

Lyle M. Blanchard  
[lmb@gdllaw.com](mailto:lmb@gdllaw.com)

John Patrick Brown, Jr.  
[jpb@gdllaw.com](mailto:jpb@gdllaw.com)

May 2, 2019

**VIA IZIS**

Frederick L. Hill  
Chairperson  
D.C. Board of Zoning Adjustment  
441 4th Street, N.W., Suite 210  
Washington, D.C. 20001

Re: **BZA Case 20014**; Supplemental Filing of Addisleigh Park Washington Properties, LLC  
1803 Rhode Island Avenue, NE (Square 4209, Lot 5) in the MU-4 Zone District (“Property”)

Dear Chairperson Hill:

On behalf of the Applicant, we are submitting for the record the enclosed Option A cellar plan. The filing of this plan corrects an inadvertent omission of the plan drawing from Exhibit D in the original Statement in support of Application filed on March 15, 2019. A motion form (Form 150) and memorandum in support of the motion are also enclosed.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to ask the Office of Zoning staff to contact the undersigned.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.

By:   
Lyle M. Blanchard

By:   
John Patrick Brown, Jr.

Enclosures

**CERTIFICATE OF SERVICE**

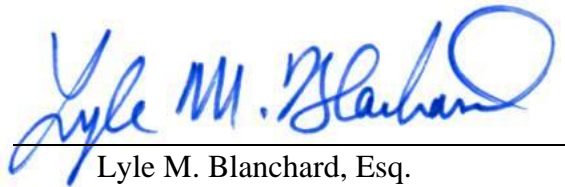
I hereby certify that a copy of this Supplemental Filing was sent electronically on May 2, 2019 to the following:

**ANC 5C**  
[5C@anc.dc.gov](mailto:5C@anc.dc.gov)

**Commissioner Jeremiah Montague, Jr, ANC 5C07**  
[5C07@anc.dc.gov](mailto:5C07@anc.dc.gov)

**Ms. Maxine Brown-Roberts**  
**D.C. Office of Planning**  
[Maxine.BrownRoberts@dc.gov](mailto:Maxine.BrownRoberts@dc.gov)

**Ms. Kelsey Bridges**  
**D.C. Department of Transportation**  
[Kelsey.Bridges@dc.gov](mailto:Kelsey.Bridges@dc.gov)

  
\_\_\_\_\_  
Lyle M. Blanchard, Esq.



**BEFORE THE ZONING COMMISSION OR  
BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA**



**FORM 150 – MOTION FORM**

**THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A  
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.**

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

**CASE NO.:** 20014

**Motion of:**  Applicant  Petitioner  Appellant  Party  Intervenor  Other \_\_\_\_\_

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

The BZA to request a waiver of the time requirements to file a plan (Option A - cellar) which should have been included with the original set of plans (Exhibit D to the Statement in Support of the Application) but it was inadvertently omitted in that March 15, 2019 filing.

**Points and Authorities:**

On a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form (see instructions).

**Consent:**

Did movant obtain consent for the motion from all affected parties?

- Yes, consent was obtained by all parties       Consent was obtained by some, but not all parties  
 No attempt was made       Despite diligent efforts consent could not be obtained

Further Explanation: Email requests for consent was sent on April 30, 2019 to Office of Planning, DDOT, ANC 5C Chairperson and ANC 5C07 SMD Commissioner. On behalf of the ANC, the affected SMD Commissioner gave consent by email on April 30, 2019. OP and DDOT representatives gave their consent by email on May 1, 2019.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 02 day of May, 2019

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via:  Mailed letter  Hand delivery  E-Mail  Other \_\_\_\_\_

Signature: 

Print Name: Lyle M. Blanchard

Address: 1620 L Street, NW, Suite 900, Washington, DC 20036

Phone No.: (202) 452-1400

E-Mail: lmb@gdllaw.com

**BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

**IN RE,**

Application of Addisleigh Park  
Washington Properties, LLC,

*Applicant.*

**Case No.: 20014**

**Next Event: Public Hearing**

**Event Date: Wednesday, May 15, 2019**

**APPLICANT ADDISLEIGH PARK WASHINGTON PROPERTIES, LLC'S POINTS  
AND AUTHORITIES IN SUPPORT OF ITS MOTION FOR WAIVER OF TIME  
REQUIREMENTS**

Applicant Addisleigh Park Washington Properties, LLC (“Addisleigh Park” or “Applicant”), through counsel, hereby supplements its Motion for Motion for Waiver of Time Requirements (the “Motion”) with this Memorandum of Points and Authorities.

**INTRODUCTION**

Pursuant to Section Y-407 of Zoning Regulations (Title 11, DCMR), Addisleigh Park seeks through this Motion to request the waiver of the time requirements in Section Y-300.10, which requires all plans be filed at the time of filing of the application, and Section Y-301.14, which requires any supplemental plans to be filed no later than 21 days prior to the hearing. The application in this case was filed on March 15, 2019 and the pre-hearing statement was filed 21 days prior to the May 15, 2019 hearing on April 24, 2019.

**FACTS**

On April 29, 2019, it was discovered when discussing the plans with the Office of Planning (“OP”) that the Option A plan for the cellar level of the Project (the “Option A Plan”)

was missing from Exhibit D (the plans) filed with the Statement in support of the Application filed on March 15, 2019. The development plans were discussed in general as part of Addisleigh Park's presentations to the ANC 5C07 Single Member District Commissioner's community meeting on April 10, 2019 and also at the regular monthly meeting of ANC 5C on April 17, 2019. Counsel after discovering this inadvertent omission of the Option A Plan immediately on April 30, 2019 sent by email pdf copies of the Option A Plan to all the Parties, Ms. Maxine Brown-Roberts of OP, Ms. Kelsey Bridges of DDOT, ANC 5C Chairperson Jacqueline Manning and ANC 5C07 Commissioner Jeremiah Montague, Jr. for their information with a request for their consent to this Motion, which was provided by all Parties.

### **ARGUMENT**

D.C. Court of Appeals has long-recognized the concept of no harm, no foul with allowing certain filings to be accepted into the record of out of time. In *Sieber v. Brownstone Publ. Co.*, 2009 D.C. Super. LEXIS 10, \*45 (quoting *Tsintolas Realty Co. v. Mendez*, 984 A.2d 181 (2009 D.C. App. LEXIS 601)), the Court reasoned that:

“The natural impact of this legal principle is that no action at law can be maintained where the plaintiff cannot demonstrate that he, she, or it suffered any harm attributable to the defendant's behavior. It short, the District of Columbia Court of Appeals has adopted the well-known concept of "no harm, no foul."

Here, none of the Parties are harmed by the filing out of time of the Option A Plan. The ANC was briefed on the development plans in general at the Applicant's two presentations in April, 2019. OP and DDOT have a reasonable amount of time to review it prior to their

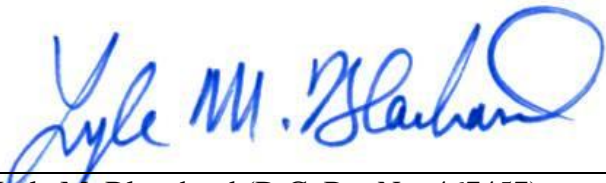
deadlines to file agency reports on May 6, 2017. Likewise the ANC 5C members will have an opportunity to review Option A Plan at its monthly meeting on May 8, 2019 prior to filing its report. The Option A Plan was also discussed in the Applicant's Statement of Support in its filings on March 15 and April 24, 2019. Thus, none of the Parties would suffer from allowing the Option A Plan into the hearing record now even though its inclusion is out of the normal time requirements in the Zoning Regulations. Further, inclusion in the record now would give the Board sufficient time to review the Option A Plan prior to the hearing.

**CONCLUSION**

Because (i) all Parties were notified of the inadvertant omission of the Option A Plan as soon as possible as its discovery, (ii) notification occurred several days in advance of the filing deadlines for each of the Parties' reports to the Board, none of the Parties are harmed by the filing out of time. Therefore, the Board is respectfully requested to grant Applicant's Motion in Applicant's favor.

Respectfully submitted,

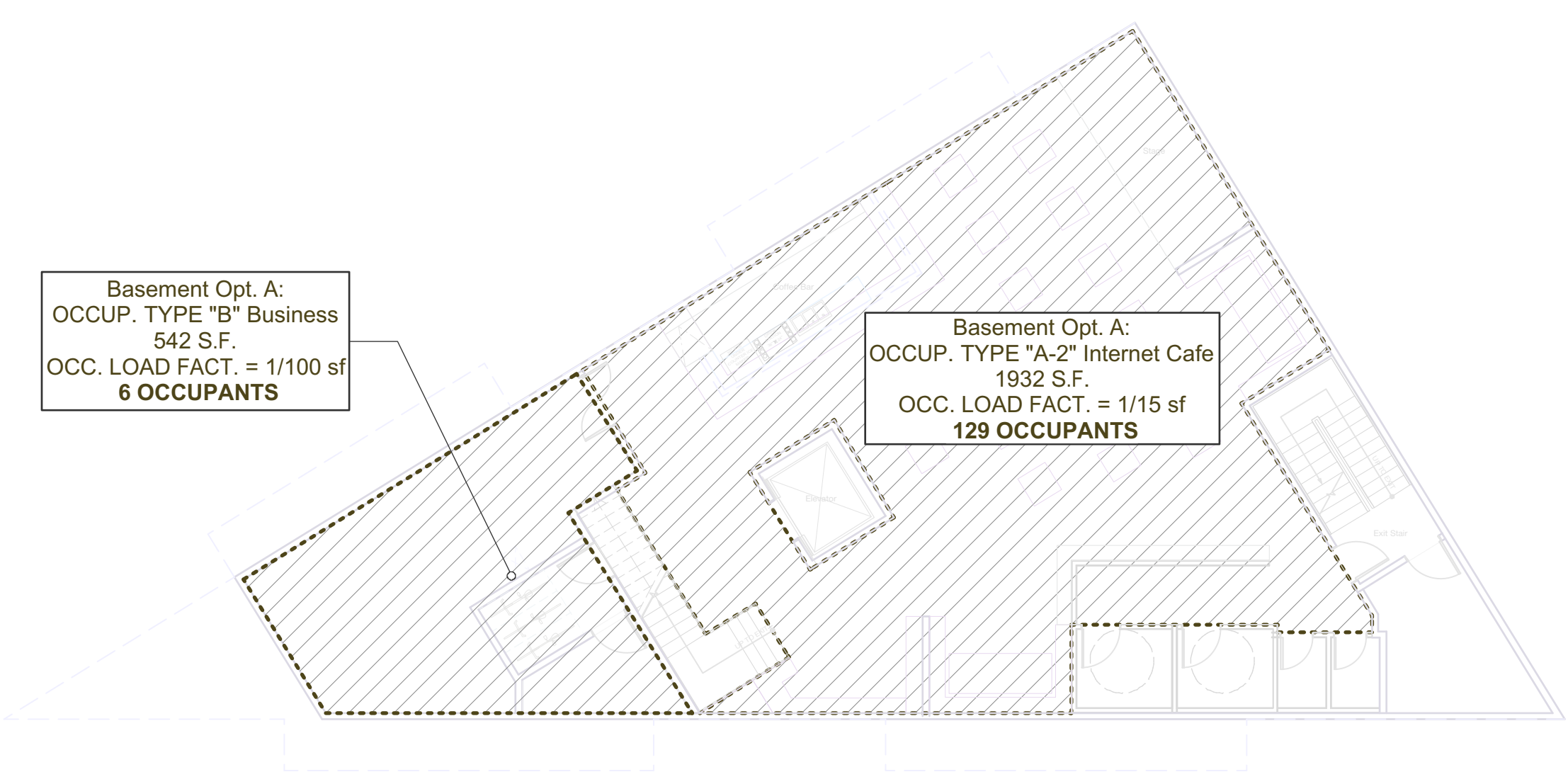
GREENSTEIN DELORME & LUCHS, P.C.



Dated: May 2, 2019

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Lyle M. Blanchard (D.C. Bar No. 467457)  
John Patrick Brown, Jr. (D.C. Bar No. 417566)  
1620 L Street, N.W., Suite 900  
Washington, DC 20036-5605  
Telephone: (202) 452-1400  
Facsimile: (202) 452-1410  
E-mail: [lmb@gdllaw.com](mailto:lmb@gdllaw.com)  
Email: [jpb@gdllaw.com](mailto:jpb@gdllaw.com)  
*Counsel for Applicant Addisleigh Park*



Occupancy Diagram - Basement Option A  
Scale: 3/32" = 1'-0"

Basement Opt. A:  
OCCUP. TYPE "B" Business  
542 S.F.  
OCC. LOAD FACT. = 1/100 sf  
**6 OCCUPANTS**

Basement Opt. A:  
OCCUP. TYPE "A-2" Internet Cafe  
1932 S.F.  
OCC. LOAD FACT. = 1/15 sf  
**129 OCCUPANTS**



1 Basement - Option A  
Scale: 3/16" = 1'-0"

Retail D: (Internet Cafe) Plumbing Fixtures Req'd		
	MALE	FEMALE
occupant load of space ==136	68	68
WC (1 per 40 M, 1 per 40 F)	2 (2 PROVIDED)	2 (2 PROVIDED)
LAVATORIES (1 per 75)	2 (2 PROVIDED)	2 (2 PROVIDED)
DRINKING FOUNTAIN		n/a

Option A - Basement

