Government of the District of Columbia
BOARD OF ZONING ADJUSTMENT

Application No. 16912 of F.S.K. Limited Partnership, et. al., pursuant to 11 DCMR § 3104.1 for a special exception under section 213 to continue (last authorized by BZA Order No. 16722) the use of a parking lot in an R-1-B District at premises 4817 U Street, N.W. (Square 1389, Lot 816).

HEARING DATE: **September 17, 2002**
DECISION DATE: **September 17, 2002 (Bench Decision)**

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is 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) 3D, and to owners of all property within 200 feet of the property that is the subject of this application.

The subject property is located within the jurisdiction of ANC 3D. ANC 3D, which is automatically a party to this application, submitted a written statement dated August 10, 2002, in support of the application for a period of three years. The Palisades Citizens Association (PCA) also submitted a letter, dated August 25, 2002, in support of the application.

The D.C. Office of Planning submitted a report in support of the application. At the hearing, OP testified and recommended approval for a period of five years.

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 § 213. No person or entity appearing as a party to this case at the public hearing testified in opposition to this application. 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 and the OP report, dated September 17, 2002, filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, and that the requested relief can be granted, subject to the conditions set forth below, as being in

BZA Case No. 16912 Exhibit No. 34

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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. Additionally, the Board concludes that, given the monthly reporting requirements in the conditions listed below, it is appropriate to renew the parking lot use for a period of five years.

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.

It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for a period of **FIVE YEARS** from the final date of this order.

2. All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials, which forms an all-weather impervious surface, and which is a minimum of four inches in thickness.

3. The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.

4. No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located.

5. No vehicular entrance or exit shall be within forty feet of a street intersection as measured from the intersection of the curb lines extended.

6. Any lighting used to illuminate parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.

7. The parking lot shall be kept free of refuse and debris. The parking lot shall be cleaned every three days, and the landscaping maintained every ten days during the growing season, in accordance with the service contract.

8. The parking lot shall be landscaped with trees and shrubs covering a minimum of five percent of the total area of the lot. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

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

10. The applicant shall maintain signage on the light posts on the interior of the lot stating that CVS is responsible for maintenance of the lot and providing a telephone number to call if the lot needs to be cleaned.

11. The applicant shall continue to report to the ANC and PCA on a monthly basis, either by telephone or in writing, regarding the condition of the lot and to address any other concerns raised by the community.

VOTE: **4-0-1** (Geoffrey H. Griffis, David A. Zaidain, Anne M. Renshaw, and James H. Hannaham to approve; the third mayoral appointee 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, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: OCT 15 2002

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE SECTION 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX,

AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAR STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION, WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. cwm

Government of the District of Columbia
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16912

As Director of the Office of Zoning, I hereby certify and attest that on OCT 15 2002, a copy of the foregoing Notice of Final Rulemaking and Determination and Order in BZA Application No. 16882 was mailed first class, postage prepaid, or delivered via inter-agency mail to each person and public agency who appeared and participated in the public hearing and who is listed below:

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ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning