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October 15, 2015

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

**Re: Request for Minor Modification to BZA Order No. 18502
Jemal's Gram L.L.C. and other owners within Square 450**

Dear Members of the Board:

This letter is submitted on behalf of Jemal's Walker Boyd L.L.C., Jemal's AV's L.L.C., Jemal's Eritrean L.L.C., and Jemal's Marrakesh L.L.C. (collectively, the "Applicant") to request a minor modification to BZA Order No. 18502 and plans approved as part of that order.¹ The Applicant respectfully requests that this item be placed on the consent calendar of the next available public meeting pursuant to 11 DCMR § 3129.

Background

On February 5, 2013, the Board granted the request of Jemal's Gram L.L.C. and Jemal's Walker Boyd L.L.C. in BZA Application No. 18502, for special exception approval to facilitate construction of an eleven-story mixed-use office, retail and service building on a collection of properties occupying roughly the western half of Square 450.² Square 450 is a triangle-shaped square bounded by L Street, NW, to the north, New York Avenue, NW, to the south, 6th Street, NW, to the east, and 7th Street, NW, to the west, in Washington's Downtown Development ("DD") district overlay. Immediately to the west of the Property, across 7th Street, NW, is the Walter E. Washington Convention Center and to the southwest is Mount Vernon Square.

Square 450 is split-zoned DD/C-2-C and DD/C-3-A, with the zoning boundary line running in a north-south direction through the square approximately 100 feet from its western edge (along 7th

¹ In August 2014, Jemal's Gram L.L.C. was merged into Jemal's Walker Boyd L.L.C. by Certificate of Merger.

² The properties consisted of Lots 4, 6, 21, 33, 34, 40, 803-818 in Square 450, totaling approximately 62,219 square feet of land area. Those lots have since been consolidated in new Lot 41.

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Street, NW), with the DD/C-2-C portion located to the east of the boundary line, and the DD/C-3-A portion located to the west.

In Order No. 18502 (copy attached at Exhibit A) the Board granted special exception approval, pursuant to 11 DCMR § 2514.2, to permit the zoning regulations applicable to the DD/C-2-C portion of the property to apply to a portion of the DD/C-3-A-zoned part of the property; and also special exception approval, pursuant to 11 DCMR §§ 411.11 and 770.6, to allow roof structures not meeting the normal setback requirements. That approval included architectural drawings included at Exhibit 10 of the hearing record in that application.

Order No. 18502 became effective on February 16, 2013, and included a requirement that the Applicant submit a building permit application within two years of the effective date. To that end, the Applicant timely submitted its building permit application to the Department of Consumer and Regulatory Affairs (“DCRA”) on January 8, 2015. Please see attached copy of the permit application and fee receipt (Exhibit B). That permit application remains with DCRA pending approval.

Proposed Modification

The Applicant seeks modification of the Board’s approval in Order No. 18502, particularly the approved plans, to incorporate additional land owned by the Applicant in Square 450. This additional land, comprised of Lots 25, 39, 800, 825, 830-832, occupies the remainder of Square 450 west of the original site. As a result of the proposed expansion, the land area for the project site will increase to approximately 96,992 square feet. On this enlarged building site, the Applicant seeks to expand the office building design that was approved by the Board in Order No. 18502 as well as by the District of Columbia Historic Preservation Review Board (“HPRB”) in order to accommodate a potential anchor tenant for the expanded building. The building design that was originally approved in Order No. 18502 has been only minimally modified, along its east elevation, in order to allow for this expansion.

For the Board’s reference, the Applicant has included a booklet of drawings which provide both the approved drawings and proposed revised drawings. Please see Exhibit C. To the extent possible, the Applicant has provided the “Approved” drawings on the left side of the booklet and corresponding “Proposed” drawings on the right side of the booklet. As demonstrated by the drawings, the Applicant has succeeded in designing the addition to the approved project such that no additional zoning relief is required in order to accomplish the expanded design. In fact, under the revised plan, the development no longer requires the special exception relating to penthouse setback that was previously granted by the Board. Thus, the only area of zoning relief required for the expanded project is the earlier-approved special exception regarding the zoning boundary controls. To that end, please see zoning self-certification form relating to proposed building completed by the project architect, Shalom Baranes Associates (Exhibit D).

Compliance with Section 3129 of the Zoning Regulations

The Applicant's request for a minor modification of Order No. 18502 complies with the relevant subsections of § 3129, as follows:

3129.2 *The Board shall consider requests to approve minor modifications to plans approved by the Board, as set forth in §§ 3125.7 and 3125.8. The request shall be in writing, shall state specifically the modifications requested and the reasons therefore and include a copy of the plans for which approval is now requested.*

This request is in writing, states specifically the modifications requested and the reasons therefore and includes copies of the plans for which approval is requested.

3129.3 *A request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.*

The present request is being filed more than two years following the issuance of Order No. 18502. The timing of this request relates to the recent acquisition by the Applicant of property in the eastern portion of Square 450 to allow for the proposed expansion. Likewise, this request responds to a recent opportunity to accommodate an important anchor tenant that was not foreseen at the time of the original approval. To that end, the Applicant requests the Board waive the timing requirement of § 3129.3 pursuant to its authority established in § 3100.5 as such waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

3129.4 *All requests for minor modifications of plans shall be served on all other parties to the original application at the same time as the request is filed with the Board. A party shall have ten (10) days within which to submit written comments that such party may have concerning the requested modification.*

The request is being served on all parties to the original application as evidenced by the attached Certificate of Service. The only party to the original application was ANC 2C. As a result of subsequent redistricting, the four-member ANC 2C was enlarged to a seven-member ANC and redesignated ANC 6E. The Applicant has discussed this minor modification request with ANC 6E and made a presentation at ANC 6E's October 6, 2015, public meeting. At that meeting, the ANC voted unanimously to recommend support for this minor modification request. Please see letter attached at Exhibit E.

3129.5 *A decision on a request for minor modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application.*

The Applicant requests the Board's approval of the requested modification as set forth above and in the attached set of drawings. The Applicant requests the flexibility to construct the project either as originally approved in Order No. 18502 or as proposed to be modified in the enclosed set of drawings.

3129.6 *Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board based its original approval of the application.*

The modification is a minor modification that does not change the material facts upon which the Board relied in approving the original application. The proposed enlargement of the approved project does not create any additional zoning relief. Rather, the proposed modification allows for refinement of the design of the building to allow for withdrawal of one of the earlier-approved special exceptions.

Attachments/Enclosures

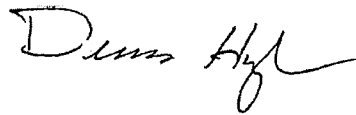
In support of this minor modification request, we have attached the following documents:

- Exhibit A: BZA Order No. 18502
- Exhibit B: Copy of building permit application filed pursuant to Order No. 18502 and receipt
- Exhibit C: Booklet of Approved and Proposed Revised Plans
- Exhibit D: Zoning Self-Certification Form completed by Project Architects
- Exhibit E: Advisory Neighborhood Commission 6E letter of support.

Thank you for your consideration of this request.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Dennis Hughes", with a stylized flourish at the end.

Dennis R. Hughes

Enclosures

cc: Advisory Neighborhood Commission 6E (Via First Class Mail)
Commissioner Rachelle Nigro, ANC 6E-04 (Via Hand Delivery)
Mr. Steve Mordfin, Office of Planning (Via Hand Delivery)