FOGGY BOTTOM AND WEST END
ADVISORY NEIGHBORHOOD COMMISSION (ANC-2A)
MARIA TYLER COMMISSIONER SMD-2A03

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November 26, 2003

John Patrick Brown, Jr., Esq.
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, D.C. 20036-5605

RE: BZA Application 17021; 7-Eleven Store, 912 New Hampshire Ave. N.W.,
Square 28, Lot 122

Dear Mr. Brown:

I refer to the Management Agreement between the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) and the 7-Eleven store (7-11), covering the operation of the 7-11. Attached is ANC-2A's proposal based on the previous Management Agreement, your and ANC-2A's proposals to Mr. Griffis and the decision made by the BZA at the public meeting of October 7, 2003.

With kind regards,

Sincerely,

FOR ANC-2A:

Maria Tyler

Maria Tyler
(Commissioner ANC-2AO3)

Attachment

√ cc. Mr. Geoffrey Griffis
Chair, D.C. Board of Zoning Adjustment

BZA
Case No. 17021
Exhibit No. 55

Board of Zoning Adjustment
District of Columbia
CASE NO. 17021
EXHIBIT NO. 55

MANAGEMENT AGREEMENT COVERING THE OPERATION OF THE 7-11 STORE AT 912 NEW HAMPSHIRE AVENUE, N.W. BY AND BETWEEN ANC-2A, ESTELLE GOLDMAN, OWNER OF THE 7-11, NANCY A. WADE, MARKET MANAGER OF THE 7-11 NORTHEAST DIVISION, AND SAM MOTAMEDI, the 7-11 FRANCHISEE.

Made this _____day of December, 2003 by and between the above listed parties to the effect that:

1. Whereas the most recent special exception expired on November 11, 2000 that was granted by the BZA under Summary Order (BZA Application No. 16261) and that permitted a retail/delicatessen store on the first floor with the basement for storage to be operated in the Foggy Bottom Overlay District, zoned R-3 (FBOD/R-3) at the above cited premises, subject to the condition that approval shall be for a period of three years; and
2. Whereas on April 11, 2003, Estelle Goldman, owner of said property, filed an Application before the BZA requesting not only the continuation of the use of a nonconforming retail grocery/deli, but also (1) expansion of the hours of operation prevailing since the establishment of the 7-11 in 1982, namely from 7AM to 11PM, to overnight, i.e. 24 hours, and (2) extension of the period of the special exception from the existing three years to ten years; and
3. Whereas the premises at 912 New Hampshire Avenue, N.W. are within the boundaries of ANC-2A and are located in the Foggy Bottom Overlay District, the boundaries of which coincide with those of the Foggy Bottom Historic District; and
4. Whereas the Foggy Bottom Overlay District (FBOD), was established by the Zoning Commission in 1992 (Chapter 15, Section 1521 of 11 DCMR) and zoned R-3, a purely residential and more restrictive category than the previous R-5-D and R-5-B, to ensure, inter alia, that the historic and residential character of the FBOD/R-3 is **preserved and enhanced**; and
5. Whereas 11DCMR 2003.3 dealing with nonconforming uses specifies the following: "The proposed use shall not create any deleterious effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor and design and siting effects", and
6. Whereas since the two previous Management Agreements of 1992 and 1997, there have been improvements in the operation of the 7-11; and
7. Whereas problems regarding cleanliness, landscaping, design, siting effects, parking, and non-observance of the agreed delivery times have still arisen; and
8. Whereas parking and loading pose special problems at the premises because of the unusual geometry of the intersection of 24th Street. I Street, and New Hampshire Avenue N.W., the fact that customers of the 7-11 arriving by automobile frequently use the loading zone, which has been established with great difficulty to accommodated the 7-11 at this awkward location for lack of any better site, the fact that delivery trucks, run their engines beyond the permissible 3

minutes, do not always obey the delivery schedule as regards its timing and the obligation to have only one delivery truck at a time, all of which cause problems for nearby residents, and hazardous conditions for pedestrians and motorists, as well as impacting adversely the residential character of the Foggy Bottom Overlay District; and

9. Whereas ANC-2A, at its regular public meeting on September 17, 2003 unanimously passed Resolution #03/9D strongly opposing any extension of the hours of operation of the 7-11 as well as the granting of the special exception beyond the prevailing period of **3 (three years);** and
10. Whereas the BZA held a hearing on the above Application on September 23, 2003 and a follow up public meeting on October 7, 2003 at which meeting the BZA denied the request for an extension of operation beyond the existing hours of operation, namely from 7AM to 11PM, and limited the period of the special exception to **3 (three years);** and
11. Whereas the parties desire to continue an agreement setting forth understandings regarding the operation of the 7-11; and
12. Therefore, in consideration of the above cited conditions, including those mandated by the Historic Preservation Review Board and 11DCMR, Chapter 15, Section 1521 (FBOD/R-3), and the covenants and promises set forth below to stay in compliance with the above cited orders and provisions set out above and below, the parties agree as follows:

13. Conditions relating to traffic and delivery of merchandise by trucks

To reduce the objectionable and hazardous conditions to pedestrians and motor vehicles resulting from the use of the loading zone fronting the above-cited premises, 7-11 agrees to undertake the following:

a. 7-11 delivery trucks will make their deliveries between **8:00 PM** and **10:00 PM** only and such deliveries will be made from the 7-11 depot in Fredericksburg, Virginia, where consolidation of merchandise will take place;
b. 7-11 will work with other suppliers to the 7-11 store to ensure that their truck deliveries are scheduled one truck at a time between **9:30 AM** and **3:3O PM** only;
c. 7-11 will post a conspicuous sign inside the 7-11 consistent with the requirements of **18 DCMR 2402.6,** indicating that loading zones are to be used by commercial vehicles for delivery only and by noncommercial vehicles for drop-off only, to the extent that such use does not interfere with commercial deliveries to the 7-11 premises;
d. 7-11 will ensure that no truck-driver runs the engine of his truck beyond the 3 minutes specified in **18 DCMR**;
e. The franchisee of the 7-11 will promptly request the Metropolitan Police Department, Second District, to ensure that violators of the above provisions including the running of engines by trucks beyond the 3 minutes provided for by **18 DCMR**. be ticketed.

14. Conditions relating to sanitation and health

7-11 will ensure that the 7-11 franchisee will:

a. Empty the trash containers belonging to the 7-11 and placed in or in the vicinity of the 7-11 twice a day or more frequently if needed;
b. Clean the sidewalk and gutter in front of the 7-11 to ensure that they be clean at at all times;
c. Clear trash from the sidewalks in front of the adjacent and nearby buildings to the north and south of the 7-11 to the extent that such trash results from the operation of the 7-11;
d. As required by law and regulations, clear snow and ice from the sidewalk in front of the premises to provide safe passage; and
e. Comply with all aspects of the Civil Infractions Act, and the Litter Control Act, any violations of which, if left uncorrected, may be referred by ANC-2A to the appropriate agency.

15. Conditions relating to the appearance of the premises

The 7-11 and the 7-11 franchisee shall pay special regard to maintaining the exterior appearance of the premises consistent with the characteristic as a contributing residential townhouse in the Foggy Bottom Historic District and the provisions incorporated by the Zoning Commission in Chapter 1521 of the Zoning Regulations covering the Foggy Bottoms Overlay District. In particular, the exterior of the building, apart from the existing 7-11 sign, will be maintained as if it were a residence only. No signs, posters in the windows, public telephones, teller machines or like devices will be added to the exterior of the building. The 7-11 and the 7-11 franchisee will ensure that the shrubs along the handicapped railing are of a height that covers the railing completely when seen from the sidewalk and that perennial and seasonal landscaping is provided so as to beautify the premises. No material shall be stored in front of the building. In the event that alterations are proposed to the exterior of the premises, the 7-11 and the 7-11 franchisee will discuss this with the Commissioner of SMD 2A03 and ANC-2A prior to any application to the Historic Preservation Review Board or, if required, to the Office of Zoning, and any proposed exterior changes shall be consistent with the Foggy Bottom Historic District and Foggy Bottom Overlay District.

16. The 7-11 and its franchisee will meet with the Commissioner of SMD 2A03, and with ANC-2A at their request or at its own request to discuss any such problems as may arise from the operation of the 7-11 and to hear and respond to the concerns of the ANC and the community regarding their perspectives on its implementation.

17. In particular, the 7-11 and its franchisee shall work closely with the Commissioner of SMD 2A03, ANC-2A and the community and with appropriate agencies of the District government to help solve any problems that may arise.

18. The parties further agree that any failure by the 7-11 or its franchisee would constitute grounds for ANC-2A to petition the BZA for the issuance of an Order to the 7-11 and its franchisee to show cause why the special exception should not be revoked.

Dorothy Miller
Chair, ANC-2A

Nancy Wade
7-Elven Inc. Marketing Manager

Maria Tyler
Commissioner, ANC-2A03

Sam Motamedi
7-Eleven Franchisee