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August 5, 2014

VIA ELECTRONIC MAIL

Mr. Matthew Le Grant
Zoning Administrator
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., Room 3100
Washington, DC 20024

Re: 1724 Massachusetts Avenue, NW
Square 158, Lot 80 ("Property")

Dear Mr. Le Grant:

This firm is counsel to the Embassy of Colombia (the "Embassy"). The Embassy is considering purchasing the Property to be used as a new Chancery.¹ Negotiations for the Property are currently under way and we are seeking confirmation from you that this Property may be used as a Chancery as a "matter-of-right".

The Property is zoned DC/SP-1 (located in the Dupont Circle Overlay). It is also within the Massachusetts Avenue Historic District. The Property is currently used as an office building by the American Legacy Foundation, a non-profit organization, as evidenced by the attached existing Certificate of Occupancy No. 900457, issued in 2008. **Exhibit A**.

Background on the Construction and Use of the Property

- SCI Corporation, an international organization, sought and received Board of Zoning Adjustment ("BZA" or "Board") approval to construct the existing office building on the Property in 1978 for specified office uses, pursuant to BZA Order 12583. **Exhibit B**. In Paragraph 27 of its Order, the Board stated that use of the office building "will be limited to those uses specified in Paragraph 4101.42 ["SP Office Uses"] of the Zoning Regulations. These include chancery uses, offices of non-profit organizations, . . ." The office building served as the headquarters for the National Cable Television Association ("NCTA") for many years.

¹ The Chancery is currently located at 2118 Leroy Place, NW.

Mr. Matthew Le Grant
August 5, 2014
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- Still under the ownership of SCI Corporation (with NCTA as the only tenant), an addition was approved by BZA Order 15447 (1991) **Exhibit C.**
- In 2007 the American Legacy Foundation, the current owner, purchased the Property and, after making interior renovations, moved into the building in 2008 and has been there ever since.

Based on the BZA approval for construction and the use of the Property for “SP Office Uses”, including specifically a chancery, it is well established that the Chancery of Colombia may use this Property as a matter-of-right without having to seek review by the Foreign Missions Board of Zoning Adjustment (“FMBZA”). Beyond the specific prior Board approval of a Chancery use, the current Zoning Regulations would allow the conversion of the Property to “general office, including chancery” as a matter-of-right based on BZA Order No. 12583 approving the “SP Office Uses”. 11 DCMR Section 501.3.

Based on this attached information, we have prepared a draft zoning confirmation letter for your review and if acceptable, transmittal on your letterhead to us.

Thank you for your assistance in this matter. If you need any additional information, please do not hesitate to contact us.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.



By: _____
John Patrick Brown, Jr.



By: _____
Kate M. Olson

Enclosures

EXHIBIT A

Department of Consumer and Regulatory Affairs

Permit Operations Division
941 North Capitol Street NE Room 2100
Washington DC 20002
Tel. (202) 442-4589 Fax (202) 442-4862

C of O

CERTIFICATE OF OCCUPANCY

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL WORK IS COMPLETED AND APPROVED

PERMIT NO: **CO0900457**

Date: **11/26/2008**

Address of Use 1724 MASSACHUSETTS AVE NW		Zipcode: DC/SP	Zone: 2	Ward: 0158	Square: 0080	Suffix: 	Lot:
Description of Occupancy OFFICE SPACE							
Permission Is Hereby Granted To: American Legacy Foundation		Trading As: 		Floor(s) Occupied 1ST-7TH		PERMIT FEE: \$227.00	
Previous Use(s): Office - B		Approved Use(1): Office - B		Approved Use(2): 			
Type of Occupancy: Ownership Change		BZA Number: 		Occupied Sq Footage: 43000		Occupant Load: 	
Conditions/Restrictions: THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, UNLESS AN EXPIRATION DATE IS STATED, VALID ONLY FOR THE PREMISE AT THE ABOVE ADDRESS OR PART THEREOF, AND FOR THE PURPOSE(S) INDICATED ABOVE; AND IS NOT TRANSFERABLE TO ANOTHER PERSON OR PREMISES UNDER ANY CONDITIONS. ANY CHANGE IN THE TYPE OF BUSINESS, OWNERSHIP OF BUSINESS, OR PART OF PREMISES USED THEREFORE, WILL RENDER THIS CERTIFICATE VOID AND A NEW CERTIFICATE MUST BE OBTAINED.							
Director: Linda K. Argo		Permit Clerk: Erika King		Expiration Date: 			
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557							

CO29681

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 11/20/08 Receipt No _____
C0φ9φφ457
Application Fee \$33.00 Non Refundable
Certificate Fee is Based on square footage Cashier=s No _____

INFORMATION ON PROPOSED BUSINESS	1. Premise Address <u>1724 Massachusetts Ave, N.W.</u> Suite/Room No _____
	2. Business Telephone No <u>202-454-5557</u> Fax No <u>202-454-5769</u> Lot <u>827-29</u> Square <u>158</u>
	3. Trade Name of Business <u>American Legacy Foundation</u>
	4. Is Business Incorporated? Y/N <u>Y</u> Partnership? Y/N _____ Sole Proprietor? Y/N _____ New/Existing _____
	5. Corporate Name <u>American Legacy Foundation</u>
	6. President _____ Vice President _____ Secretary _____
	7. Sole Proprietor _____
8. Business Owner=s Mailing Address <u>1724 Massachusetts Ave</u> phone # (daytime) <u>202-454-5555</u> <u>Washington, D.C. 20036</u> Agent: <u>Frank Jones</u> <u>703-927-4526</u>	

INFORMATION ON OCCUPANCY	9. <input checked="" type="checkbox"/> Ownership Change <input type="checkbox"/> Partial Occupancy <input type="checkbox"/> New Bldg. <input type="checkbox"/> Use change <input type="checkbox"/> Load Change <input type="checkbox"/> B Z A No _____
	10. Proposed Use of Premises <u>office</u>
	11. Prior Use of Premises <u>office</u>
	12. Proposed Occupancy Load _____ Square Feet Occupied <u>43,000⁺</u>
13. Floors to be Occupied <u>All 7 Floors</u> Basement? <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14. Is this Business Sexually Oriented according to the DC Zoning Regulations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

INFORMATION ON ENTIRE BUILDING	15. Building Owner <u>American Legacy Foundation</u> Telephone No. <u>202-454-5555</u>
	16. Building Owner=s Address <u>1724 Massachusetts Ave, N.W.</u>
	17. Square feet <u>43,000⁺</u> Numbers of floors <u>7</u> Basement <u>2 level garage</u>

ATTESTATION & SIGNATURE	I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.	
	18. Owner of Business <u>Anthony T. Thiele</u> Signature _____ Date <u>11/20/08</u>	
	If Authorized Agent for owner of Business (Attach Authorization)	
	19. Agent=s Name _____ Date _____	Print Clearly _____ Signature _____
20. Agent=s Address _____		

Inspection to verify compliance w/ DCMC 11. (2008) Sign agent form

NOTICE TO REPORT WASTE, FRAUD OR ABUSE BY ANY D. C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL AT 1 - 800 - 521 - 1639. ALL CALLS ARE CONFIDENTIAL

OFFICE USE ONLY

Inspection to verify compliance w/DC code 11.010
 * Sign agent form

ADDRESS Premise Address 1724 MASS AVE Suite/Room No _____

ZONING DIVISION Zone DC/SR1 Overlay District (Y) N BZA No _____ B.Z.A approved date _____
 Prior Use office
 Date of Last Certificate 10/81 Last Certificate No B127557 Prior BZA No _____
 Accepted for filing by (signature) Date 11/20/08

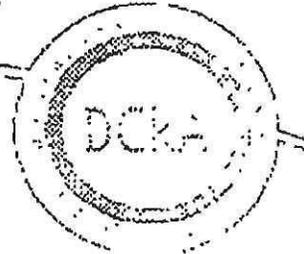
EXAMINERS USE Use Change Yes No Inspections Required Yes No. By (signature) Date 11/20/08
 Building Permit Required Yes No By _____ Date _____
 Inspection Fee \$ _____ Issuance Fee \$ _____ By _____ Date _____
 Approved for issuance by _____ Date _____

C of O INSPECTION Date of scheduled Certificate of Occupancy inspection _____
 Inspection Status Approved Disapproved By _____ Branch _____ Date _____
 Inspector-s Signature _____ Printed Name _____
 Reason for Disapproval _____

C of O APPROVAL Approved Denied Canceled By (signature) 11/26/08
 Reason for Denial/Cancellation _____
 If Approved, Certificate of Occupancy No. _____ Date of Issuance 11/26/08
 Bldg _____ Electric _____ Plumbing _____ Fire _____ Zoning _____

BASIC BUSINESS LICENSE APPLICATION

Department of Consumer & Regulatory Affairs
District of Columbia Government
Business and Professional Licensing Administration



GOVERNMENT OF THE DISTRICT OF COLUMBIA DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION

CLEAN HANDS SELF CERTIFICATION

TO THE APPLICANT: Please read this form carefully and completely before signing. The District government shall not issue or reissue any license or permit if the applicant owes more than \$100.00 in outstanding debt to the District of Columbia. This certification form is required to be completed and submitted with any application for a license or permit or renewal by the *Clean Hands Before Receiving a License or Permit Act of 1996*, effective May 11, 1996 (D.C. Law 11-118, D.C. Code Sec 47-2861 et seq) as amended, effective October 21, 2000 (D.C. Law 13-183, sec 2(b), D.C. Code sec 47-2861 et. seq.).

I, Anthony T. O'Roole, as Corporate officer, certify that American Legacy Foundation
(name) (owner/partner/corporate officer) (business name)

trading as American Legacy Foundation at 1724 Massachusetts Ave, using business tax number _____
(trade name) (business address) (FEIN/SSN)

as of this date, does not owe more than one hundred dollars (\$100.00) in outstanding debt to the District of Columbia government as a result of:

- (1) Fines, penalties or interest assessed pursuant to the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code Sec. 8-801 (et seq.) (2001 ed.); or
- (2) Fines, penalties or interest assessed pursuant to the Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D.C. Law 10-117; D.C. Code Sec. 8-901 (et. seq.) (2001 ed.); or
- (3) Fines, penalties or interest assessed pursuant to the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code Sec. 2-1801 01 (et seq.) (2001 ed.); or
- (4) Past Due Taxes owed to the Office of Tax and Revenue pursuant to Title 47 of the DC Code, or
- (5) Past due District of Columbia Water and Sewer Authority service fees pursuant to Title 34 Chapter 22 and 24 of the District of Columbia Code (2001 ed.); or
- (6) Fines, penalties or interest assessed pursuant to Traffic Adjudication Act, Title 50 Chapter 23 of the District of Columbia Code (2001 ed.)

I understand that a signed and dated *Clean Hands Self Certification Form* is required as documentation to accompany my application for a master business license, license endorsements, and permits. I understand that by completing and submitting this form I am not guaranteed that my license or permit will be approved

I understand that the Department of Consumer and Regulatory Affairs may conduct an investigation to ascertain the veracity of the information contained in this *Clean Hands Self Certification Form*.

I understand that if I knowingly provide false information on this *Clean Hands Self Certification Form*, the Department of Consumer and Regulatory Affairs will proceed immediately to revoke each license or permit for which I am applying and fine me one thousand dollars (\$1,000.00).

Anthony T. O'Roole
Signature and Title

FEIN/SSN

11/20/08
Date

EXHIBIT B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12583, of the S.C.I. Corporation, pursuant to Sub-section 8207. 2 of the Zoning Regulations for a special exception under Paragraph 4101.42 to construct a new office building in the SP District at the Premises 1724 Massachusetts Avenue, N. W., (Square 158, Lots 827-829).

HEARING DATES: February 2 and 22, March 15, and June 7, 1978

DECISION DATES: April 15, 1978 and July 5, 1978.

DISPOSITION: The Board GRANTED the application by a vote of 3-1 (Charles R. Norris, Chloethiel Woodard Smith, William F. McIntosh to grant; Walter B. Lewis to deny by proxy, Leonard L. McCants not present, not voting).

FINAL DATE OF ORDER: August 24, 1978

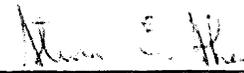
ORDER

Upon consideration of the opposition's Motion for Reconsideration, Reversal or Re-opening dated August 31, 1978, the Board finds that the motion fails to state an acceptable basis of error on the part of the Board to support a motion for reconsideration, reversal or re-opening. It is therefore ORDERED that the motion for reconsideration, reversal or re-opening is DENIED.

DECISION DATE: October 4, 1978

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Chloethiel Woodard Smith to deny motion; Walter B. Lewis not present, not voting)

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 17 OCT 1978

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12583, as amended, of the S.C.I. Corporation, for special exception under Paragraph 4101.42 to construct a new office building in the SP District at the premises 1724 Massachusetts Avenue, N.W. (Square 158, Lots 827, 828 and 829).

HEARING DATES: February 22, 1978, March 15, 1978, June 7, 1978
DECISION DATES: April 5, 1978, and July 5, 1978

FINDINGS OF FACT:

1. The application as originally filed requested a special exception to reduce the required parking. Revised plans filed by the applicant provided all the required parking, so the application was amended to delete that request.
2. The site of the proposed building is on the south side of Massachusetts Avenue between 17th and 18th Streets, N.W., and is known as 1724 Massachusetts Avenue.
3. The three lots included in this application have a total area of approximately 8,222 square feet. The lots are unimproved.
4. Immediately to the west of the site is a three story brick row structure which has a doctor's office in the basement. Immediately to the east is a similar three story brick structure used as an office building. The site is bordered by a twenty foot alley at the rear. Across the alley to the south is a large apartment building and two three-story row structures, all of which front on N Street.
5. The SP District in which this site is located extends generally along Massachusetts Avenue between Dupont Circle to the west and Mt. Vernon Square to the east and along Sixteenth Street, N.W., between Lafayette Square and Q Street. South of M Street in this area, C-4 zoning is found and C-3-B zoning is found along Connecticut Avenue north of Dupont Circle to T Street and south of the Circle to M Street and Pennsylvania Avenue. North of N Street are R-5-C, R-5-D and C-2-B Districts. The area north of Massachusetts Avenue is zoned predominantly for medium and high density residential uses. The majority of property is zoned to permit heights of ninety feet or greater.

6. In March of 1977, the Joint Committee on Landmarks of the National Capital amended the boundaries of the Dupont Circle area and created the Dupont Circle Historic District. The subject site is within those boundaries. The District is characterized with large palatial structures which line the grand avenues of the L'Enfant Plan and with well designed brick rowhouses lining many of the grid streets in the area. The Historic District contains numerous examples of late 19th Century and early 20th Century architecture. Many of the structures were designed by well known architects. As a Category II Historic District, the area is considered to contribute significantly to the cultural heritage or visual beauty and interest of the city and should be preserved and restored, if possible.

7. Massachusetts Avenue is one of the "Grand Avenues" of Pierre L'Enfant's original plan for Washington. The segment of the Avenue between Observatory Circle and 17th Street, N.W., is listed as a Category II Landmark (Place) by the Joint Committee. It is also included within the boundaries of the Dupont Circle Historic District. The Massachusetts Avenue Historic District generally includes all those properties fronting on the Avenue between 17th Street and Observatory Circle. There is a uniform 40' set back between the building line and the sidewalk.

8. The 1700 block of Massachusetts serves as the eastern anchor of the Massachusetts Avenue Historic District. The northern side of this block is devoted to a combination of residential and commercial uses. The Brookings Institution and the building at 1717 Massachusetts Avenue are both ninety feet high and were both approved by the Board. There are, in addition, three large ninety foot apartment buildings on the north side, the Winthrop House at 1727, the Boston House at 1711, and the Bay State at 1701. Of particular historic significance is 1785 Massachusetts Avenue which was built in 1915-17. Designed by Jules Henri de Sebour, this structure is a Category II landmark and listed individually in the National Register of Historic Places. The building is now owned by the National Trust for Historic Preservation and will be used as an office building.

9. The south side of Massachusetts Avenue between 17th and 18th Streets is devoted primarily to office and institutional uses. The Yater Clinic, 1776 Massachusetts Avenue (office building), the Johns Hopkins School of Advanced International Studies were all approved by the Board. There are three buildings of historic significance in this block: The Canadian Embassy/Chancery at 1746 Massachusetts Avenue was constructed in 1906-07 and was designed by Jules Henri de Sebour. This structure is listed individually in the National Register of Historic places. The peruvian Chancery (formerly the Australian Embassy) is located at 1700 Massachusetts Avenue. It was constructed in 1900-10 and was designed by John Russell Pope. It is Category III Landmark.

10. The height of buildings on the south side of the 1700 block is varied, with the more recent buildings near 18th Street at or near the permitted height of ninety feet. The Canadian Embassy is approximately eighty-five feet high. Those structures immediately adjacent to this site are approximately fifty feet high or less.

11. Board of Zoning Adjustment Order No. 12364, dated June 16, 1977, granted an application to construct three SP office buildings on this site (Square 158, Lots 827 & 829). The proposed buildings were to have been approximately forty feet high with a total gross floor area of approximately 18,421 square feet, less than the maximum permitted. Construction of these buildings was economically unfeasible at the time, and was not pursued.

12. Board of Zoning Adjustment Order No. 11629, dated May 23, 1974, approved an application to construct an eight-story, ninety-foot office building for Lots 65, 826-830 in Square 158. The proposed building was to have an area of approximately 105,000 gross square feet. The site of that application included all of the present site, as well as additional property on both sides.

13. The original proposal submitted before the Board at the February 22, 1978 hearing was for the construction of an eight story office building. The building would have two levels of under ground parking containing twenty-two spaces, a cellar level with approximately 677 square feet of office space and eight floors of office space. The building would have been ninety feet in height and would have had a gross floor area of approximately 45,200 square feet.

14. After hearing the case, at its public meeting held on April 5, 1978, the Board voted to deny the application by a vote of 3-0 (William F. McIntosh, Charles R. Norris and Leonard L. McCants to deny, Walter B. Lewis and Chloethiel Woodard Smith abstaining) on the grounds that the building was out of character with the area.

15. By letter dated April 26, 1978, pursuant to Section 5.3 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment, the applicant requested the Board to reopen the record and hold a further hearing in the case on revised plans for a redesigned building.

16. At its public meeting held on May 3, 1978, by a vote of 5-0 (Walter B. Lewis, Charles R. Norris, Leonard L. McCants, William F. McIntosh and Chloethiel Woodard Smith to GRANT), the Board granted the applicant's motion for further hearing and set June 7, 1978 as the date for that hearing, limited to the impact that the redesigned building would have on the neighborhood.

17. As a preliminary matter to the further hearing, the Board received a motion to dismiss the application. That motion objected to proceeding with the further hearing in the absence of new evidence and to proceeding in advance of a decision by the Zoning Commission in Case No. 78-2. The motion was denied. The Board finds that no new evidence is required to reopen a hearing pursuant to Rule 5.3 of the Rules of Practice and Procedure. The Board further finds that it has no authority to defer consideration of an application pending decision of a different case before the Zoning Commission.

18. In the modified plans, the applicant proposes to construct an office building that will be 73.5 feet in height with seven floors of office space and two underground parking levels. The Massachusetts Avenue facade rises vertically from the ground to a height of approximately 55.5 feet. Above this level the facade slopes inward for two stories to the 73.5 front level. The total height of the building, including roof structures is less than ninety feet. The break in the facade at the 55.5 foot level was designed to reflect the lower cornice lines of adjacent and nearby older buildings. The entrance to the building is by way of a landscaped plaza on Massachusetts Avenue. An eight foot deep arcade with a total area of 564 square feet has been included in the modified design.

19. The first basement level would accommodate eleven cars and the second basement level would accommodate thirteen cars for a total of twenty-four parking spaces. The two basement levels also include vault space which was formerly proposed for parking. One loading dock is also provided at the rear of the building.

20. The Massachusetts Avenue facade of the building is composed of three bays, each of which is approximately twenty-three feet wide. The facade rises vertically for a distance of some 55.5 feet or five stories and then slopes toward the rear of the property an additional eighteen feet or two stories. Materials employed in this design are primarily brick and glass. This design has eliminated the vertical side wall and the high space frame of the earlier design.

21. The penthouse has been set back so as to be outside of the visual field of the street. The FAR of the proposed penthouse is 0.24, substantially less than the permissible FAR of 0.37. The roof structure extends up to the elevation of 89.5 feet, thus keeping the building and roof structures below the maximum ninety foot height provided for the main structure. This is in contrast to the earlier design of a ninety foot building, which with the penthouse totaled 108 feet in height.

22. The width of the building is divided into three vertical segments, each of which is reflective of the widths of the adjoining buildings.

23. The elevations will be finished in high quality faced brick, which is the predominant material of the adjoining buildings.

24. The first floor (street level) is recessed in favor of an arcade, and the front plaza on Massachusetts Avenue is properly landscaped at the sidewalk level. Both the arcade and the plaza will be accessible to pedestrians at that location.

25. The Board finds that the building as redesigned will be in harmony with other uses and buildings in the area, particularly the existing buildings which abut the site, by establishing a cornice line at approximately the height of those buildings, by using brick construction, by employing a vertical facade, and by dividing the building into segments equivalent to the width of the adjoining buildings.

26. The gross floor area of the building as redesigned will total 45,338 square feet, which includes a credit of 564 square feet for the proposed arcade.

27. The use of this building will be limited to those uses specified in Paragraph 4101.42 of the Zoning Regulations. These include chancery uses, offices of non-profit organizations, labor unions, architects, dentists, engineers, doctors, lawyers or similar professional persons, similar to the existing surrounding uses. The applicant has stated that a maximum of twenty per cent of the gross floor area of the building will be devoted to medical and dental uses.

28. Access to the twenty-four car garage in the building is by way of an alley, which has access on 17th Street between N Street and Massachusetts Avenue. The access point is restricted to one lane and is used by traffic entering and leaving the alley. Conflicts in that alley between traffic entering and leaving occur infrequently and the addition of the building changes the number of spaces served by the alley by only approximately ten per cent. This change is not of any significant consequence.

29. A traffic expert for the applicant testified that the proposed building would not create dangerous or other objectionable traffic conditions. According to the expert's report, traffic traveling in opposite directions in the alley at the same time occurred infrequently during the day. The Board so finds.

30. The building is less than 1,300 feet from Metro Rail and is expected to benefit from a high proportion of transit usage.

31. The Board finds that the addition of twelve peak hour trips to the street intersections serving the site will have no significant effect on the quality of traffic flow.

32. The Department of Transportation, by report dated February 27, 1978 and by testimony at the public hearing reported that the surrounding street system can accommodate the traffic generated by the development without reasonably affecting the level of service. The Board so finds.

33. The Municipal Planning Office, by report dated June 2, 1978 and by testimony at the hearing on June 7, 1978, recommended that the application be granted as a result of the redesigned building. MPO, which had opposed the grant of this application at the earlier hearing, stated in its report and the Board finds that the new design involves a height reduction of seventeen feet, inclusion of a cornice line which is comparable with adjacent properties, and a more restrained facade treatment in keeping with nearby properties. The revised plans have substantially and successfully addressed those concerns previously raised by MPO relating to the design and character of the proposed building. It was the opinion expressed by MPO that the use of this property as proposed will be in harmony with the existing uses on neighboring and adjacent property. The Board so finds.

34. Advisory Neighborhood Commission 2B, by written statement received on March 22, 1978 and marked as Exhibit No. 70 in the record and by testimony at the hearings, opposed the application. The ANC opposed the granting of the application because the Dupont Coalition's rezoning case had not been heard by the Zoning Commission; because the proposed office building would be out of harmony with the predominant residential use of the area; and because the ANC did not receive notice of the Board's intention to consider whether to reopen the record and conduct further hearing.

35. As to the issues and concerns of the ANC, the Board finds that this case must be decided on the basis of the regulations in effect at the time of consideration of the case. The Board cannot speculate as to what the Zoning Commission will do with a pending application, and furthermore, the applicant is entitled to be judged on the basis of the regulations now governing the application. The Board finds that the area within which the subject site is located, specifically including both sides of Massachusetts Avenue between 17th and 18th Streets, is devoted to a variety of uses including a mixture of office uses as well as residential uses. As established by testimony of the applicant, the Municipal Planning Office and even a representative of the ANC, there are a substantial number of office uses in the immediate area, including office use immediately adjacent to the south. The Board finds that a party filing a request for further hearing under Section 5.3 of the Supplemental Rules of Practice and Procedure before the BZA is not required to serve such a request upon other parties even though the applicant in this case did serve the motion upon the ANC. As to the further hearing itself, a letter of notice was sent to the ANC on May 5, 1978, far more than the ten day minimum notice required by the Rules and more than the thirty days normally required for notice to ANC's.

36. As a matter-of-right, the applicant could erect an apartment building to a height of ninety feet and a floor area ratio of 6.0. The Board finds that such a building, over which there would be no review, could be more objectionable than the proposed building in terms of both the traffic to be generated and the design as it relates to adjoining buildings.

CONCLUSIONS OF LAW AND OPINION:

Based upon the above findings of fact, the Board concludes that the proposed office uses as permitted in the Special Purpose district will be in harmony with the existing uses on both neighboring and adjacent properties. The character of use in the area is a mixture of SP office uses and residential uses and this area of Massachusetts Avenue is a prime SP office district in the City. The Board also concludes that the use will not create dangerous or other objectionable traffic conditions. The testimony established that the number of vehicles which would be added to peak hour flows would not change the level of service at the intersection of Massachusetts Avenue and 17th Street. Thus, the increase in traffic would be adequately handled by the capacity of the surrounding street system. Moreover, this site enjoys a favorable location with regard to Metro and public bus transportation.

Further, since the intent of the SP District is to stabilize those areas adjacent to the C-4 District containing central business district supporting uses, and specifically encouraging, among other uses, offices, the Board concludes that the grant of the application will be in accordance with the intent and purpose of the Zoning Regulations and Map. The SP zoning district in this area is located adjacent to the C-4 District and the subject site lies in the approximate center of the SP District with frontage on the major arterial of Massachusetts Avenue.

The Board concludes that the applicant has made a good faith effort to try and resolve the problems which caused the Board to originally vote to deny the application. The height of the building has been reduced and the design has been substantially modified to be in harmony with surrounding buildings. The Board concludes that as revised the application meets all of the standards against which it must be judged.

The Board concludes that it has given "great weight" to the issues and concerns of the Advisory Neighborhood Commission, and that for the reasons stated above, the Board concludes that the objections of the ANC do not warrant the denial of this application.

It is therefore ORDERED that the application be granted in accordance with the revised plans marked as Exhibit 79 in the record.

VOTE: 3-1 (Charles R. Norris, Chloethiel Woodard Smith and William F. McIntosh to GRANT, Walter B. Lewis to DENY by proxy, Leonard L. McCants 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: 24 AUG 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

EXHIBIT C

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15447 of the SCI Corporation, pursuant to 11 DCMR 3108.1, for a special exception under Section 508 to allow an addition to an existing office building in an SP-1 District at premises 1724 Massachusetts Avenue, N.W., (Square 158, Lot 80).

HEARING DATE: February 13, 1991
DECISION DATE: March 6, 1991

FINDINGS OF FACT:

1. The subject site is located on the south side of Massachusetts Avenue, N.W. between 17th and 18th Streets, immediately east of Dupont Circle. The property is known as 1724 Massachusetts Avenue, N.W., located in an SP-1 District.

2. The subject property, Lot 80 (formerly Lots 827, 828 and 829), is rectangular in shape with a lot area of 8,244 square feet and approximately 70 feet of frontage on Massachusetts Avenue. The rear of Lot 80 abuts a public alley that varies in width from 26 to 23 feet and provides access from 17th Street to the interior of the square.

3. The subject site is improved with a seven-story office building constructed in 1979 pursuant to Board of Zoning Adjustment Order No. 12583. The building is 73.5 feet in height and contains approximately 45,338 square feet of gross floor area. There are seven floors of office space and two underground parking levels which are accessed from the public alley at the rear of the building.

4. The entrance to the structure is by way of a landscaped plaza on Massachusetts Avenue. The first floor at street level has an eight-foot deep arcade while the plaza on Massachusetts Avenue is landscaped at the sidewalk level.

5. The rear of the subject structure contains a loading berth that is accessed from the public alley and which allows trucks to park on the property without impeding alley traffic.

6. The subject site is located in the Dupont Circle neighborhood. The SP District in which this site is located extends generally along Massachusetts Avenue between Dupont Circle to the west and Mt. Vernon Square to the east, and along 16th Street, N.W. between Lafayette Square and Q Street.

7. The subject building serves as the headquarters for the National Cable Television Association (NCTA). NCTA has been the

only tenant at the premises since completion of the building in 1981.

8. The applicant is requesting a special exception under Section 508 of 11 DCMR to allow modification to the existing office building. Approval is requested for a proposal to partially enclose the street level arcade and to remove a portion of the second floor slab to allow for the construction of a new 1,500 square feet conference center. The proposal involves alteration of the first floor facade by moving the existing glass wall six feet forward to create additional interior space to accommodate the new conference center. As modified, however, the glass wall would remain underneath the projecting bays.

9. The modification is intended to accommodate the specific needs of NCTA which will continue to occupy the subject premises for at least another 20 years. In seeking this special exception to accommodate NCTA, the applicant specifically requests the right to restore the facade and the second floor slab to their original state as approved by BZA Order No. 12583 without further Board approval in the event that NCTA vacates the premises.

10. The applicant testified that the requirements of Section 508 have been met. The provisions of Section 508 are as follows:

508 OFFICE USES (SP)

- 508.2 An office for an international organization, non-profit organization, labor union, architect, dentist, doctor engineer, lawyer, or similar professional person, shall be permitted in an SP district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Section 3108 of Chapter 31 of this title, subject to the provisions of this section.
- 508.2 Each application shall be referred to the Office of Planning in accordance with the provisions of Section 500.6
- 508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.
- 508.4 The use shall not create dangerous or other objectionable traffic conditions.
- 508.5 The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it shall deem necessary to protect the value of neighboring property.

11. The National Cable Television Association is a non-profit organization. The association will continue to use the premises for office space. A representative of the Association testified that the location of the office building is exceptional, however, the NCTA is in great need of a conference center that can accommodate its meeting and specialized audio visual needs.

12. The architect for the project testified that the proposed modification will slightly decrease the building's floor area ratio (FAR) because a portion of an existing floor plate will be removed.

13. The applicant testified that there are several different kinds of buildings on Massachusetts Avenue between 17th and 18th Streets. The northern side of this block is devoted to a combination of residential and commercial uses. The Brookings Institution and the building at 1717 Massachusetts Avenue are both ninety feet high. In addition, there are three large, ninety foot apartment buildings on the north side - the Winthrop House at 1727, the Boston House at 1711, and the Bay State at 1701. At 1785 Massachusetts Avenue there is a historic landmark building presently owned by the National Trust for Historic Preservation. This building will be used for office space. The south side of Massachusetts Avenue between 17th and 18th Streets is devoted primarily to office and institutional uses. There is the Johns Hopkins School of Advanced International Studies and the Yater Clinic which is an office building. Also located in this block are the Canadian Embassy/Chancery at 1746 Massachusetts Avenue and the Peruvian Chancery, located at 1700 Massachusetts Avenue. The building heights vary on the south side of the block. The more recent buildings near 18th Street are at or near the permitted height of ninety feet. The Canadian Embassy is approximately eighty-five feet high. Those structures immediately adjacent to this site are approximately fifty feet high or less. The applicant pointed out that the Board previously found that the use, height, bulk and design of the building at the subject site to be in harmony with the existing uses and structures on neighboring properties. The applicant stated that the proposed minor modification will not disturb the compatibility of the building with the surrounding neighborhood.

14. The applicant testified that the NCTA does not intend to expand the number of people working on, or travelling to, the premises on a regular basis. And the proposed modification will not significantly alter the previously approved use of the premises. Accordingly, the proposed use will not disturb the harmony between the existing structure and the mix of uses currently found in the neighborhood. Nor will it create dangerous or other objectionable traffic conditions.

15. A representative of NCTA testified that she discussed the proposal with representatives of Advisory Neighborhood Commission

(ANC) 2B and the Dupont Circle Conservancy. She also spoke with the neighbors to the immediate east and west of the site. No one expressed opposition to the modification.

16. The property is located in the Massachusetts Avenue Historic District. The Historic Preservation Review Board (HPRB) adopted its staff Report and Recommendation dated April 18, 1990, recommending approval of the project's conceptual design. The report stated that the applicant has proposed to move an existing glass wall six feet, six inches forward to create more interior space. The glass wall would still be underneath the projecting bays. After consultation with the HPRB staff, the applicant has agreed to recess the glass so that it is behind the masonry piers, approximately 2-3 feet behind the projection line of the bays. The report further stated that the building was constructed in the 1970's and does not contribute to the historic district.

17. The applicant indicated that the materials to be used will be reviewed by the HPRB at a later stage in the review process.

18. The Office of Planning (OP), by memorandum dated February 5, 1991, recommended approval of the subject application. OP is of the opinion that the modification will be minor and the building will remain compatible with existing structures in the area. OP stated that the proposed addition will total approximately 294 square feet in floor area and will seat a maximum of 85 persons. OP pointed out however, that the intended use of the space is for internal NCTA meetings. Because of the proposed use, OP believes that the modification will not create dangerous or other objectionable traffic conditions.

Because the proposed modification primarily involves the slight extension of a glass wall at street level which would not change the design of the building, OP believes that any special treatment to the building would not be necessary. OP is of the opinion that the requirements of 11 DCMR 508 have been met by the application.

19. Advisory Neighborhood Commission 2B did not submit a written report in the application, nor did a representative appear at the hearing to testify on behalf of ANC 2B.

20. A resident of 1701 Massachusetts Avenue, N.W. testified in opposition to the application, on his own behalf and on behalf of the Bay State Tenants Association. He pointed out that the area is in an historic district and that there has been a steady demise of the historically significant architecture in the district. In his view, the Zoning Regulations do not protect the historical characteristics or the residential component of the area. He believes that the subject building is out of harmony with the

entire block and any expansion should not take place on site, but should involve the use of larger existing office facilities.

21. No testimony in support of the application was presented at the hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes tht the applicant is seeking a special exception to allow the modification of an existing office building and the later restoration of the structure to its original design. The granting of such a special exception requires a showing through substantial evidence that the proposed use is 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. Section 508 regulating offices uses in SP districts must also be met.

The Board concludes that the applicant has met the burden of proof. The Board concludes that the property is located in the Special Purpose district which permits office uses as a special exception. In the Board's view, the proposed modification is minor and will not significantly alter the established office use. The Board therefore concludes that the proposed use is 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 the provisions of 11 DCMR 508 have also been met.

In accord with the above, it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that, in the event that the building is vacated, the facade of the building and the second floor slab may be restored to their original condition as approved by BZA Order No. 12583 without further BZA approval.

VOTE: 3-0 (Sheri M. Pruitt, Paula L. Jewell and Charles R. Norris to grant; 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

AUG 16 1991

FINAL DATE OF ORDER: _____

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.

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.

15447Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15447

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 16 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison C. Prince, Esquire
Wilkes Artis Hedrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Phyllis Eagle
1718 P Street, N.W.
Washington, D.C. 20036

James P. McGrath
1701 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Alaire Bretz Rieffel, Chairperson
Advisory Neighborhood Commission 2-B
1526 Connecticut Avenue, N.W.
Washington, D.C. 20036

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

EDWARD L. CURRY
Executive Director

DATE: AUG 16 1991

15447Att/bhs