GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16892 of Jemal's Ford LLC, et al, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements under section 771, a variance from the Downtown Development District parking and loading access restrictions under subsection 1701.4(c), and a variance from the residential recreation space requirement under section 773, and pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure provisions under subsection 411.11, to allow the construction of a ten (10) story mixed use building (office, residential, retail and arts uses) in the DD/C-4 District at premises 920-942 F Street, NW (Square 377, Lots 35, 819, 820, 821, 852, 853, and a portion of a public alley to be closed).

HEARING DATE: July 9, 2002
DECISION DATE: July 9, 2002[1], July 23, 2002

SUMMARY ORDER

SELF-CERTIFIED

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 Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application, and which submitted a letter in support of the application. The D.C. Office of Planning submitted a report in conditional support of the application. The D.C. Division of Transportation submitted a report recommending approval of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for special exception under §§ 411.11, and pursuant to § 3103.2 for variance pursuant to §§ 771, 773, 1701.4(c). One person, Ms. Sally Blumenthal of the National Park Service, testified in opposition to the Applicant's request for variance relief from §

[1] At the conclusion of the public hearing on July 9, 2002, the Board voted to approve the Applicant's request for variance relief from floor area ratio limitation, §771, and the request for roof structure special exception under §§411.11. The Board determined to hold a Special Meeting on July 23, 2002 to resolve the remaining outstanding requests for variance relief, namely from the parking and loading access restrictions of the Downtown Development District, §1701.4(c), and from the residential recreation space requirements, §773.

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1701.4(c), to allow parking and loading access from 10th Street, NW. No other person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which 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 zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED**, with the following **PROVISIONS** and **CONDITIONS**:

1) The parking access to the building shall be provided from 10th Street, NW, and loading access shall be provided from the alley, in accordance with Scheme 6A of the revised plans submitted by the Applicant as part of its post-hearing submission on July 16, 2002, found at Exhibit 46 of the record.

2) The Applicant may modify the design of the building subject to approval under D.C. Law 2-144, provided that those changes do not increase the degree of special exception and variance relief granted by the Board of Zoning Adjustment;

3) The Applicant may reduce the height of all or part of the roof structure with the approval of the Historic Preservation Review Board.

4) The Applicant shall provide at least 6,000 square feet of new residential space, including the minimum square footage of residential recreation space required by the Regulations, at the Subject Property or at some other location within a two-block radius north, south, or east of the Subject Property. If the residential space is located on the Subject Property, the residential recreation space shall be provided on the Subject Property, at 912-916 F Street, N.W., or at 919 F Street, N.W. If the residential space is provided at a location other than the Subject Property, as permitted above, the residential recreation space shall be located on the same property as the residential space.

5) The residential recreation space need not comply with the requirement of § 773.8 of the Regulations.

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: (4-0-1) Taken on July 9, 2002 re: variance relief from § 771, Floor Area Ratio, and special exception, §§ 411.11: (Geoffrey H. Griffis, John G. Parsons, Curtis L. Etherly, Jr., and David A. Zaidain to grant. Anne M. Renshaw, not present, not voting.)

VOTE: (4-0-1) Taken on July 23, 2002 re: variance relief from § 773, Residential Recreation Space , and from § 1710.4(c), DD Parking and Loading Access: (Geoffrey H. Griffis, John G. Parsons , Curtis L. Etherly, Jr., and David A. Zaidain to grant. Anne M. Renshaw not present, not voting.)

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

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

FINAL DATE OF ORDER: AUG 2 3 2002

UNDER 11 DCMR § 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE *SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE* BOARD OF ZONING ADJUSTMENT."

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.

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 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 THAT IT IS THE INTENT OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, IN ENACTING THIS CHAPTER, TO SECURE AN END IN THE DISTRICT OF COLUMBIA TO DISCRIMINATION FOR ANY REASON OTHER THAN THAT OF INDIVIDUAL MERIT, INCLUDING, BUT NOT LIMITED TO, DISCRIMINATION BY REASON OF RACE, COLOR, RELIGION, NATURAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, AND PLACE OF RESIDENCE OR BUSINESS. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16892

As Director of the Office of Zoning, I hereby certify and attest that on AUG 2 3 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