GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16704 of Jeffrey Gardens Associates Limited Partnership LP, pursuant to 11 DCMR §§ 3104.1 and 3103.2 for a special exception to establish an accessory parking lot under sections 214 and 2116 and a variance from the number of parking spaces under section 2101 to allow the rehabilitation of 25 garden apartment buildings in the R-5-A District at premises 4201- 4237 and 4252-4386 7th Street, S.E. and 4233-4373 Barnaby Road, S.E. (Square 6208, Lots 59-63, 65-69, 809-811, 817, 827-829).

HEARING DATE: May 29, 2001
DECISSION DATE: May 29, 2001

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 8E, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) and the Department of Public Works (DPW) for review and reports.

The subject property is located within the jurisdiction of ANC 8E. ANC 8E, which is automatically a party to this application, submitted a report in support of the application and a copy of the Memorandum of Agreement between KSI Services, Inc., the ANC, and the Jeffrey Garden Residents Association. The OP submitted a report recommending conditional approval of the application. The DPW also submitted a report indicating that it has no objection to the proposal.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance and a special exception from the strict application of the requirements of 11 DCMR §§ 3103.2 and 3104.1. No person or entity appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC's and the Office of Planning's reports filed in this case, the Board concludes that the applicant has met the burden of proof, under 11 DCMR §§ 3104.1, 2116 and 214, that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not

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tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board also concludes that the Applicant has met the burden of proof under 11 DCMR §§ 3103.2 and 2101 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED** subject to the following **CONDITIONS:**

1. The Applicant shall implement the lighting plan described in Exhibit No. 32 of the record.

2. The terms and conditions of the Memorandum of Agreement between KSI Services, Inc., ANC 8E, and the Jeffrey Gardens Residents Association, included as Exhibit 33 of the record are incorporated in this order.

3. The Applicant shall amend the pedestrian access drawings submitted as Exhibit No. 31 of the record to include the construction of three pedestrian gates between the buildings along Barnaby Road, S.E. The pedestrian gates will allow and secure pedestrian access to and "panic bar" egress from the northeast and southeastern portions of the accessory parking and recreation areas.

4. The Applicant shall not close the portion of 7th Street, S.E. between Barnaby Road, S.E. and Chesapeake Street, S.E.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 5 – 0 – 0: (Sheila Cross Reid, Susan M. Hinton, Anne M. Renshaw, John G. Parsons, and Geoffrey H. Griffis, to approve).

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, Office of Zoning

Final Date of Order: JUL 13 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.

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

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 A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

VCE/16704

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16704

As Director of the Office of Zoning, I hereby certify and attest that on JUL 13 2001 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid or sent by inter-agency mail, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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

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