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February 9, 2001

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D.C. Board of Zoning Adjustment
441 Fourth Street, N.W., Room 210
Washington, D.C. 20001
Attn: Sheri Pruitt

Re: BZA Application No. 16656;
7820 Georgia Avenue, N.W.

Dear Members of the Board:

Enclosed please find a hard copy and disk copy of the Applicant's proposed Findings of Fact and Conclusions of Law for the above referenced case.

Should you have any questions or need anything further, please have a member of the BZA staff contact either of the undersigned.

Sincerely,

John T. Epting/SES

John Epting

Sarah E. Shaw

Sarah E. Shaw

cc: Office of Planning
Department of Public Works
Advisory Neighborhood Commission 4A

Enclosures

Document #: 1075832 v.1

BZA
Case No. 16656
Exhibit No. 35

Board of Zoning Adjustment
District of Columbia
CASE NO.16656
EXHIBIT NO.35

**DRAFT**

Application No. 16656 of Jemal's Gateway D.C., LLC through Douglas Development Corporation, pursuant to 11 DCMR 3104.1, for a special exception under Section 213 to allow the continued operation of a parking lot in an R-1-B Zone District at premises 7820 Georgia Avenue, N.W. (also known as 7830-42 Eastern Avenue, N.W. and 7800 Alaska Avenue, N.W.) (Square 2960, Lot 17).

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HEARING DATE: January 16, 2001
DECISION DATE: January 16, 2001 (Bench Decision)

**FINDINGS OF FACT:**

1. Lot 17 is split zoned. The subject site is located in an R-1-B Zone District, at premises known as 7820 Georgia Avenue, 7830-42 Eastern Avenue, and 7800 Alaska Avenue, N.W. (Square 2960, Lot 17).

2. The frontage of Lot 17 directly adjacent to Alaska, Georgia and Eastern Avenues and Kalmia Road is zoned C-2-A.

3. The subject site serves as a parking lot for the commercial uses located on the commercially zoned portion of Lot 17.

4. This parking lot has been in existence since 1949, pursuant to BZA Order No. 2385, dated July 20, 1949, and it was most recently approved pursuant to BZA Order No. 14317, dated October 22, 1985.

5. The subject parking lot currently accommodates approximately 98 vehicles and operates as a short-term, self-park facility. The applicant proposes to continue operating the parking lot in this fashion, consistent with the revised survey. (Exhibit __ of the Record.)

6. Section 3104 of the Zoning Regulations provides that the Board is authorized to grant special exceptions where, in the judgement of the Board, such a special exception will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighborhood property in accordance with said Zoning Regulations and maps, subject in each case to the special conditions specified in the pertinent section(s) of the Zoning Regulations.

7. This application was originally brought under Section 214 of the Zoning Regulations entitled, "Accessory Parking Spaces." Based upon the recommendation of the Office of Corporation Counsel, the application was amended at the public hearing, and was analyzed

under Section 213 of the Zoning Regulations, "Parking Lots."

8. The standards for approval of a special exception under Sections 213 and 214 of the Zoning Regulations are virtually identical, therefore the Board found that all interested persons and parties had sufficient notice of the relief requested and that formal notice under Section 213 could be waived pursuant to Section 3101.6 of the Zoning Regulations.

9. Section 213 of the Zoning Regulations provides that a parking lot may be permitted in a residential zone provided that:

   A. the entire parking lot shall be located within two-hundred (200) feet of an existing Commercial or Industrial District;

   B. The parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial District;

   C. All provisions of Chapter 23 shall be complied with;

   D. No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use, and the present character and future development of the neighborhood will not be affected adversely;

   E. The parking lot shall be reasonably necessary and convenient to other uses in the vicinity, so that the likely result will be a reduction in overspill parking on neighborhood streets;

   F. A majority of parking spaces shall serve residential uses or short-term parking needs of retail, service and public facility uses in the vicinity

   G. Before taking final action on an application for use as a parking lot, the Board shall submit the application to the D.C. Department of Public Works for review and report.

10. The Board finds that the entire parking lot is located within two-hundred (200) feet of the adjacent C-2-A Zone District and that this parking lot is contiguous with or separated only by an alley from the C-2-A Zone District.

11. The Board finds that the subject parking lot meets all the

requirements of Section 2303.1 of the Zoning Regulations. Specifically, the Board finds

A. All areas devoted to driveways, access lanes and parking area are paved and maintained with a material approved by the D.C. Department of Public Works, which forms an all-weather impervious surface, and which is a minimum of four (4) inches in thickness;

B. No vehicle projects over any lot line or building line;

C. No other use is conducted from or upon the parking lot;

D. No vehicular entrance or exit is within forty (40) feet of a street intersection;

E. All lighting used to illuminate the parking lot is arranged so that all direct rays of lighting are confined to the surface of the parking lot;

F. The parking lot will be kept free of refuse and debris and will be landscaped a minimum of five (5) percent;

G. The parking lot is screened from all contiguous residential property by a solid wall at least 12 inches thick and 42 inches high; and

H. All parts of the parking lot not devoted to parking areas, driveways, access lanes, attendant's shelter or required screening walls will be kept free of refuse and debris and are paved or landscaped.

12. The Board finds that no dangerous or otherwise objectionable traffic conditions result from the parking lot, and the character and future development of the neighborhood will not be adversely affected.

13. The Board further finds the subject parking lot is reasonably necessary and convenient to other uses in the vicinity, such that it results in a reduction in overspill parking on neighborhood streets, and that a majority of the parking spaces serve the residential uses or short-term parking needs of retail, service and public facility uses in the vicinity.

14. The application was submitted to the D.C. Department of Public Works for review and report.

15. The Office of Planning, by memorandums dated January 9 and ___ 2001 and through testimony at the public hearing, recommended approval of the application to allow the continued operation of the parking lot for a period of five years subject to the conditions set forth at the public hearing. The Office of Planning was of the opinion that the subject parking lot met the requirements of Section 213 of the Zoning Regulations. The Board concurs.

16. A letter dated January 9, 2001, from Advisory Neighborhood Commission (ANC) 4A was submitted into the record in support of the subject application, provided certain conditions were met. Through testimony at the public hearing, the ANC representative agreed that conditions of operation put forth by the ANC are satisfactorily met by the proposed conditions set forth at the public hearing. The position of the ANC was given great weight by the Board.

17. The Shepherd Park Citizens Association submitted a letter, dated January 12, 2001, in support of the subject parking lot.

18. Lamar Dwayne Revis, a neighbor living at 1129 Kalmia Road, N.W., a property adjacent to the subject parking lot, by a letter, dated January 2, 2001, and by testimony at the hearing, detailed various complaints relating to current operations of the parking lot. Through testimony at the public hearing, Mr. Revis indicated that the proposed conditions on the operation of the parking lot set forth at the public hearing were satisfactory.

## CONCLUSIONS OF LAW

Based on the forgoing findings of fact and the evidence of the record, the Board concludes that the applicant is seeking a special exception to use the subject lots in the R-1-B District as accessory parking for neighboring businesses in the C-2-A District. The granting of such a special exception requires a showing, through substantial evidence, that the proposed use satisfies the requirements of Sub-section 3104.1 and Section 213 of the D.C. Zoning Regulations.

The Board concludes that the application meets the standards for granting of the requested special exception. The parking lot is located within 200 feet of the

adjacent C-2-A commercial district and is separated only by an alley from such commercial district. The parking lot does not create dangerous or otherwise objectionable traffic conditions, and it is necessary and convenient to other uses in the vicinity, with a majority of the parking spaces serving short-term parking needs of retail uses in the vicinity. The Board concludes that the subject parking lot meets the standards set forth in Chapter 23 of Title 11 of the DCMR. The operation of the parking lot is in harmony with the general purpose and intent of the Zoning Regulations. Accordingly, it is ORDERED that this application be hereby GRANTED SUBJECT to the following CONDITIONS:

1. The parking spaces shall be striped to be consistent with the revised survey to be submitted by the applicant.

2. Existing trash dumpsters shall be replaced with a mechanized trash compactor including an ionization feature to reduce odors. Until such time as the trash compactor is provided, the existing dumpsters will be maintained, emptied and cleaned on a regular basis to prevent odors, lids on dumpsters will be kept closed, and the area around dumpster will be kept clean to prevent garbage from being scattered in parking lot and on adjacent properties.

3. The new trash compactor shall be installed along the public alley on the western side of the parking lot so that it is not directly adjacent to any residential homes, in a location shown on the revised survey.

4. The applicant shall retain a rodent control company to help keep the parking lot rodent-free.

5. The applicant shall write a letter to all tenants who are food providers, emphasizing the importance of care when dealing with food garbage.

6. The applicant shall appoint an employee as a community liaison to deal with any issues that arise vis a vis the operation of the parking lot and the surrounding community. This individual's name will be provided to ANC 4A and updated as necessary.

7. An employee of the applicant will make periodic site visits to ensure the cleanliness and smooth operation of the parking lot.

8. The applicant shall work with the retail establishments along Eastern and Georgia Avenues to place signs informing patrons of the parking lot that is available for use.

9. The applicant shall coordinate with the Department of Public Works to address access off of Kalmia Road to more clearly delineate the paths of vehicles and minimize inappropriate vehicle/pedestrian conflicts.

10. The continued operation of the parking lot shall be approved for a period of five (5) years.

**VOTE:** **5 – 0** (Robert Sockwell, Sheila Cross Reid, Ann Renshaw, Anthony Hood, and Rodney Moulden to grant.)

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

ATTESTED BY:_____
Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO §3125.6"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.