EXHIBIT 1

Board of Zoning Adjustment
District of Columbia
CASE NO. 17079
EXHIBIT NO. 75A2

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

Building and Land Regulation Administration
Office of the Administrator

March 19, 2003

Richard B. Nettler, Esq.
Robins, Kaplan, Miller & Ciresi LLP
1801 K Street, N.W., Suite 1200
Washington DC 20006

Ref: 417 A Street, S.E.

Dear Mr. Nettler:

Mr. Mark Phillips, your client, has applied for a revision to his Home Occupancy Permit (HOP) to authorize five sleeping rooms in his bed and breakfast located at 417 A Street, S.E. His current HOP allows a maximum of two sleeping rooms. Mr. Phillips has requested that his application be approved as a matter of right, rather than be submitted to the Board of Zoning Adjustment (BZA) for a special exception.

You will recall that in a letter dated October 10, 2002, to you from Denzil Noble, Deputy Administrator, you were advised that pursuant to the Zoning Regulations at 12 DCMR § 203.8(c)(1), any increase above the maximum of two rooms must be approved by the BZA, even if the facility is located in an historic district. (Mr. Phillips was also so advised in a separate letter to him.)

In response to Mr. Noble's letter, you wrote him on October 16, 2002, to register your disagreement with his interpretation of that regulation. You argued that §203.8(c)(1) should be read to allow six sleeping rooms as a matter of right, asserting that BLRA had consistently taken the position that BZA approval was only required for properties that were not historic. To support your argument, you cited the BZA decision on the Swann House Bed and Breakfast (Application No. 16333 of Richard T. Ross, April 15, 1998), and noted that that decision had been affirmed by the D.C. Court of Appeals in *Dupont Circle Citizens Assoc. v. D.C. Board of Zoning Adjustment*, 749 A.2d 1258 (2000).

The *Swann House* decision does not support your contention. In that case, DCRA had in January 1998 advised the owners that the home occupation permit (HOP) under which the bed and breakfast (B&B) had been operating had been issued in error and that it was necessary for the owners to apply for a new permit. They thereupon applied for authorization to operate (actually, to *continue* to operate) a six-room B&B in their owner-occupied single family house, located in an historic district.

The then-Acting Zoning Administrator denied the application for two reasons, one being that the B&B exceeded the maximum number—two—of permitted guest rooms. The owners were advised that they could apply to the BZA for a special exception. They accordingly filed an application for a special exception with the BZA, seeking authorization to operate their B&B with nine guest rooms—which was an increase over the six rooms they had already been operating. After an April 15, 1998, hearing, the BZA granted the special exception. On appeal by a citizens' association, the D.C. Court of Appeals affirmed the BZA decision.

It is true that in its findings of fact the BZA made the statement that "six guest rooms are permitted as a matter-of-right by virtue of the historic certification." That was not, however, the decision in the case. The application before the BZA was for authorization for *nine* guest rooms--an increase from the six rooms the owners had already been operating. Whether authorization for *six* rooms was a matter of right or whether it required BZA approval was not in issue. The District of Columbia Court of Appeals affirmed the actual decision of the BZA to allow nine rooms, but whether authorization for six rooms was a matter of right or required BZA approval was, similarly, not an issue for the court.

Indeed, in a subsequent BZA case, Application No. 16793 of Anexora Skvirsky (heard January 8, 2002), an applicant sought a special exception to operate exactly six sleeping rooms in a bed and breakfast in an historic district, citing the §203.8 requirement for BZA approval. At the conclusion of the hearing, the BZA approved the application and granted a special exception for the operation of six guest rooms.

Section 203.8(c)(1) states that the number of sleeping rooms "may be increased" to six in an historic district, indicating that some action must be taken to authorize the use of six rooms, just as the previous clause states that "the number of sleeping rooms may be increased to four" by the BZA for a B&B in a non-historic district. An action to increase the number to six therefore must be taken by the BZA. If, in fact, six rooms were permitted in an historic district as a matter of right, and BZA approval was not required, then the limitation would have been stated more directly as "the maximum number of sleeping rooms shall be six."

Our interpretation of §203.8 of the Zoning Regulations continues to be that BZA approval is required for the use of more than two sleeping rooms in a bed and breakfast home occupation. Please advise your client accordingly.

Sincerely,

Robert W. Kelly
Zoning Administrator

cc: Denzil Noble
Acting Administrator, BLRA

EXHIBIT 2

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

Building and Land Regulation Administration
Office of the Zoning Administrator

March 24, 2003

223-8604

Mark Lee Phillips
417 A Street, SE
Washington, DC 20003

Richard Nettler

Re: BZA Referral / 417 A Street, SE
Lot 27 in Square 818
Washington, DC

Dear Mr. Phillips:

Your Home Occupation Permit (HOP) Application # 50397, filed to increase the number of sleeping rooms in you bread and breakfast facility and with a waiver for additional off street parking has been denied due to the need for Board of Zoning Adjustment (BZA) approval.

Specific Reason(s) for Denial: DCMR Title 11, Sections 2100.5 (Parking) and 203.8 (Number of Rooms).

The BZA has authority to grant your Special Exception under the authority of DCMR Title 11, Section 3104.1. This letter must be presented to the BZA, Room 210, 441 – 4th Street, NW when filing for your request for a Special Exception to increase the number of rooms and waive the off street parking requirement for your facility.

Should you have questions, contact me at 442-4576.

Sincerely,

Robert W. Kelly
Zoning Administrator

cc: Grant Moy, Esq.

EXHIBIT 3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
B.A.A-64 (Rev. 10/88)

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
Zoning Division
614 H Street, N.W., Room 333
Washington, D.C. 20001

HOME OCCUPATION PERMIT

92-0020

Home Occupation Business: "Bed & Breakfast Services Six (6) Rooms)" NO: _____

10/11/91 INDEFINITE

ISSUED TO: DATE ISSUED: _____ EXPIRATION DATE: _____

Gabor Stein

Name: "THE O STREET MANSION"

D/B/A/: 2018 O Street, N.W. Washington, D.C. 20036

ADDRESS: _____

SPECIAL USAGE: ☒ VARIANCE GRANTED: ☐

SPECIAL CONDITION(S): "PARKING WAIVER GRANTED"

"ONE (1) EMPLOYEE"

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

Designee Joseph P. Bottner, Jr., Zoning Division

Audrey E. Edwards,
Acting DIRECTOR

1-0980 ws-330

DCCA 65

[redacted]

Department of [redacted]
Building and Land Regulation Administration
Zoning Division
614 H Street, N.W., Room #313 Washington, D.C. 20001

APPLICATION FOR HOME OCCUPATION PERMIT

Date: September 24, 19 91

INCOMPLETED APPLICATIONS WILL NOT BE PROCESSED!

INFORMATION ABOUT THE APPLICANT

All info
Early

96-1936

(96-1936)
1-9

92-0020

p. 9

(1) The type of application being filed is (Check appropriate line)

a. _____ Sole Proprietorship with principle residence to be used for business activities.

b. _____ Partnership with one member using his/her principle residence for business activities.

c. _____ License profession other than a doctor of medicine or dentistry, i.e. CPA, Lawyer, Real Est.

d _____ Corporation with one member's principle residence to be used for business activities. (Identify corporate member in question #2)

e. _____ Group of individuals not incorporated (Identify group member in question #2).

f. _____ Tutoring service

g. X Bed and Breakfast Facility

(If you checked "d" list name of partner(s) and address(es).)

(If you checked "c" above, a copy of your license to practice your profession must be attached. If you checked "d", a copy of the Corporation document must be attached. If you checked "e", list Group's Name and complete Item #2, using the Name of the Person whose principle residence will be used for the business activity.)

GROUP NAME: THE "O" STREET MANSION

(2) Applicant's Name: Stein, Gabor
(last) (first) (M.I.)

(3) Social Security NO.: [redacted]

(4) Address: 2018 "O" Street, NW, Washington, DC 20036
(Number) (Street) (Apt. No.) (City) (State) (Zip Code)

(5) Is this your *principle* residence? (Check One) Yes X No ____

(6) Telephone Number: (Home) 202-659-8787 (Work) ____

(7) Number of people living with you? (Adults) 1 (Children) 1

(8) Relationship to you of Individual(s) living in your dwelling (Check appropriate lines)

Spouse ____ Children ____ Parent(s) ____ Brother(s) ____

Sister(s) ____ In-laws ____ Other Helper (1)

(9) Are you physically handicapped? Yes ____ No XX (If "Yes", complete Item #10.)

(10) Does the nature of your handicap require any special equipment necessary to assist you in rendering the proposed business service(s)? Yes ____ No X
(If you checked "Yes" briefly describe the special equipment.)

N/A

DCCA 68

IF ADDITIONAL SPACE IS NEEDED TO COMPLETE ANY QUESTION, PLEASE GO TO PAGE 5 AND 6

INFORMATION ABOUT THE BUSINESS

(11) What is the nature of your proposed business? (Please give a *detailed description* of your proposed business activity. Do not make general statements such as the need for your business, or how great it will be for the general public.)

A 6-Room Bed and Breakfast facility providing/offering breakfast only to guest on a daily basis.

(12) Are you presently operating any type of business service from your dwelling? Yes ____ No X (IF "Yes" please explain if different from proposed business: if no different write "Same as Above").

(13) How will you secure clientele? (Detailed explanation)

Telephone; telephone directory listings; referrals and word of mouth.

(14) Will the proposed business result in the creation of a product? Yes ____ No X (IF "Yes" briefly describe the product.)

(15) What kind of materials will be used in the business? (Please list all including chemical compounds, etc.)

The Bed and Breakfast will not utilize any special materials or equipment other than normal household furnishings.

(16) How will the business be operated, and what are the hours of operation?

a. Full-time X Part-time ____

b. Between the hours of 12:00a.m. to 12:00 p.m.

(18) If you checked a ... write N A.

How many sleeping rooms will be made available for overnight guests? ____ b

(19) How many meals will be served per day? Breakfast Only

(20) How many people will you employ?

Relative(s) ____ Others 1 Total number of employees 1

(21) How many vehicles will be used in connection with the proposed business, excluding your personal vehicle? 0

(22) What equipment will be used to operate the business, i.e. adding machine, typewriter, etc.? (Please list equipment to be used.)

Typewriter, telephone, adding machine, fax machine, and computer

(23) How many daily trips will be made to the premises by the following people?

a. Clients N/A b. Employee(s) ____ c. Delivery ____

d. Visitors ____ e. None ____

(24) What type of parking will be provided? Historic parking waiver has been obtained

a. Off-Street X b. On-Street ____ c. No parking ____

(25) Will there be a sign posted on the premises? Yes X No ____
If "Yes" describe the placement of the sign on the premises, the exact information on the sign and size of the sign.)

A 144 sq. in. brass sign, flush mounted near or on door -- "THE "O" STREET MANSION"

INFORMATION ABOUT THE PREMISES

(26) Your possession of the premises is as (Check appropriate line)

a. Owner X b. Owner with Tenant(s) ____

c. Sole Tenant ____ d. One of the Tenants ____

(27) If you checked "b", how many Tenants do you have? N/A

(28) Is there any business service presently being conducted by any Tenant(s)?

Yes ____ No X Don't know ____

(29) If you checked "c" or "d" above, does the property Owner concur with the use of the property for the proposed business? Yes ____ No ____ (If "Yes", complete Items #30 thru 33). N/A

(30) Owner's Name N/A

(31) Owner's Address N/A

(32) N/A

(33) Owner's Telephone Number: AC ( ) N/A

(34) What is the total square feet of the dwelling to be used in the business (excluding basement or any accessory structure such as a garage)? Total square feet 1,798 (Give the total square footage of the entire dwelling; basement or garage not included.)

(35) What percent (%) of the total square footage will be used in the home occupation business? N/A sq. ft.

(36) Where on the premises will materials (if any) used in the business be stored? (List location(s), if not applicable write N.A.)

N/A

(37) Will there be any *exterior* modifications (Architectural or Structural) made to the premises? Yes X No ____ (IF "yes" briefly describe the modifications.)

Steel Balcony off back of building (Permit #B349653)

(38) What kind of *interior* modifications will be made to the premises? (Check appropriate box(es))

a. Electrical X b. Plumbing X c. Structural X

d. Other ____ e. None ____

(IF you checked a, b, c, or d, briefly describe the extent of the modifications.)

Upgrading plumbing and electrical system, and adding an elevator (Permit #B349653)

ADDITIONAL SPACE FOR ANSWERS:

Write the number to which each answer applies.

2018 "O" Street has already received a Bread and Breakfast Home Occupation permit (#91-0286).

2018 "O" Street has also received a parking waiver under Section 203.8, etc.

ATTESTATION AND SIGNATURE	I certify that the information provided on this application is true and correct to the best of my knowledge. I further certify that I understand that any information provided, pertaining to the type of business that I propose to conduct which is found to be *false*, will result in this application being voided Name of Business Service to appear on permit (If applicable) THE "O" STREET MANSION (202) 659-8787 Gabor Stein Gabor Stein 7/15/03 DO NOT WRITE BELOW THIS LINE

OFFICE USE ONLY

APPLICATION STATUS

_____ APPROVED Pursuant to DCMR TITLE—11 ZONING, Chapter 2, Sections 202 ACCESSORY USE (R-1) and 203 HOME OCCUPATION (R-1), the Zoning Administrator has determined that the Applicant has met all of the conditions necessary for the issuance of a Home Occupation Permit, based on the information provided in this application and the administrative review process.

_____ DENIED Pursuant to DCMR TITLE—11 ZONING, Chapter 2, Sections 202 ACCESSORY USES (R-1) and 203 HOME OCCUPATION (R-1), the Zoning Administrator has determined that while the Applicant appears to have met all of the conditions necessary for the issuance of a Home Occupation Permit, the proposed business is *inconsistent* with the general purpose and intent of the zoning regulations for the following reason(s):

_____

_____

_____

_____

EXHIBIT 4

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16333 of Richard T. Ross, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Subsections 203.8 to operate a bed and breakfast as a home occupation in a multiple dwelling [Paragraph 203.8(a)], to exceed the maximum number of rooms [Paragraph 203.8(c)(1)], and to allow for additional staff [Paragraph 203.4(d)] in a *D/R-5-B District at premises* 1808 New Hampshire Avenue, N.W. (Square 152, Lot 175).

HEARING DATE: April 15, 1998
DECISION DATE: April 15, 1998 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

1. The subject property is located in the Dupont Circle neighborhood at 1808 New Hampshire Avenue, N.W. (Square 152, Lot 175). The lot is improved with a single family dwelling constructed in 1883, which contains almost 10,000 gross square feet of space. The house is located in the Dupont Circle Historic District and has been certified by the D.C. State Historic Preservation Officer as contributing to the character of the historic district.

2. The house is owned and occupied by the proprietors of a Bed and Breakfast. The property owners have operated the Swann House Bed and Breakfast (B&B) at the subject site since May 3, 1996, under Home Occupation Permit No. 96-571 issued by the D.C. Department of Consumer and Regulatory Affairs (DCRA).

3. In January 1998, upon inquiry by the property owners/applicants, DCRA stated that the home occupation permit under which the B&B had been operating was issued in error and that it was necessary for the applicants to apply for a new permit. The applicants re-applied on January 29, 1998, for authorization to operate a six-room B&B in their owner-occupied single family house. By letter dated February 3, 1998, the Acting Zoning Administrator of DCRA denied the application because the B&B exceeded the maximum number of permitted guest rooms (which is limited to two), and because a B&B is not permitted in a multiple dwelling. The applicants were instructed they could appeal this decision to the Board of Zoning Adjustment (BZA) by requesting a special exception to operate their bed and breakfast.

4. The applicants filed their application with the BZA on February 17, 1998, and requested two modifications of the bed and breakfast regulations, as permitted under Subsection 203.10(b). First, they requested to increase the number of permitted staff from one to two employees (203.4(d)). Second, they asked to increase the number of permitted guest rooms to nine (203.8(c)(1)). Because the applicants own and occupy the single-family house as their sole residence, Subsection 203.8(a) was not applicable; and no relief was necessary from the prohibition against bed and breakfasts in multiple dwellings. The house had previously been used as an apartment building. The use ceased and the building was returned to a single family residence after the applicants purchased the property in 1989.

5. The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to affected Advisory Neighborhood Commission (ANC) 1C, adjoining ANC 2B, and to owners of property within 200 feet of the site.

6. The applicants testified that with one exception, the proposed B&B complies with the bed and breakfast requirements under Subsection 203.8. They stated that the house is not used as a multiple dwelling; that breakfast is the only meal served, and served only to overnight guests; that the house is certified to contribute to the Dupont Circle Historic District, and thus there are no parking requirements for the property under the waiver granted; that cooking facilities are not available in guest rooms; and, that the dwelling is owner-occupied and used as the owners principle residence.

The applicants requested a modification to allow an increase in the permitted number of guest rooms from six to nine. Because the house is certified to contribute to the Dupont Circle Historic District, six guest rooms are permitted as a matter-of-right.

7. The applicants further testified that the proposed B&B complies with the applicable sections of the home occupation regulations under 11 DCMR 203.4 to 203.6. They stated that the house is principally used as their residence and the B&B use is secondary; that no finished products are produced by the B&B; that maintaining the residential character of the dwelling is integral to the success of the B&B; that no noxious odors, vibrations, or visual or electrical interference will be created by the B&B; that the level of noise associated with the B&B will not exceed the normal levels associated with the dwelling and immediate neighborhood; that no more than two vehicles will be used with the operation of the B&B; that a small non-illuminated brass sign will be affixed to the front of the house; and, that sales on the property shall consist of a fee charged for the rental of rooms. With respect to Subsection 203.4(d), which limits the number of staff to one employee, the applicants requested a modification in order to provide two full-time equivalent employees.

8. The applicants testified that the two requested modifications would not affect the intent or general purpose of the Zoning Regulations. The applicants noted that the large, historic house contains almost 10,000 square feet of space and already has nine rooms. The Zoning Regulations allow a maximum of six guest rooms for properties such as this

one that are certified to contribute to an historic district or that are historic landmarks. The applicants stated that increasing the number of guest rooms from six to nine would allow them to make effective use of the spacious dwelling consistent with its historic design. Because of the maintenance requirements for this historic house and a B&B operation, the applicants also stated that two full-time equivalent employees are necessary.

9. The applicants testified that registered guests of the B&B would be permitted to host social functions. For example, they stated that it is now customary for B&Bs to host small intimate weddings, where the wedding party and family members reserve all of the rooms for the occasion. B&Bs also provide business travelers an opportunity to entertain colleagues as they would in their own homes. Other out-of-town guests visiting relatives in the neighborhood find B&Bs the ideal location to stay in close proximity to family members. They also offer enough space in a home-like environment for geographically dispersed families to celebrate special occasions, such as birthdays, anniversaries, or other milestones. The applicants noted that 20 percent of their guests are referred by neighbors.

10. The applicants stated that social events are customarily incidental and subordinate to the B&B use and, as such, are permitted as an accessory use under the Zoning Regulations. The Regulations do not specifically address the issue of social events at bed and breakfasts. The applicants stated that such social functions are an ancillary service of a B&B and are no different from private social gatherings hosted by individual homeowners or events sponsored by other uses in less restrictive residential zones. Social events are routinely hosted by embassies, non-profit organizations, private clubs, sororities and fraternities, and house museums, although the Zoning Regulations do not address such events for these uses, either, other than the provisions related to accessory uses.

11. In response to questions posed by the Board, counsel for the applicants stated that the D.C. Court of Appeals upheld an interpretation by the Zoning Administrator that "the Zoning Regulations express no intent to prohibit any and all subordinate or occasional uses, even if outside the scope of the principal use...." *Ass'n for Preservation of 1700 Block of N Street v. Board of Zoning Adjustment*, 384 A.2d 668, 673 (D.C. 1978). The court noted in that case that the Zoning Administrator determined that a secondary use could constitute as much as 20 percent of the overall use of the property and still be considered incidental under the Zoning Regulations.

12. In response to concerns raised by ANC 1C regarding parking problems generated by social events at the B&B and catering trucks blocking the alley behind the property, the applicants volunteered to impose the following controls and limitations on events:

- The number of events would not exceed an average of two per month, or 24 a year;

- All events would end by 11:00 p.m., and no caterers would be permitted to load or unload trucks after that time;

- No amplified or outdoor music would be permitted;

- All guests would be required to use a valet parking service, which would park cars in nearby garages, and not on neighborhood streets; and,

- No catering trucks would block the alley at the rear of the property and trucks would be moved immediately upon the request of a neighbor, even if loading and unloading activities are still in progress.

13. The applicants organized an open house for their neighbors to discuss the proposed operation of the B&B with conditions, and other concerns related to the B&B. They also met or talked with individual residents. As a result of those meetings and discussions, the applicants solicited over 135 signatures on a petition in support of the B&B, with the conditions noted above. Over 90 of the signatures were from residents in the immediate neighborhood. The abutting neighbors, those most directly affected by the B&B, either signed the petition or submitted letters to the record in favor of the application.

14. ANC 1C testified in support of the application. The ANC recommended approval of the application by a unanimous vote (6-0, 5 members constituting a quorum) at its April 1, 1998 meeting. The Board waived its seven-day filing requirement to accept the ANC's report into the record.

15. The Department of Public Works, by report dated April 13, 1998, stated that from a transportation standpoint, the Swann House Bed and Breakfast would not have an adverse traffic and parking impact on the local transportation system. The Department noted that the amount of traffic generated by the B&B is insignificant. The correspondence stated that DPW wholly supports the valet parking arrangement to minimize or eliminate any parking problems in the immediate neighborhood residential streets, and supports the proposal in general.

16. A neighbor at 1754 Swann Street, N.W. testified in support of the application and was granted party status by the Board. The neighbor stated that the expenses associated with maintaining such a large historic house are prohibitive and that the B&B use is the most appropriate one that will assure the continuation of its historic and residential appearance. The neighbor noted that the B&B use is less intensive than the previous apartments on the site. The neighbor also stated that she and her husband had not experienced any problems with trucks blocking the alley, parking, or any disruptions from social events at the subject property.

17. A neighbor at 1705 Swann Street, N.W., testified in support of the application. The nearby property owner stated that her house is located directly across the alley from the B&B to the rear, and as such, she would be directly affected by operations of the B&B.

The neighbor stated that she had no objections to social events at the B&B and urged approval of the application.

18. A full-time employee of the B&B testified in support of the application. The employee stated that the Swann House B&B is the exact type of small-scale facility that the city tries to encourage because of its ability to enrich the neighborhood, foster historic preservation goals, provide a service to neighbors and support local businesses

19. There were several neighborhood residents and a representative of the Dupont Circle Citizens Association who were granted party status by the Board and who testified in opposition to the application. Persons testifying against the application stated that the social events sponsored by guests of the B&B were not an accessory use but rather were in direct contradiction to the home occupation regulations. They stated that social events at Swann House served meals other than continental breakfast, that the number of guests would exceed the maximum number of eight, that guests were permitted in the outside garden area and on exterior decks, and that noise generated by the parties was excessive, all in contravention to the restrictions set forth in Subsections 203.4 and 203.8 of the Zoning Regulations.

20. One of the neighbors testifying in opposition to the application stated that the B&B operations were commercial in nature and derogated the residential quality of the neighborhood. It was stated that the B&B created adverse impacts on the community through excessive noise and parking problems that could not be mitigated by the proposed conditions.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The applicants comply with the provisions of Subsection 203.8 of the Zoning Regulations, except for 203.8(c)(1) for which a modification is requested. The subject property is not used as a multiple dwelling; breakfast is the only meal served, and served only to overnight guests; the house is certified to contribute to the Dupont Circle Historic District and thus there are no parking requirements for the property under the waiver granted; six guest rooms are permitted as a matter-of-right by virtue of the historic certification; cooking facilities are not available in guest rooms; and the dwelling is owner-occupied and used as the principle residence.

2. The applicants further comply with the applicable provisions of the home occupation regulations under Subsections 203.4 through 203.6, except for section 203.4(d) for which a modification is requested. The house is principally used as the applicants' residence and the B&B use is secondary; no finished products are produced by the B&B; the residential character of the dwelling will be maintained; no noxious odors, vibrations, or visual or electrical interference will be created; the level of noise associated with the B&B will not exceed the normal levels associated with the dwelling and immediate neighborhood; no more than two vehicles would be used with the operation of the B&B;

a small non-illuminated brass sign will be affixed to the front of the house; and sales, on the property would consist of a fee charged for the rental of rooms.

3. The requested modification of Subsection 203.8(c)(1) to increase the number of guest rooms from six to nine is appropriate for the size and historic nature of the house and is consistent with its residential character and the surrounding historic district. The requested modification of Subsection 203.4(d) to allow two full-time equivalent employees is necessary to the successful operation of the bed and breakfast. The two modifications will not compromise the general purpose and intent of the Zoning Regulations and can be granted without any adverse impacts to the neighborhood.

4. The social events sponsored by registered guests of the bed and breakfast are customarily incidental and subordinate to the bed and breakfast use, and thus are permitted as an accessory use under the Zoning Regulations. The applicant has agreed to limit the number of events per year to 24, which constitutes less than 20 percent of the calendar year. Further, the conditions proposed by the applicants are an appropriate measure to ensure that the social events will have no adverse impact on the surrounding neighborhood.

5. The Board takes note of the position of Advisory Neighborhood Commission 1C. and in its decision the Board has accorded to the ANC the "great weight" consideration to which the Commission is entitled.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicants have met the burden of proof, pursuant to 11 DCMR 203.10(b) and 3108, that the modifications comply with the general purpose and intent of the home occupation regulations, and that requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board concludes that no adverse impacts will result from the increase in number of employees and guest rooms. It is therefore ORDERED that this application be GRANTED, SUBJECT to the following CONDITIONS:

1. Only registered guests of the bed and breakfast shall be permitted to host social events;

2. The number of social events shall not exceed 24 a year, with no more than five events in any one-month period;

3. No event shall begin before 9:00 a.m. and all events shall end by 11:00 p.m. Caterers shall not load or unload vehicles after 11:00 p.m.;

4. Outdoor music and amplified music is prohibited. An attendant of the bed and breakfast shall be on the premises at all times during social events to ensure that there are no disturbances to the neighborhood;

5. Guests of the bed and breakfast, including those attending social events, shall be required to use a valet parking service, which must park cars in nearby garages and not on the streets or in alleys; and,

6. The proprietors shall use their best efforts to ensure that the alley behind the property is not blocked at any time by anyone associated with the bed and breakfast.

THIS ORDER WAS ADOPTED, AS AMENDED, BY THE BOARD OF ZONING ADJUSTMENT AT ITS PUBLIC MEETING OF MAY 6, 1998.

VOTE: 4-0 (Betty King, Maurice Foushee and Sheila Cross Reid to adopt; Jerrily Kress to adopt by absentee vote.)

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

ATTESTED BY: Sheri M. Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

FINAL DATE OF ORDER: MAY - 7 1998

Ord16333/BAB

PURSUANT TO D.C. CODE § 1-2531 (1987), SECTION 267 of D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT, HOME OCCUPATION PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16333

As Interim Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on May 7, 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

John T. Epting, Esq. (Anorney for the applicants)
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Richard and Mary Ross
1808 New Hampshire Avenue, N.W.
Washington, D.C. 20006

Todd Mosley, Chairman
Advisory Neighborhood Commission 1C
P.O. Box 21652
Washington, D.C. 20009

Lee Aikin
1754 Swann Street, N.W.
Washington, D.C. 20009

Israel Stolliman
1705 Swann Street N.W
Washington, D.C. 20009

William Kummann
1713 S Street, N.W.
Washington, D.C. 20009

Guido Fenzi
1824 16th Street, N.W.
Washington, D.C. 20009

ATTESTED BY: Sheri M Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

DATE: MAY - 7 1998

EXHIBIT 5

LEXSEE 749 A.2d 1258

DUPONT CIRCLE CITIZENS ASSOCIATION, ET AL., PETITIONERS, v. DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT, RESPONDENT, RICHARD T. ROSS, INTERVENOR.

No. 98-AA-801

DISTRICT OF COLUMBIA COURT OF APPEALS

749 A.2d 1258; 2000 D.C. App. LEXIS 99

October 26, 1999, Argued

April 27, 2000, Decided

COUNSEL:

[**1] Richard B. Nettler, with whom G. Brent Connor was on the brief, for petitioners.

Gus Bauman for intervenor.

Charles L. Reischel, Deputy Corporation Counsel, filed a statement in lieu of brief for respondent.

JUDGES:

Before REID and GLICKMAN, Associate Judges, and NEWMAN, Senior Judge.

OPINIONBY:

GLICKMAN

OPINION:

[*1259]

Petition for Review of a Decision of the District of Columbia Board of Zoning Adjustment.

GLICKMAN, *Associate Judge*: On April 15, 1998, the Board of Zoning Adjustment (BZA) held a public hearing and granted the application of intervenor Richard T. Ross for a special exception to operate Swann House Bed and Breakfast as a home occupation with nine guest rooms and two full-time non-resident employees. The application was supported by Advisory Neighborhood Commission 1C and a large number of neighborhood residents, including the abutting neighbors of Swann House. The application was opposed, however, by several neighborhood [**2] residents, including petitioner Israel Stollman. It was also opposed by petitioner Dupont Circle Citizens Association (DCCA), a civic association some of whose members reside within the vicinity of Swann House. Their petition for review in this court principally challenges the BZA's interpretation of the Zoning Regulations to permit a bed and breakfast to host a limited number of guest-sponsored social events as a so-called "accessory use." We uphold the BZA's interpretation and accordingly affirm its order granting the application for a special exception.

Swann House is a large "Romanesque Revival" mansion constructed between 1883 and 1910. The house is located at 1808 New Hampshire Avenue, N.W., between Swann and S Streets, and has been certified by the State Historic Preservation Officer of the District of Columbia as a historic building which contributes to the character of the Dupont Circle Historic District. The neighborhood surrounding Swann House is zoned D/R-5-B, a moderate density designation permitting the widest range of urban residential development and compatible institutional and semi-public buildings, as well as diplomatic chanceries. *See* 11 DCMR § § 350, 1001 (1995). [**3] The uses in the immediate vicinity include an embassy, fraternities and sororities, apartment buildings, hotels, private clubs and non-profit organizations, and rowhouses with either single-or multi-family occupancies.

Ross and his wife Mary L. Ross occupy Swann House as their principal residence. The house formerly was used as a rental apartment building. In 1996, the Department of Consumer and Regulatory Affairs (DCRA) issued Ross a home occupation permit to

operate a bed and breakfast at Swann House. Questions arose, however, as to whether the DCRA had issued the permit in error, and Ross applied for a [*1260] new permit in early 1998. This time the Acting Zoning Administrator of DCRA denied the application on the ground that certain requirements of the regulations governing home occupations were not met, and Ross therefore would have to apply to the BZA for a special exception pursuant to 11 DCMR § § 3108.1 n1 and 203.10. n2 The Rosses applied for such a special exception on February 17, 1998.

n1 In accordance with *D.C. Code § 5-424 (d)* and (g)(2) (1994), the BZA is authorized in 11 DCMR § 3108.1 to grant special exceptions to the provisions of the Zoning Regulations "where, in the judgement of the Board, those 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 the Zoning Regulations and Zoning Maps," subject to any special conditions stipulated elsewhere in Title 11. [**4]

n2 11 DCMR § 203.10 provides that a home occupation which is neither permitted nor prohibited by the regulations may be authorized as a special exception by the BZA as long as certain requirements are met. These requirements include compatibility with the residential neighborhood and the purposes and requirements of the home occupation regulations generally, with the proviso that no more than two of those requirements are modified to meet the needs of the applicant, and a limitation on the number of employees.

The Zoning Regulations set forth the requirements for home occupations in 11 DCMR § 203, and for home-based bed and breakfast operations specifically in subsection 203.8. Ross requested relief from only two of those requirements, a limitation on the maximum number of guest bedrooms n3 and a limitation on the number of non-resident employees n4. The BZA found that this relief would be appropriate in view of the character of Swann House and the surrounding district and the needs of the bed and breakfast business, that it would not compromise the general purpose and intent of the Zoning [**5] Regulations, and that it could be granted without adverse impact on the neighborhood.

n3 The regulations provide that a bed and breakfast certified by the State Historic Preservation Officer as contributing to the character of an historic district may have a maximum of six sleeping rooms. 11 DCMR § 203.8 (c)(1). (Absent such a certification, no more than four sleeping rooms are allowed.)

n4 The regulations provide that no more than one non-resident shall be "engaged or employed in" a home occupation. 11 DCMR § 203.4 (d).

The heart of the controversy before the BZA concerned the Rosses' stated intention to permit registered guests to hold "small private social gatherings," such as weddings and other family celebrations, as part of the operation of the bed and breakfast. The Zoning Regulations do not address expressly the propriety of social events held at bed and breakfasts or, for that matter, at other uses permitted in residential districts (such as, for example, embassies, boarding houses, fraternities [**6] and sororities, private clubs, museums, churches and schools). The Rosses presented testimonial and documentary evidence that it is customary for bed and breakfasts to host social functions arranged by their guests as an incident of the business, and they offered to limit the number of such events to twenty-four a year and no more than five in any one month. They argued, and the BZA agreed, that this number of such guest-sponsored activities would be "customarily incidental and subordinate to" the bed and breakfast use, and thus permitted as an "accessory use." The term "use, accessory" is defined in 11 DCMR § 199.1 to mean "a use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use." As discussed *infra*, accessory uses not otherwise expressly authorized by the Zoning Regulations are permitted in residentially zoned districts, in accordance with 11 DCMR § 202.10.

In addition to the limit on the number of guest-sponsored social events held at Swann House, the Rosses offered to agree to other conditions to meet neighbors' concerns [*1261] about noise, parking and traffic problems that might be caused by social events at Swann House. [**7] With these limitations and conditions, the BZA found that the Rosses had satisfied their burden of proof and granted the Rosses a special exception to operate a bed and breakfast at Swann House. n5

n5 Specifically, the BZA granted the application for a special exception subject to the following conditions imposed to protect adjacent

the BZA's decision turns on its interpretation of a regulation that agency is charged with implementing, that interpretation must be upheld unless it is 'plainly erroneous or inconsistent with the regulation.'" *Levy v. District of Columbia Bd. of Zoning Adjustment, 570 A.2d 739, 746 (D.C. 1990)* (quoting *George Washington Univ. v. District of Columbia Bd. of Zoning Adjustment, 429 A.2d 1342, 1348 (D.C. 1981)*). [**11] Petitioners' argument, predicated on a narrow reading of the definition of an accessory use contained in 11 DCMR § 199.1, is at first blush plausible. However the argument is undercut by the way that the term "accessory use" is actually employed in the Zoning Regulations. As the term is actually used, it supports the reasonableness of the BZA's interpretation.

Chapter 2 of Title 11 of the DCMR contains the regulations governing R-1 Residence District Use. Uses permitted as a matter of right, which include residential uses, are enumerated principally in 11 DCMR § 201. Section 202, entitled "Accessory Uses (R-1)," then lists in subsections 202.2 through 202.9 a series of specific uses which "shall be permitted as accessory uses in an R-1 district incidental to the uses permitted in this chapter." n8 Included in this listing are home occupations "as provided in and subject to § 203" (which includes bed and breakfasts, *see* § 203.8). n9 11 DCMR § 202.8. Notably, after listing these specifically identified, permitted accessory uses, § 202 states:

202.10 Other accessory uses customarily incidental to the uses permitted in R-1 Districts *under the provisions of this section*, [**12] including mechanical amusement machines that are accessory to uses specified in § 210, shall be permitted, subject to the provisions of § 2501.

(emphasis added). n10 Since the uses permitted "under the provisions of this section," *i.e.*, under § 202, are exclusively accessory uses, the natural reading of § 202.10 is that accessory uses customarily incidental to the specifically permitted accessory uses (including bed and breakfasts) shall be permitted. This conclusion holds even if the word "section" is construed broadly to encompass not only § 202 but also other sections in Chapter 2 of 11 DCMR. On the other hand, it is difficult to read the words "this section" in § 202.10 so as to *exclude* § 202, which is how they would have to be read to be consistent with petitioners' contention that accessory uses cannot be permitted as incidental to other accessory uses. n11

n8 By virtue of 11 DCMR § 351.1, accessory uses permitted in an R-1 district are permitted in an R-5 district such as the Dupont Circle Historic District in which Swann House is located.

n9 Other accessory uses listed in § 202 include physicians' and dentists' offices, child development homes, the provision of room and board, parking spaces, accessory apartment units and garage sales and similar sales activities. [**13]

n10 The references in § 202.10 to § § 210 and 2501 pertain to an unrelated issue, namely the provision of mechanical amusement machines at colleges and universities located in residential districts.

n11 We suppose that § 202.10 conceivably could be read in conjunction with the definition of accessory use in § 199.1 so as to permit accessory uses not otherwise identified in the regulations only if they are customarily incidental *to both* the principal use and an identified accessory use. Such a reading of § 202.10 strikes us as inferior to the most natural reading - indeed, as highly strained and implausible - and we are aware of no support for it. Most importantly, the abstract possibility of such a reading does not render the alternative interpretation adopted by the BZA an unreasonable one.

The definition of an "accessory use" set forth in 11 DCMR § 199.1 as a [*1263] use customarily incidental and subordinate to the "principal use" is not necessarily inconsistent with the natural reading of § 202.10. The term "principal use" is not defined in the Zoning Regulations. In the context of [**14] § 199.1 it is reasonable to understand the term to have been utilized simply to distinguish the accessory use from the more dominant use to which it is "customarily incidental and subordinate," without further intending that the more dominant use necessarily and in every case must be the *predominant* use of the property in question. This construction has the advantage of harmonizing the definition in § 199.1 with the actual usage of "accessory use" in § 202.10. n12

n12 It is a well-established principle of statutory construction that different provisions within the same statute should be construed together, *see Flemming v. United States, 546 A.2d 1001, 1005 (D.C. 1988)*; *Bicksler v. District of Columbia Dep't of Human Servs., 501 A.2d 1, 6 (D.C. 1985)*; and a particular term should be assumed to have a consistent definition

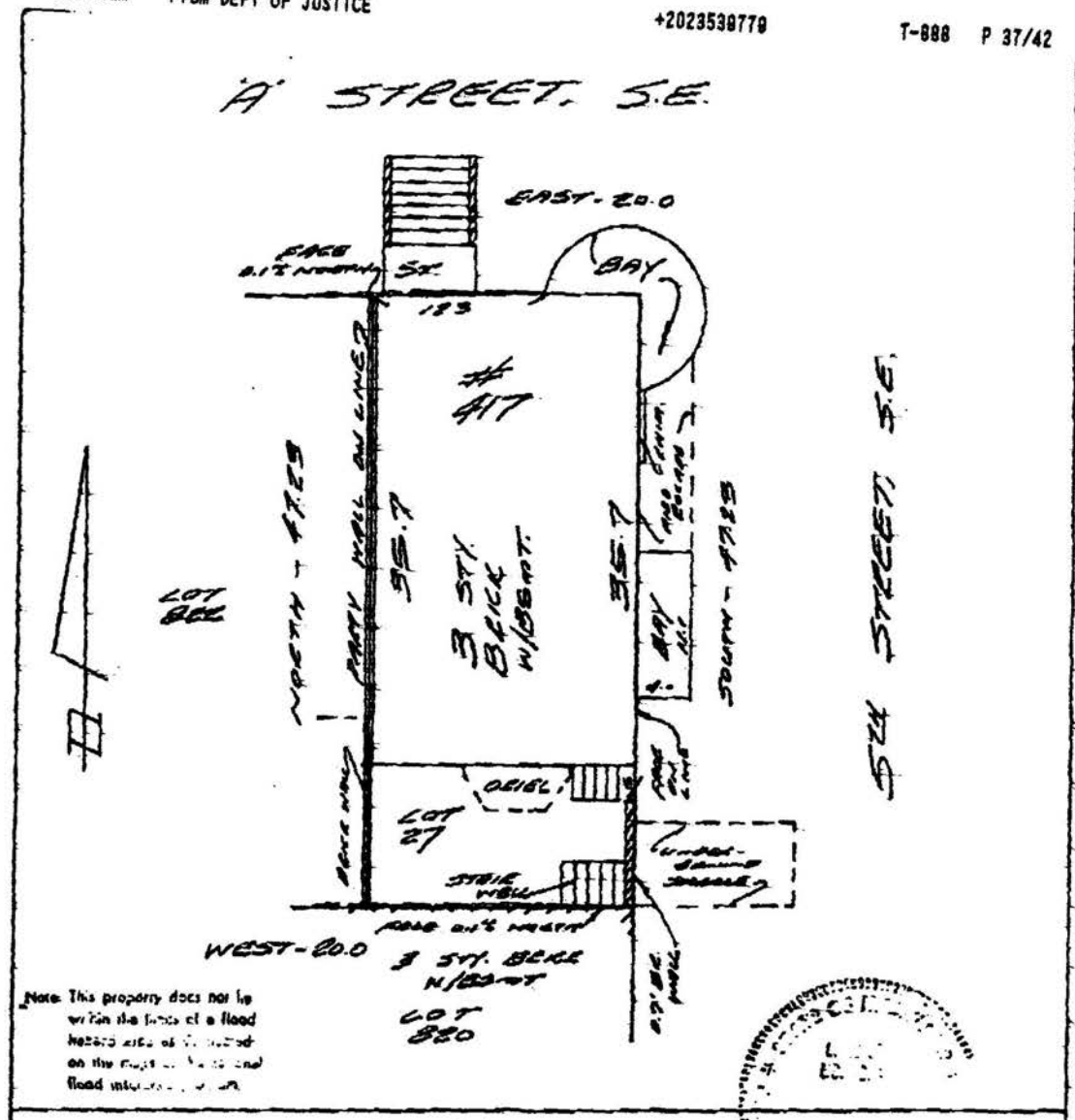
throughout a statute, *see Carey v. Crane Serv Co., Inc., 457 A.2d 1102, 1108 (D.C. 1983).*

The BZA's interpretation is not otherwise [**15] unreasonable. Petitioners evoke the specter that permitting a bed and breakfast to host catered social events for its guests under the guise of a § 202.10 "accessory use" will allow the Rosses to make an end run around the § 203 home occupation regulations and do indirectly what the regulations do not allow them to do directly. This concern is exaggerated. As the BZA observed, this court has upheld an interpretation by the Zoning Administrator that "the Zoning Regulations express no intent to prohibit any and all subordinate or occasional uses, even if outside the scope of the principal use." *Association for Preservation of 1700 Block of N Street, N.W. v. District of Columbia Bd. Of Zoning Adjustment, 384 A.2d 668, 673 (D.C. 1978).* The "end run" concern is addressed by the requirement that the purported accessory use must truly be customarily incidental and subordinate to a permitted use.

We conclude that the BZA's interpretation of the Zoning Regulations to permit as accessory uses activities that are customarily incidental and subordinate to accessory uses is reasonable and must be upheld. Further, the BZA's finding that the limited number of guest-sponsored social [**16] events allowed at Swann House by its order would constitute a truly accessory use *to the bed and breakfast use* is supported by substantial evidence and is not unreasonable or clearly erroneous. *Cf. N Street, 384 A.2d at 673* (Zoning Administrator testified that even if twenty percent of operation were devoted to accessory use, he would still consider that to be incidental usage for purposes of accessory use regulation). The BZA properly determined, therefore, that it could grant the Rosses' application for a special exception insofar as they needed modification of only two of the conditions enumerated in the home occupation regulations. *See* 11 DCMR § 203.10 (b). Finally, we are satisfied that the BZA carefully considered petitioners' concerns and the applicable zoning requirements and, by imposing the conditions it did, made a "reasonable accommodation" between the Rosses and their neighbors "which does not interfere with the legitimate interests of the latter," *Glenbrook Road Ass'n v. District of Columbia Bd. Of Zoning Adjustment, 605 A.2d 22, 32 (D.C. 1992),* and which otherwise complies with the requirements for granting a special exception. [**17] We therefore affirm the BZA's order.

So ordered

EXHIBIT 6



Note: This property does not lie within the limits of a flood hazard area as indicated on the most recent flood insurance rate map.

CAPITOL SURVEYS

NOTE: This drawing is not intended to establish property lines nor is the existence of corner markers guaranteed. All information shown hereon taken from the land records of the county or city in which the property is located.

HOUSE LOCATION
LOT - 27 SQUARE - 818

DISTRICT OF COLUMBIA
Recorded in Liber - 81 Folio - 67 Scale 1" = 10'

I hereby certify that the position of all of the existing improvements on the above described property have been established by a transit tape measurement and that all visible encroachments, if any, are shown hereon.

LOUIS COHEN
Registered Land Surveyor
Maryland No. 1051

DATE: MARCH 30, 1990 CASE: 90-641 FILE: SC185

MARK LEE PHILLIPS
417 A Street, S.E.
Washington, D.C. 20003

May 16, 2003

RECEIVED
D.C. OFFICE OF ZONING
2003 MAY 16 PM 3 20

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: 417 A Street, S.E., Square 818, Lot 27(the "Property")
Appeal of DCRA Letters Dated March 19 and 24, 2003

Dear Mr. Griffis:

This letter, Mark Lee Phillips, the owner of the above-referenced Property, is to authorize the law firm of Robins, Kaplan, Miller & Ciresi, LLP to file and prosecute an appeal to the BZA for the above-referenced property and to act on my behalf and as my agent with respect to this matter.

Sincerely,

Mark Lee Phillips

BZA
Case No. 17037
Exhibit No. 4

RAYMOND PRINCE
506 E CAPITOL ST NE
WASHINGTON, DC 20003-1141

S R ANDRULIS
113 5TH ST SE
WASHINGTON, DC 20003-1123

WILLIAM I MARTIN
409 A ST SE
WASHINGTON, DC 20003-3806

RICHARD M SCHMIDT
115 5TH ST SE
WASHINGTON, DC 20003-1123

MARK L PHILLIPS
417 A ST SE
WASHINGTON, DC 20003-3806

ROBERT LOFTUS
117 5TH ST SE
WASHINGTON, DC 20003-1123

DAVID J DUBOIS
C/O CHATEL REAL ESTATE
3210 N ST NW
WASHINGTON, DC 20007-2829

JEROME M SEGAL
7910 TAKOMA AVE
SILVER SPRING, MD 20910-5226

ROBERT A SEWARD II
111 5TH ST SE
WASHINGTON, DC 20003-1123

TESSA MUEHLLEHNER
121 5TH ST SE
WASHINGTON, DC 20003-1123

STEPHEN C LAWLOR
120 4TH ST SE
WASHINGTON, DC 20003-1012

JACQUELINE A EITING
107 5TH ST SE
WASHINGTON, DC 20003-1123

ANNE F DONOVAN
118 4TH ST SE
WASHINGTON, DC 20003-1012

CHRISTOPHER E ANDERS
415 A ST SE
WASHINGTON, DC 20003-3806

JEROME D ROSENBERG
116 4TH ST SE
WASHINGTON, DC 20003-1012

C M THOMPSON
413 A ST SE
WASHINGTON, DC 20003-3806

BZA
Case No. 17037
Exhibit No. 5

NORA M MANNING
1756 SWANN ST NW
WASHINGTON, DC 20009-5535

CLIFFORD L ALEXANDER
512 A ST SE
WASHINGTON, DC 20003-1139

HAROLD E ENGLE
411 A ST SE
WASHINGTON, DC 20003-3806

B CLARY
504 A ST SE
WASHINGTON, DC 20003-1139

D.C. OFFICE OF ZONING
2003 MAR 19 PM 3:21
RECEIVED

GEOFFREY RINARD
502 A ST SE
WASHINGTON, DC 20003-1139

LAWRENCE K HODGSON
ET AL
506 A ST SE
WASHINGTON, DC 20003-1139

ISABELLE Y WATKINS
508 A ST SE
WASHINGTON, DC 20003-1139

JANICE F DELANEY
510 A ST SE
WASHINGTON, DC 20003-1139

S A SAULS
20 5TH ST SE
WASHINGTON, DC 20003-1118

MORTON TOOLE
18 5TH ST SE
WASHINGTON, DC 20003-1118

MILES M LACKEY
118 5TH ST SE
WASHINGTON, DC 20003-1122

JESSICA SWINEHART-THARPE
116 5TH ST SE
WASHINGTON, DC 20003-1122

RICHARD F SAMSON
112 5TH ST SE
WASHINGTON, DC 20003-1122

RICHARD F ROONEY
609 CONSTITUTION AVE NE
WASHINGTON, DC 20002-6035

WILLIAM DRISCOLL
ET AL
122 5TH ST SE
WASHINGTON, DC 20003-1122

JOHN T CORRIGAN

MARY B TEWALT
120 5TH ST SE
WASHINGTON, DC 20003-1122

E E BERRY
100 5TH ST SE
WASHINGTON, DC 20003-1122

S C ROGERS
503 A ST SE
WASHINGTON, DC 20003-1140

M T SHEA
505 A ST SE
WASHINGTON, DC 20003-1140

ROBERT COOPER
507 A ST SE
WASHINGTON, DC 20003-1140

T J POHL
ET AL
509 A ST SE
WASHINGTON, DC 20003-1140

JULIA L SALTONSTALL
511 A ST SE
WASHINGTON, DC 20003-1140

MAY S NADDAF
515 A ST SE
WASHINGTON, DC 20003-1140

STEVEN L CYMROT
410 A ST SE
WASHINGTON, DC 20003-3807

PABLO L CHAVEZ
23 5TH ST SE
WASHINGTON, DC 20003-1119

KENNETH W KAYATIN
18 4TH ST SE
WASHINGTON, DC 20003-3804

PHILIP RIDGELY
14 4TH ST SE
WASHINGTON, DC 20003-3804

JEFFERY T MORE
412 A ST SE
WASHINGTON, DC 20003-3807

AMERICAN HISTORICAL ASSOCIATION
400 A ST SE
WASHINGTON, DC 20003-3807

J BERNARD ROBINSON TRUSTEE REVOCABLE TRU
51 WARWICK STONE WAY
GREAT FALLS, VA 22066-3555

BOZENA S CROUCH
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CLARENCE M ZENS
406 A ST SE
WASHINGTON, DC 20003-3807

C G ROGOFF
110 4TH ST SE
WASHINGTON, DC 20003-1012

DON T MOSHER
404 A ST SE
WASHINGTON, DC 20003-3807

JEMAL'S RIGO LLC
702 H ST NW STE 400 STE 400
WASHINGTON, DC 20001-3875

BASILIO CIOCCI
11 5TH ST SE
WASHINGTON, DC 20003-1119

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2850 CONNECTICUT AVE NW
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WASHINGTON, DC 20003-1119

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PHILIP I HAZEN
330 HIGHVIEW RD
TRACYS LANDING, MD 20779-9720

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GREGORY J SCHLIMM TRUSTEE LYNNE D MALLON
100 4TH ST SE
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W MILNE
517 A ST SE
WASHINGTON, DC 20003-1140

P CROMWELL
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WASHINGTON, DC 20003-1119

WILLIAM CROMLEY
0800 NORTH CAPITOL ST NE
WASHINGTON, DC 20002

SUSAN LEE
405 A ST SE
WASHINGTON, DC 20003-3806

RAYMOND PRINCE
506 E CAPITOL ST NE
WASHINGTON, DC 20003-1141

MICHAEL CANNING
21 5TH ST SE
WASHINGTON, DC 20003-1119

WILLIAM R MANN
500 A ST SE
WASHINGTON, DC 20003-1139

LAWRANNE STEWART
513 A ST SE
WASHINGTON, DC 20003-1140

ATTACHMENT #8

Zoning and Construction Code Waivers

Applicable to Historic Buildings

Parking and Loading Waivers

Under the D.C. Zoning Regulations (Sections 2100.5 and 2200.5), historic buildings are eligible for a waiver of certain zoning requirements for off-street parking and loading facilities. Under these sections, no *additional* off-street parking spaces or loading docks are required for a historic landmark or a building certified by the State Historic Preservation Officer as contributing to the character of a historic district. Under these provisions, any *existing* off-street parking spaces or loading docks that are required by zoning regulations must still be maintained.

To confirm eligibility for this zoning waiver, an owner must apply to the Historic Preservation Office for certification that the affected property is either a designated landmark or a building contributing to the character of a historic district. The application form is available from HPO, and must be submitted along with a photograph of the property. After HPO certifies the property as historic, the Zoning Administrator determines the applicability of the waiver.

Bed-and-Breakfast Waivers

Under the D.C. Zoning Regulations (Section 203.8), historic buildings may be eligible for an increase in the allowable number of sleeping rooms for a bed-and-breakfast facility operated as an accessory use in a residential area. Up to six rooms may be allowed in historic buildings, subject to other provisions of the regulations.

To confirm eligibility for this zoning waiver, an owner must apply to the Historic Preservation Office for certification that the affected property is either a designated landmark or a building contributing to the character of a historic district. The application form is available from HPO, and must be submitted along with a photograph of the property. After HPO certifies the property as historic, the Zoning Administrator determines the applicability of the waiver.

Construction Code Waivers

Section 3406.1 of the D.C. Construction Code (BOCA 1996) allows code review officials to waive mandatory compliance with certain provisions of the code for historic buildings, *when such buildings are judged by the code official to be safe and in the interest of public health, safety, and welfare*. Approvals under this section are based on the applicant's complete submission of professional architectural and engineering plans and specifications bearing the professional seal of the designer. To obtain relief under this section, an applicant consults directly with the code review official.

In addition, Chapter 36 of the D.C. Construction Code (Supplement of 1999) provides alternative methods of compliance with certain provisions of the code, for buildings in existence prior to 1989. In general, this portion of the code allows alterations, repairs, or conversions to a different use provided they comply with the alternative provisions of Chapter 36, *and provided some improvement in the current degree of public safety, health, accessibility and/or general welfare of the public is achieved.* To obtain relief under this section, an applicant consults directly with the code review official.

ATTACHMENT #9

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

ATTORNEYS AT LAW

SUITE 1200
1801 K STREET, N.W.
WASHINGTON, D.C. 20006-1307
TEL: 202-775-0725 FAX: 202-223-8
www.rkmc.com

RICHARD B. NETTLER
JEANNINE RUSTAD ZIGNER
(202) 775-0725

September 5, 2003

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: **Application of Mark Lee Phillips -- Square 818, Lot 27; 417 A Street, S.E., and Withdrawal of Appeal No. 17037**
Our File No. 092229.00000

Dear Mr. Griffis:

On behalf of our client, Mark Lee Phillips, we hereby withdraw BZA Appeal No. 17037. With the withdrawal of the Appeal, we are submitting an application pursuant to section 3104.1 of the zoning regulations for a special exception for a home occupation permit pursuant to section 203.8(c) to allow a bed and breakfast with four (4) to six (6) sleeping rooms in the Capital Hill Historic District. Accordingly, enclosed you will find the original application, with supporting documents, and twenty (20) copies. Included in the original package is a list of neighbors within 200 feet of the property, along with one set of mailing labels to the neighbors. Lastly, we have also enclosed a check in the amount of $400.00 for the filing fee for the this application. Per my discussion with Rick Nero, as Appeal No. 17037 was never lodged, we are applying the $800.00 filing fee from the appeal towards the fee for the enclosed application.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

Enclosures (as stated)

Word 45645003.1

cc: Mr. Mark Lee Phillips (by hand; w/encl.)
Office of Planning (by hand; w/encl.)
ANC 6B (w/encl.)

GEOFFREY RINARD
502 A ST SE
WASHINGTON, DC 20003-1139

LAWRENCE K HODGSON
ET AL
506 A ST SE
WASHINGTON, DC 20003-1139

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E E BERRY
100 5TH ST SE
WASHINGTON, DC 20003-1122

S C ROGERS
503 A ST SE
WASHINGTON, DC 20003-1140

M T SHEA
505 A ST SE
WASHINGTON, DC 20003-1140

ROBERT COOPER
507 A ST SE
WASHINGTON, DC 20003-1140

T J POHL
ET AL
509 A ST SE
WASHINGTON, DC 20003-1140

JULIA L SALTONSTALL
511 A ST SE
WASHINGTON, DC 20003-1140

MAY S NADDAF
515 A ST SE
WASHINGTON, DC 20003-1140

RAYMOND PRINCE
506 E CAPITOL ST NE
WASHINGTON, DC 20003-1141

WILLIAM I MARTIN
409 A ST SE
WASHINGTON, DC 20003-3806

MARK L PHILLIPS
417 A ST SE
WASHINGTON, DC 20003-3806

DAVID J DUBOIS
C/O CHATEL REAL ESTATE
3210 N ST NW
WASHINGTON, DC 20007-2829

ROBERT A SEWARD II
111 5TH ST SE
WASHINGTON, DC 20003-1123

STEPHEN C LAWLOR
120 4TH ST SE
WASHINGTON, DC 20003-1012

ANNE F DONOVAN
118 4TH ST SE
WASHINGTON, DC 20003-1012

JEROME D ROSENBERG
116 4TH ST SE
WASHINGTON, DC 20003-1012

NORA M MANNING
1756 SWANN ST NW
WASHINGTON, DC 20009-5535

HAROLD E ENGLE
411 A ST SE
WASHINGTON, DC 20003-3806

S R ANDRULIS
113 5TH ST SE
WASHINGTON, DC 20003-1123

RICHARD M SCHMIDT
115 5TH ST SE
WASHINGTON, DC 20003-1123

ROBERT LOFTUS
117 5TH ST SE
WASHINGTON, DC 20003-1123

JEROME M SEGAL
7910 TAKOMA AVE
SILVER SPRING, MD 20910-5226

TESSA MUEHLLEHNER
121 5TH ST SE
WASHINGTON, DC 20003-1123

JACQUELINE A EITING
107 5TH ST SE
WASHINGTON, DC 20003-1123

CHRISTOPHER E ANDERS
415 A ST SE
WASHINGTON, DC 20003-3806

C M THOMPSON
413 A ST SE
WASHINGTON, DC 20003-3806

CLIFFORD L ALEXANDER
512 A ST SE
WASHINGTON, DC 20003-1139

B CLARY
504 A ST SE
WASHINGTON, DC 20003-1139

MILNE
7 A ST SE
ASHINGTON, DC 20003-1140

CROMWELL
5TH ST SE
ASHINGTON, DC 20003-1119

ILLIAM CROMLEY
00 NORTH CAPITOL ST NE
ASHINGTON, DC 20002

JSAN LEE
5 A ST SE
ASHINGTON, DC 20003-3806

AYMOND PRINCE
6 E CAPITOL ST NE
ASHINGTON, DC 20003-1141

ICHAEL CANNING
5TH ST SE
'ASHINGTON, DC 20003-1119

'ILLIAM R MANN
0 A ST SE
'ASHINGTON, DC 20003-1139

AWRANNE STEWART
13 A ST SE
/ASHINGTON, DC 20003-1140

MILNE
7 A ST SE
ASHINGTON, DC 20003-1140

CROMWELL
5TH ST SE
ASHINGTON, DC 20003-1119

LLIAM CROMLEY
00 NORTH CAPITOL ST NE
ASHINGTON, DC 20002

JSAN LEE
5 A ST SE
ASHINGTON, DC 20003-3806

AYMOND PRINCE
6 E CAPITOL ST NE
ASHINGTON, DC 20003-1141

CHAEL CANNING
5TH ST SE
ASHINGTON, DC 20003-1119

ILLIAM R MANN
)0 A ST SE
ASHINGTON, DC 20003-1139

AWRANNE STEWART
13 A ST SE
/ASHINGTON, DC 20003-1140

Form 120 – Exhibit 1
(Revised 04/29/02)

Case No. _____

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

APPLICATION

Notice: See other side of application form for instructions

Pursuant to Sections §3103.2 - Use Variance, §3103.2 - Area Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zoning Districts	Relief Being Sought Area Variance · Use Variance Special Exception	Section No(s).
417 A Street, S.E.	818	27	CAP/R-4	Special Exception	203.8

Private residence & home occupation permit for B&B with 2 sleeping rooms.

Private residence & home occupation permit for B&B with 4 or 6 sleeping rooms.

	Mark Lee Phillips		202-543-1481
	417 A Street, S.E., Washington, D.C. 20003		

Application of Mark Lee Phillips for a special exception pursuant to section 203.8 of the zoning regulations to increase the number of sleeping rooms in a B&B at 417 A Street, S.E. from two (2) to four (4) or six (6).

	$ 0		6B02
	September 4, 2003		"Applicant"

* The Owner of the Property for which the application is made or his/her authorized agent. In the event an authorized agent files an application on the behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany the notice of application.

To be notified of hearing and decision:
(Owner or Authorized Agent*)

	Richard B. Nettler, Esq. & Jeannine Rustad Zigner, Esq.; Robins, Kaplan, Miller & Ciresi LLP		
	1801 K Street, N.W., Suite 1200, Washington, D.C. 20006		
	202-736-2720/2718	202-223-8604	rbnettler@rkmc.com; jrzigner@rkmc.com

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

INSTRUCTIONS

Any notice of application for action provided in the District of Columbia Zoning Regulations (11 DCMR Zoning) that is not completed in accordance with the following instructions shall not be accepted. ***Do not mail this form to the Board of Zoning Adjustment.***

1. All applications shall be made on Form 120. All applications must be completely filled out and be typewritten or printed. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11"x17").

2. Present this form and supporting documents, in person, to the Office of Zoning at 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

3. At the time of filing an application before the Board of Zoning Adjustment, the Petitioner shall pay a filing fee in accordance with the Board of Zoning Adjustment Schedule of Fees (11 DCMR 3180).

4. ***REQUIRED information to be submitted when making an application submission, includes one (1) original and twenty (20) copies of the following (except for labels of which (1) original and (1) copy is required):***

   A. All applicants shall obtain from the Zoning Administrator (DCRA) a memorandum directing the applicant to the Board of Zoning Adjustment prior to filing this application or file through self-certification using Form 135. For self-certification, a licensed architect or attorney must certify the proposed relief requested.

   B. A plat, drawn to scale and certified by a DC licensed survey engineer or the D.C. Office of the Surveyor showing boundaries and dimensions of the existing and proposed buildings and accessory buildings. Also required are architectural plans and elevations in sufficient detail to clearly illustrate any proposed building to be erected or altered, proposed landscaping/screens and building materials. Submittal of plat and plans shall not exceed 11? x 17? in size. (See Form 130 – Plat, Plan and Elevation Specifications for the required information on these drawings.)

   C. A detailed statement of existing and intended use of such building or part of building.

   D. A detailed statement explaining how the application meets the specific tests identified in the Zoning Regulations for variance (area and/or use), special exception or other specific relief being sought. (See Form 121 – Applicant's Burden of Proof for Variance and Special Exception Applications.)

   E. Three color photograph views of appropriate size, not-to-exceed 8½? x 11?, showing pertinent features of the building and the property involved (front, rear and sides, if possible).

   F. The names and mailing addresses of the owners of all property within 200 feet, in all directions from all boundaries of the property involved in the application, **and self-stick labels of the names and mailing addresses of the owners of the properties.** (Note: This information is most readily available from the D.C. Department of Tax and Revenue, Tax Assessors, 941 North Capitol Street, N.E., 1st Floor, Washington, D.C. 20002.)

   G. The name and mailing address of any person who has a lease with the owner for all or part of any building located on the property involved in the application.

   H. Documentation or a copy of the Certificate of Occupancy showing the current authorized use. In cases where a change in one conforming use to another non-conforming use is requested, provide a copy of the past authorized uses.

Note: **All applications are referred for review and recommendation to the D.C. Office of Planning (OP) and the Advisory Neighborhood Commission within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly recommended, at the time of filing a Form 120 appl ication, to make contact with these agencies to discuss the merits of their application. OP can be reached at (202) 442-7602.**

MARK LEE PHILLIPS
417 A Street, S.E.
Washington, D.C. 20003

September 4, 2003

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: 417 A Street, S.E., Square 818, Lot 27(the "Property")

Dear Mr. Griffis:

By this letter, Mark Lee Phillips, the owner of the above-referenced Property, hereby authorize the law firm of Robins, Kaplan, Miller & Ciresi, LLP to file and prosecute an application to the BZA for the above-referenced property and to act on my behalf and as my agent with respect to this matter.

Sincerely,

Mark Lee Phillips

Mark Lee Phillips

STATEMENT IN SUPPORT OF APPLICATION FOR A SPECIAL EXCEPTION PURSUANT TO SECTION 203.8 OF THE ZONING REGULATIONS TO ALLOW AN INCREASE IN SLEEPING ROOMS FROM TWO (2) TO FOUR (4) OR SIX (6) IN A BED AND BREAKFAST OPERATED AT 417 A STREET, S.E.; SQUARE 818, LOT 27

This Statement of Reasons is submitted on behalf of the applicant, Mark Lee Phillips, the owner of the subject property.

The Property and its Current and Proposed Uses. The subject property is located at 417 A Street, S.E., Square 818, Lot 27 (the "Property"). The Property is located in the Capital Hill Historic District and is improved with a building that has been certified as contributing to the historic district. (*See Exhibit* 5.) The appellant currently uses the Property as his residence and has a home occupation permit to operate a bed and breakfast with two (2) sleeping rooms. (*See Exhibit* 3.) The appellant has applied for a permit to increase the number of sleeping rooms from two (2) to four (4) or six (6), as permitted by section 203.8(c)(1) of the zoning regulations. (*See Exhibit* 4.) However, by letters dated March 19 and 24, 2003, the Zoning Administrator informed the applicant that his permit application was denied, as a special exception was required for the requested increase. (*See Exhibits* 1 & 2.)

Zoning. The Property is zoned CAP/R-4. The R-4 districts are designed to include those areas predominantly developed with row dwellings and include buildings converted from single-family to two-family dwellings. The CAP overlay is intended to limit height, bulk and uses in order to protect the U.S. Capitol and its surrounding residential neighborhoods. 11 D.C.M.R. §§ 1200.1 *et seq.* Any use allowed by special exception in the R-4 district is, likewise, permitted in the CAP/R-4 district. 11 D.C.M.R. § 1201.3(a).

Special Exception Criteria. Section 3104.1 of the Zoning Regulations permits the Board to grant special exceptions, pursuant to the following:

> Pursuant to authority contained in the Zoning Act of June 20, 1938 (52 Stat. 797), as amended, the Board is authorized to grant special exceptions, as provided in this title where, in the judgment of the Board, those 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 the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title...

In short, the Board is empowered to grant a special exception where it finds

(1) The proposed use is in harmony with the Zone Plan and Zone Maps;

(2) The proposed use is not likely to adversely affect the use of neighboring property.

The Board's discretion in reviewing an application for a special exception is limited to a determination of whether the Applicant has complied with requirements of the section. If the Applicant meets this burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981); *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973).

A special exception may be granted for a bed and breakfast under the following conditions:

(a) The use shall not be permitted in a multiple dwelling;

(b) Breakfast is the only meal served, and is served only to overnight guests;

(c) The maximum number of sleeping rooms shall be two (2), except:

(1) Pursuant to § 203.10(b), the maximum number of sleeping rooms maybe increased to four (4); or, *in a dwelling that is an historic landmark, or that is located in a historic district and certified by the State Historic Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6)*; and

(2) The number of sleeping rooms permitted as a matter of right or by special exception as set forth in this paragraph shall be reduced by one Title 11 District of Columbia Municipal Regulations (1) for each person who rooms or boards in the dwelling pursuant to § 202.5;

(d) The floor area limitations set forth in § 203.4(b) shall not apply to this use;

(e) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;

(f) No cooking facilities shall be permitted in any of the rented rooms;

(g) The dwelling shall be owned and occupied as the principal residence of the operator(s); and

(h) Except as provided in paragraph (d), the Bed and Breakfast facility shall comply with §§ 203.4 through 203.6.

11 D.C.M.R. § 203.8 (emphasis added).

1. Contrary to the Letter of the Then-Zoning Administrator, the Increase is Allowed as a Matter of Right.

The applicant's first argument in support of his application is that, contrary to the decision of the Zoning Administrator, a special exception is required to increase the number of sleeping rooms to four (4) or six (6), such increase is allowed as a matter of right, as the Property has been certified by the Historic Preservation Division of the Office of Planning ("HPD") as contributing to the Capitol Hill Historic District. In support of this argument, the applicant provides the following:

The need for a special exception from 203.8(c)(1) turns the regulation on its head and betrays both an unfortunate refusal of the Zoning Administrator to read the clear language of the regulation, but also a refusal to consider both the prior position of the agency, the orders of this Board and the Court and the record before the Zoning Commission when it adopted the B&B regulations. Such blatant disregard for the law suggests an invidious reason for the action taken by the Zoning Administrator.

In 1986, the Office of Planning proposed the adoption of new regulations which would authorize home occupations and bed and breakfasts, as a matter of right, in residential districts. The initial regulations limited the number of rooms in a bed and breakfast to two (2). The matter was set down for a hearing by the Zoning Commission and the Office of Planning amended its proposed regulations to provide for an increase in the number of sleeping rooms in a B&B to four provided that special exception relief was obtained from the Board of Zoning Adjustment. Following four (4) days of hearings before the Zoning Commission in April and May 1987, during which the B&B community pressed for leniency with regard to B&Bs located in historic districts and recommended amendments to the proposed regulations, the Zoning Commission retained the special exception requirement for four (4) sleeping rooms for B&Bs except for B&Bs located in a historic landmark or in a building certified as contributing to a historic district. A special exception for B&Bs in historic districts was required only if the operator desired to increase the number of sleeping rooms beyond the six (6) permitted as a matter of right.

Consistent with the foregoing, the DCRA began approving of applications to increase the number of sleeping rooms in a B&B in a historic building to six (6) without requiring any special exception approval. *See e.g.* Application and Approval for the Mansion on O Street (attached hereto in *Exhibit* 7). Following the departure of the Zoning Administrator who participated in the Zoning Commission hearings on B&Bs, DCRA's approach became inconsistent.

In Application No.16333 of Richard T. Ross (attached hereto in *Exhibit* 7), the applicant sought authorization to operate a six-room B&B in a single family house. The Acting Zoning Administrator denied the application because, in her opinion, the B&B, which had been certified as a contributing building to the Dupont Circle Historic District, exceeded the maximum number of permitted guest rooms (which she says was limited to two). When the matter came before this Board, the applicant challenged the decision of the Acting Zoning Administrator and also sought to increase the number of guest rooms to nine (9). With regard to the Acting Zoning Administrator's decision, this Board found that there are no parking requirements for the property and "six guest rooms are permitted as a matter-of-right by virtue of the historic certification" received since the building contributes to an historic district. This decision of the Board was affirmed in *Dupont Circle Citizens Association v. District of Columbia Board of Zoning Adjustment*, 749 A.2d 1258, 1267 n. 3 (D.C. 2000)(attached hereto in *Exhibit* 7).

Notwithstanding the foregoing, the Zoning Administrator denied appellant's application and claimed that a special exception was needed for the use of the subject building for either four (4) or six (6) guest rooms.

The appellant will prove its case relying on (1) the plain language of the zoning regulations; (2) the legislative history of section 203.8(c)(1) (attached as *Exhibit* 6); (3) case law (attached as *Exhibit* 7); (4) the certification pursuant to 2100.5 of the zoning regulations; (5) application and approval for a Home Occupation Permit for the Mansion on O Street (attached as *Exhibit* 8); (6) testimony of Nathan Gross, then corporation counsel involved with the adoption of section 203.8; (7) testimony of Jacqueline Reed, involved in adoption of section 203.8 and owner and operator of the Aaron Shipman House Bed and Breakfast, a six sleeping room inn operating with a matter-of-right home occupation permit; and (8) such other evidence as deemed necessary and relevant as may be submitted with the applicant's prehearing statement or at the hearing in the matter.

2. The Applicant Meets the Criteria for the Requested Relief.

In the alternative, the applicant will testify that he meets each of the criteria set forth in section 203.8. As such, the requested relief will not adversely impact the neighborhood and the relief is in harmony with the zoning regulations. In addition to the testimony of the applicant, evidence will include those items listed in the preceding section.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that, upon receipt of all of the Applicant's proof and all other support of record for the special exceptions requested, such relief be granted.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, LLP

By: _____
Richard B. Nettler
Jeannine Rustad Zigner

EXHIBIT LIST

1. March 19, 2003 letter from the Zoning Administrator
2. March 24, 2003 letter from the Zoning Administrator
3. Home Occupation Permit
4. Application to Increase the number of sleeping rooms
5. HPRB Certification
6. Legislative History of 203.8
7. Case law in support
8. Application and approval for a home occupancy permit for the Mansion on O Street
9. Survey of the Property
10. Photographs of the property

ATTACHMENT #10

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

Building and Land Regulation Administration
Office of the Administrator

September 15, 2003

Ms. Jeannine Rustad Zigner
Robins, Kaplan, Miller & Ciresi L.L.P.
1801 K Street, N.W. – Suite 1200
Washington, D.C. 20006

RE: 417 A Street, S.E.

Dear Ms. Zigner,

This is in response to your e-mail dated September 2, 2003 requesting written clarification on Item 3 of my October 31, 2002 letter which states

> ***"You are correct in stating that additional parking requirements for the bed and breakfast were waived by the Historic Preservation Division of the Office of Planning (June 4, 2002)."***

This statement is consistent with the Zoning Regulations, DCMR Title 11, Section 2100.5 which states: "No additional parking spaces shall be required for a historic landmark or a building or structure located in a historic district that is certified by the State Historic Preservation Officer as contributing to the character of that historic district.

If the Board of Zoning Adjustment approves the proposed increase number of sleeping rooms, a new Home Occupation Permit (HOP) application will be required reflecting the increased number. Along with the new HOP application the Department of Consumer and Regulatory Affairs will require an updated certification from the Historic Preservation Division.

If you need additional information, please e-mail me at denzil.noble@d[illegible].gov.

Sincerely,

Denzil L. Noble
Administrator

cc: David Clarke
Theresa Lewis
Ester Bushman

ATTACHMENT #11

Tel (202) 442-4470 Fax (202) 442-4862

HOP

HOME OCCUPATION PERMIT

PERMIT NO.
HOP 34896

DATE: 6/3/02

ISSUED DATE: Jun-3-2002	**BZA NO.**	**EXPIRATION DATE:** NONE
ADDRESS OF HOME OCCUPATION: 417 A ST SE		**PREMISES OCCUPIED BY:** OWNER PHILLIPS, MARK LEE
NAME OF RESIDENT: PHILLIPS, MARK LEE	**BUSINESS STRUCTURE:** MPKW ENTERPRISES, LLC Limited liability Corporation	**PRCLID:** 0818 (square) -0000- 0027 (lot) **WARD:** 6 **ZONE:** R4
TYPE OF BUSINESS: BED & BREAKFAST		**NAME OF BUSINESS:** FOURSEVENTEEN
CONDITION OF PERMIT: ONE EMPLOYEE/OFFICE USE ONLY		**PERMITTED USE:** HOP NO. #HOP/02-1234 **BUSINESS HRS:**

This permit shall be conspicuously posted on the above premises at all times. It is valid indefinitely unless an expiration date is stated only for purposes indicated above, and is not transferable to another person or premises under any conditions. Any change in type of business, ownership of Business, or part of the premises used thereof, will render this permit void and a new permit must be obtained.

FEE:
APPL: $25.00
PMT: $25.00

David A. Clark
DIRECTOR

PERMIT CLERK: EDWARD REEVES / TERRY A. JONES

Department of Consumer & Regulatory Affairs
District of Columbia Government

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E. Room 7100
Washington, D.C. 20002
Tel. (202) 442-4470 Fax (202) 442-4362

HOP

HOME OCCUPATION PERMIT

PERMIT NO.
HOP 34896

DATE: 6/3/02

ISSUED DATE: Jun 3 2002	BZA NO.	EXPIRATION DATE: NONE
ADDRESS OF HOME OCCUPATION: 417 A ST SE		PREMISES OCCUPIED BY: OWNER PHILLIPS, MARK LEE
NAME OF RESIDENT: PHILLIPS, MARK LEE	BUSINESS STRUCTURE: Limited liability Corporation	PRCLID: 0818 (square) -0000- 0027 (lot) WARD: 6 ZONE: R4
TYPE OF BUSINESS: BED & BREAKFAST		NAME OF BUSINESS: FOURSEVENTEEN
CONDITION OF PERMIT: ONE EMPLOYEE/OFFICE USE ONLY	PERMITTED USE: HOP NO. 1-HOP/02-1234	BUSINESS HRS:

This permit shall be conspicuously posted on the above premises at all times. It is valid under all conditions unless an expiration date is stated only for purposes indicated above, and is not transferable to another person or premises under any conditions. Any change in type of business, ownership of business, or part of the premises used thereof, will render this permit void and a new permit must be obtained.

FEE
APPL: $25.00
PMT: $25.00

David A. Clark
DIRECTOR

PERMIT CLERK: EDWARD REEVES / TERRY A. JONES

Department of Consumer & Regulatory Affairs
District of Columbia Government

PATENTS 5,197,705; 5,340,199

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

APPLICATION TO CERTIFY A HISTORIC BUILDING FOR D.C. ZONING REGULATIONS OR CONSTRUCTION CODES

I hereby request certification that the following property is a historic landmark or a building or structure contributing to the character of a historic district in the D.C. Inventory of Historic Sites, for the purpose of D.C. Zoning Regulations or the D.C. Construction Code. A photograph of the front of the building is attached.

Address: 417 A ST SE

Square: 818 Lot: 27

PURPOSE OF REQUEST:

___ Waiver of Additional Off-Street Parking Spaces (Section 2100.5)

___ Waiver of Additional Off-Street Loading Spaces (Section 2200.5)

___ Increase in Number of Sleeping Rooms in a Bed-and-Breakfast Facility (Section 203.8)

___ Non-Mandatory Compliance with Code Provisions (BOCA Section 3406.1)

___ Alternative Compliance Provisions for Existing Buildings (Chapter 34, DC Construction Code Supplement of 1999)

MARK PHILLIPS — Applicant

202-543-1481 — Telephone

417 A ST SE — Address

Mark Phillips — Signature

6 3.02 — Date

HISTORIC PRESERVATION DIVISION USE ONLY

I hereby certify that this property is either a historic landmark or a building or structure contributing to the character of a historic district listed in the D.C. Inventory of Historic Sites.

Virginia T. Carter — State Historic Preservation Officer

6-4-02 — Date

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
A.D.C. No.:	C.G. No.:	R-4			By:
P.A. No.:	S.L. No.: CAP	Ward No.: 6	Receipt No.:	Date:	Receipt No.:

★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA

BLRA-33 (Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4) 2:13pm 6/3/02

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

CLEARANCE TO FILE Date

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

Address of Proposed Work:	Suite No.:	2. Lot:	3. Square:	4. Application Date:
417 A. ST. SE. 20003		27	818	6.3.02

5. Owner of Building or Property:	6. Address: (include Zip)	7. Phone:
MARK PHILLIPS	AS ABOVE	Work: Home: 202 543 1481
Agent for Owner: (if applicable)	**9. Address: (include Zip)**	**10. Phone:**
KEITH WILKINSON.	AS ABOVE	Work: Home 202 543 1481

11. Type of Proposed Work (check all applicable boxes):

- ☐ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☑ Sign
- ☐ Other (Specify) _____

12. Description of Proposed Work: TO ATTACH ON A TEMPORARY BASIS, A VINYL PLASTIC BANNER. SIZE 8' x 3' FOR THREE MONTHS. PURPOSE TO PROMOTE OPENING DATE OF NEW BED + BREAKFAST BUSINESS. TO BE FIXED ON FRONT EXTERIOR FACADE WALL.

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	Official Use Only: Miscellaneous FEE
RESIDENTIAL SFD	4	1	$
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**	By: Date:
BED + BREAKFAST (HOME OCCUPIED BUSINESS).	—	N/A	

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve disturbing the earth or razing a building?
		☐ Pick-up Truck ☐ Dumpster ☐ Other (specify): N/A.	☐ Yes, answer q. 23 ☑ No, SKIP q. 23-27

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☐ Yes, answer q. 24-25 ☑ No, SKIP q. 24-25		sq. ft.		sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

107 wd-375

OFFICIAL USE ONLY

	R	P	H	A
M				
P				
E				
F				
S				

W: ☐ Yes ☐ No
PLANS:
☐ No
☐ Sim. ☐ Lg.

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

chitect's Name:	29. Lic. No.:	30. Architect's Address: *(include Zip)*	31. Phone:
gineer's Name:	33. Lic. No.:	34. Engineer's Address: *(include Zip)*	35. Phone:
ilding Contractor's Name:	36A. Lic. No.:	37. Contractor's Address:	38. Phone:

ype of Construction	40. Fire Suppression:	41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 100%):
☐ asonry ☐ Steel ☐ ood ☐ Other: oncrete	☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other:	☐ New ☐ Existing ☐ None	sq. ft.	a. Building: % b. Paved Area: % c. Greenery: %

resent Gross Floor Area of ldg.:	45. Proposed Gross Floor Area of Bldg:	46. Floors involved in this permit:	47. **Projection beyond building line?**
sq. ft.	sq. ft.	☐ All ☐ Floors _____	☐ Yes, answer q. 48-52 ☐ No, SKIP q. 48-52

lumber and type of **projection:**	49. Distance of **projection:**	50. Width of **projection:**	51. Width of building frontage: ft. 52. Signature of Owner **(projection only):**

Water or Sewer Excavation?	54. Driveway Construction?	55. Sheeting/Shoring Necessary?	56. Elevators involved?	57. No. and type of elev.:	58. Plans Certified by Engineer?
☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes, answer q. 57 ☐ No, SKIP q. 57		☐ Yes, cert. is attached ☐ No

Estimated Cost of Work:
New/Add.: $ _____
Alt/Rep.: $ _____
Total: $

Volume of New Bldg. or Addition:
cubic ft.

OFFICIAL USE ONLY

Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE
$	$	$	$
By: Date:	By: Date:	By: Date:	By: Date:

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

. Raze Contractor's Name:	62. Contractor's Address: *(include Zip)*	63. Phone:
. Insurance Company:	65. Policy or Certif. No.:	66. Expir. Date:
		67. Raze Method:

. Building Material:	69. Raze Entire Building?	70. Building Condemned?	70A. Building Vacant?	71. Public Space Vault?	72. Disconnect Water and/or Sewer?	73. Size of Water Connection:
	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	in

. Plumber's Name:	75. Lic. No.	76. Length: ft.	77. Width: ft.	78. Height: ft.	79. Volume: cu. ft.	80. Party Wall? ☐ Yes ☐ No

. Asbestos in the Building?
☐ No ☐ Yes, Location _____

82. Raze Contractor Signature:

83. Owner's Signature:

OFFICIAL USE ONLY

FEE	By:	Date:
$		

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations.

4. Cost of Work:	85. Material:	86. Height: ft.	87. Color:	88. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*
$				

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

9. Signature of Adjoining Owner:	90. Phone: Work / Home	
1. Address of Adjoining Owner:	92. Lot:	93. Square:

OFFICIAL USE ONLY

FEE	By:	Date:

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work / Home	OFFICIAL USE ONLY: FEE / By / Date
100. Address of Adjoining Owner:	101. Lot: / 102. Square:	

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $	OFFICIAL USE ONLY: FEE / By / Date
110. Material of Roof:	111. Material of Sides:	112. Wall thickness:: ☐ External ( ) inches ☐ Party ( ) inches				113. Color:	

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.	118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade	OFFICIAL USE ONLY: FEE / By / Date

119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number: 1	125. Electric Signs? ☐ Yes, answer q. 126-132 ☑ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.:

129. Address of Electrical Contractor *(include Zip)*	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:

133. Height relative to building and ground:
(a) _____ ft _____ in above sidewalk
(b) _____ ft _____ in above roof
(c) _____ ft _____ in is bldg height
(d) _____ ft _____ in above projection or window
(e) _____ ft _____ in from roof to sign's bottom

134. Material of Sign: PLASTIC VINYL.	135. Type of Sign: BANNER.	136. Color: WHITE

137. Width: 3 ft.	138. Length: 8 ft	139. Area of Sign: 27 sq. ft	140. Width of Business Frontage: ft.

141. C of O Number for Building: # HOP/02 - 1234	142. Sign Contractor: NONE Lic. No.	OFFICIAL USE ONLY: Sign FEE / Elect. FEE / Total FEE
143. Sign Contractor's Address: —	144. Phone: —	Sign FEE: $ 50.— By: M Date: 6/3/02 · Elect. FEE: $ — By: — Date: — · Total FEE: $ 50.— BY: M Date: 6/3/02

(I) APPLICANT'S SIGNATURE:

A. OWNER: I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner: Mark Hall Address: 417 A. ST. SE WASHINGTON DC 20003 Date: 6.3.02

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: K.L. Williams Address: 417 A ST. SE. WASHINGTON DC 20003 6.3.02

801 N. Carolina 3rd Fl.

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

- ☐ 1. Fine Arts by: _____ Date: _____
- ☒ 2. Historic by: [signature] Date: 6/3/02
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
  Access to Parking Street ☐ Street ☐ Alley
  Cleared by: _____ Date: _____
- ☐ 3. DPW - Consumer Engineer
  Cleared by: _____ Date: _____
- ☐ 4. ERA - Erosion Control
  Cleared by: _____ Date: _____

Restrictions of the Permit:

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: CBD Date: 3 Jun 02
- ☐ 2. Information Center by: _____ Date: _____
  - ☐ (a) ABC Board by: _____ Date: _____
  - ☐ (b) Noise Control by: _____ Date: _____
  - ☐ (c) Industrial Safety by: _____ Date: _____
  - ☐ (d) Vector Control by: _____ Date: _____
  - ☐ (e) D.C. Animal by: _____ Date: _____
  - ☐ (f) Police Dept. by: _____ Date: _____
- ☒ 3. Zoning by: [signature] Date: 6/3/02
  Zoning Update by: _____ Date: _____
- ☐ 4. DPW - Permit and Records Division/Deposit #
  Sidewalk Deposit $_____ Driveway Deposit $_____
  by: _____ Date: _____
- ☐ 5. Water/Sewer Design Branch
  Consumer Eng. by: _____ Date: _____
- ☐ 6. Environmental Regulation Administration
  - ☐ Environmental Policy Review
    Control No.: _____
    by: _____ Date: _____
  - ☐ Erosion Control by: _____ Date: _____
  - ☐ Storm Water Mgmt. by: _____ Date: _____
    Plan No. _____
- ☐ 7. Mechanical Eng. Review by: _____ Date: _____
- ☐ 8. Plumbing Eng. Review by: _____ Date: _____
- ☐ 9. Electrical Eng. Review by: _____ Date: _____
- ☐ 10. Health Plan Review
  - ☐ (a) Food Plan Review by: _____ Date: _____
  - ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
- ☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: _____ Date: _____
- ☐ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☐ 14. Construction Insp. Branch (Field Check) by: _____ Date: _____
- ☐ 15. Historic Pres. Div. by: [signature] Date: 6/3/02
- ☐ 16. Structural Eng. by: _____ Date: _____
- ☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____
- ☐ 18. Q.C. By: [signature] Date: 6/3/02

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

ZONING

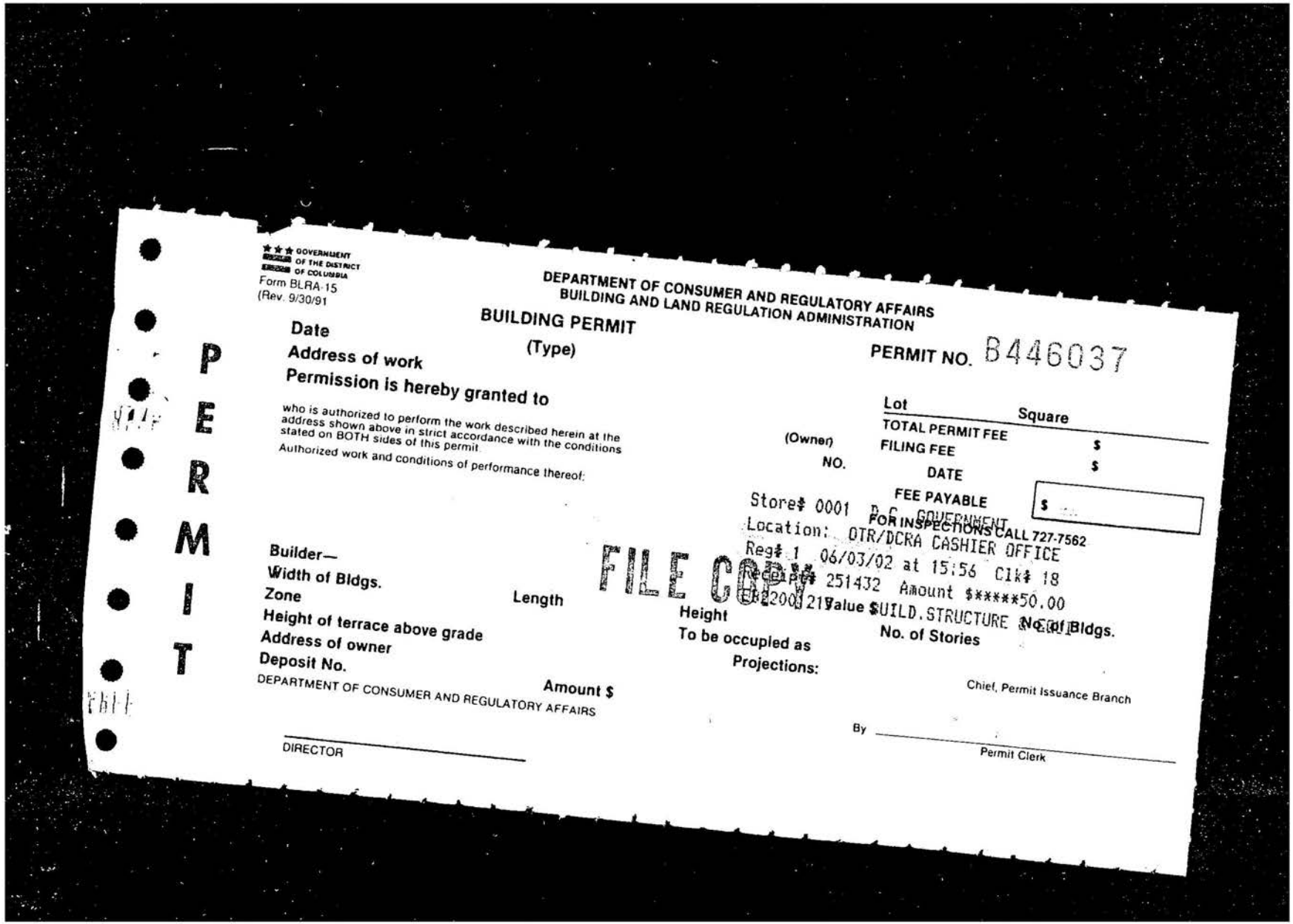
C of O Number _____ Date _____
Existing Use(s) _____
HOP # 24896 6/3/02

- ☐ New bldg.
- ☐ P.O.D.
- ☐ File in room 329

Job No.: 6/3/02 BZA Case No.: PUD Order No.:

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____



PERMIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B446037

Date

(Type)

Address of work

Lot Square

Permission is hereby granted to

(Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

TOTAL PERMIT FEE $

FILING FEE $

NO. DATE

FEE PAYABLE $

FOR INSPECTIONS CALL 727-7562

Store# 0001 D.C. GOVERNMENT
Location: OTR/DCRA CASHIER OFFICE
Reg# 1 06/03/02 at 15:56 Clk# 18
Receipt# 251432 Amount $*****50.00
[illegible]2002 21 Value $UILD.STRUCTURE [illegible] No. of Bldgs.

FILE COPY

Builder—

Width of Bldgs. Length Height No. of Stories

Zone To be occupied as

Height of terrace above grade Projections:

Address of owner

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By

DIRECTOR

Permit Clerk

BLRA 33C

CONTRACT AGREEMENT

Name of ~~Contractor~~/Owner MARK PHILLIPS Contractor's License No. N/A.

Address of ~~Contractor~~/ Owner 417 A STREET SE. WASHINGTON DC 20003 Date: 6.3.02

ADDRESS OF PROPOSED WORK: 417 A STREET SE, WASHINGTON DC 20003	LOT: 27 SQUARE: 818
OWNER OF BUILDING OR BUSINESS: MARK PHILLIPS	PHONE No: 202 543 - 1481

DESCRIPTION OF PROPOSED WORK: TO ATTACH ON A TEMPORARY BASIS A VINYL PLASTIC BANNER. SIZE 8' x 3' FOR THREE MONTHS. TO BE FIXED ON EXTERIOR FRONT FACADE WALL.

COST ESTIMATE

CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	$	
ELECTRICAL	$	
MECHANICAL	$	
PLUMBING	$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	$	
DEMOLITION	$	
MISC/OTHER (please specify) COST OF BANNER.	$ 176 —	
TOTAL	$	

The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.

The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.

CONTRACTOR _____ Date: _____
Signature & print

OWNER OF BUILDING/BUSINESS Mark Phillips Date: 6.3.02
Signature & print

Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.