

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 15563 of Square 3942 Associates Limited Partnership, pursuant to 11 DCMR 3105.1 and 3200.2, from the decision of Joseph F. Bottner, Jr., Zoning Administrator, made on April 8, 1991 to the effect that a variance from the use provisions (Section 801) is necessary to allow a recycling facility in a C-M-1 District at premises 1116 and 1130 W Street, N.E., (Square 3942, Lots 37-39 and Parcels 143/110, 143/117, and 143/122).

HEARING DATE: September 4, 1991  
DECISION DATE: September 27, 1991

FINDINGS OF FACT:

1. The property which is the subject of this appeal is located at the northeast quadrant of the intersection of W Street and Brentwood Road, N.E. It is known as premises 1116 and 1130 W Street, N.E., located in a C-M-1 District.

2. The subject property is located in Square 3942 and consists of lots 37, 38 and 39, as well as parcels 143/110, 143/117 and 143/122. Square 3942 is triangular in shape and is bounded by W Street to the south and southeast, Brentwood Road to the west and 13th Street, N.E. to the north. The subject property fronts on both W Street and Brentwood Road. There is, however, an existing auto service shop at the corner of W Street and Brentwood Road which abuts the subject site to the west. To the north of the site is a small, recently constructed shopping center. Also to the north of the site is a block of residential rowhouses facing 13th Street. These rowhouses are separated from the site by an alley and are approximately 200 feet from the proposed site. To the east of the site there are commercial light-manufacturing uses, including a demolition company. The site abuts an M (general industry) District to the south.

3. The eastern portion of the subject square along 13th Street, N.E., which is developed with rowhouses, is zoned R-5-A. The remaining portion of the square, which includes the subject site, is zoned C-M-1 and is developed with uses which are consistent with the C-M-1 District requirements.

4. The subject site consists of approximately 110,590 square feet in land area. There are two small buildings on the site, however, the majority of the site is unimproved. A Certificate of Occupancy (C of O) dated February 9, 1987, was issued to Consolidated Waste Industries (CWI) for parking trash trucks. The majority of the site is currently used for this purpose. The

President of CWI has been engaged in the trash removal business for the last 9 years.

5. CWI proposes to establish a "state-of-the-art" materials recovery processing center for recyclable products such as bottles, cans, glass, paper, and plastic containers.

6. On March 28, 1991, CWI applied for a Certificate of Occupancy to allow construction of the Consolidated Industrial Processing Center. Information describing the proposed facility was submitted to the Zoning Administrator.

7. By letter dated April 8, 1991, the Zoning Administrator denied the Certificate of Occupancy and directed the applicant to seek a use variance from 11 DCMR 801, the Zoning Regulations governing uses in C-M-1 districts.

8. On April 17, 1991, the owner of the property, Square 3942 Associates Limited Partnership, on behalf of CWI, filed a use variance application with the Board of Zoning Adjustment. A public hearing on the application was set for June 26, 1991.

9. At the public hearing, the applicant presented detailed evidence describing the activities to occur at the site. The applicant also attempted to address the elements for variance relief set forth in DCMR 3107.2. In its report to the Board, the Office of Planning (OP) recommended denial of the application. In OP's view the applicant failed to meet the burden of proof, part of which requires the applicant to demonstrate that the property cannot reasonably be used for the purpose for which it is zoned. OP pointed out that the current use of the property is consistent with C-M-1 zoning. OP noted that the trash recycling business is a new industry and that the potential impact of these facilities is not yet clear.

10. Having heard the applicant's case-in-chief and the OP report, the Board became concerned that the request for a use variance may be inappropriate in light of the permitted uses in C-M-1 districts and the applicant's proposed use. The Board therefore directed the applicant to seek reconsideration of the Zoning Administrator's decision by presenting to him all of the evidence made available to the Board. The Board suspended the hearing, pending a response from the Zoning Administrator.

11. By memorandum dated July 2, 1991, the Board requested that the Zoning Administrator reconsider his decision to require a use variance for the proposed use and to consider the possible matter-of-right use under sub-section 801.6(j) which allows "any light manufacturing, processing, fabricating, or repair establishment".

12. On July 3, 1991, Square 3942 Associates Limited Partnership filed an appeal of the April 8th decision of the Zoning Administrator denying the Certificate of Occupancy application. The appeal was set for hearing on September 4, 1991.

13. By memorandum dated August 9, 1991, the Zoning Administrator responded to the Board's request stating that he maintained the view that Board approval is needed for the proposed use.

14. At the public hearing on September 4, 1991, the architect for the appellant testified about the proposed development plans. He stated that the development will occur in two phases. Phase I will consist of the following:

- a 15,000 square foot Consolidated Materials Recovery Facility;
- an administrative office;
- a maintenance facility for equipment and repairs;
- an Educational/Training Center;
- a parking area for employee cars, company trucks and other equipment;
- a visitor parking area for school buses, public visitors, and
- natural and planned landscaping

In Phase II, the facility will be expanded by an additional 15,000 square feet. More parking space for employees and company vehicles will be provided and further landscaping will be added.

15. The architect testified that the main building is a free-span, highly insulated structure with entrances and exits that open onto a courtyard. This courtyard will accommodate the vehicles that bring the materials to the site as well as the vehicles that haul the materials away.

The proposed buildings will be sited so as to minimize their effect on surrounding uses. Surface areas will be maintained daily. A litter patrol will periodically police the roads and remove any debris which may be on, or along, the side of the road.

16. The proposed facility will be designed to minimize internal and external noise emissions. It will comply with the Occupational Safety and Health Administration (OSHA) and District of Columbia standards to protect on-site personnel. The building

will contain heavy equipment and machinery, installed under strict controls to minimize any adverse effect on nearby, more restrictive districts.

17. Property line noise levels will be less than those that currently exist since most of the operations will occur within the building. Operational noise inside the building will be controlled by acoustical attenuation, noise suppressors and equipment placement.

18. The ventilation system will have two features which will serve to mitigate any resulting odors. They are micro filters, as a part of the ventilation system, and fresh air cycling.

19 Under a comprehensive maintenance plan including inspection, repairs and recording, the equipment will be maintained in proper running condition. The maintenance facility will be adequately staffed and an inventory of critical parts will be kept.

20. The applicant proposes to maintain the current work force of 41 employees. Special attention will be given to the management and operation of the facility. The majority of the employees will be residents of the immediate area. They will be trained by the manufacturer of the equipment. The training will involve the facility manager, the supervisory and the equipment maintenance personnel. The supervisory personnel will conduct training for the work force and, on a regular basis, will conduct refresher courses on the critical aspects of operating processing equipment and following safety procedures.

Vehicle operators will receive training from the maintenance staff on start-up procedures for the equipment. They will also be trained on proper operating procedures and traffic patterns. A study of pedestrian and vehicular traffic movement within the site is underway to determine what controls and signals are needed for a smooth and efficient operation and to further protect workers and visitors. Appropriate signage will be displayed throughout the facility and the exterior complex.

Additional training will consist of lectures aided by audio/visual aids on how to identify recyclable and non recyclable materials. Hands-on training will also be a part of this program in which simulated process lines will be created to demonstrate how the sorter identifies and removes nonrecyclables from the process flow.

21. Safety hazards to all persons at the facility will be minimized. A safety program will be established to include Emergency Procedures, Safety Drills and Training Sessions, and Safety Program Paper Work (safety policies and reports). Such a program will help to ensure the safety of the operating personnel

and the public.

22. Operations at the facility will involve four major components - delivery of the products to the facility, sorting and separating the products into various stacks, densification of the products into bales, and shipment of the bales to market for later recycling.

23. Only five products will be handled at the facility. These are aluminum cans, tin cans, glass bottles, plastic containers and paper.

24. The machinery that will be used in the operation of the facility will be manufactured and installed by **NEW ENGLAND CRInc.** This company currently has 18 facilities throughout the United States, in Canada and England. Two of its facilities are local. One is located in Prince Georges County, the other is in Montgomery County, Maryland. A representative of **New England CRInc.** and the architect provided information about the detailed operations of the processing plant.

25. CWI's trucks will collect, from various points throughout the city, products which will have already been placed in recycling bins by city residents. The workers will use either rear-end packers or dumpsters which will be closed and covered at all times during collection. The products will then be delivered to the facility.

26. Once at the facility, the truck will back up to the building and dump all of the materials inside onto what is known as a "tipping floor". An inspection supervisor will monitor the delivery.

The tipping floor will be separated from the processing area by a curtain wall which is designed to protect those employees who work on the processing line from dust and noise. Because of the character of the recyclable materials, very little dust is generated. Dust will be controlled by the ventilation system. Also, there is very little odor associated with the recyclable materials. The ventilation system will make any odor unnoticeable. Sanitation will be maintained by cleaning the tipping floor on a daily basis.

27. After delivery, a sorting system will be used to separate the products from one another. First, the paper is separated from the cans, glass and bottles. The paper is pushed onto a conveyor which carries it to a baler that produces and automatically ties off 1,100-pound bales.

28. Another sorting system will be utilized to separate the non-paper recyclables. Primary sorters will be trained to remove

nonrecyclable materials. Conveyors are used to move an even flow of the remaining materials to the sorting machine. The first station on the processing line is a quality control check where two pickers are responsible for removing any foreign material (non recyclables) that comes off the trucks.

29. After the quality control check, the first material removed from the mix is tin and bi-metal cans. These cans are pulled off by an overhead magnetic belt and transported by conveyor to be compressed and baled.

Beyond this magnet, the remaining mix of glass, aluminum and plastic passes over a vibrating screen which removes much of the broken glass and other small residue, such as bottle caps. After the mixed material passes over the vibrating screen, it flows onto an inclined sorting machine where the lighter aluminum and plastic is separated from the glass fraction. This system uses gravity to separate the mixed containers. Separation occurs because there are a series of three metal chain curtains placed just above the belts. The heavy glass bottles move through the curtains onto another vibrating screen separating them from the lighter materials, where any remaining broken glass is removed. Since the aluminum and plastic are not heavy enough to pass through the curtains, they move along the belt and drop off the side onto another screen.

When the aluminum and plastics drop off the sides of the sorting machine, they go onto a slotted sorting table. On this table, the larger plastic containers pass over the slots while aluminum cans and residue fall through onto another conveyor belt. At the end of this conveyor there is an eddy current separator that gives the aluminum cans an electric charge causing them to jump up off of the conveyor and onto another conveyor that transports them to a flattener/blower. The plastic materials remaining are thereby negatively sorted.

30. The final component of the system is the residue handling system. Throughout the separation operations, there are numerous stations where residue is removed from the marketable materials. The first of these is the quality control station at the start of the sorting operation. At this point, large foreign objects are removed. As the material moves through the system, smaller and smaller pieces of residue are separated from the recyclables.

31. The principal residue removal area is at the vibrating screen located just upstream of the inclined sorting machine. Other screens that remove residue are located at the aluminum/plastic sorting areas and in front of the inclined sorting machine. All of the residue is deposited on a conveyor that runs the length of the separation level and ends up in a bin that is then transported to a landfill.

32. The manufacturer's representative showed a video tape of the Rhode Island Materials Recovery Facility to visually demonstrate how the proposed sorting process will work at the subject site. The manufacturer also presented testimony to further clarify what is, and what is not involved in the process proposed by the appellant. He stated that this facility will not handle certain types of materials. There will be no wet waste, no putrescible (rottable) or organic waste; nor will the facility handle regulated, hazardous or chemical waste. The materials that will be handled - - paper, cans, glass and plastic bottles represent the dry, solid, clean, empty fraction (which is only 25 percent) of the waste stream.

33. The manufacturer informed the Board that the process involves only sorting and densification. Simple conveyors powered by three to five horsepower motors are used. The materials are moved by magnets, shape and gravity. No smoke is generated by the process. No odorous gases are emitted. There is little or no dust or fly ash created. All processing in the balers is fully self-contained.

34. The manufacturer further testified that none of the products will be melted down or chemically treated. There will be no water, heat, or pressurized treatment of materials. Nor will any paper pulp be recycled into new newsprint. All of these remanufacturing activities will be done at locations far from the subject site. According to the manufacturer, this proposal is simply an intermediate processing facility.

35. It was pointed out that the Rhode Island facility, shown in the video tape, serves more than two thirds of the population in the entire state - about 700,000 people. It processes between 200 and 250 tons of waste per day. The appellant's facility will serve about 100,000 people and will process between 70 and 100 tons of waste per day. The proposed facility is, therefore, considerably smaller than the facility shown in the video tape.

36. The manufacturer testified that materials will be processed within 24 hours of receipt and shipped out on an as-full basis. There will be no open storage of materials. Prior to operations, the workers will clean the tipping floor and all processing equipment. They will clean these areas again after operations so that there is no residue or material on the floor that would attract rodents. The appellant has also contracted with a local exterminator to provide preventive treatment measures at the facility.

37. In the manufacturer's view, their operations are the essence of light manufacturing or processing, and therefore fit within the use classification of Sub-section 801.6(j) of the Zoning Regulations.

38. In the appeal to the Board, the appellant maintains that the Certificate of Occupancy to operate the processing center should not have been denied because the proposed use is permitted in the C-M-1 District as a matter-of-right.

39. First, the appellant argues that it is not seeking permission to operate a "recycling" facility in light of the actual meaning of that term. According to the appellant's dictionary source, "recycling" means "to reclaim waste materials such as newsprint, bottles, etcetera, by using them in the manufacture of new products". The appellant does not propose to reclaim products by using them in the manufacture of new products. Rather, the appellant is seeking permission to sort and separate recyclable products such as plastic, glass, paper, and both aluminum and tin cans, bale these materials and ship them to various markets to later be recycled, i.e. used in the manufacture of new products. The appellant maintains that the proposed use involves only light processing. "Processing" can be defined as "putting through the steps of a prescribed procedure". The proposed use fits within this definition because it involves the sorting and separating of products through a detailed step-by-step process. Thereafter, like materials are simply baled and shipped out.

The appellant points out that the term "recycling is inaccurate and inappropriate in this instance because it does not reflect the intent or the nature of the activities that are proposed for the site. The appellant maintains, however, that describing the use as light processing is appropriate and that such a use is permitted in the C-M-1 District pursuant to 11 DCMR 801.6(j). (The Board notes that this provision of the Zoning Regulations has been renumbered by Zoning Commission Order No. 558, effective on January 22, 1988. It will hereafter be referred to as Sub-section 801.7, in accordance with this amendment).

40. The appellant further argues that the proposed use is less intrusive, less intensive and more palatable than a number of uses that are permitted as a matter-of-right in the C-M-1 District. For instance, an incinerator is a permitted use and it certainly poses serious environmental problems and risks. Because there will be no burning of trash at the proposed site, no such environmental risks exist. The proposed use is much cleaner and safer. The appellant argues that other permitted uses such as a temporary correctional institution, a public utility pumping station, and an experimental research or testing laboratory all pose more significant risks, not only to the environment, but to the community in general.

41. Joseph F. Bottner, the Zoning Administrator testified that he has received a number of requests to operate recycling facilities in C-M Districts. He has, however, taken the position that they should first be allowed as a matter-of-right in the least

restrictive M District because the current Zoning Regulations do not provide for recycling uses. The Zoning Administrator testified that he is obligated to protect the health, safety and welfare of the residents near the subject site, but the lack of regulations on recycling facilities makes it impossible to control the activities and their possible negative impact on the community.

42. The Zoning Administrator testified that his main concern was that the facility would become a glorified junkyard because he has no assurances that the appellant will only handle limited types of materials. He pointed out that a junk yard is not a permitted use in the C-M-1 District.

43. The Zoning Administrator testified that, in his view, recycling encompasses collecting, sorting, baling and remanufacturing. To allow a facility that engages in one type of activity to operate as a matter-of-right would be improper if another type of recycling facility is disallowed in the same district. The Zoning Administrator is of the opinion that the proposed operations do not fall within sub-section 801.7(j) of the Zoning Regulations because they are a part of the recycling process, a use that is not currently regulated.

44. Responding to the testimony of the Zoning Administrator, the appellant stated that the Zoning Administrator failed to demonstrate that the activities proposed do not fall within the meaning of the term "processing". The appellant further stated that, while controls have not specifically been established for recycling facilities, there are regulations which control the uses permitted under Section 801.7. Section 804 sets forth the Standards of External Effects for such uses. These standards are adequate to protect nearby properties from adverse impacts created by the facility.

The appellant pointed out that it is clear what kinds of materials the facility will handle. They have been delineated. There is, therefore, no reason to assume that the property will become a junkyard with every type of waste being stored at the site.

Finally, the appellant noted that the proposed facility will be better than what is presently allowed to exist at the site.

45. Councilmember Harry Thomas, Jr., who is the City Council representative for the Ward 5 residents who live near the site, testified in support of the appeal. He expressed the view that the facility is needed because the District of Columbia needs to change the manner in which it manages its waste. With the landfills closing at a rapid pace, recycling is becoming more necessary. In his view, the proposed facility will help with this need.

46. The Board polled the audience at the public hearing to determine whether intervenor status should be afforded to anyone present. There were no written requests for intervenor status submitted to the Board. The twenty-one members of the audience who spoke gave their names and addresses and expressed opposition to the proposed facility based upon their perception of what effect the operations would have on their individual properties and on the surrounding area. They expressed a concern about the overburdening of their area with industry and other objectionable uses, the noise and vibrations caused by heavy trucks and other equipment, the traffic congestion, the health hazard, the problem with rodents and the lack of laws and guidelines to control to proposed use. No one expressed a view as to whether the proposed use meets the requirements of Sub-section 801.7(j) of the Zoning Regulations. The Board, therefore, decided that intervention would be inappropriate and that the Advisory Neighborhood Commission could adequately represent the views of the residents.

47. The subject property is located in Advisory Neighborhood Commission (ANC) 5B. The appellant met with the ANC 5B and the Brentwood Community Civic Association on June 6, and June 17, 1989. At these meetings, the appellant intended to learn about the concerns neighbors had related to the proposed facility, to address methods of resolving them and to solicit their support. The subject matter of these meetings was the use variance application than pending before the Board. Issues and concerns were expressed. Although none of the concerns were resolved, the ANC decided to take a vote at its June 17th meeting. Four commissioners voted against the proposed facility, one voted to support it and three commissioners abstained.

48. On August 26, 1991, the appellant attended a meeting of the Concerned Citizens of Brentwood (a group opposing the industrial processing center) to learn about their concerns and problems. The appellant learned that many of the community residents did not understand the nature of the operations proposed for the subject facility and decided to invite them to tour a similar facility. Accordingly, on August 28, 1991, the appellant sent letters to members of the immediate surrounding community and ANC 5B inviting them to participate in a walk-through tour of the Montgomery County Recycling Facility, in an attempt to address some of the concerns and questions posed in the August 26th community meeting, and to quell any fears about the unsafe or unclean nature of this type of industrial processing. However, no one from the community volunteered to participate.

49. By memorandum dated July 9, 1991, the Board informed ANC 5B that the subject appeal had been filed. The ANC did not meet to address the issues involved in the appeal. Nor was a report submitted to the Board related to the appeal. Individual ANC 5B Commissioners testified at the public hearing.

50. The chairman of ANC 5B and the single member district (SMD) commissioner for 5B-08 presented the testimony in opposition to the use variance application that she was unable to present at the hearing on June 26th, because the hearing was suspended before the Board called for the ANC report. This Commissioner did not address the appeal in her testimony.

51. The SMD commissioner for 5B-04 testified that he examined the regulations governing uses in C-M-1 districts but he does not understand "processing." He represents those residents who believe that the proposed use is inconsistent with the Zoning Regulations. He expressed support for the view that a use variance would be necessary to operate such a facility until the Zoning Commission issues its policies on recycling. The remainder of this Commissioner's testimony related to the application and was not germane to the issues in the appeal.

52. The SMD commissioner for 5B-03 testified in support of locating the facility at the site, however, she did not address whether the operations at the facility fit within the "processing" category of 11 DCMR 801.7(j).

53. Finally the SMD commissioner for 5B-05 testified that he personally conducted research on the operations of recycling facilities and he visited the one located in Montgomery County which he found to be very clean. Responding to comments made by the Zoning Administrator, the commissioner stated that, based upon what he had learned from his readings and visit, there is only a remote chance that the subject facility will become a junkyard. On cross-examination, however, he was unable to establish what similarities exist between the proposed facility and the Montgomery County facility.

54. The Board has received a petition and letters in support of locating the facility at the subject site. The Board has also received a petition and letters in opposition to this proposal.

#### CONCLUSIONS OF LAW AND OPINION

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the appellant is challenging the decision of the Zoning Administrator dated April 8, 1991, denying the issuance of a permit to construct an industrial processing center at 1116 and 1130 W Street, N.E. located in a C-M-1 District.

Chapter 8 of the District of Columbia Zoning Regulations governs uses in industrial districts. Sub-section 800.1 states:

The Commercial-Light Manufacturing (C-M) districts shall be intended to provide sites for heavy commercial and light

manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that would minimize any adverse effect on other nearby, more restrictive districts.

Sub-section 800.2 states that "heavy truck traffic and loading and unloading operations shall be expected to be characteristic of C-M districts."

Section 801 sets forth the uses permitted as a matter-of-right in C-M districts. Specifically relevant to this appeal is Sub-section 801.7(j) which provides:

The following additional uses shall be permitted as a matter-of-right in a C-M district, subject to the standards of external effects set forth in Section 804:

. . . .  
(j) Any light manufacturing, processing, fabricating, or repair establishment; . . . .

In light of the foregoing regulations, the issue raised in this appeal is whether the activities proposed by the appellant's operation are of such a nature that the use should be allowed as a matter-of-right, that is, whether the proposed operations constitute "processing" within the meaning of that term.

To address this issue the term "processing" must be defined. Because the Zoning Regulations do not define the term, another source must be used. According to Webster's Third New International Dictionary (unabridged edition), "processing" is

to subject to a particular method, system, or technique of preparation, handling, or other treatment designed to effect a particular result; to prepare for market, manufacture, or either commercial use by subjecting to some process; to take care of, attend to, or dispose of by some largely routine procedure.

The appellant maintains that in operation of the facility, CWI will only collect, separate, bale and ship five different types of material that will subsequently be recycled at a facility located away from the site. In the Board's view, the procedures described in the appellant's testimony and shown in the video tape, demonstrate that CWI will subject the materials collected to a particular method of handling (collecting, separating and baling) to effect a particular result (having marketable units to sell to recycling facilities). Thus, the term "processing" appears to apply to the activities that will take place at the site.

The term "recycle" is also defined in Webster's. To "recycle"

is "to pass again through a cycle of changes of treatment; esp: to feed back continuously in a laboratory or industrial operation or process for further treatment." No evidence has been presented to indicate that CWI will pass these products again through a cycle of changes or treatment. All of the evidence suggests that these products will undergo one ongoing process which lacks the element of "continuous feedback" found in the definition of "recycle". Because the appellant does not intend to change or treat the materials by heat, water, chemicals or any other process, the Board believes that use of the term "recycling" to describe the proposed facility is inaccurate and, therefore, inappropriate.

The Board is sensitive to the fact that recycling is new to the District of Columbia and that use regulations and controls are needed to protect surrounding properties from any adverse impact. The Board also appreciates the Zoning Administrator's efforts in that regard. However, the Board is of the opinion that where a proposed use, as described by an applicant, is consistent with a use already enumerated in the Zoning Regulations, that use should be allowed. Care should be taken so that a proposed use is not mislabeled and consequently denied.

Based on the foregoing analysis, the Board concludes that the proposed use of the subject site is consistent with 11 DCMR 801.7(j) and that it should be permitted as a matter-of-right under that provision. The Board further concludes that the controls set forth in 11 DCMR 804 - Standards of External Effects (C-M), will apply to the proposed use.

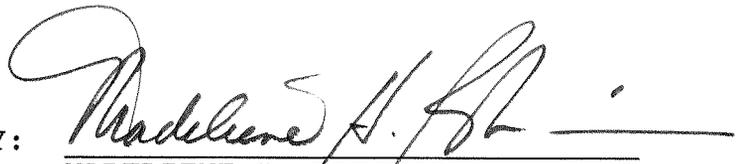
Because ANC 5B did not submit a written report on the appeal, it is not entitled to "great weight".

In accordance with the above, it is hereby ORDERED that the appeal is GRANTED.

VOTE: 4-0 (Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant Maybelle Taylor Bennett to grant by proxy; Sheri M. Pruitt not voting, having recused herself).

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

ATTESTED BY:



MADELIENE H. ROBINSON  
Acting Director

NOV 22 1991

FINAL DATE OF ORDER: \_\_\_\_\_

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS 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.

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.

15563Order/TWR/bhs