GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16494 of Exxon Corporation, pursuant to 11 DCMR § 3108.1 (new § 3104.1) for a special exception under section 706 to allow the expansion of a gasoline service station with a convenience store on a site in a C-2-A District at premises 5515 South Dakota Avenue, N.E. (Square 3760, Lots 812 and 814).

HEARING DATE: **October 13, 1999**
DECISION DATE: **October 13, 1999 (Bench Decision)**

DISPOSITION: The Board approved the application, with a condition, on the above-mentioned date.

The Board members who participated were Jerry Gilreath, Robert N. Sockwell and Sheila Cross Reid.

FINAL DATE OF ORDER: November 2, 1999

MOTION ORDER

The Board heard the facts of the case, granted the applicant's request for approval and authorized the issuance of a Summary Order. The following condition accompanied the Order:

"The applicant shall install one telephone booth in front of the convenience store".

On December 21, 2000, the applicant submitted a request to the Board to modify the project's approved plans (Exhibit No. 26). The modification request consisted of:

- A modest increase in the dimensions of the convenience store;
- A new single pole Exxon I.D. sign (to replace the dual pole sign at a lower height and smaller width);
- The addition of one more parking space (from 8 to 9) at the front of the convenience store; and
- Reduction from a width of 50 feet to 40 feet of the northernmost driveway entrance.

The applicant's statement indicates that the original plan was a Tiger Mart, using the standard Exxon design of a flat-roofed building with metal paneling. As a result of the merger

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between the Exxon and Mobil companies, the "On The Run Convenience Store" design was adopted. The new building design would be a hipped-roof masonry building. The original building footprint measured 85 feet 4 inches by 40 feet 3 inches. The new building dimensions are 85 feet 4 inches by 46 feet. A new single-pole Exxon sign would also be used.

Pursuant to the condition of the Board, the applicant revised the plan to move the public telephone to the front of the convenience store, rather than adjacent to the parking spaces at the southeast corner of the site. The public telephone would be installed inside the convenience store, to provide all-weather protection and greater ability to monitor its use.

The Board, at its January 2, 2001 public meeting, determined that the applicant's request is limited to minor modifications that do not change the material facts that it relied on in approving the application. The applicant must comply with the requirements for providing parking spaces; increasing the number of parking spaces by one would not significantly alter the project. The proposed new signage and the design of the convenience store would be more compatible with the residential character of the surrounding neighborhood. The items requested under the proposed modification would not have a negative impact on the neighborhood. Based on the aforementioned facts, the Board determined that the applicant met the burden of proof for modification of plans.

The applicant requested a waiver of subsection 3129.3 to allow the request to be considered more than six months after the date of the final order approving the application. The Zoning Regulations stipulate that a request for modification of plans shall be filed with the Board not less than six months after the issuance of the final order approving the application, section 3335.5 (new 3129.3). The applicant's official request for modification of plans was received in the Office Zoning on December 21, 2000, 13 months after the Order was issued.

The applicant stated that since the merger of Exxon and Mobil, the new company is using the Mobil On The Run design for all of its convenience stores, rather than continue with the Exxon Tiger Mart design. The canopy and new single pole design for the I.D. sign will continue to have the Exxon name, while the convenience store will use the store design and name used by the former Mobil chain. The new company made this determination sometime after the issuance of the order. The Board waived its rules and granted the applicant's request to consider the modification of plans, after the six-month filing date of the Order.

The Board did not receive any letters from community residents in response to the applicant's request for the modification. The applicant did inform Advisory Neighborhood Commission (ANC) 4B of the proposed request; however, the ANC did not file a report with the Board.

Accordingly, it is hereby **ORDERED** that the **REQUEST FOR MODIFICATION** of plans, and waiver to allow the request to be considered more than six months after the final date of the order, be **APPROVED** in accordance with construction plans identified at Exhibit No. 26 of the record.

DECISION DATE: January 2, 2001

Vote: 3-0-2 (Robert N. Sockwell, Sheila Cross Reid and Anne Mohnkern Renshaw to approve; Rodney Moulden and John G. Parsons not present, not voting.)

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

Final Date Of Order: MAR 2 2 2001

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.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

BAB/3.7.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16494

As Director of the Office of Zoning, I hereby certify and attest that on MAR 2 2 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party 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

[1] The law firm of Holland & Knight currently employs the attorney representing the Applicant; he was previously employed by Wilkes, Artis, Hedrick & Lane.