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**Dennis R. Hughes**
(202) 419-2448
dennis.hughes@hklaw.com

March 26, 2004

Mr. Clifford W. Moy
Office of Zoning
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Re: BZA Application No. 17099

Dear Cliff:

Enclosed please find a copy of the executed First Amendment to Development and Interim Usage Agreement entered into by the Most Worshipful Prince Hall Grand Lodge, the Westminster Neighborhood Association and ANC 1B. This is the fully executed version of the document that we provided you prior to the Board's meeting on March 23rd. Please be so kind to supplement the official record of the case to include this fully executed Amendment.

Thank you for your attention to this matter.

Sincerely,

Dennis/c

Dennis R. Hughes

Enclosures
cc: Philip Spalding, ANC 1B
Lynn Johnson, Westminster Neighborhood Association
Ken Collins, EOP Group

# 1146631_v1

D.C. ZONING COMMISSION
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BZA
Case No. 17099
Exhibit No. 43

Board of Zoning Adjustment
District of Columbia
CASE NO. 17099
EXHIBIT NO. 43

# FIRST AMENDMENT TO DEVELOPMENT AND INTERIM USAGE AGREEMENT

**THIS FIRST AMENDMENT TO DEVELOPMENT AND INTERIM USAGE AGREEMENT** ("First Amendment") is made as of this ___ day of March, 2004, by and among (i) the Most Worshipful Prince Hall Grand Lodge (the "Lodge"), (ii) the Westminster Neighborhood Association ( the "WNA") and (iii) Advisory Neighborhood Commission 1B ("ANC 1B")(collectively, the "Parties").

## RECITALS

WHEREAS, the Lodge, WNA, and ANC 1B are parties to that certain Development and Interim Usage Agreement dated March 10, 2004 (the "Agreement"); and

WHEREAS, the Parties desire to make certain modification to the Agreement with respect to Paragraph 2 of the Terms and Conditions of the Agreement; and

WHEREAS, Paragraph 6 of the Terms and Conditions of the Agreement requires that any modification to the Agreement must be made in writing and duly executed by authorized representatives of the Parties.

NOW, THEREFORE, the Parties, intending legally to be bound, hereby agree as follows:

The second paragraph of Paragraph 2 of the Terms and Conditions of the Agreement - "Enforcement" – is deleted in its entirety and replaced with the following:

"Solely with respect to the Development Project process and timeline, and in addition to any and all of the rights of the Parties set forth above, the WNA and ANC 1B may also pursue enforcement of the above-referenced process and timeline by arbitration. Upon the joint determination of the WNA (through its Mason Parking Lot Committee) and the ANC 1B02 commissioner that the Development Project process and timeline is not being satisfied by the Lodge, the WNA and ANC 1B may institute a proceeding with JAMS or any other arbitration company acceptable to all parties..Prior to initiating such an arbitration hearing, the WNA and ANC 1B shall provide the Lodge written notice of its intent to initiate arbitration and provide the Lodge fifteen (15) business days to take appropriate corrective or remedial action, or to provide satisfactory explanation to the WNA and ANC 1B for its noncompliance with the process and timeline set forth above.

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The arbitration shall apply the laws of the District of Columbia and shall administer the proceeding pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on any award may be entered in any court having jurisdiction. JAMS shall hold a hearing within 30 days of receipt of such request, or as soon thereafter as feasible, and a sole arbiter, experienced in building construction, shall issue a decision, which decision shall not be subject to appeal.

If the arbiter determines that the Lodge has substantially breached the development process and timeline, the Lodge shall refrain from parking on the Vermont Avenue Property within 7 calendar days of the issuance of the arbiter's decision and until such time as the Lodge comes into compliance with the Development Project process and timeline, which compliance shall be determined by the arbiter. There shall be no right to appeal the arbiter's decision.

If ~~the Lodge~~ any party fails to comply in good faith with the arbiter's decision and any party brings suit or any other action to enforce the arbiter's decision, reasonable costs of such action, including attorneys fees, shall be paid by the losing party to the successful party. This paragraph does not apply to ANC 1B, and accordingly, ANC 1B agrees not to institute any enforcements efforts.

IN WITNESS WHEREOF, the parties signing below state that they have the authority to represent the party they are claiming to represent and have set their hands and seals the day and year set forth above.

Aaron R. Jordan,
The Most Worshipful Grand Master,
Most Worshipful Prince Hall Grand Lodge

Witness

Deborah R. Thomas, Chair,
Advisory Neighborhood Commission 1B

Witness

Lynn H. Johnson, President,
Westminster Neighborhood Association

Witness

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Case No. 17099
Exhibit No. 43

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IN WITNESS WHEREOF, the parties signing below state that they have the authority to represent the party they are claiming to represent and have set their hands and seals the day and year set forth above.

Aaron R. Jordan,
The Most Worshipful Grand Master,
Most Worshipful Prince Hall Grand Lodge

Witness

Deborah R. Thomas, Chair,
Advisory Neighborhood Commission 1B

Witness

Lynn H. Johnson, President,
Westminster Neighborhood Association

Witness