes that all the requirements of Sub-section 4303.3 et seq. have been met so that the applicant is entitled to a partial waiver of the rear yard requirements. The Board concludes that this action will not tend to affect adversely the use of neighboring property in accordance with said regulations and said map in that substantial areas of open space in the form of rights-of-way and loading ramps will maintain the light, air, ventilation and privacy of surrounding uses.

As to the parking variances, the Board concludes that the variances requested are area variances, the granting of which requires a showing of practical difficulty in the land itself. The Board concludes that the existence of water conditions on the site and the size of the site constitutes an exceptional condition in that from a practical standpoint, the site cannot accommodate more than one level of parking. The applicant has demonstrated that strict application of the parking requirement would result in peculiar and exceptional practical difficulties. The Board further concludes that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and integrity of the Zoning Regulations.

As to the floor area ratio variance, the Board concludes that that variance is also an area variance, the granting of which requires the showing of a practical difficulty inherent in the land itself. The Board concludes that the applicant has not demonstrated that such a practical difficulty exists that would substantiate exceeding the maximum FAR for office use in the SP-2 District. The additional economic burden imposed on the applicant by the Commission of Fine Arts is not a basis for variance relief before the Board. The size of the lot, the high water table and the high core factor are conditions of the property which do not support an increase in the rentable office floor area to subsidize the residential units. There was no persuasive evidence put forth by the applicant which clearly demonstrated a condition of the property which would substantiate an increase in the maximum office FAR. The mixed use development as proposed is inconsistent with the SP-2 District and the intent and purposes of the HR overlay provisions of the Regulations.

In view of the above the Board need not address the alternative relief of providing no parking, as eight spaces can be and are being provided. Accordingly, it is ORDERED that the floor area ratio variance is hereby DENIED and the special exceptions and parking variances from three spaces and the size requirements are GRANTED subject to the following CONDITIONS:

1. The fifth and sixth floors of the building shall be used for apartments in the same configuration as provided for on the seventh through tenth floors of the subject building.

2. Construction shall be in accordance with the plans marked as Exhibit No. 22A of the record except that modifications necessary to provide for residential use on the fifth and sixth floors, including changes in window treatment or the facade of the building, shall be permitted.

VOTE: 5-0 (Lindsley Williams, Douglas J. Patton, Carrie Thornhill, William F. McIntosh and Charles R. Norris to grant in part and deny in part).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: OCT 13 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14002order/KATE10



OFFICE COPY

★★★

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
P.O. Box 37200 — Washington, D.C. 20002-7200

190235

BLRA-17
(Rev 7/00)

3/16/01
(date)

CERTIFICATE OF OCCUPANCY

Permission is hereby granted to DOUGLAS DEVELOPMENT

to use suites(s) in the BASEMENT floor(s)

of the building located on lot(s) 803 square 518

known as premises 450 H ST NW for the following

purpose(s): OFFICE

NOT SEXUALLY ORIENTED [ ]

BZA # EXPIRATION DATE:

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premise's or part thereof, and for the purpose(s) indicated above and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be

ZONE

FEE $ 162.00

C. FULLER

Director

by

Designee



Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. room 2100
Washington D.C. 20002
Tel. (202) 442 - 4470 Fax (202) 442 - 4862

Government of the District of Columbia
BLRA 9-1A

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.
CO 28793

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

DATE : 2/15/02

ADDRESS:	FLOOR(S):	PRCLID : 0518 (square) -0000- 0103 (lot)
450 H ST NW	SECOND, THUR THENTH FL.	WARD: 6 ZONE: HRDDC

PERMISSION IS HEREBY GRANTED TO:
SOLE PROPRIETOR : YOUTH SERVICES AGENCY

TRADING AS:
YOUTH SERVICES AGENCY

APPROVED USES:
OFFICE SPACE

PREVIOUS USES :
OFFICE SPACE

TYPE :	BZA NO. :	OCCUPIED SQ. FOOTAGE:	OCCUP. LOAD:	EXPIRATION DATE:
CHANGE OF OWNERSHIP		24,700		NONE

DESCRIPTION OF USE
OFFICE SPACE

FEE :
$136.00

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used thereof, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark
DIRECTOR

PERMIT CLERK:
ADEMOLA SHITTU

DOCUMENT CONTROLLED

F

Form 125 – Exhibit 1
(Revised 03/15/02)

Case No. _____

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

APPEAL

Notice: See other side of appeal form for instructions

Pursuant to Section (s) §3100 and §3101 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken

from the administration decision of:	Name of administrative officer and title: Denzil Noble, BLRA Administrator		
made on	Date of decision: July 14, 2003	, to the effect that	proposing to revoke Certificate of Occupancy No. CO28793,

issued 2/14/03 to the District of Columbia Youth Services Agency

Address(es) of Affected Premises	Square(s)	Lot(s)	Zoning Districts
450 H Street, N.W.	518	103	DD/C-2-C

Present use of Property:	Office		
Proposed use of Property:	Office		
Owner of Property:	Jemal's Liggins LLC	Telephone No.:	(202) 638-6300
Address of Owner:	702 H Street, N.W., Suite 400, Washington, D.C. 20001		
Name, address and telephone number of lessee:	Youth Services Agency		
450 H Street, N.W., Washington, D.C.			
Name, address and telephone number of appellant, if other than owner:			

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 8½? X 11? to respond and attach it to the Form 125 Appeal. SEE ATTACHED

Date:	July 28th, 2003	Signature	Norman M. Glasgow, Jr. (Appellant*)

** 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:	Norman M. Glasgow, Jr. Dennis R. Hughes		Holland & Knight LLP		
Address:	2099 Pennsylvania Avenue, N.W., Suite 100, Washington, D.C. 20006				
Phone No.:	(202) 955-3000	Fax No.:	(202) 955-5564	E-Mail:	

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

JEMAL'S LIGGINS LLC

Board of Zoning Adjustment
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

Re: 450 H Street, N.W. (Square 518, Lot 103)

Dear Members of the Board:

This letter will serve as authorization for the law firm of Holland & Knight LLP to proceed with an appeal before the Board of Zoning Adjustment concerning the above-referenced property and notice from the District of Columbia DCRA Building & Land Regulation Administration of proposed revocation of certificate of occupancy issued for the building to the Youth Services Agency.

If you have any questions, please contact me.

Sincerely,

JEMAL'S LIGGINS, LLC

By: _____

APPEAL OF JEMAL'S LIGGINS LLC
IN RE: 450 H STREET, NW

STATEMENT IN SUPPORT

This Statement is filed on behalf of Jemal's Liggins LLC (the "Appellant"), pursuant to §118.5 of the District of Columbia Building Code (12 DCMR) (hereinafter, the "Building Code") and §3112 of the District of Columbia Zoning Regulations (11 DCMR) (hereinafter, the "Zoning Regulations"), in support of its appeal of the decision of the Administrator, Building and Land Regulation Administration ("BLRA") of the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") dated July 14, 2003, and received July 15, 2003, notifying Appellant of BLRA's intention to revoke Certificate of Occupancy No. CO28793, issued to "Youth Services Agency" (District of Columbia Department of Human Services, Youth Services Administration) for the property located at 450 H Street, NW, (Square 518, Lot 103) based upon use-related issues ("the Revocation Notice").

The Appellant further submits to the Board that, aside from the instant appeal, the Appellant has filed contemporaneously with this appeal an application to the Board for certain area variances in order to render the current office use of the Subject Property compliant with the DD/C-2-C zoning in effect for the Subject Property. The Appellant therefore respectfully requests that the Board hold this appeal in abeyance until such time as the Board has considered the application.

Jurisdiction Of The Board

As set forth in §3100.2 of the Zoning Regulations, the Board, pursuant to the Zoning Act, shall hear and decide appeals where error is alleged by an appellant in any order, requirement, decision, determination, or refusal made by any administrative officer or body in the administration or enforcement of the Zoning Regulations. Because the Revocation Notice is based upon the issue of permitted use, a matter dictated by the Zoning Map and Regulations, the Board of Zoning Adjustment is the appropriate authority to hear and decide this appeal.

This authority of the Board is reinforced in §118.5 of the Building Code, which provides that "any person aggrieved by the action of the Director granting, withholding, or revoking a Certificate of Occupancy may appeal the action to the Board of Zoning Adjustment, pursuant to

D.C. Subsection 5-424(F)(1981), and the District of Columbia Zoning Regulations." By way of note, D.C. Code §5-424(f) has subsequently been recodified as §6-641.07(f).

In an appeal, the Board may, in conformity with the Zoning Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, determination, or refusal appealed from, or may make any order that may be necessary to carry out its decision or authorization, and to that end shall have all the powers of the officer or body from whom the appeal is taken. (11 DCMR §3100.4).

Background

The Subject Property is improved with a 10-story building and includes one level of below-grade parking, accessible via a ramp across the GAO property to the east. At the time of the building's construction in the mid-1980s, the Subject Property was zoned HR/SP-2, and the building was constructed pursuant to HR/SP-2 zoning restrictions, along with certain area variances and special exceptions approved by the BZA in Order No. 14002. Notably, the Board approved by special exception the construction of an office building in the SP Zone, along with variances from the rear yard and off-street parking requirements. However, the Board did not approve an FAR variance, resulting in a mixed-use building with floors 1 through 4 as office and 5-10 as residential. It appears that the building has never been occupied since its construction in the 1980s. At the time of the purchase of the building by the Appellant in December of 1999, the interior finish of the structure still had not been completed and no certificate of occupancy appears to have been issued for the building.

The BLRA issued Certificate of Occupancy No. 190235 on March 16, 2001 to Douglas Development for use of the first through tenth floors plus basement of the building for office purposes. Then, to reflect the name of the tenant, different from that stamped on Certificate of Occupancy No. 190235, the BLRA issued Certificate of Occupancy No. CO28793 on February 15, 2002, authorizing the "Youth Services Agency" to occupy the second through tenth floors of the building for office use. This "change in ownership" was undertaken in compliance with §118.1.2 of the Building Code.

According to the Revocation Notice, the BLRA Administrator appears to argue that: (1) Certificate of Occupancy No. CO28793 may be revoked (pursuant to §118.4.1 of the Building Code) because "the actual occupancy does not conform with that permitted"; (2) Certificate of

Occupancy No. CO28793 may be revoked (pursuant to §118.4.2), because "the Director determines that it was obtained based on an application that contained any misrepresentation having a substantial bearing on the safety of the occupancy"; and (3) Certificate of Occupancy No. CO28793 may be revoked (pursuant to §118.4.3), because "due to any material circumstance, it is found to have been issued in error".

While the Appellant does not dispute that these above contentions are listed in the Building Code as potential justifications for revocation of certain certificates of occupancy, nonetheless, the facts and equities in the present case, clearly expose the decision of the BLRA Administrator as erroneous. As such, the BLRA should be estopped from revoking Certificate of Occupancy No. CO28793.

Section 118.4 of the Building Code specifically sets forth those limited circumstances where the BLRA is authorized to revoke a certificate of occupancy. Those circumstances are as follows:

§118.4.1 Different Occupancy:

According to this provision, a certificate of occupancy may be revoked, after notice, if the actual occupancy does not conform with that permitted. In the present case, the actual occupancy of the Property, that is, office use by the D.C. Youth Services Administration, is in complete conformity with the certificates of occupancy and building permits that have been issued for the Property since the Appellant took ownership of the Subject Property in December, 1999, all of which permits and certificates have indicated office use for the Subject Property.

As set forth above, Certificate of Occupancy No. CO28793 represents a change only in ownership/occupancy of the Property, with no proposed change in use or increase in occupancy load, consistent with §118.1.2 of the Building Code. The Certificate itself, as well as the underlying application, clearly indicate this change in ownership, as well as the previous "office space" use of the Property. As a §118.12 change in ownership certificate, no building permits or reinspections were required. With respect to the prior certificate of occupancy for the Property, No. 190325, issued to Douglas Development on March 16, 2001, said certificate was issued for the purpose of "office" for the entirety of the building on the Property. Furthermore, District approval of Building Permit No. B439856, issued to Douglas Development by BLRA on November 1, 2001, which building permit authorized "alterations to existing office space as per plans. No plumbing. Itnerior(sic) only! Separate elec. and mech. installation permits are

required," further indicates BLRA's acknowledgement and approval that the building is to be occupied as office.

The Appellant has reposed confidence in these official acts of BLRA, relying in good faith on the rights conferred under Building Permit No. B439856. To that end, the Appellant has expended considerable sums of money, at a cost in excess of $750,000, and undertook the work authorized by this permit and related permits as a result. Since the actual occupancy of the Property, as reflected first in Certificate of Occupancy No. 190325, and most recently by ownership change in Certificate of Occupancy No. CO28793, is in complete conformity with the occupancy reviewed by BLRA and permitted pursuant to Building Permit No. B439856, revocation of the certificate of occupancy under §118.4.1 of the Building Code would be erroneous.

§118.4.2 Misleading Declaration by Applicant:

Pursuant to this provision, a certificate of occupancy may be revoked if it is determined that said certificate was obtained based upon an application containing any misrepresentation having a substantial bearing on the safety of the occupancy. In the present case, the application for Certificate of Occupancy No. CO28793 contained no misrepresentations, let alone representations bearing on the safety of the occupancy of the Subject Property. Instead, as an "ownership change" application, there was no proposed use change or occupancy load increase from that already reviewed and approved by the BLRA for Certificate of Occupancy No. 190325.

Turning to the application for Certificate of Occupancy No. 190325, from which the ownership change certificate of occupancy application derived, there is likewise no indication of any misrepresentations, including any (mis)representations bearing upon the safety of the occupancy. With respect to this application form, the Appellant notes that at Line 9, the Appellant checked the box for "new building" and also that Line "11. Prior Use of Premises" is left blank. It appears that this was the first application for certificate of occupancy to be issued for the building, despite its construction several years before. In that instance, it is completely appropriate that this application be considered for a "new building" and that the "prior use of premises" line be left blank if no prior certificate of occupancy had established a permitted use for the building. In any event, Mr. Edward Nunley, then of the Zoning Division, filled in the

"Office Use Only" portion of the application that the prior use of the building was "office building (POD)", indicating a pre-occupancy data sheet for the project. For all these reasons, it cannot be held that there were any misrepresentations made by either the D.C. Youth Services Administration or Douglas Development in the applications which bear on the safety of the occupancy.

§118.4.3 Certificate Issued in Error:

Pursuant to this provision, a certificate of occupancy may be revoked if, due to any material circumstance, said certificate is found to have been issued in error. While at first blush, this provision would appear to provide the BLRA something of a catch-all for purposes of revoking any erroneously-issued certificate of occupancy, the provision nonetheless must not be read to render superfluous or moot the previously-discussed provisions, nor the limited conditions discussed in §§118.4.4 and 118.4.5, neither of which is applicable in the present case. Moreover, the revocation authority provided in §118.4.3 must be tempered by equities, such as estoppel and laches, involved in each particular instance and case.

Equitable Estoppel is Appropriate in the Present Case

It is well settled among the case law of the District of Columbia that when a property owner reposes confidence in the official act(s) of the District and expends large sums of money in reliance thereon, the District is estopped from revoking a permit or certificate of occupancy. (D.C. v. Cahill, 54 F.2d 453, 454 (D.C. 1931)). In Cahill, a property owner applied to the D.C. Inspector of Buildings for a permit to repair his premises in order to rent out the first floor as a garage. Although the building was located in a residential district and the commercial leasing of garage space was not allowed under the zoning regulations, the inspector determined that it was a pre-existing use and was thus permitted. Accordingly, he issued a building permit and thereafter a certificate of occupancy. Upon protest from neighbors, however, the District determined that the certificate of occupancy should be revoked because of a mistake of fact, since the pre-existing use had never been lawfully established.

The Court of Appeals found otherwise. It noted that the inspector had a duty under the Building Code to ascertain whether the facts justified the granting of the permit and certificate of occupancy. There, the inspector made an investigation and decided that the application should

be granted. The Court held that because the owner reposed confidence in these official acts of the inspector, and the owner expended large sums of money in reliance thereon, the District of Columbia was estopped from revoking the certificates of occupancy for garage purposes:

> Where a party acting in good faith under affirmative acts of a city has made such expensive and permanent improvement that it would be highly inequitable and unjust to destroy the rights acquired, the doctrine of equitable estoppel will be applied.

Cahill, 54 F.2d at 454 (quoting People v. Rock Island, 74 N.E. 437 (Ill. 1905)).

Through Cahill and subsequent holdings of the D.C. Court of Appeals, the necessary elements of the defense of equitable estoppel have been found to apply to a party: (1) acting in good faith; (2) on affirmative acts of a municipal corporation; (3) and making expensive and permanent improvements; (4) in justifiable reliance thereon, where the equities strongly favor the petitioner. See also Wieck v. D.C. Board of Zoning Adjustment, 383 A.2d. 7 (D.C. 1978), and Goto v. D.C. Board of Zoning Adjustment, 423 A.2d, 917 (D.C. 1980).

The principle of equitable estoppel is particularly appropriate in the present case, where the Appellant, in good faith, presented its building permit application for alterations and certificate of occupancy application for office use to the Permit Processing Division of BLRA. In support of the good faith nature of the Appellant's endeavors at the Subject Property, it is important to note that the Appellant had absolutely no involvement in the original construction of the building, or the related approvals. Whereas those events occurred in the 1980s, the Appellant only purchased the Subject Property in December, 1999. When the Appellant purchased the Subject Property, it was not occupied, nor did it even contain a finished interior. The mechanical system was incomplete. Gas and water fittings were not in place. There was no fire alarm or sprinkling in place, no elevators, no sewage inspection. While the lobby of the building was complete, the upper floors were still very rough and offered no indication of a residential use anywhere in the building.

As for the "affirmative acts of a municipal corporation", the certificate of occupancy and the alteration permit that were issued by the BLRA, provide prima facie evidence of the review and approval of the applications on the part of the BLRA. As part of these approvals, it was the duty of the BLRA permit reviewers to ascertain whether the applications should be granted and the permits and certificate of occupancy be issued.

With respect to expensive and permanent improvements to the property in reliance upon the municipal acts, the Appellant undertook extensive interior work on the property to ready it for leasing to the D.C. Youth Services Administration. In this process, the Appellant incurred costs of more than $750,000 for tenant finishes alone, not including the costs expended on the general build-out required for the building. The Appellant undertook this extensive work in justifiable reliance upon the certificate of occupancy and the building permits it had been issued by the BLRA. To the same end, the Appellant also leased essentially the entire premises to the D.C. Youth Services Administration, which located to the property in reliance upon the certificate of occupancy issued to the Appellant as well as a subsequent certificate of occupancy issued to that organization directly by the BLRA. If BLRA had denied the building permit application at the outset, the $750,000 would not have been spent and the D.C. Youth Services Administration would never have moved into the building.

For all these reasons, the equities strongly favor the Appellant and the BLRA should be estopped from revoking the certificate of occupancy.

The Revocation Should be Barred by the Equitable Doctrine of Laches

The equitable doctrine of laches states that "equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant". Beins v. D.C. Board of Zoning Adjustment, 572 A.2d 122 (D.C. 1990)(quoting American University Park Citizens Ass'n v. Burka, 400 A.2d 737, 740 (D.C. 1979)). In order to invoke this doctrine, a two-prong test must be met: (1) the defendant has been prejudiced by the delay and (2) the delay was unreasonable. Beins at 126. As distinguished from the equitable doctrine of estoppel, which requires, among other things, that the claimant show expensive and permanent improvements made in good faith reliance on an affirmative act taken on the part of a municipal corporation, laches may attach where a party acting in reliance can prove inexcusable delay resulting in prejudice to the relying party. Wieck v. D.C. Board of Zoning Adjustment, 383 A.2d, at 11 (citing Amidon v. Amidon, 280 A.2d 82 (D.C. 1971)). See also Rafferty v. District of Columbia Zoning Commission, 583 A.2d 169 (D.C. 1990).

The District's more than one-year delay in asserting the revocation of Certificate of Occupancy No. CO28793 severely harms the Appellant and the D.C. Youth Services Administration. Even more egregious is the BLRA's failure to take any action at an earlier date

with the respect to Certificate of Occupancy No. 190235, which it issued to the Appellant more than 28 months prior to this Revocation Notice, or to the numerous building permits which the BLRA reviewed and approved between the issuance of these two certificates of occupancy. Not only is this a situation that is not contemplated in §118.4.3 of the Building Code, which arguably allows for revocation where an error is promptly identified and corrected, instead, this delayed action of the BLRA has reached the point of being completely inexcusable and threatens to cause great prejudice to the Appellant and to the D.C. Youth Services Administration.

For all these reasons, the Appellant respectfully appeals the Revocation Notice to the Board of Zoning Adjustment for a determination consistent with the Zoning Regulations and the Building Code, that the appeal be granted due to the equitable defenses of estoppel and laches.

WAS1 #1199387 v3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Administrator

July 14, 2003

BY PERSONAL SERVICE

Douglas Development Corporation
702 H Street, N.W.
Washington, D.C. 20006

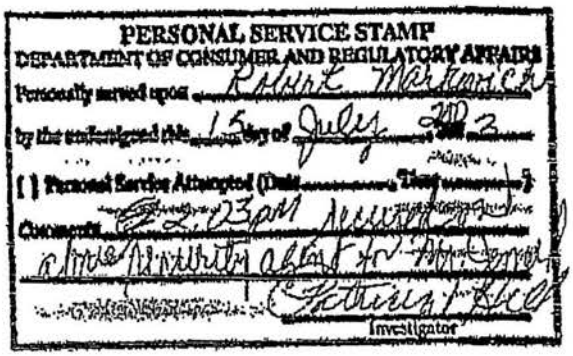
and

Leibner & Potkin, P.C., Registered Agent
4725 Wisconsin Ave., N.W.
Washington, D.C. 20016

Ms. Gail Tucker
Youth Services Administration
8300 Riverton Court
Laurel, Maryland 20724

and

Ms. Valerie Boykin
Bureau of Court and Community Services
450 H Street, N.W.
Washington, D.C. 20001



Re: 450 H Street, N.W.,
Washington, D.C. 20002

NOTICE OF INTENT TO REVOKE CERTIFICATE OF OCCUPANCY CO28793

This is official notice to you that the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration (the "Department"), proposes to revoke Certificate of Occupancy Number CO28793, issued to the Youth Services Agency. Said permit was issued on or about February 14, 2002, and authorized the agency to operate an office building at the premises located at 450 H Street, N.W., in Washington, D.C. This notice is issued pursuant to D.C. Official Code § 1-1509 (a) which states: "In any contested case, all parties thereof shall be given reasonable notice of the afforded hearing by the Mayor or the agency as the case may be . . ."

The charges and specifications in support of this action are as follows:

CHARGE 1. You are in violation of D.C. Mun. Reg. tit. 12 § 118.4. Section 118.4 reads in pertinent part: "[T]he Director is authorized to revoke a certificate of occupancy pursuant to . . . Sections 118.4.1 through 118.4.5." Section 118.4.1 provides: "[A]ny certificate of occupancy previously issued or issued pursuant to Section 118.0 shall be revoked by the Director, after notice, if the actual occupancy does not conform with that permitted.

SPECIFICATION A. On or about February 14, 2002, the Youth Services Agency filed an application with the Department for a Certificate of Occupancy for the operation of an Office building on Floors 2 through 10 at the premise known as 450 H Street, N.W. YSA would occupy 24,700 square feet. On or about February 15, 2002, the Department issued a Certificate of Occupancy No. CO28793 for the office use of the building on floors two through ten. As a result of concerns raised by members of the public, the Building and Land Administration reviewed the application filed by the Youth Services Agency supporting the request for a certificate of occupancy. A review of the Department's records (including building permits) revealed the approved "use" for the space was not "office" but a mixed development plan. The "office use" of the building directly contravenes the Order and Decision by the Board of Zoning Adjustment that approved a mixed use development. BZA Order 14002 (Sept. 7, 1983).

CHARGE 2. You are in violation of D.C. Mun. Reg. tit. 12 § 118.4.3. Section 118.4.3 reads in pertinent part: "[A]ny certificate of occupancy previously issued or issued pursuant to Section 118.0 shall be revoked by the Director, after notice, if due to any material circumstance, it is found to have been issued in error."

SPECIFICATION A. On or about February 14, 2002, the Youth Services Agency (YSA) filed an application with the Department for a Certificate of Occupancy for the operation of an Office building on Floors 2 through 10 of the building located at 450 H Street, N.W. YSA indicated that it would occupy 24,700 square feet of the premises. A certificate (CO 28793) was issued on February 15, 2003 and based upon an unauthorized "use" of the building space. Following inquiries from the public, the Department conducted a review of its records as it relates to 450 H Street, N.W. The results of that search revealed the approved "use" for the space was not "office" but a mixed development plan pursuant to a BZA Decision issued on Sept. 7, 1983. (Application No. 14002). The "office use" of the building directly contravenes that Order and Decision and constitutes an unauthorized use of the building.

CHARGE 3. You are in violation of D.C. Mun. Reg. tit. 12 § 118.4.2 Section 118.4.2 reads in pertinent part: "[A]ny certificate of occupancy previously issued or issued pursuant to Section 118.0 shall be revoked by the Director, after notice, if the Director

determines that it was obtained based on an application that contained any misrepresentation having a substantial bearing on the safety of the occupancy."

SPECIFICATION A. On or about February 14, 2002, the Youth Services Agency (YSA) filed an application with the Department for a Certificate of Occupancy for the operation of an Office building on Floors 2 through 10 of the building located at 450 H Street, N.W. YSA indicated that it would occupy 24,700 square feet of the premises. The application submitted in support of the certificate indicated the building had a change of ownership in the occupancy from the Douglas Development Corporation. The "use" of the space remained the same. The Douglas Development Corporation had obtained an earlier Certificate of Occupancy (B190235) on March 16, 2001 for floors 1-10 (including the basement) with the same identified "use". The Douglas certificate was also issued in error because the building was never approved for office use exclusively. The approved "use" of the building a mixed development plan pursuant to a BZA Decision issued on Sept. 7, 1983. (Application No. 14002). Since the Douglas certificate was erroneously issued, it could not serve as the basis for any other "use" or certificate of occupancy.

You have the right of challenge this proposed action to revoke your certificate of occupancy. In order to exercise this right you must request a hearing in writing within fifteen (15) days of your receipt of Notice. Your request should be mailed first class U.S. mail postage pre-paid and addressed to E. Savannah Little, Esq., Chief Administrative Law Judge, Department of Consumer and Regulatory Affairs, Office of Adjudication, 941 North Capitol Street, N.E., Suite 9100, Washington, D.C. 20002. Alternatively, you may hand-deliver your written request for a hearing to the same address within fifteen (15) calendar days of your receipt of this notice.

Additionally, if you decide to challenge this proposed action, please send a copy of your request for a hearing, pleading or other written communication in this case to Lisa A. Bell, Esquire, Office of the General Counsel, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Suite 9100, Washington, D.C. 20002. Please note that if you do not request a hearing within the time specified in this notice, or if you fail to appear to a scheduled hearing, you shall be deemed to have conceded the validity of the charges and specifications stated in the notice and a final notice of revocation will be entered against you.

Should you request a hearing, you will be notified by the Office of Adjudication of the hearing date and time.

You may appear personally at such hearing and you may be represented by legal counsel. You have the right to produce witnesses and evidence in your behalf and to cross

examine witnesses against you, to examine evidence produced, and to have subpoenas issued on your behalf to require the production of witnesses and evidence.

If you or any witnesses you intend to call are deaf or because of a hearing impediment or language barrier cannot readily understand or communicate the spoken English language, you or your witness may apply to the Office of Adjudication for the appointment of a qualified interpreter.

If you have any questions, you may contact, Karen M. Edwards, Esq., General Counsel, on (202) 442-8475.

Sincerely,

Denzil Noble
Administrator
Building and Land Regulation
Administration

cc: David Clark, Director, DCRA
Theresa Lewis, Deputy Director,
Operations
Leila Franklin, Deputy Director
for Compliance and Investigations
Savannah Little, Esquire, Chief
Administrative Law Judge, OAD
Karen Edwards, General Counsel
Winnie Huston, Compliance Officer, OTWM

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. room 2100
Washington D.C. 20002
Tel. (202) 442 - 4470 Fax (202) 442 - 4862

Government of the District of Columbia
BLRA 94A

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.
CO 28793

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

DATE : 2/15/02

ADDRESS:	FLOOR(S):	PRCLID : 0518 (square) -0000- 0103 (lot)
450 H ST NW	SECOND, THUR THENTH FL.	WARD : 6 ZONE : HRDDC

PERMISSION IS HEREBY GRANTED TO :
SOLE PROPRIETOR : YOUTH SERVICES AGENCY

TRADING AS:
YOUTH SERVICES AGENCY

APPROVED USES :
OFFICE SPACE

PREVIOUS USES :
OFFICE SPACE

TYPE :	BZA NO. :	OCCUPIED SQ. FOOTAGE:	OCCUP. LOAD:	EXPIRATION DATE:
CHANGE OF OWNERSHIP		24,700		NONE

DESCRIPTION OF USE
OFFICE SPACE

FEE :
$136.00

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark
DIRECTOR

PERMIT CLERK:
ADEMOLA SHITTU

DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 2/15/02 (PD) 28793 Receipt No.

Application Fee $25.00 Non Refundable
Certificate Fee – Based on square footage

Cashier's No. C09041

INFORMATION ON PROPOSED BUSINESS

1. Premise Address 450 H st NW Suite/Room No.
2. Business Telephone No. Fax No. Lot 103 Square 518
3. Trade Name of Business Youth Services Agency
4. Is Business Incorporated? Y/N Partnership? Y/N Sole Proprietor? Y/N Y New/Existing
5. Corporate Name Youth Services Agency
6. President Director Gail Turner Vice President Assistant Director Erika Brown Secretary
7. Sole Proprietor Youth Services Agency
8. Business Owner's Mailing Address 450 H st NW phone # (daytime)

INFORMATION ON OCCUPANCY

9. ☒ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☐ Use change ☐ Load Change ☐ B.Z.A No.
10. Proposed Use of Premises office
11. Prior Use of Premises office
12. Proposed Occupancy Load Square Feet Occupied 24,700 ±
13. Floors to be Occupied 2nd – 10th floor Basement? ☐ Yes ☒ No
14. Is this Business Sexually Oriented according to the DC Zoning Regulations? ☐ Yes ☒ No

INFORMATION ON ENTIRE BUILDING

15. Building Owner Douglas Development Telephone No. 202) 638-6300
16. Building Owner's Address: 702 H st NW
17. Square feet 24,700 ± Numbers of floors 2nd – 10th Basement

ATTESTATION & SIGNATURE

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.

18. Owner of Business Gail Turner Signature Date 2-14-02

If Authorized Agent for owner of Business (Attach Authorization)

19. Agent's Name Ernest Dorsey Print Clearly Ernest Dorsey Signature Date 2-14-02
20. Agent's Address 1007 Dannet Pl Largo MD

NOTICE TO REPORT WASTE, FRAUD OR ABUSE BY ANY D. C GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL AT 1 - 800 - 521 - 1639. ALL CALLS ARE CONFIDENTIAL

OFFICE USE ONLY

ADDRESS	Premise Address _____ Suite/Room No _____
ZONING DIVISION	Zone _____ Overlay District Y / N B.Z.A. No: _____ B.Z.A. approved date _____ Prior Use _____ _____ Date of Last Certificate _____ Last Certificate No. _____ Prior B.Z.A No _____ Accepted for filing by _____ Date _____
EXAMINERS USE	Use Change ☐ Yes ☐ No Inspections Required ☐ Yes ☐ No. By _____ Date _____ Building Permit Required ☐ Yes ☐ No By _____ Date _____ Inspection Fee $ _____ Issuance Fee $ 111.00 By SV Date 2/15/02 Approved for Issuance by SV Date 2/15/02
C of O INSPECTION	Date of scheduled Certificate of Occupancy Inspection _____ Inspection Status ☐ Approved ☐ Disapproved By _____ Branch _____ Date _____ Inspector's Signature _____ Printed Name _____ Reason for Disapproval _____
C of O APPROVAL	☐ Approved ☐ Denied ☐ Canceled By _____ Reason for Denial/Cancellation _____ _____ If Approved, Certificate of Occupancy No. _____ Date of Issuance _____ Bldg _____ Electric _____ Plumbing _____ Fire _____ Zoning _____

OFFICE COPY

★★★

BLRA-17
(Rev 7/00)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
P.O. Box 37200 — Washington, D.C. 20002-7200

190235

3/16/01
(date)

CERTIFICATE OF OCCUPANCY

Permission is hereby granted to DOUGLAS DEVELOPMENT
to use suites(s) the 4TH & BASEMENT floor(s)
of the building located on lot(s) 803 square 518
known as premises 450 H ST NW
for the following purpose(s):
OFFICE
NOT SEXUALLY ORIENTED

BZA #

EXPIRATION DATE:

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s) indicated above and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be

ZONE

DATE OF OCCUPANCY

FEE $ 162.00

C. FULLER
Director

By
Designee

Store# 0003 Reg# 03 Rec'd by 151821 EB2200214 D.C. GOVERNMENT CASHIER OFFICE
Store# 0003 Reg# 03 Rec'd by 151821 EB2200214 D.C. GOVERNMENT CASHIER OFFICE

C06178

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 3/16/01 Receipt No. 803200

Application Fee $25.00 Non Refundable
Certificate Fee – Based on square footage Cashier's No.

INFORMATION ON PROPOSED BUSINESS

1. Premise Address 450 "H" St., NW Suite/Room No.
2. Business Telephone No. 301-984-8100 Fax No. Lot 103 Square 518
3. Trade Name of Business DOUGLAS DEVELOPEMENT
4. Is Business Incorporated? Y/N Y Partnership? Y/N Sole Proprietor? Y/N New/Existing
5. Corporate Name DOUGLAS DEVELOPEMENT, INC.
6. President DOUGLAS JEMAL Vice President NORMAN JEMAL Secretary PAUL MILSTEIN
7. Sole Proprietor N/A
8. Business Owner's Mailing Address 11611 OLD GEORGETOWN RD. Phone # (daytime) 301-984-8400
ROCKVILLE, MD 984-8400

INFORMATION ON OCCUPANCY

9. ☐ Ownership Change ☐ Partial Occupancy ☑ New Bldg. ☐ Use change ☐ Load Change ☐ B.Z.A No.
10. Proposed Use of Premises OFFICE
11. Prior Use of Premises
12. Proposed Occupancy Load Square Feet Occupied 37,500 ±
13. Floors to be Occupied 1-10 Basement ? ☒ Yes ☐ No
14. Is this Business Sexually Oriented according to the DC Zoning Regulations ? ☐ Yes ☒ No

INFORMATION ON ENTIRE BUILDING

15. Building Owner DOUGLAS DEVELOPEMENT Telephone No. 301-984-8400
16. Building Owner's Address: 11611 OLD GEORGETOWN RD., ROCKVILLE, MD
17. Square feet 37,500 ± Numbers of floors 10 Basement YES

ATTESTATION & SIGNATURE

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.

18. Owner of Business Signature Date

If Authorized Agent for owner of Business (Attach Authorization)

19. Agent's Name WILLIAM DORSEY (Print Clearly) Signature Date
20. Agent's Address 117 SWEEN DR., FOREST HGTS, MD

NOTICE TO REPORT WASTE, FRAUD OR ABUSE BY ANY D. C GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL AT 1 - 800 - 521 - 1639. ALL CALLS ARE CONFIDENTIAL

OFFICE USE ONLY

ADDRESS

Premise Address _____ Suite/Room No _____

ZONING DIVISION

Zone DD/C2A Overlay District Y / N B.Z.A. No: _____ B.Z.A. approved date _____

Prior Use Office Bldg (POD)

Date of Last Certificate _____ Last Certificate No. _____ Prior B.Z.A No _____

Accepted for filing by _____ Date 1/11/00

EXAMINERS USE

Use Change ☐ Yes ☒ No Inspections Required ☒ Yes ☐ No. By _____ Date _____

Building Permit Required ☒ Yes ☐ No By _____ Date _____

Inspection Fee $ _____ Issuance Fee $ 162.00 By _____ Date _____

Approved for Issuance by _____ Date 3/16/01

C of O INSPECTION

Date of scheduled Certificate of Occupancy inspection _____

Inspection Status ☐ Approved ☐ Disapproved By _____ Branch _____ Date _____

Inspector's Signature _____ Printed Name _____

Reason for Disapproval _____

C of O APPROVAL

☒ Approved ☐ Denied ☐ Canceled By _____

Reason for Denial/Cancellation _____

If Approved, Certificate of Occupancy No. _____ Date of Issuance _____

Bldg 3/16/01 Electric 3/16/01 Plumbing 3/16/01 Fire 3/16/01 Zoning _____



Government of the District of Columbia
Advisory Neighborhood Commission 6C

September 22, 2003

Board of Zoning Adjustment
441 4th Street, N.W.
Room 210S
Washington, DC 20001

Re: Board of Zoning Adjustment Application No. 17063
Board of Zoning Adjustment Appeal No. 17064

Dear Members of the Board:

This letter is to advise that Advisory Neighborhood Commission 6C, at its regularly scheduled public meeting held September 10, 2003, at which a quorum was present, voted unanimously (6-0) to support Application No. 17063, for parking and loading variances and Appeal No. 17064 regarding the proposed revocation by BLRA of the Certificate of Occupancy for general office use of the building on the property at 450 H Street, N.W. The Commission adopted the recommendation of its Planning and Zoning Committee, made at that Committee's September 3rd public meeting, wherein the Planning and Zoning Committee recommended that ANC 6C support Application No. 17063 for area variances from off-street parking and loading requirements in order to continue the use of the existing building for general office use in the DD/C-2-C Zoning District. The documenting materials submitted by the applicant clearly establish the site is unique due to its size and zoning history and is affected by several conditions which result in practical difficulty and the granting of the requested relief is consistent with sound planning principles. The Planning and Zoning Committee likewise recommended that ANC 6C support the appellant in Appeal No. 17064 regarding the decision of the BLRA Administrator to revoke the certificate of occupancy for the office use of the building as the existing office use of the building should be allowed to continue.

As a result, ANC 6C recommends approval of the application and the appeal and requests that its recommendation in this case be accorded the great weight to which it is entitled.

Sincerely,

Robert Hall
Chairman, ANC 6C

H

OUTLINE OF TESTIMONY
REPRESENTATIVE OF APPLICANT
JEMAL'S LIGGINS, LLC

I. INTRODUCTION

II. HISTORY OF APPLICANT'S OWNERSHIP OF SUBJECT PROPERTY

III. REVIEW OF EXTENSIVE IMPROVEMENTS UNDERTAKEN TO BUILDING BY APPLICANT

IV. DISCUSSION OF EXISTING PARKING AND LOADING AND ACCESS ACROSS GAO PROPERTY

V. RECEIPT OF NOTICE OF REVOCATION FOR CERTIFICATE OF OCCUPANCY

VI. VARIANCE RELIEF IS NEEDED FROM PARKING AND LOADING REQUIREMENTS

VII. CONCLUSION

1

OUTLINE OF TESTIMONY
STEVEN E. SHER
DIRECTOR OF LAND USE SERVICES
HOLLAND & KNIGHT LLP

I. SITE LOCATION AND DESCRIPTION

II. DESCRIPTION OF SURROUNDING AREA

III. ZONING HISTORY OF SUBJECT PROPERTY

- **A. SP-2 District**
- **B. HR Overlay**
- **C. BZA Order No. 140002**

IV. CURRENT ZONING: DD/C-3-C

- **A. Combined Lot Development Mechanism (§1708)**

V. EXISTING IMPROVEMENTS ON SUBJECT PROPERTY

VI. RELIEF REQUIRED

- **A. Variance from §§ 2101.1, 2201.1 – Required Parking, Loading**

VII. DISCUSSION OF OFF-STREET PARKING AVAILABILITY IN AREA

VIII. COMPLIANCE WITH STANDARDS FOR VARIANCE RELIEF

IX. CONCLUSION