

BZA 20489

Culinary District, Inc.

1914 9th Street, N.W.

September 29, 2021

John Patrick Brown, Jr.
Greenstein DeLorme & Luchs, P.C.



Sohan Mostofa
Culinary District

Board of Zoning Adjustment
District of Columbia
CASE NO.20489
EXHIBIT NO.40

REQUESTED RELIEF

- 1. USE VARIANCE FOR CONTINUED USE OF SECOND FLOOR AS RESTAURANT.**
- 2. WITHDRAWN: SPECIAL EXEPTION FOR ROOF TOP DECK.**

FAVORABLE **RECOMMENDATIONS**

- **OFFICE OF PLANNING: APPROVAL WITHOUT CONDITIONS.**
- **ANC 1B: UNANIMOUS SUPPORT.**
- **DDOT: NO OBJECTION TO APPROVAL.**
- **NO PARTY OR PERSON IN OPPOSITION.**

PROPERTY BACKGROUND

- **BUILT IN 1900.**
- **2-STORY WITH BASEMENT.**
- **SINGLE ENTRANCE AND STAIRCASE.**
- **1990 REZONED TO RF-1 FROM C-M-1 (INDUSTRIAL).**
- **C-M-1 PROHIBITED RESIDENTIAL USES EXCEPT PRE-1958.**
- **DCRA INCORRECTLY IDENTIFIED AS C-M-1 UNTIL 2007.**
- **COMMERCIAL USES SINCE AT LEAST 1986.**
- **RESTAURANT USE OF ENTIRE BUILDING SINCE AT LEAST 2000.**
- **2000-2014 – PORTICO RESTAURANT.**
- **2014-2019 – DINO’S GROTTTO.**
- **TAXED AS COMMERCIAL PROPERTY.**

2019 SECOND FLOOR RESTAURANT PHOTOS



2019 SECOND FLOOR RESTAURANT PHOTOS

(continued)



CERTIFICATE OF OCCUPANCY HISTORY

1914 9th Street, NW
 (Square 361, Lot 123)
 (1st and 2nd Floor = 2,412 sf)

<u>CO NUMBER</u> (Date)	<u>NAME</u>	<u>USE</u>	<u>OCCUPANCY/</u> <u>LOAD</u>	<u>TYPE</u>	<u>ZONE</u>	<u>NOTE</u>
Pending	The Culinary District, Inc.	Restaurant	Second Floor	Ownership Change	RF-1	Bldg. Permit B2003712 (1/10/2020) (interior renovation of existing 2 nd floor restaurant space)
CO 2001582 (4/28/2020)	The Culinary District, Inc.	Restaurant with Lounge with 72 seats and maximum 76 occupancy load	Basement and 1 st /76 seats	Ownership Change	RF-1	Bldg. Permit B2003449 (1/09/2020)
CO 1401751 (4/14/2014)	It Takes Two, LLC t/a Dino's Grotto	Restaurant – 76 seats	2 Floors plus basement (incorrectly lists 1 st & Basement)	Ownership Change (Continuation of prior use)	R-4	Application for 2 floors plus basement approved. (prior CO 0901336) (2/27/2009)
CO 1400206 (10/23/2013)	Rehobeth Money Transfer, Inc.	Office Space for Money Transfer Services	Part 2 nd Floor (600 sf)	Ownership Change	R-4	
CO 1202130 (6/01/2012)	Helen, LLC	General Office Space, 2 nd Floor	2 nd Floor (1,788 sf)	Ownership Change	R-4	

CERTIFICATE OF OCCUPANCY HISTORY

(continued)

CO 1102903 (08/16/2011)	Addis Property Management, LLC	Office Space	Part of 2 nd Floor (600 sf)	Partial Occupancy	R-4	
CO 1100705	Challenger Cab, LLC t/a Wender Cab and Camel Cab	Office Space (part of 2 nd floor)	Part of 2 nd Floor (600 sf)	Partial Occupancy	R-4	
CO 0901336 (2/27/2009)	Moka, LLC t/a Portico Restaurant	Restaurant, 76 seats	1 st (2,400 sf) (entire building)	Ownership Change	R-4	
CO 139956 (5/14/2007)	Abenet Tessema t/a ABT Business Ctr.	Office Space	Part of 2 nd Floor (150 sf)	Ownership Change	C-M-1 (?) (R-4)	CO 134471 (12/28/2006)
CO 134654 (1/25/2007)	Challenger Cab Corp.	Office Space	Part of 2 nd Floor (600 sf)	New C of O	C-M-1 (?) (R-4)	Office Space on 1 st , 2 nd & Basement for storage; B146633 (9/15/1986)
CO 1334471 (12/28/2006)	Makoneen Teklu	Office Space	2 nd Floor (1,788 sf)	New C of O	C-M-1 (?) (R-4)	B146633 (9/15/1986)
CO 117076 (4/14/2006)	BET Restaurant, Inc. t/a Ras Ethiopian Cuisine	Restaurant	Basement, 1 st Floor (76 seats) 2,400 sf (entire building)	Ownership Change	C-M-1 (?) (R-4)	
CO 16396 (8/06/2001)	Makonnen Teklu	Restaurant	2,400 sf (entire building)	Load Change	C-M-1 (?) (R-4)	
CO 11489 (5/23/2001)	Makoneen Teklu	Restaurant	First Floor 38 Seats – 1,200 sf	Ownership Change	C-M-1 (?) (R-4)	
CO 190847 (5/22/2001)	Makoneen Teklu	Restaurant (38 seats)	First Floor		R-4	
CO 187290(?) (5/-/2000)	Asmeron Woldu	Restaurant (38 seats)	Basement (1,500 sf)	Ownership Change	R-4	No use change CO 182515 (9/22/1998)

CERTIFICATE OF OCCUPANCY HISTORY

(continued)

B00182515 (9/22/1998)	Makoneen Teklu	Restaurant (38 seats)	Basement (1,200 sf)	Ownership Change	R-4	B162713 (4/27/1992)
B162713 (4/27/1992)	Little Freddy's Restaurant	Restaurant (seating 38)	Basement (1,200 sf)		C-M-1 (?) (R-4)	C of O Unavailable
B162393 (2/26/1992)	Demetrus Jones, Jr. Imoudu Izegwire	Cleaning Service Office	First	Partial Occupancy	C-M-1 (?) (R-4)	B148971 (3/20/1987)
B160951 (5/21/1991)	David L. Brown	Office Space	First (630 sf)	Ownership Change	R-4	B14897 (3/20/1987) [ZC Order No. 632 (87-7) Re-zoned from C-M-1 to R- 4 (2/23/1990)]
B148758 (2/26/1987)	Karisma, Inc.	Office for Janitorial & Cleaning Service	First	Partial Occupancy	C-M-1	B14872 (12/30/1981)
B148971 (03/20/1987)	Taylor Painting & Decorating, Inc.	Office Space & Janitorial Services	First (630 sf)	Partial Occupancy	C-M-1	B148223 (12/30/1986)
B148223 (12/30/1986)	Taylor Painting & Decorating, Inc.	Home Improvement Contractor's Office	First (630 sf)	New Building (?)	C-M-1	B146633 (9/15/1986)
B146633 (9/15/1986)	Leonard Taylor	Office	Basement, 1 st and 2 nd (2,679 sf)	Use Change	C-M-1	Prior Use - Residential

CULINARY DISTRICT, INC.

- **December 2019 – Culinary District leased entire building for restaurant.**
- **First-Time Restaurant operator in D.C.**
- **January 2020 - Culinary District obtained building permits.**
- **B2003449 – Interior Renovation for lower level and first floor.**
- **B2003712 – Interior Renovation of second floor.**
- **All permitted work completed and inspected.**
- **Certificate of Occupancy B2001582 issued for basement and first floor.**
- **DCRA denied certificate of occupancy for second floor despite issuing building permit for restaurant renovation.**

PERMITTED, COMPLETED AND FINALLY INPECTED SECOND FLOOR



2nd floor

USE VARIANCE TEST

1. EXCEPTIONAL CONDITION OF PROPERTY

- **Entire Building Configured as Single Unit.**
- **Long-standing Restaurant Use.**
- **No Residential Use History.**
- **Expensive Improvements Approved and Completed to Second Floor for Continued Restaurant Use (\$300,000).**

USE VARIANCE TEST

2. EXCEPTIONAL AND UNDUPLICATE HARDHSIP

- **Loss of Approved and Completed Restaurant Improvements (\$300,000).**
- **Lost Restaurant Revenue Undermines Financial Viability of Entire Enterprise.**
- **Single Use/User Configuration Not Easily Converted into Separate Use.**
- **Extraordinary Cost to Convert Second Floor to Residential Use (\$300,000 or more).**
- **Undesirable Residential Space Above Existing Restaurant.**

USE VARIANCE TEST

3. NO SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND IMPAIRMENT TO INTENT, PURPOSE AND INTEGRITY OF ZONE PLAN

- **Limited Scope of Variance.**
- **No Loss of Residential Use.**
- **Conformance with Existing Restaurant Use.**
- **Minimal Additional Impact on Adjoining Properties.**
- **Surrounding Area Mixed Uses, Zones (ARTS-2, ARTS-3, MU-4).**
- **Neighborhood Serving Restaurant Use.**

ESTOPPEL

- 1. Expensive and Permanent Improvements;**
- 2. Made in Good Faith;**
- 3. In Justifiable Reliance Upon;**
- 4. Affirmative Acts of the D.C. Government;**
- 5. Without Notice Improvements Might Violate Zoning Regulations;
and**
- 6. Equities Strongly Favor Applicant.**