Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

Annapolis
Atlanta
Bethesda
Boston
Bradenton
Chicago
Ft. Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
International Offices:
Caracas*
Helsinki
Mexico City
Rio de Janeiro
New York
Northern Virginia
Orlando
Portland
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
West Palm Beach
São Paulo
Tel Aviv*
Tokyo
*Representative Office

March 9, 2004

CHRISTOPHER H. COLLINS
202-457-7841

Internet Address:
chris.collins@hklaw.com

RECEIVED
D.C. OFFICE OF ZONING
2004 MAR -9 PM 1:39

VIA HAND DELIVERY

Ms. Jerrily R. Kress, FAIA
Executive Director
D.C. Office of Zoning
441 – 4th Street, N. W.
Room 220 South
Washington, D. C. 20001

Re: BZA Application No. 17070 – Parking Covenant

Dear Ms. Kress:

As required by Paragraph 10 of the enclosed Covenant, please file this certified copy in the record in this case.

Very truly yours,

Christopher H. Collins

CHC/skp

cc: Faye Ogunneye, Office of the Zoning Administrator (by hand w/enclosure)
Lawrence Kolp, Meridian International Center (w/enclosure)

1763683_v1

BZA
Case No. 17070
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO. 17070
EXHIBIT NO. 40

COVENANT

THIS DECLARATION OF COVENANTS ("Covenant") made and entered into this 19th day of February, 2004, by MERIDIAN HOUSE FOUNDATION, a District of Columbia corporation (hereinafter referred to as "Declarant" or "Meridian"), or the successors, affiliates and assigns of the Declarant, for the benefit of the DISTRICT OF COLUMBIA, a municipal corporation (the "District").

RECITALS:

WHEREAS, Meridian is the record owner in fee simple of Lot 809 (formerly Lot 807) in Square 2568, as more fully described in the attached Exhibit A (the "Meridian Site"); and

WHEREAS, Meridian is the record owner in fee simple of Lot 850 in Square 2567, as more fully described in the attached Exhibit B; and

WHEREAS, in Order No. 5802, dated February 24, 1960, the District of Columbia Board of Zoning Adjustment (the "BZA") authorized the use of that portion of Lot 850 formerly known as Lots 811, 834, 838 and 839 in Square 2567, as more fully described in the attached Exhibit C (the "Parking Lot"), as required accessory off-street parking to serve the use on the Meridian Site; and

WHEREAS, as a condition of its approval in Order No. 5802, the BZA required the owner of the Parking Lot "to agree to become a party to a covenant with the District of Columbia to run with the land and to be binding upon him and his successors in title, which requires that the area approved for required off-street parking shall be reserved exclusively for that purpose so long as the improvements to be served [i.e. the Meridian Site] is existing or so long as said accessory off-street parking is required by the Zoning Regulations"; and

WHEREAS, the Parking Lot is subject to a covenant dated June 7, 1960, recorded in the Land Records of the District of Columbia as Instrument No. 17049 at Book 11441, page 617, on June 27, 1960 (the "1960 Covenant"); and

WHEREAS, the 1960 Covenant requires, inter alia, that the Parking Lot "will be used for no other purpose than for the temporary off-street parking of motor vehicles for the use and benefit of Lot 807 in Square 2568"; and

WHEREAS, Meridian desires to develop the Parking Lot for a use or uses consistent with the District of Columbia Zoning Regulations, and to retain for itself a portion of the Parking Lot for the exclusive use by Meridian for the temporary off-street parking of motor vehicles in order to satisfy the parking requirement set forth in BZA Order No. 5802 and the Covenant; and

WHEREAS, in BZA Order No. 17070, dated November 18, 2003, a copy of which is attached as Exhibit D and incorporated herein by reference, Meridian has obtained approval from the Board of Zoning Adjustment to modify certain of the conditions of approval in Order No. 5802, in order, inter alia, to allow the Parking Lot to be devoted to other purposes in addition to parking for the Meridian Site, so long as at least thirty-nine

(39) parking spaces shall be reserved on the Parking Lot or in the improvements to be built on the Parking Lot, for the use of the Meridian Site; and

WHEREAS, Meridian seeks to obtain approval from the District to modify the 1960 Covenant, and the District agrees to modify the 1960 Covenant as set forth herein.

NOW, THEREFORE, in consideration of the approval granted by the Board of Zoning Adjustment in Application No. 17070, dated November 18, 2003, modifying several of the conditions of Order No. 5802, and pursuant thereto, Meridian, for itself, its successors and assigns, does hereby covenant to and with the District and its successors as follows:

1. That the Parking Lot may continue to be used as an accessory surface parking lot for thirty-eight (38) parking spaces for the Meridian Site pursuant to BZA Order No. 5802, or it may be developed for other uses in addition to required accessory off-street parking for the Meridian Site, so long as the owner of the Meridian Site has the exclusive right to occupy at least thirty-nine (39) parking spaces on the Parking Lot, to be located in a garage below grade, pursuant to BZA Order No. 17070.

2. That the said parking spaces referred to in Paragraph No. 1 (hereinafter the "Parking Spaces") shall be appurtenant to the use of the Meridian Site.

3. That the said Parking Spaces shall be kept unobstructed and maintained in a condition suitable for the purpose for which they are herein constituted.

4. That during the period of construction on the Parking Lot (as defined in Condition No. 3 of BZA Order No. 17070), the requirement herein for the Parking Spaces on the Parking Lot is temporarily suspended and is otherwise governed by Condition No. 3 of BZA Order No. 17070.

5. That each owner and occupier of the Meridian Site is hereby given a direct right to enforce all of the covenants and agreements herein as a third-party beneficiary thereof.

6. That the covenants herein contained shall not be deemed merged or extinguished, now or in the future, because of any common ownership by Meridian, its successors or assigns, of the Meridian Site and of all or any portion of the Parking Lot.

7. That every conveyance of the Parking Lot, or any part thereof, including conveyance to trustees to secure indebtedness, shall be made subject to, and together with the aforesaid easement and shall contain a covenant by the grantee or grantees therein that said grantee or grantees shall be bound by, and will observe and carry out, each and every covenant made herein.

8. That the covenants contained herein are, and shall be construed as, real covenants and shall run with the land and shall bind the Owner of the Parking Lot, its successors and assigns.

9. That the 1960 Covenant is hereby extinguished.

10. Meridian shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the BZA.

IN WITNESS WHEREOF, Meridian House Foundation has caused this Covenant to be signed by Walter L. Cutler, its President, attested by Jennifer Cumiskey, its CFO, and its corporate seal to be hereunto affixed, and does hereby appoint Walter L. Cutler its true and lawful attorney-in-fact to acknowledge and deliver these presents as its act and deed, all on the day and year first hereinabove written.

MERIDIAN HOUSE FOUNDATION

By: _____
Its: Walter L. Cutler, President

ATTEST:

_____
Its: Jennifer Cumiskey, CFO and V.P for Management

(Corporate Seal)

DISTRICT OF COLUMBIA, ss:

I, Gwendolyn Hinds, a Notary Public in and for the District of Columbia, do hereby certify that Walter L. Cutler, who is personally well know to me as the person named as attorney-in-fact in the aforegoing instrument, bearing date of the 19 day of February, 2004, and hereto annexed, personally appeared before me in said District, and as attorney-in-fact for MERIDIAN HOUSE FOUNDATION in the foregoing instrument as aforesaid, and by virtue of the authority vested in him by said instrument, acknowledged the same to be the act and deed of MERIDIAN HOUSE FOUNDATION, Covenantor therein, and delivered the same as such.

GIVEN under my hand and seal this 19 day of February, 2004.

_____
Notary Public, D.C.
My Commission Expires: Gwendolyn Hinds Notary Public, District of Columbia ~~My Commission Expires 3-14-2007~~

APPROVED AS TO LEGAL SUFFICIENCY:

_____
Assistant Corporation Counsel

EXHIBIT A

Legal Description of Lot 809 in Square 2568

All of Lots 8, 9, 10, 11 and 12 in Block 5 in Hall and Elvans' subdivision of land now known as "Meridian Hill" as per plats recorded respectively in Liber E.C.E. No. 24 folio 499 of the Land Records of the District of Columbia and in Liber Levy Court No. 2 folio 58 of the Records of the Office of the Surveyor of the District of Columbia, except for the northwesterly 5 feet by the full width of Lots 8 and 9 as dedicated for the widening of Crescent Place, as per plat recorded in Liber No. 45, folio 31 of the Records of the Office of the Surveyor of the District of Columbia.

EXHIBIT B

Legal Description of Lot 850 in Square 2567

Parts of Lots Seventeen (17) and Eighteen (18) in Block three (3) in Hall and Elvans' subdivision of land now known as "Meridian Hill", as per plats recorded respectively in Liber E.C.E., No. 24 folio 499 of the Land Records of the District of Columbia and in Liber Levy Court No. 2, folio 58, of the Records of the Office of the Surveyor for the District of Columbia; said part of Lot 17 being described as follows:

BEGINNING for the same at a point in the Southerly line of said Lot 17 distant East 90 feet, from the Easterly line of Ontario Road, being also the Southeasterly corner of Lot 61 in Square 2567, as per plat recorded in Liber No. 111, folio 70 of said Surveyor's Office Records; and running thence Northwesterly with the Easterly lines of Lots 61, 62 and 63 in said last mentioned subdivision 60 feet to the Northerly line of said Lot Seventeen (17); thence Northeasterly with said Northerly line of Lot 17 to the Westerly line of the land conveyed to Frederick R. Windsor and James M. Nesmith by Deed recorded in Liber #872, folio 232 of the aforesaid Land Records of the District of Columbia; thence Southeasterly with said Westerly line of said conveyance to the Southerly line of said Lot 17; and thence Southerly with said Southwesterly line of said lot to the place of beginning.

Said part of Lot 18 being described as follows:

BEGINNING for the same at a point in the Southerly line of said Lot 18 distant Easterly 90 feet from the Easterly line of Ontario Road, and running thence Northwesterly along the Easterly lines of Lots 63 to 67 in Square 2567, as per plat recorded in Liber No. 111, folio 70 of the Records of the Office of the Surveyor of the District of Columbia, 60 feet to the Northerly line of said Lot 18; thence Northeasterly with said Northerly line of said Lot 18 to the Westerly line of the land conveyed to William J. Johnson by Deed recorded in Liber 6480, folio 286 of said Land Records of the District of Columbia; thence Southeasterly with said Johnsons' Westerly line of 61.56 feet to the Southerly line of said Lot and thence Southwesterly with said Southerly line of said lot to the place of beginning.

EXCEPT so much of the part of Lot 18 as was conveyed to the U.S.A. by Deed recorded in Liber 1170 at folio 308 among the Land Records of the District of Columbia for the extension of Washington Aqueduct.

ALSO, parts of Lots 17, 18, 19 and 20 in Block 3 in Hall and Elvans' subdivision of land now known as "Meridian Hills", as per plat recorded respectively in Liber E.C.E. No. 24 at folio 499 of the Land Records of the District of Columbia and in Liber Levy Court No. 2 at folio 58 of the Records of the Office of the Surveyor of the District of Columbia; said part of Lot 17 being described in accordance with a plat of survey recorded in Survey Book 37 at page 339 of said Surveyor's Office Records as follows:

BEGINNING for the same on the Westerly line of 17th Street at the Northeasterly corner of said lot, and running thence southeasterly along said line of said street, 40 feet to the Southeast corner of said Lot 17; thence Southwesterly along the Southerly line of said lot,

110.50 feet; thence Northerly 60.82 feet to a point on the Northerly line of said lot distance 80.50 feet from the point of beginning, and thence along the Northerly line of said lot, 80.50 feet to 17th Street and the place of beginning.

Said part of Lot 18 being described in accordance with a plat of Computation recorded in Survey Book 102, page 45 of said Surveyor's Office Records as follows:

BEGINNING for the same on the Southwesterly line of 17th Street at the most Northerly corner of said lot, and running thence Southerly along said line of said Street on the arc of a circle deflecting to the left and having a radius of 299.82 feet, an arc distance of 40 feet to the most easterly corner of said Lot 18; thence southwesterly along the Southerly line of said Lot, 90.18 feet to an angle in said line; thence Northwesterly 61.56 feet to a point on the Northerly line of said lot distant, 79.88 feet, Southwesterly from the point of beginning; and thence Northwesterly with said line 79.88 feet to the place of beginning except so much of said above described land as was conveyed to the United States of America by Deed recorded in Liber 1170 at folio 308 among the Land Records of the District of Columbia for the extension of the Washington Aqueduct.

Said parts of Lots 19 and 20 described as follows:

BEGINNING for the same on the Westerly line of 17th Street at the Northeasterly corner of said Lot 20 and running thence along the Northerly line of said Lot 20 the 2 following courses and distances (1) Westerly 89.12 feet (2) Southwesterly 24 feet to the Northeasterly corner of Lot 74 in Square 2567, as per plat recorded in Liber No. 111, folio 70 of the aforesaid Surveyor's Office Records thence Southeasterly along the Easterly lines of Lots 74, 73, 72, 71, 70, 69, 68 and 67 in said Square and said subdivision to the Southerly line of said Lot 19; thence Easterly along the said Southerly line of said Lot 19; thence Easterly along the said Southerly line of said Lot 19 to the Southeasterly corner of said Lot 19; thence Northerly along the said Westerly line of said 17th Street on the arc of a circle deflecting to the right the radius of which is 299.32 feet, an arc distance of 100 feet to the place of beginning.

Said parts of Lots 17 and 18 being subject to covenants of record.

SUBJECT TO the covenants and easements contained in Instrument No. 17049 recorded June 27, 1960 among the Land Records of the District of Columbia by and between American Council on Education and District of Columbia.

All of the above-described land is now known for assessment and taxation purposes as Lot 850 in Square 2567.

EXHIBIT C

Legal Description of That Part of Lot 850 in Square 2567
Which Was Formerly Known as Lots 811, 834, 838 and 839

Parts of Lots 17, 18, 19 and 20 in Block 3 in Hall and Elvans' subdivision of land now known as "Meridian Hill", as per plats recorded respectively in Liber E.C.E. No. 24 folio 499 of the Land Records of the District of Columbia and in Liber Levy Court No. 2 folio 58 of the Records of the Office of the Surveyor of the District of Columbia; said part of Lot 17 being described in accordance with a Plat of Survey recorded in Survey Book 37 page 339 of said Surveyor's Office Records, as follows: Beginning for the same on the Westerly line of 17th Street at the Northeasterly corner of said lot, and running thence Southeasterly along said line of said street, 40 feet to the Southeasterly corner of said Lot 17; thence Southwesterly along the Southerly line of said lot, 110.50 feet; thence Northerly 60.82 feet to a point on the Northerly line of said lot, distant 80.50 feet from the point of beginning, and thence along the Northerly line of said lot, 80.50 feet to 17th Street and the place of beginning;

Said part of Lot 18 being described in accordance with a plat of Computation recorded in Survey Book 102 page 45 of said Surveyor's Office Records, as follows: Beginning for the same on the Southwesterly line of 17th Street at the most Northerly corner of said lot, and running thence Southerly along said line of said street on the arc of a circle deflecting to the left and having a radius of 299.82 feet, an arc distance of 40 feet to the most Easterly corner of said Lot 18; thence Southwesterly along the Southerly line of said lot, 90.18 feet to an angle in said line; thence Northwesterly 61.56 feet to a point on the Northerly line of said lot, distance 79.88 feet Southwesterly from the point of beginning; and thence Northeasterly with said line, 79.88 feet to the place of beginning; except so much of said above described land as was conveyed to the United States of America by Deed recorded in Liber 1170 folio 308 among the Land Records of the District of Columbia, for the extension of the Washington Aqueduct;

Said parts of Lots 19 and 20 described as follows: Beginning for the same on the Westerly line of 17th Street at the Northeasterly corner of said Lot 20 and running thence along the Northerly line of said Lot 20 the 2 following courses and distances (1) Westerly 89.12 feet (2) Southwesterly 24 feet to the Northeasterly corner of Lot 74 in Square 2567, as per plat recorded in Liber No. 111 folio 70 of the aforesaid Surveyor's Office Records; thence Southeasterly along the Easterly lines of Lots 74, 73, 72, 71, 70, 69, 68 and 67 in said Square and said subdivision to the Southerly line of said Lot 19; thence Easterly along the said Southerly line of said Lot 19 to the Southeasterly corner of said Lot 19; thence Northerly along the said Westerly line of said 17th Street on the arc of a circle deflecting to the right the radius of which is 299.82 feet, an arc distance of 100 feet to the place of beginning.

SUBJECT TO the covenants and easements contained in Instrument No. 17049 recorded June 27, 1960 among the Land Records of the District of Columbia by and between American Council on Education and District of Columbia.

All of the above described property being known for purposes of assessment and taxation as that portion of Lot 850 in Square 2567 which was formerly known as Lots 811, 834, 838 and 839 in Square 2567.

1072936_v4

EXHIBIT D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 17070 of Meridian International Center, (the "applicant") pursuant to 11 DCMR § 3104.2, under Section 214 to modify Conditions (e) and (f) of BZA Order No. 5802, dated February 24, 1960, to allow accessory parking for the building located at 1630 Crescent Place, N.W. (Square 2568, Lot 809) to be relocated from the surface to two levels of underground garage in new development permitted on the subject property as a matter of right in the R-5-B District at premises located at 17th and Belmont Streets, N.W. (Square 2567, Lot 850) (the "Application").

HEARING DATE: September 30, 2003
DECISION DATE: October 14, 2003

DECISION AND ORDER

On October 14, 2003, the Board of Zoning Adjustment voted to grant the above application for the reasons stated below.

PRELIMINARY MATTERS

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

Notice of Public Hearing The Board of Zoning Adjustment (the Board) scheduled a hearing for September 30, 2003. Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (ANC) 1C, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

ANC 1C The subject site is located within the jurisdiction of ANC 1C, which is automatically a party to this application. Although not required to do so under applicable law, the applicant met with ANC representatives, resulting in the development of a Memorandum of Understanding between the ANC and Meridian International Center (the "Meridian MOU"). The Meridian MOU encompasses a number of different issues, all designed to address parking and traffic in the neighborhood, both during construction and after construction. Consistent with the MOU, the ANC voted unanimously to support the application with conditions, and filed a report to this effect pursuant to 11 DCMR § 3119.2.

Requests for Party Status The Board received one request for party status in opposition from the Beekman Place Condominium Association, Inc., ("Beekman") represented by its treasurer, Christiane L. Roehler. Over objection by the applicant, the Board granted party status to Beekman based upon its proximity to the proposed new development. Beekman maintained that the proposed relocation of the parking spaces and proposed development of the site would aggravate the current parking difficulties in the neighborhood. However, Beekman eventually withdrew its opposition during the course of the proceedings, in part based upon its support of the negotiated Meridian MOU.

OP Report OP's report indicated that the application meets the tests for special exception approval, and recommended that the application be approved with conditions. The OP presented four recommended conditions for approval. Restated, these conditions provide:

(1) The brick wall at the parking lot required by the previous Board order would be maintained only so long as the area was used exclusively as a surface parking lot.

(2) The 38 parking spaces required under the previous Board order would continue to be required but could be relocated to an underground garage at the same site. The covenant recorded among the land records which reflected the obligation to provide spaces at the site may be modified to allow for an underground garage beneath the new development at the site.

(3) Meridian would buy or lease 40 off-street parking spaces during the project construction period. The construction period is defined as the period beginning from the first day the parking spaces located on the existing lot are made inaccessible by construction, to the date Meridian takes possession and is able to use the 39 parking spaces in the new garage.

(4) Meridian would provide an attendant, on an as-needed basis, to maximize the use of parking space on its property located at 1630 Crescent Place, known as the east parking lot, to achieve the full capacity of 50 spaces for events.

Parties and Persons in Support The Board received a letter in support of the application from Jim Graham, Ward 1 Councilmember. ANC 1C, through testimony by Jeff Coudriet, the ANC Single Member District representative for 1C08, in which this site is located, and by letter dated September 23, 2003, from Alan Roth, ANC chair, supported the application provided that the Meridian MOU were incorporated in the new Board order. Carl Schmidt, a resident of the Beekman Place Condominium Association, testified and submitted a letter in support of the application, also conditioned upon incorporating the Meridian MOU and

certain aspects of a second Memorandum of Understanding between the developer of the site and the ANC (the "Developer MOU"), in the Board's order.

FINDINGS OF FACT

1. Meridian International Center ("Meridian") holds a special exception to operate a private school and cultural center at 1630 Crescent Place, N.W, Square 2568, Lot 809. The special exception was approved by this Board in Appeal No. 5802 in an order dated (on or about) February 24, 1960 ("the 1960 order")[1].

2. The 1960 order also granted Meridian a special exception for off-site accessory parking at 17th and Belmont Streets, N.W., in Square 2567, Lot 850. (the "site"). This site, which is the subject of this proceeding and which is also owned by Meridian, is located in the R-5-B District.

3. Meridian proposes to sell the site to a developer for matter-of-right residential development under the existing R-5-B zoning of the property. The existing accessory parking lot contains 38 spaces. As a condition of the sale of the site, Meridian has reserved for itself the ownership and exclusive use of 39 parking spaces to be located in the new construction on the site, in a below-grade garage.

4. Meridian seeks approval to modify two conditions within the 1960 Board order granting the original special exception approval to Meridian. Because of the proposed matter-of-right development, conditions within the order must be modified, as follows: Condition "e" of the order requires a 42 inch high, 12 inch thick, brick wall along the street frontage. This requirement will become unnecessary if the property is developed as proposed. Condition "f" of the order requires the site to be used "exclusively" as the required accessory parking for the Meridian building. This requirement conflicts with the matter-of-right development which is proposed.

5. The Board finds that that the applicant's proposal to relocate the parking to a below-grade garage will not result in the loss of any accessory parking and will actually result in one more parking space than was required in the 1960 order.

6. The Board is persuaded that Meridian will meet its obligation to provide temporary accessory parking elsewhere during the construction period. While the residential development and garage is being constructed at the site, Meridian will provide accessory parking at a lot located at the east end of its property, adjacent to

[1] Special exceptions were identified as appeals at the time of the original order. The Board's rules of procedures were subsequently amended to identify special exceptions as applications.

Meridian's White-Meyer building (the "White-Meyer Parking Lot"). In addition, Meridian has entered into an agreement with a commercial parking garage operator which will enable it to provide 40 accessory parking spaces in the vicinity of the site during the construction period.

CONCLUSIONS OF LAW

Meridian Qualifies for Modification of its Special Exception. Meridian's application will be treated as a request to modify its1960 special exception to operate accessory parking spaces at a site near the school and cultural center. The 1960 approval was granted pursuant to § 3101.411 of the Zoning Regulations in effect at the time (*Zoning Regulations of the District of Columbia*, effective May 12, 1958). As a result, the Board will not evaluate each and every one of the special exception criteria that were established at that time. Rather, the Board will examine only those aspects of the special exception that Meridian seeks to modify, i.e. relocating the surface parking spaces to an underground garage.

The proposed modification is in accord with the Zoning Regulations. The requested special exception modification must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1. The proposed modifications in this case meet each of these requirements. The underground garage will be compatible with the surrounding neighborhood, particularly the matter-of-right residential development. The special exception for accessory parking has existed for over 40 years without any adverse effects on neighboring properties. Meridian merely seeks to relocate the surface parking spaces to an underground garage. Provided Meridian complies with the conditions specified in this order, the relocated parking spaces should not result in any adverse impacts on neighboring properties.

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, as amended; D.C. Official Code § 1-309.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC's issues and concerns. In this case the ANC supported Meridian's proposal to modify the special exception for accessory parking, provided certain aspects of the negotiated MOUs were incorporated in the Board's Order. However, the Board may only impose conditions that are necessary to mitigate the potential adverse impact of

the zoning relief granted. Therefore the Board is only imposing those MOU terms that meet this standard as conditions of this modification.

In light of the foregoing, the Board **ORDERS** that the application is hereby **GRANTED** to allow accessory parking for the building located at 1630 Crescent Place, N.W. (Square 2568, Lot 809) to be relocated from the surface parking lot to two levels of underground garage in new development permitted on the subject property as a matter of right in the R-5-B District at premises located at 17th and Belmont Streets, N.W. (Square 2567, Lot 850) **SUBJECT** to the following **CONDITIONS**:

1. The brick wall at the parking lot required by Condition (e) of the 1960 Board order shall be maintained for so long as the area is used exclusively as a surface parking lot.

2. The 38 parking spaces required by Condition (f) of the previous Board order shall continue to be required (with one additional space) but will be relocated to an underground garage at the same site. The covenant recorded among the land records which reflected the obligation to provide spaces at the site shall be modified to allow for an underground garage beneath the new development at the site.

3. Meridian shall buy or lease 40 off-street parking spaces for use during the project construction period. The construction period is defined as the period beginning from the first day the parking spaces located on the existing lot are made inaccessible by construction, to the date Meridian takes possession and is able to use the 39 parking spaces in the new garage.

4. Meridian shall provide an attendant and/or valet parking as follows:

   a. For all events at Meridian where any guests are expected to utilize the new parking garage, an attendant will be stationed near the garage entrance to direct guests to the Meridian parking spaces in the garage, and to provide access through the security gate;

   b. For all events of 150 or more guests, attendants will also be stationed in the parking garage, adjacent to the Meridian parking spaces, and in Meridian's White-Meyer Parking Lot on Crescent Place, N.W., to assist with efficient utilization of the parking area, including the use of stacked parking;

   c. For all events of 200 or more guests, Meridian will use valet parking.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, and David A. Zaidain to approve; John G. Parsons to approve by absentee vote; Curtis L. Etherly, Jr. not present, not voting).

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 NOV 18 2003

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.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF

1977, AS AMENDED, D.C. OFFICIAL CODE § 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, FAMILIAL 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. SG/RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 17070

As Director of the Office of Zoning, I hereby certify and attest that on NOV 18 2003 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:

Christopher H. Collins
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 1C
P.O. Box 21652
Washington, D.C. 20009

Single Member District Commissioner 1C08
Advisory Neighborhood Commission 1C
P.O. Box 21652
Washington, D.C. 20009

Jim Graham, City Councilmember
Ward One
1350 Pennsylvania Avenue, N.W., Suite 406
Washington, D.C. 20004

Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E., 4th Floor

Washington, D.C. 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

Doc# 2004031907
Book:
Pages: —
Filed & Recorded
03/08/2004 11:06:37 AM
LARRY TODD
RECORDER OF DEEDS
WASHINGTON D.C. RECORDER OF DEEDS
RECORDING $ 111.00
SURCHARGE $ 6.50

THIS IS TO CERTIFY THAT THIS IS A TRUE COPY

Larry A. Todd

Recorder of Deeds, D.C.

MAR 08 2004