GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16625-A of The May Department Stores Company, pursuant to 11 DCMR 3103.2 for variances from the requirements of the Downtown Development (DD) District to construct an office building, also under Subsections 1702.7 (c) and 1703.3 from the parking requirements to provide all-day commuter parking, and to provide ground floor leasable space for certain retail and personal service uses in a DD/C-4 District at premises 719 13th Street, N.W. (Square 288, Lot 810).

HEARING DATE: November, 14, 2000
DECISION DATE: November 14, 2000 (Bench Decision)

DISPOSITION: By Order No. 16625, dated December 14, 2000, the Board granted Application No. 16625 by a vote of 5-0-0 (Rodney Moulden, Anne M. Renshaw, Sheila Cross Reid, Robert Sockwell and Kwasi Holman to approve)

MODIFICATION ORDER

By letter dated June 19, 2002, the Applicant submitted a request for the Board to modify the previously approved plans to eliminate from the plans the striping of non-required parking spaces in a valet-operated parking garage in the DD/C-4 zone.

THE WAIVER REQUEST

The Applicant, as part of its filing, requested a waiver from the six month limitation for filing requests for modification of plans with the Board, as set forth in subsection 3129.3 of the Zoning Regulations. The Applicant reviewed this matter with the Acting Zoning Administrator in April of this year. He ruled that, notwithstanding the provision of subsections 2115.1 and 2117.3 of the Zoning Regulations, he is not authorized to approve the removal of the striping, because pursuant to subsection 3125.7, approval of the BZA Application includes approval of the plans submitted with the Application, and the plans show the striping. Because the Applicant was only recently made aware of the Zoning Administrator's position in this matter, this request only became ripe for consideration at that time. The Board granted the waiver of the six month filing requirement to consider the requested modification.

The modification request of the approved plans regarding the elimination of striping of non-required parking spaces must meet the requirements of section 3129 of Title 11.

BZA
Case No. 16625A
Exhibit No. 34

Board of Zoning Adjustment
District of Columbia
CASE NO.16625
EXHIBIT NO.34

Specifically, the test for review under subsection 3129.7 states "Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts the Board relied upon in approving the application."

In Application No. 16625, the Board unanimously granted the following relief:

1) a variance to allow above-grade parking to be used for all-day commuter purposes; and
2) a variance from the ground floor retail requirement.

The requested modification of the approved plans is for the elimination of the striping of the parking spaces in the parking garage. The parking garage will operate as a valet-only garage, with access to the parking spaces available only through two car elevators, which are to be operated only by authorized valet personnel. There will be no public access to the parking spaces in the garage, and therefore no need for the striping.

The only parking variance issue before the Board in Application No. 16625 was whether to allow above-grade parking for all-day commuter use. The presence or absence of striping was not an issue, nor was it a material fact the Board relied upon in approving the Application. The site of this application is located within the jurisdiction of Advisory Neighborhood Commission 2C. ANC 2C, which is automatically a party to this application, submitted a written statement in support of the modification (Exhibit No. 10).

DECISION

The Board at its public meeting on July 2, 2002, found that the minor modification to the approved plans does not change the material facts the Board relied upon in approving the Application. After reviewing the request for modification and the supporting materials, the Board determined that the request should be granted.

It is therefore hereby **ORDERED** that the motion for waiver of the rules to consider the request is granted and the elimination of parking stripes in the parking garage is **GRANTED**.

Motion on Waiver:
VOTE: 4-0-1 (Anne M. Renshaw, Geoffrey H. Griffis, David A. Zaidain, and Curtis L. Etherly, Jr., to approve, the Zoning Commission member not present, not voting).

Modification to Parking Stripes:
VOTE: 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., David A. Zaidain, and Anne M. Renshaw, to approve, the Zoning Commission member 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 T. Kress
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: SEP 1 2 2002

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6 OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE AND UPON ITS FILING IN THE RECORD AND SERVICE ON THE PARTIES.

PURSUANT TO 11 DCMR § 3130, THIS ORDER OF THE BOARD SHALL NOT BE VALID FOR A PERIOD IN EXCESS OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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 14 IN TITLE 2 OF THE D.C. CODE. SEE D.C. CODE SECTION 2-1402.67 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER. NOTE IN SECTION 2-1401.01 OF THE D.C. HUMAN RIGHTS ACT. THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITY, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HASSASMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16625-A

As Director of the Office of Zoning, I hereby certify and attest that on SEP 12 2002 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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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning