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D.C. OFFICE OF ZONING
2005 MAY -3 PM 2:53

Preliminary Statement in Support of Appeal
1464 Harvard Street, N.W.
Square 2668, Lot 69

The subject property is located on the south side of Harvard Street, between 14th and 15th Streets, N.W. It is located in an R-5-B District, as shown on the attached portion of the Zoning Map.

The Appellant, Bogdan Builders, Inc., applied for and on November 2, 2004, was issued a building permit to construct a fourteen unit apartment building on the subject property. A copy of the permit is attached. Construction proceeded in accordance with that permit.

On March 4, 2005, the Department of Consumer and Regulatory Affairs (DCRA) issued a stop work order alleging a violation of Section 105.1 of the Building Code, "working outside scope of building." A copy of the stop work order is attached. Subsequent discussions with the Zoning Administrator revealed that the construction allegedly violated the lot occupancy provisions of the Zoning Regulations. No further written determination or communication was received from DCRA stating that violation. In order to preserve its rights and file a timely appeal, the Appellant files as of this date based on the stop work order.

In an R-5-B District, pursuant to §403.2, a building may occupy up to sixty percent of its lot. The percentage of lot occupancy is based on the defined term "building area," the meaning of which is set forth in §199.1 of the Zoning Regulations as follows:

> the maximum horizontal projected area of a building and its accessory buildings. The term "building area" shall include all side yards and open courts less than five feet (5 ft.) in width, and all closed courts less than six feet (6 ft.) in width. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, *nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.* (Emphasis Added)

As approved by DCRA, the lot occupancy of the building was determined not to exceed sixty percent. Based upon a subsequent review of the plans, the Zoning Administrator determined that terraces at the rear of the building should be included in the building area, which would cause the lot occupancy to exceed sixty percent.

The Appellant believes that the Zoning Administrator erred in including the terraces in building area. The terraces are located below the level of the main floor. While there is an apartment unit located in the level of the building below the terraces, a portion of that level of the building constitutes a glass covering which provides all the required light and ventilation for the unit below. The building on the adjacent lot to the west is setback from the property line. Consequently, the terraces do not obstruct any required light and ventilation for any portion of the main building or of any building on adjoining property. The terraces should therefore not be

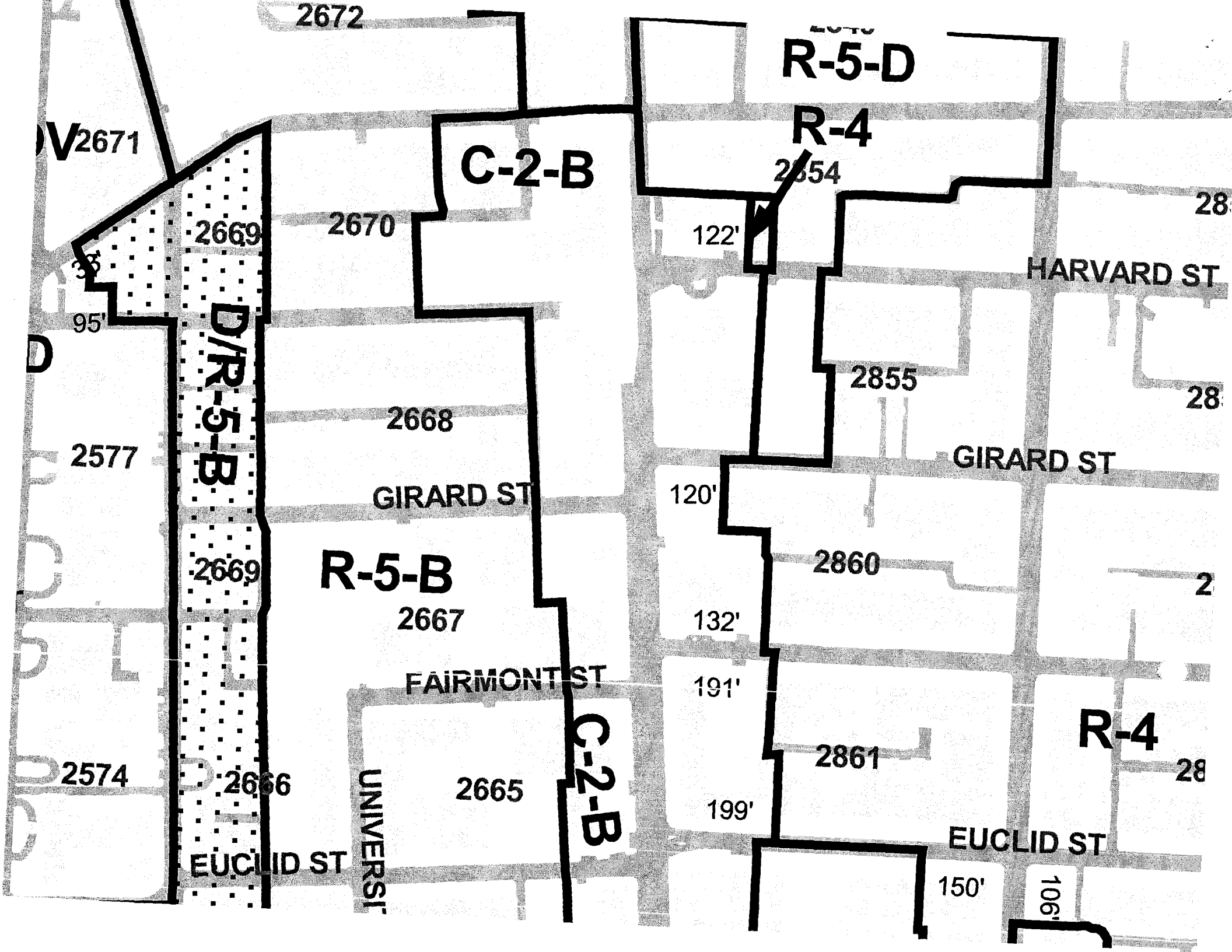
BZA
Case No. 17357
Exhibit No. 4

Board of Zoning Adjustment
District of Columbia
CASE NO. 17357
EXHIBIT NO. 4

included in building area and the Appellant believes that the determination of the Zoning Administrator to that effect is incorrect.

The Appellant further believes that the DCRA is estopped from reapplying the Zoning Regulations to this project. The building permit was issued in November, 2004, and the Appellant made substantial improvements and carried out substantial construction in reliance upon the permit. Four months later, the stop work order was issued, and only after that did subsequent discussions reveal the lot occupancy issue. The Appellant will be substantially prejudiced if the DCRA is allowed to apply a different interpretation of the Regulations than was applied at the time that the permit was issued.

2818060_v1


2672
R-5-D
R-4
C-2-B
2671
2669
2670
122'
HARVARD ST
95'
D/R-5-B
2855
2668
2577
GIRARD ST
120'
2860
R-5-B
2669
2667
132'
FAIRMONT ST
191'
C-2-B
R-4
2861
2574
2666
2665
199'
EUCLID ST
150'
EUCLID ST

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.

PERMIT

Date 11/2/04 (Type) MISC./NEW CONST.

Lot 0808 Square 2668

Address of work 1464 HARVARD ST NW

Permission is hereby granted to BOGDAN BLDRS, INC. (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:

NO.

TOTAL PERMIT FEE $

FILING FEE $

DATE

FEE PAYABLE $ 2,847.80

FOR INSPECTIONS CALL XXXXXX 442-4641

BUILD NEW 3 STORY W/BASEMENT APT BLDG W/STAIRS THAT PROJECT INTO PUBLIC SPACE & AREAWAY & PLANTERS PROJECTING INTO PUBLIC SPACE.

SEPARATE ELECTRICAL, PLUMBING AND MECHANICAL INSTALLATION PERMITS ARE REQUIRED.

Builder— Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories 3 + MEZZ. + CELLAR

Zone R5B To be occupied as APT-14 UNITS

Height of terrace above grade Projections 2 PLANTERS & 2 STEPS & 1 AREAWAY

Address of owner 5272 RIVER RD BETHESDA, MD

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

By _____ Permit Clerk

D CLARK 32301

DIRECTOR

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
BUILDING INSPECTION DIVISION

STOP WORK

All Work

ADDRESS : 1464 Harvard ST N.W.

VIOLATION: (Section/s) 105.1 Working outside scope of building permit

You have the right to Appeal

PROPER Permits / Plans **SHALL BE OBTAINED AND OR POSTED PRIOR TO THE CONTINUATION OF ANY WORK. ANY AND ALL PERSONS ACTING CONTRARY TO THIS NOTICE SHALL BE SUBJECT TO A FINE/PROSECUTION OR BOTH.**

APPLICATION FOR PERMIT(S) MUST BE FILED OR REMOVAL OF VIOLATION MUST OCCUR WITHIN 48 **HOURS/DAYS FROM THE POSTING OF THIS NOTICE.**

Zoning 442-4576

☐ Construction	☐ Electrical	☐ Plumbing	☐ Elevator	☐ Boiler
442-4641	442-4643	442-4642	442-4634	442-4630

12:20 p.m.	3/4/05	[signature] 442-4657
Time	Date	Official