GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17080 of Asian American LEAD pursuant to 11 DCMR § 3104.1 for a special exception to allow the establishment of a community center under section 209 in the R-4 District at premises 1323 Girard Street, N.W. (Square 2855, Lot 828).

HEARING DATE: December 2 and December 9, 2003
DECISION DATE: January 20, 2004

DECISION AND ORDER

This application was submitted on September 9, 2003 by Asian American LEAD ("Applicant"), the owner of the property that is the subject of the application. The self-certified application requested a special exception to establish a community center at 1323 Girard Street, N.W. (Square 2855, Lot 828). Following a hearing conducted on December 2 and 9, 2003 and a public meeting on January 20, 2004, the Board granted the special exception for a term of five years by a vote of 3-0-2.

PRELIMINARY MATTERS:

Notice of Application and Hearing. By memoranda dated September 10, 2003, the Office of Zoning mailed notice of the application to the Office of Planning ("OP"), the Department of Transportation ("DDOT"), the Councilmember for Ward One, Advisory Neighborhood Commission ("ANC") 1B, and Single Member District/ANC 1B08. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed letters or memoranda dated September 25, 2003 to the Applicant, ANC 1B, and all owners of property within 200 feet of the subject property, providing notice of the hearing. Notice of the hearing was also published in the *D.C. Register* on October 3, 2003 (50 DCR 8174).

Requests for Party Status. ANC 1B was automatically a party in this proceeding. The Board granted requests for party status in opposition to the application from Gary Imhoff and Dorothy Brizill, residents of the property abutting the subject property.

Applicant's Case. The Applicant presented testimony from witnesses including the executive director and co-chair of the board of directors of Asian-American LEAD, who described the proposed community center use, and an architect, who described proposed modifications to the building and parking area to accommodate the community center use.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17080
EXHIBIT NO. 43

Board of Zoning Adjustment
District of Columbia
CASE NO. 17080
EXHIBIT NO. 43

Government Reports. By report dated November 13, 2003 and through testimony at the public hearing, the Office of Planning recommended approval of the requested special exception for a period of five years. According to OP, DDOT expressed no objection to the Applicant's proposed use of the subject property.

ANC Report. By letter dated November 9, 2003, ANC 1B indicated that, at a public meeting with a quorum present, the ANC voted unanimous support for the application.

Parties in Opposition. The parties in opposition to the application did not request denial of the application, but did express concerns about the concentration of community-based facilities and social service institutions already located in the residential neighborhood in the vicinity of the subject property, adequate parking for the Applicant's proposed community center, adequate adult supervision of its clients, and an adequate fire escape and modifications of the exterior building that might adversely affect the residential character of the neighborhood. The parties in opposition also requested that the BZA review after 2 years any exception or variance that might be granted.

Persons in support or opposition. The Board received several letters in support of the application and heard testimony in support from Bill Shortinghouse, a resident of a dwelling directly across the street from the subject property. No persons testified in opposition to the application.

FINDINGS OF FACT

1. The subject property is located at 1323 Girard Street, N.W. (Square 2855, Lot 828) in the Columbia Heights neighborhood of Ward One. The site is improved with a brick three-story detached building built as a single-family residence in 1895. A driveway is located on the east side of the lot.

2. The subject property is an interior lot on the north side of Girard Street. The square is bounded by 13th Street to the east, 14th Street to the west, Harvard Street to the north, and Girard Street to the south. A public alley parallel to Girard and Harvard Streets abuts the subject property at the rear of the lot. The rear yards of rowhouses fronting on Harvard Street are located across the alley from the subject property. A parking lot abuts the subject property to the east, while a single-family detached dwelling is located on the property abutting the site to the west.

3. The subject property is zoned R-4. Nearby properties are zoned R-4, R-5-D, and C-2-B.

4. The Applicant proposes to renovate the existing building on the subject property for use as a community center. An exterior egress will be constructed at the rear

of the building, with a staircase connecting the basement and three above-grade floors and a handicap lift providing access to the first floor.

5. The subject property was previously owned by Sojourners, a nonprofit Christian ministry, which operated a neighborhood center that provided child care and after-school programs, parenting support groups, and summer programs and recreational activities.

6. Certificate of Occupancy No. B138348, issued April 13, 1984 to Sojourners, authorizes use of the first, second, and third floors of the building on the subject property as a church. After purchasing the subject property from Sojourners, the Applicant filed a change of ownership request and on November 15, 2002 was issued Certificate of Occupancy No. CO 44577 authorizing church use.

7. The Applicant is a 501(c)(3) nonprofit organization organized for charitable, educational, and social service purposes "to nurture Asian American youth and families, to develop leadership, and to strengthen community building through a partnership between youth and adults."

8. The proposed community center will serve the needs of Asian-American youth and families, particularly in the Columbia Heights and Mount Pleasant communities, through three core programs: (i) an after-school academic enrichment/tutoring program for students ages 6 to 19; (ii) a family-strengthening program that will provide educational, social, and parenting support services; and (iii) a mentoring program. Activities at the community center will be provided with adult supervision.

9. The Applicant previously operated similar programs in leased space at 3045 15th Street, N.W.

10. The hours of operation of the community center are expected to be 10:00 a.m. to 7:00 p.m., Monday through Friday. The Applicant will occasionally host meetings (such as meetings of the community center staff or board of directors) and special events (such as parent nights, volunteer receptions, holiday parties, and art or other exhibits or performances) in the evening or on weekends.

11. No articles of commerce will be offered for sale or sold at the subject property.

12. The community center will have a staff of 11 employees. The Applicant's current programs cater to approximately 160 people, with 50 to 60 people on site at any given time. Participants in the mentoring program typically arrange meetings at locations other than the community center.

13. Because the community center is intended to serve the neighboring community, most participants in the programs are expected to walk to the subject property or arrive by public transportation. The subject property is located near a well-served bus route and within walking distance of the Columbia Heights Metrorail station.

14. The rear portion of the subject property will be graded and paved so as to provide four parking spaces accessible from the alley. A fifth space, reserved for handicapped use, will be located in the driveway and accessed from Girard Street.

15. The parking lot abutting the subject property is owned by Easter Seals Child Development Center, located at 1325 Girard Street, N.W. By letter dated December 4, 2003, Easter Seals indicated its willingness to extend its agreement with the Applicant for the lease of two parking spaces in the lot "for as long as [the Applicant] needs them." The letter stated that the two spaces are solely for the Applicant's use and are not also rented to any other organization.

16. Under chapter 21 of the Zoning Regulations, the parking requirement applicable to a community center use is the same as the parking requirement for a church, the use for which a certificate of occupancy was issued to the prior owner of the subject property. Therefore, a change in use of the subject property to community center does not generate a requirement to provide additional spaces under 11 DCMR § 2100.4

17. The Board credits the Office of Planning's conclusion that the community center's activities will not likely become objectionable to neighboring property because the center's programs will cater to a small population residing in the immediate neighborhood.

18. The Board credits the testimony of ANC 1B that the Applicant is a nonprofit organization formed to promote the well-being of a targeted community within Columbia Heights, that a community center located at the subject property would be convenient to the targeted population, and that, based on its design and expected activities, the proposed community center would not become objectionable to neighboring properties.

CONCLUSIONS OF LAW

The Applicant seeks a special exception pursuant to 11 DCMR § 3104.1 to establish a community center in an R-4 zone under § 209. The Board is authorized to grant special exceptions where, in the Board's judgment, a special exception would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and

would not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. 11 DCMR § 3104.

The Board concludes that the Applicant has met its burden of proof with respect to the application for a special exception to establish a community center in accordance with the provisions of § 209. The Applicant is not organized for profit and will not offer articles of commerce for sale in the community center, but will promote the social welfare of its neighborhood, particularly with respect to Asian-American youth and families. The Board is persuaded by the Applicant's testimony that the community center is both reasonably necessary and convenient to the neighborhood where it will be located, since the activities offered at the community center will provide needed services primarily to a targeted population in the surrounding neighborhood.

The Applicant's community center is not likely to become objectionable because of noise or traffic. The center's activities will be supervised and will take place indoors, primarily during the day and early evening hours. The community center is not likely to generate substantial traffic, given its location convenient to public transportation and the likelihood that many participants will arrive on foot. The center will provide parking for seven vehicles, with five spaces on the subject property and two more rented on an abutting parking lot.

The requested special exception is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property. The building on the subject property was originally constructed as a residence but has been used for church or community center purposes for several decades. The modifications to the building proposed by the Applicant will not greatly alter its residential appearance.

The Board has accorded ANC 1B the "great weight" to which it is entitled. The record reflects that the affected ANC voted unanimously to support the Applicant's request for a special exception to establish a community center at the subject property. The Board credits the unique vantage point held by the ANC with respect to the effect of the requested special exception on its constituents. The Board has also accorded great weight to the recommendation of the Office of Planning. The Board credits OP's conclusion that a five-year term is appropriate for the requested special exception.

For the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception to establish a community center in an R-4 zone pursuant to 11 DCMR §§ 209 and 3104. Accordingly, it is therefore **ORDERED** that the application is **GRANTED** for a term of five years from the effective date of this order.

VOTE: **3-0-2** (Geoffrey H. Griffis, Ruthanne G. Miller, and David A. Zaidain to grant the application; Curtis L. Etherly, Jr., not voting, having recused himself; Anthony J. Hood, not present, not voting)

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

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

FINAL DATE OF ORDER: MAR 0 5 2004

UNDER 11 DCMR 3125.9, "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."

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.

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. MN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 17080

As Director of the Office of Zoning, I hereby certify and attest that on MAR 0 5 2004 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:

Kerri R. Sikorski
Hogan & Hartson LLP
555 13th Street, N.W.
Washington, D.C. 20004

Doroth Brazill
1327 Girard Street, N.W.
Washington, D.C. 20009

Gary Imhoff
1327 Girard Street, N.W.
Washington, D.C. 20009

Chairperson
Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, D.C. 20056

Single Member District Commissioner 1B08
Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, D.C. 20056

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