GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 17395 of Jemal's Citadel LLC, pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 774, a variance from the nonconforming structure requirements under subsection 2001.1, a variance from the requirement to provide a loading berth that is 55 feet deep under subsections 2201.1 and 2201.6, to allow the establishment of a mixed-use project including a grocery store and general offices in an RC/C-2-B zone district at the premises 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

HEARING DATE: November 29, 2005
DECISION DATE: January 10, 2006

DECISION AND ORDER

This self-certified application was submitted July 1, 2005 by Jemal's Citadel LLC ("Applicant"), the owner of the property that is the subject of the application. The application requested area variances from requirements applicable to the rear yard, loading berths, and enlargement of a nonconforming structure to allow the redevelopment of an existing building in a mixed-use project that will include a grocery store, retail or service uses, and general offices in the Reed-Cooke/C-2-B zone at 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

Following a hearing on November 29, 2005 and a public meeting on January 10, 2006, the Board voted 5-0-0 to grant the application subject to conditions.

PRELIMINARY MATTERS:
Notice of Application and Notice of Hearing. By memoranda dated July 1, 2005, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, the Councilmember for Ward 1, Advisory Neighborhood Commission ("ANC") 1C, and Single Member District/ANC 1C07. Pursuant to 11 DCMR § 3113.13, on September 2, 2005 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 1C, and owners of property within 200 feet of the subject property. Notice was also published in the D.C. Register on September 9, 2005 (52 DCR 8391).

Party Status. In addition to the Applicant, ANC 1C was automatically a party in this proceeding. At the public hearing, the Board granted party status in opposition to the application to a group comprising the Reed Cooke Neighborhood Association, whose membership includes residents surrounding the Citadel building. represented by Simi Batra, and residents living near the subject property in the 1600 block of Kalorama Road or the 2300 block of 17th Street, including Darrell Allison, Natalie Buda, Maureen Gallagher, A.W. Greenfield, Heather Higginbottom, Catherine Pugh, Mark Rasmussen, Sharon Saydah, and Daniel Sepulveda. The Board declined to waive its rules to consider an untimely request for party status made by Campbell Johnson on behalf of the

Dorchester Tenants Association, an organization of tenants of a 394-unit apartment building located just north of the subject property.[1]

Applicant's Case. The Applicant presented evidence and testimony from witnesses including Donald H. Deutsch, Jr., of Faison Enterprises, Inc., the project developer and an expert in infill development; Phil Esocoff, an expert in architecture; Lindsley Williams, an expert in land planning; Frederick E. Gorove and Dan VanPelt, experts in traffic and parking; and John Hutchens, vice president of operations for Harris Teeter, the expected tenant of the grocery store to be located at the subject property. The Applicant described plans to redevelop the subject property, known as the "Citadel," and indicated that area variances were sought for two discrete components of the redevelopment. According to the Applicant, the variances were necessary to permit the location of an elevator core along one wall of the existing nonconforming building and to permit a loading berth of less than the required size.

Government Reports. By memorandum dated November 22, 2005, the Office of Planning ("OP") recommended approval of the requested variances, subject to certain conditions. Noting that the Applicant's project involved "reusing an existing building that was not built to today's standards" and the presence of "challenges that may affect the residents that need to be overcome," OP concluded that the redevelopment project would complement the Reed-Cooke neighborhood by providing commercial uses that would serve the existing neighborhood.

By memorandum dated December 29, 2005, the District Department of Transportation ("DDOT") indicated its general agreement with the Applicant's proposed use of the loading docks and curbside loading zones. DDOT also indicated its intent to coordinate with the Applicant and the affected ANC regarding a proposed rulemaking to establish one-way street patterns on 17th Street and Kalorama Road, as well as modifications to curbside regulations, as described in the Applicant's truck management plan. DDOT plans to monitor truck operations at the subject property and make any additional adjustments necessary to improve safety and provide adequate traffic circulation.

ANC Report. By report submitted November 21, 2005, Advisory Neighborhood Commission 1C indicated its conditional support for the Applicant's proposal. A resolution in support of the application, with conditions, was approved by ANC 1C by a vote of 5-2 at a public meeting held November 2, 2005.

The ANC noted that the subject property is in the midst of an already dense residential area where several new multi-unit residential developments have been completed recently or are currently under construction, and that the streets on which the Citadel building fronts are narrow, with one travel lane in each direction and curbside parking on both sides. ANC 1C expressed "concern that the truck delivery and loading operations associated with a full-service supermarket exceeding 35,000 square feet in size will greatly disturb the peace, order and quiet

[1] An untimely request for party status in opposition made by Campbell Johnson on behalf of the Urban Housing Alliance, a community-based nonprofit organization addressing the displacement of low- and moderate-income residents, was withdrawn.

of not only the immediate neighbors but the entire Reed-Cooke section of the neighborhood." ANC 1C recommended approval of the requested variances, but only as modified or conditioned by specific terms set forth in the ANC's resolution, particularly those concerning truck deliveries to the subject property.

Persons in Support of the Application. The Board received numerous letters in support of the application, including several from residents living near the subject property. The letters commented favorably on the reuse of the Citadel building and the addition of a grocery store to the neighborhood, and asserted that no adverse impacts would result from approval of the application.

Party in Opposition to the Application. The party in opposition presented testimony from Simi Batra on behalf of the Reed Cooke Neighborhood Association, and from neighborhood residents Peter Lyden, Maureen Gallagher, and Jeff Wilkes. The party in opposition argued generally that the application should be denied as inconsistent with the purpose of the Reed-Cooke overlay to protect the existing residential neighborhood, noting the already high level of new development in the vicinity in recent years, the size and intensity of the proposed grocery store use, and traffic congestion, parking, and pedestrian safety conditions that would be exacerbated by the truck traffic generated by a grocery store at the subject property.

Persons in Opposition to the Application. Two persons spoke in opposition to the application, citing the lack of a comprehensive review of development in the neighborhood; the large scale and intensity of the proposed grocery store use relative to the small scale of the surrounding residential buildings; and pedestrian safety, parking, and traffic concerns, including adverse impacts on neighboring residents that would be caused by the headlights and brake lights of vehicles using the parking garage at the subject property.

FINDINGS OF FACT:

The Subject Property and Surrounding Area

1. The subject property is located at 1631 Kalorama Road, N.W., at the northeast corner of the intersection of Kalorama Road and 17th Street (Square 2572, Lot 36). The irregularly shaped lot has an area of 42,490 square feet.

2. The site is improved with a cast-concrete domed structure approximately 55 feet high. The building is currently vacant and was formerly devoted to a variety of uses, including roller skating rink, gasoline service station, warehouse, sound stage, public hall, restaurant, and night club.

3. The building has two levels of underground parking accessed from Kalorama Road and a loading area accessed from 17th Street. Pedestrian access to the building is via Kalorama Road.

4. The existing building, constructed in 1947, occupies 95.7 percent of the lot. The open areas on the subject property are located along its Kalorama Street frontage. The subject property is a corner lot and is not separated from adjacent properties by any public alley or right of way. The front of the property is along 17th Street.

5. Streets in the vicinity of the subject property are narrow, with a curb-to-curb distance of 30 feet in some locations; operate in both directions; and permit parking on both sides of the street. Kalorama Road and 17th Street intersect at the subject property at an angle significantly less than 90 degrees.

6. Kalorama Road in the vicinity of the subject property currently carries approximately 1,500 vehicles per day, including a heavy volume of truck traffic.

7. The Reed-Cooke neighborhood in the vicinity of the subject property has predominantly two- and three-story rowhouses interspersed with high-, medium-, and low-rise apartment buildings, old warehouses, offices, and neighborhood-serving retail uses. A 10-story apartment building and surface parking lot are located in the area abutting the subject property to the north and east; to the south, across Kalorama Road, are two-story rowhouses and a new four-story building with ground-floor office and an arts center. The area is currently undergoing revitalization, with many old commercial and warehouse buildings being replaced or renovated to accommodate rental and condominium apartments. A number of buildings undergoing renovation and conversion from warehouse to residential uses are located along 17th Street to the north of the subject property. Properties in the immediate vicinity of the subject property are zoned R-5-B, R-5-D, and RC/C-2-B.

Applicant's Project

8. The Applicant intends to redevelop the existing building on the subject property into a mixed-use building containing a full-service grocery store occupying 35,070 square feet on the main floor, and 7,458 square feet of retail or service use on existing floors in the building. The Applicant also intends to insert a new floor between the main floor and the roof to accommodate 23,868 square feet of general office use.

9. The proposed redevelopment will provide a total of 126 parking spaces – 58 spaces consistent with zoning requirements and 68 additional spaces that do not meet dimensional requirements – in the existing underground parking garage accessed from Kalorama Road.

Requested Variances

10. The Applicant plans to add a new floor for office space above the main floor of the building, and to install an elevator and stairs to provide access to the new floor. The Applicant proposed to place the elevator core along the east wall of the building, because the elevator tower will fit more efficiently against the outside wall. Insertion

of the elevator core without encroaching in the rear yard area would disrupt the layout of the parking spaces in the below-grade garage and result in a loss of 10 spaces.

11. The Zoning Regulations require a grocery store of the size proposed by the Applicant to provide two loading berths, one 55 feet deep and the other 30 feet deep, as well as one 20-foot service delivery space. 11 DCMR § 2201.1 The Applicant proposes to provide two loading berths, each 41 feet, 2 inches deep, and accessed from 17th Street, as well as a 60-foot service delivery space within a curbside loading zone immediately south of the loading dock along 17th Street. The loading area will also enclose a compactor and container used to store compacted trash until it is picked up.

12. The Applicant also requested an area variance to allow an addition to a nonconforming structure devoted to a conforming use. The planned enlargement will not affect the height or lot occupancy of the existing building, increase any nonconforming aspect of the building, or create any new nonconformity.

13. The property is an irregularly shaped lot that is developed with a building originally designed as an armory. The building has many internal structures that do not readily accommodate modern uses. One of the existing loading berths is smaller than that required under the Zoning Regulations, and the existing nonconforming rear yard restricts additions in that area.

14. Strict application of the Zoning Regulations to the subject property would require that the stair tower and elevator shafts be located within the building limits, instead of along an outside wall, and would result in a reduction of the amount of parking available at the subject property. Enlargement of the loading area would also result in the loss of some parking spaces, and would eliminate space the Applicant plans to use for equipment and goods in short-term holding.

15. The Applicant testified that the grocery store operating at the subject property did not anticipate any deliveries by trucks requiring a 55-foot loading dock, and had agreed to limit deliveries – from the grocery store's own trucks as well as vendors' trucks – to trucks not longer than 40 feet. Accordingly, the larger loading berth is not necessary to Applicant's operations. The shorter trucks can be accommodated in the planned loading area, will lessen the need for on-street loading and unloading, and will be better able to navigate the neighborhood streets into the loading area.

16. The grocery store expects five deliveries per day using 40-foot trucks, with 30 to 35 additional truck trips per day generated by approximately 50 direct-store delivery vendors serving the grocery store; the anticipated number of deliveries would be the same whether the trucks were 40 feet or 55 feet long. Deliveries will be scheduled and managed by the grocery store's loading dock manager and by a third party. The grocery store will permit deliveries between 7:00 a.m. and 4:00 p.m. daily, while the

loading dock will be open between 8:00 a.m. and 3:00 p.m. Deliveries made when the loading dock is not open will utilize the 60-foot curbside delivery zone.

17. The Office of Planning recommended approval of the requested variances with the following conditions:
    (i) The Applicant will work with the District Department of Transportation to finalize a truck management plan prior to issuance of a certificate of occupancy;

    (ii) The remainder of the space in the dome should not be converted to usable space;

    (iii) The grocery store will refuse deliveries in trucks exceeding 40 feet in length;

    (iv) The overhead loading dock doors will be equipped with sound-proofing and sound-dampening technologies;

    (v) The overhead door will be closed except when vehicles enter or exit and an exterior sign denoting such shall be provided; and

    (vi) Deliveries in the loading dock side door will be limited to those things that can be accommodated on hand carts.

18. ANC 1C recommended approval of the requested variances provided that all delivery trucks capable of being unloaded in an available loading berth would be directed into that loading berth by grocery store personnel rather than being unloaded from the street, and subject to the following conditions:
    (i) The grocery store at the subject property will refuse deliveries from trucks exceeding 40 feet in length;

    (ii) The Applicant and the grocery store will propose to DDOT that the loading zone be limited to vehicles not exceeding 40 feet in length;

    (iii) The grocery store will limit the number of truck deliveries to approximately 20 on weekdays, approximately 10 on Saturdays, and newspapers only on Sundays;

    (iv) The grocery store will accept deliveries solely within the 17th Street loading dock or on its side door, never through Kalorama Road pedestrian or vehicular entrances;

    (v) Hours for the 17th Street loading zone will be limited to 7 a.m. to 4 p.m. Monday through Friday and 7 a.m. to 3 p.m. on Saturday;

    (vi) The grocery store will establish a formal truck management plan, for grocery deliveries as well as waste removal, as the grocery store approaches full operation;

(vii) Hours for the overhead door to operate at the loading dock will be limited to 8 a.m. to 3 p.m. Monday through Friday and 8 a.m. to 2 p.m. on Saturday, and the overhead loading dock doors will be equipped with the sound-proofing and sound-dampening technologies contemplated by the Applicant's planned unit development plans;[2]

(viii) The overhead door will be closed except when vehicles enter or exit, and the grocery store will, at minimum, provide an exterior sign denoting such;

(ix) Hours for the loading dock side door will be accessible only 7 a.m. to 4 p.m. Monday through Friday, 8 a.m. to 2 p.m. on Saturday, and for newspapers only on Sunday;

(x) There will be a dock manager on duty whenever exterior unloading is underway or vehicles are moving in or out of the dock area as well as from 6:30 a.m. to 9 a.m. on schooldays;

(xi) Deliveries in the loading dock side door will be limited to hand carts only, goods not to exceed 42 inches wide;

(xii) The Applicant and the grocery store will propose to DDOT changes in regulations to local streets that could channel or restrict routes of delivery vehicles or hours they could be present within limits that loading dock and loading zones provide, emergencies excepted, including the changes advocated by ANC 1C (adoption of certain one-way street options and installation of a traffic signal at the intersection of 16th Street and Kalorama Road);

(xiii) Trash compactor in the loading dock will operate weekdays only, 9 a.m. to 3 p.m.;

(xiv) Plastics and recyclables will be stored in loading area or within emptied trailers to return to North Carolina and the grocery store's recycling center;

(xv) The grocery store will implement an exterminating plan that will include a contract for full preventative services and aggressive monitoring to ensure no problem areas.

19. The Applicant supported a DDOT-approved truck management plan as well as measures by DDOT to change regulations of local streets in the vicinity of the subject property that could channel or restrict routes of delivery trucks or the hours the trucks could be present within limits provided by the loading dock, loading zones. Such measures

[2] The Applicant previously submitted an application to the Zoning Commission for a planned unit development involving the subject property. That application, Zoning Commission Case No. 04-30, was withdrawn.

could include making Kalorama Road one-way westbound from 16th to 17th Street, and making 17th Street one-way northbound from Kalorama Road to Columbia Road.

20. The Applicant proposed conditions that would govern aspects of the use of the subject property, particularly with respect to deliveries at the loading berths. The Applicant's proposed conditions were based in large part on the conditions proposed by OP and ANC 1C, with certain modifications. As discussed below, the Board finds that most of the Applicant's proposed conditions are reasonable and appropriate as a means to ensure that approval of the requested variance relief will not result in substantial detriment to the public good, and accordingly adopts those conditions in this Order.

Harmony with Zone Plan

21. The subject property is located within the Reed-Cooke overlay district and is zoned RC/C-2-B. The C-2-B district is designed to serve commercial and residential functions similar to the C-2-A district (*i.e.* facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core), but with high-density residential and mixed uses. 11 DCMR § 720.2, 720.6.

22. The purposes of the Reed Cooke overlay are (a) to implement the objectives of the Reed-Cooke Special Treatment Area by protecting current housing in the area and providing for the development of new housing, maintaining heights and densities at appropriate levels, and encouraging small-scale business development that will not adversely affect the residential community; (b) to ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community; and (c) to protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts. 11 DCMR § 1400.2.

23. A grocery store, retail or service establishment, and office use are permitted as a matter of right in the C-2-B zone. 11 DCMR §§ 701.4(l), 701.6(c), 721.1. None of the proposed uses are prohibited within the Reed-Cooke overlay district pursuant to § 1401.1.

24. Zoning requirements applicable to the site include a maximum permitted height of 40 feet, maximum lot occupancy of 80 percent, and a minimum rear yard of 15 feet. 11 DCMR §§ 1402.1, 772.1, 774.1. The existing building on the subject property is nonconforming with respect to height, lot occupancy, and rear yard.

25. The Board credits the testimony of the Office of Planning that the Applicant's proposed development is not contrary to the purpose of the Reed-Cooke overlay for nonresidential development. Approval of the requested variances will permit redevelopment of a vacant building into a mixed-use project containing a grocery store, which will be beneficial and will serve an unmet need in the neighborhood.

26. The Generalized Land Use Map categorizes the subject property as moderate-density residential. The Board credits the testimony of the Office of Planning that residential use of the existing building on the subject property is unlikely.

27. The Board also credits OP's testimony that the Applicant's proposal will be consistent with applicable Comprehensive Plan policies because the redevelopment of the building will maintain its existing height and will increase its density to a level appropriate for the area. The proposed uses will complement the neighborhood, as the project will provide commercial uses that will serve the existing neighborhood.

CONCLUSIONS OF LAW

The Applicant seeks variance relief from the rear yard requirements under § 774, from the nonconforming structure requirements under § 2001.1, from the requirement to provide a loading berth that is 55 feet deep under §§ 2201.1 and 2201.6, to allow the redevelopment and reuse of an existing nonconforming building in the RC/C-2-B zone district. The Board is authorized to grant a variance from the strict application of the zoning regulations where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. D.C. Official Code § 6-641.07(g)(3) (2001); 11 DCMR § 3103.2.

Based on the above findings of fact, and having given great weight to the Office of Planning and to the issues and concerns of the affected ANC, the Board concludes that the Applicant has satisfied the burden of proof and that the application should be granted.
The Board finds that the Applicant has met the variance test as follows:

Uniqueness or Exceptional Conditions

The size and shape of the existing building on the subject property and the configuration of its existing loading area and garage levels are unique and impose numerous exceptional situations in the adaptive reuse of the property. The property is an irregularly shaped lot with an existing building originally designed as an armory. The building has many internal structures that do not readily accommodate modern uses. One of the existing loading berths is smaller than that required under the Zoning Regulations, and the existing nonconforming rear yard restricts additions in that area.

Practical Difficulties to the Applicant from the Strict Application of the Zoning Regulations

Strict application of the zoning regulations would require that the stair tower and elevator shafts be located with the building limits, instead of along an outside wall, and would thereby reduce the amount of parking available at the subject property. Enlargement of the loading area would also result in the loss of some parking spaces, and would eliminate space the Applicant plans to use for equipment and goods in short-term holding.

No Substantial Detriment to the Public Good or Impairment of the Zone Plan

Approval of the requested variances will not cause substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zone plan.

The Applicant's planned elevator tower will not diminish the present rear yard, or affect the lot occupancy or height of the existing building. The Applicant's planned loading facilities are sufficient for the grocery store use, and, as conditioned, will not create adverse impacts on the use of neighboring properties. Approval of the variances will avoid the loss of existing parking spaces within the building, thereby avoiding an increase in demand for on-street parking. Finally, approval of the area variances will not impair the intent or integrity of the Zone Plan as it maintains the existing height of the building, and the density is appropriate for the area. Its use as a grocery store is a matter of right and will serve the existing neighborhood.
The Board credited the unique vantage point held by the ANC with respect to the effect of the requested variances on its constituents. However, where the ANC's proposed conditions differed from the Applicant's proposed conditions, the Board was persuaded that the Applicant's parameters were needed for operational purposes for the planned grocery store – a use permitted as a matter of right in the RC/C-2-B zone – and was not persuaded that the more stringent measures recommended by the ANC were necessary to avoid detriment to the public good arising from the requested variances.

For the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for variances from § 774, concerning the rear yard requirement; § 2001.1, concerning requirements for enlargement of a nonconforming structure; and §§ 2201.1 and 2201.6, concerning the requirement to provide a loading berth that is 55 feet deep. Accordingly, it is therefore **ORDERED** that the application is **GRANTED** subject to **CONDITIONS**:

1. Uses receiving goods shall refuse deliveries from trucks exceeding 40 feet in length.[3]

2. Uses receiving goods through the enclosed loading area shall limit the number of deliveries to 40 on weekdays, 40 on Saturdays, and 15 on Sundays. (This condition shall not apply to deliveries of newspapers.)

[3] For purposes of the conditions, the terms "truck" and "vehicle" both mean a motor vehicle as well as a combination of a motor vehicle towing any other vehicle, including a trailer or container.

3. Uses other than office uses shall accept deliveries solely within the 17th Street loading dock or its side door, or from the 17th Street loading zone, never through the Kalorama Road pedestrian or vehicular entrances. (This condition shall not apply to routine drop-offs and pick-ups by the Postal Service, FedEx, UPS, or similar services.)

4. Hours for the 17th Street loading zone shall be limited to 7:00 a.m. to 4:00 p.m., Monday through Friday, and 7:00 a.m. to 4:00 p.m. on Saturdays. After 8:00 a.m. on these days the dock manager shall direct vehicles delivering goods flowing through the enclosed loading area to do so inside that area, rather than from the 17th Street loading zone, if this would not disrupt other deliveries underway or scheduled.

5. No certificate of occupancy shall be issued until after the District Department of Transportation has approved a truck management plan.

6. Hours for the overhead door to operate at the loading dock shall be limited to 8:00 a.m. to 4:00 p.m., Monday through Friday, 8:00 a.m. to 4:00 p.m. on Saturdays, and 10:00 a.m. to 2 p.m. on Sundays, along with up to three more openings and closings after those hours but ending prior to 9:00 p.m. each day.

7. The overhead loading dock doors shall be equipped with sound-proofing and sound-dampening technologies that shall be maintained in good and operable condition.

8. Overhead doors shall be closed except when vehicles enter or exit unless the overhead door would otherwise need to operate again within the following 15 minutes; an exterior sign denoting such shall be provided.

9. The loading dock side door shall be accessible for delivery of goods only 7:00 a.m. to 4:00 p.m., Monday through Saturday, and, on Sundays, for newspapers only.

10. There shall be a dock manager on duty whenever exterior unloading is underway for goods flowing through the enclosed loading area, or vehicles are moving in or out of the dock area, as well as from 6:30 a.m. to 9:00 a.m. on school days.

11. Deliveries to the loading dock side door will be limited to hand carts and dollies only, goods not to exceed what can pass through a door that is no more than 48 inches wide.

12. Compacted waste from the grocery store use shall be stored in a container located within the enclosed loading area whose contents shall be collected only weekdays between 9:00 a.m. and 3:00 p.m.; or on Saturdays 10:00 a.m. to 2:00 p.m. if needed, but only during weekends with a Friday or Monday holiday.

13. Plastics and recyclables from the grocery store use shall be stored in the loading area or within emptied trailers prior to transport to a recycling center.

14. An extermination plan shall be put into effect to include full preventative services and aggressive monitoring to ensure no problem areas develop.

15. The area under the dome identified as "unoccupiable" shall not be converted to useable space.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann II and Gregory Jeffries (by absentee vote) to grant the application subject to conditions).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 12 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT

THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 17395

As Director of the Office of Zoning, I hereby certify and attest that on JUN 12 2006, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

TWR