GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14115, of John Courembis, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a non-conforming use from retail grocery store, first floor, to restaurant, first floor in an R-4 District at premises 601 - 2nd Street, N.E., also known as 200 F Street, N.E., (Square 753, Lot 92).

HEARING DATE: April 11, 1984
DECISION DATE: April 11, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the northeast corner of the intersection of 2nd and F Streets, N.E. The site is in an R-4 District and is known as premises 601 2nd Street, N.E., also known as 200 F Street, N.E.

2. The subject lot is rectangular in shape. Its dimensions are 56.71 feet on the north and south sides and sixteen feet on the east and west sides. Its area is 907.36 square feet.

3. The site is improved with a brick structure located at the southern end of a row of dwellings. The subject structure is a two-story building with cellar that contains approximately 900 square feet of gross floor area. The structure is currently vacant but was formerly used as a retail grocery store on the first floor and an apartment unit on the second floor.

4. There is access to and from the subject site through F Street on the south and through 2nd Street on the west. There is no alley access.

5. The subject square and the surrounding neighborhood are developed primarily with medium density residential uses. The southern one-third of the subject square is developed with rowhouses including the subject site. The northern portion of the subject square is occupied by the Logan School and a large public playground. The area to the north, east and south of the site is developed with rowhouses, churches and schools and is zoned R-4.

6. West of the site is Union Station, the major railroad terminal for Washington, D.C. The entrance to

Union Station is approximately two blocks southwest of the site. A U.S. owned public park extends for two blocks south and west of the site and separates Union Station from the site. Union Station is at the southern end of a C-M-3 District that forms the western edge of the neighborhood on the north. South and west of the site is the U.S. Capitol complex and a series of Federal parks that form an unzoned strip along the western edge of the neighborhood. Two blocks to the north and south are C-2-A strips that form the northern and southern edges of the subject neighborhood. Three blocks southeast of the site is Stanton Park, which gives the neighborhood its name.

7. The subject site was zoned commercial prior to 1958 when the present Zoning Regulations were established. The site is now in the R-4 District and the use of the premises as a retail grocery store constituted a nonconforming use. The use was authorized pursuant to Certificate of Occupancy No. B-114830. The most recent occupant of the first floor of the premises was a retail grocery store known as "Peter's Market," which vacated the premises in March, 1982.

8. The applicant, Mr. Courembis, purchased the subject property and the adjacent structure 603 2nd Street in February, 1982. Mr. Courembis proposes to renovate the property and use the first floor as an Italian restaurant. The applicant is an experienced restaurant operator with establishments throughout the city. The proposed restaurant would serve a limited Italian menu including pizza. The restaurant would have a seating capacity of twenty persons at five tables. This table service would be supplemented by carry-out and delivery service. The restaurant would operate between the hours of 8:00 A.M. and 10:00 P.M. seven days a week. It would employ approximately five people. Employees would be neighborhood residents. Customers are expected to be drawn from the neighborhood residences and offices.

9. The second floor of the subject premises will be used for residential purposes following renovation. The proposed renovation work will include restoration of the building's facade to its original condition and renovation of the adjacent structure, 603 2nd Street, N.E., for matter-of-right residential purposes.

10. The Board of Zoning Adjustment has authority to grant special exceptions for a change of nonconforming use under Sub-section 8207.2 and Paragraph 7106.11 of the D.C. Zoning Regulations. Sub-section 8207.2 provides that the Board is authorized to grant special exceptions where in the judgement of the Board such 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 said Zoning Regulations and maps.

11. Paragraph 7106.11 provides that, subject to the conditions enumerated in Sub-paragraph 7106.111 through 7106.116, a nonconforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right.

12. The present use as a retail grocery store is first permitted as a matter-of-right in the C-1 zone. The proposed use as a restaurant is also first permitted as a matter-of-right in the C-1 zone.

13. The proposed use will have no adverse affect on the present character and future development of the surrounding area within 300 feet. The commercial use of the subject site as a grocery store has existed compatibly with the neighborhood for many years. Since the proposed use involves the same low intensity of activity with customers coming from nearby, the proposed restaurant use should also be compatible with the neighborhood area. Other nearby non-residential uses are also compatible with the residential area. The architecturally significant character of the structure will be preserved, as part of a cluster of similar structures. The mixture of low intensity commercial and residential uses in the area will continue to reflect the mix in the surrounding neighborhood.

14. The applicant's proposed use will not create any deleterious external effects. There will be no emission or escape of any objectionable smoke, gas or sounds. There will not be a grill on the premises. Further, the use of the subject premises as a restaurant will not generate objectionable noise or vibration. As to design and siting effects, the applicant intends to modernize the interior of the building and the facade of the building will be restored to its original condition.

15. No parking is provided by the applicant and none is required by the Zoning Regulations. Adequate parking does exist, however, on the street and in nearby lots. The applicant testified that there are seventeen metered parking spaces across 2nd Street from the site on F Street that are rarely used. The restaurant intends to serve primarily neighborhood residents and area workers who can walk to the establishment. The applicant will hire neighborhood residents who will not bring automobiles to work. Deliveries and unloading of supplies will be restricted to nonpeak hours of traffic movement so as not to be disruptive to the neighborhood.

16. The existing nonconforming use of the premises has never been changed to a conforming or more restrictive use.

17. The proposed nonconforming use will be a neighborhood facility, as required in a residential zone. The proposed restaurant use will serve neighborhood residents and office workers from a clearly defined neighborhood area. The neighborhood has clearly defined boundaries created by commercial districts on the north, south and west. These boundaries encourage local residents to patronize facilities in their local area and to discourage patrons from other nearby areas such as Union Station. Further, a survey was conducted in the neighborhood to determine whether residents and workers would patronize the restaurant. This survey indicated that approximately seventy area residents supported the project, including the two adjacent property owners. The Board finds that the survey demonstrates that the proposed use would serve the neighborhood.

18. Although the subject property is in an R-4 District, it has had a history of nonconforming use and was previously zoned commercial.

19. In order to protect the neighborhood, the Board has attached several conditions to approval of this application.

20. The Office of Planning, by memorandum dated April 4, 1984, and through testimony at the public hearing, recommended approval of the application subject to the following conditions:

A. The rights established by the granting of this special exception shall be limited to the Italian Restaurant proposed herein.

B. The hours of operation shall be limited to 8:00 A.M. to 10:00 P.M. Monday through Saturday and 10:00 A.M. to 10:00 P.M. on Sunday.

C. The seating capacity of the restaurant shall not exceed twenty persons.

D. All supply deliveries and trash pick-up shall be scheduled between the hours of 9:00 A.M. and 4:00 P.M.

E. All exterior trash dumpsters utilized on the premises shall be housed in a sight-tight enclosure of sufficient height to shield the dumpster from the sight of adjacent residential properties.

F. There shall be no neon, fluorescent or gas tube lighting on the building facade nor shall interior

displays utilizing such lighting be visible from the exterior of the structure.

The Office of Planning reported that these conditions were designed to minimize the intrusion of a commercial use, albeit a neighborhood facility, on a residential neighborhood and to protect the neighborhood and adjacent property owners from potential adverse impacts associated with the proposed restaurant. At the same time, these conditions are intended to permit operation of the restaurant in much the same manner as proposed by the applicant. The applicant testified that he agreed to these conditions. The Board so finds but as hereinafter listed will modify certain conditions.

21. Advisory Neighborhood Commission 6A voted unanimously to recommend approval of the application at its March 1, 1984 meeting. The ANC's written submission, dated April 2, 1984, concerned the proposed restaurant's improvement of the vacant building, the small scale of the proposed use having little negative impact and the general support of the adjacent neighbors. The Board is required by statute to give "great weight" to the issues and concerns of the ANC where a resolution of the ANC is reduced to writing and submitted to the Board. The Board concurs with the reasoning and recommendations of the ANC.

22. One letter of support was submitted to the record by a neighborhood resident. The support was based on the opinion that the proposed use would not be objectionable if the applicant met certain conditions. The conditions include:

A. The immediate clearing of the property's over-growth and garbage and repair of building security; and,

B. The substantial rehabilitation of both 601 and 603 2nd Street, N.E. to include residential units.

23. A petition with seventy signatures was submitted to the record in support of the application. The support was based on the opinion that the proposed restaurant use would both serve and be an asset to the neighborhood. The signatories were residents of the neighborhood who would patronize the restaurant if it is permitted to open.

24. The Stanton Park Neighborhood Association (SPNA), by letter dated April 11, 1984, opposed the application. The opposition was based on the opinion that the applicant had failed to present evidence that the proposed restaurant would be a neighborhood facility, and that carry-out establishments with inadequate seating facilities are detrimental to the residential character of the neighborhood.

25. The Capital Hill Restoration Society, Inc. (CHRS), by letter dated April 11, 1984, opposed the application. The opposition was based on the opinion that a carry-out business with inadequate seating facilities is detrimental to the immediate neighborhood.

26. There was no opposition to the application at the public hearing.

27. In addressing the concerns of the SPNA and the CHRS, the Board finds that the proposed restaurant use will be a neighborhood facility and, as hereinafter conditioned will not be detrimental to the neighborhood. The opposition stated by the two citizen groups was contradicted by the weight of the evidence in the record, as set forth in these findings.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to change a nonconforming use. The granting of such a special exception requires that the proposed use be permitted as a matter-of-right in the most restrictive district in which the existing use is permitted as provided in Paragraph 7106.11 of the D.C. Zoning Regulations. The proposed use must also satisfy all conditions listed in Sub-paragraphs 7106.111 through 7106.116. The Board must further find that the relief requested, if granted, 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.

The Board concludes that the applicant has met the burden of proof. The Board further concludes that the change of use 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. The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be limited to operation of the restaurant by the applicant or his heirs.

2. The hours of operation shall not exceed from 8:00 A.M. to 10:00 P.M. Monday through Saturday, and from 10:00 A.M. to 10:00 P.M. on Sunday.

3. The seating capacity of the restaurant shall not exceed twenty persons.

4. Deliveries and trash pick-up shall be limited to the hours of 9:30 A.M. to 11:00 A.M., Monday through Friday.

5. Trash shall be stored in a sealed room.

6. There shall be no neon, fluorescent or gas tube lighting on the building facade nor shall interior displays utilizing such lighting be visible from the exterior of the structure.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN 27 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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