

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15546 of Celia Properties, Limited Partnership, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Section 2517 to allow a theoretical lot subdivision within 25 feet of a residence district, for the renovation and construction of three commercial structures on one lot in a C-3-A/C-M-1 District at premises 3930-3950 Minnesota Avenue, N.E., [Square 5044, Lots 1, 2, and 3 (22)].

HEARING DATE: September 11, 1991
DECISION DATE: September 11, 1991 (Bench Decision)

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 7D and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission (ANC) 7D. ANC 7D, which is automatically a party to the application, did not submit written issues and concerns relative to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 2517. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Maps. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Construction shall be as shown on the plans marked as Exhibit No. 29A of the record. Landscaping shall be as shown on Exhibit No. 29A except for the following:
 - a. Evergreen trees shall be provided along the southeastern boundary to replace existing shrubs.

- b. Additional trees shall be planted within the main surface parking lot and the parking area in the northwest section of the property.
2. The applicant with the approval of the Department of Public Works shall:
 - a. Provide for phased lighting to control traffic from the subject parking lot and Dix Street, N.E.; and
 - b. Shall limit traffic in the public alley to one-way entering from 35th Street to Clay Place.
3. The applicant shall discourage truck traffic by vendors and tenants of the facility from using the public alley contiguous to the site on the south.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the Order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Maybelle Taylor Bennett, Paula L. Jewell, Sheri M. Pruitt and Charles R. Norris to approve; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

SEP 27 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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UNDER 11 DCMR 3103.1, "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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15546

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated SEP 27 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Celia Properties
c/o Delbe Realty
4801 Massachusetts Avenue, N.W.
Wash, D.C. 20016

John Epting, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Wash, D.C. 20006

Ms. Natalie Greene, Chairperson
Advisory Neighborhood Commission 7-D
Smothers School, Room 305
44th & Brooks Streets, N.E.
Washington, D.C. 20019

Eugene H. Phifer, Jr.
c/o Robert Diamond
1725 K Street, N.W., Suite 308
Wash, D.C. 20006

A handwritten signature in black ink, appearing to read "E. L. Curry", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: SEP 27 1991