GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17099 of The Most Worshipful Prince Hall Grand Lodge, pursuant to 11 DCMR §3104.1, for a special exception under section 214 and subsection 2116.5, and pursuant to 11 DCMR §3103, for two variances from § 214, to permit open accessory parking spaces in an R-4 District at premises 1902-1906 Vermont Avenue, N.W. (Square 333, Lot 827).

Note: The Board amended the application to include special exception and variance relief under § 214. Upon the request of the parties, the Board also amended the application to remove lots 824 and 825 from consideration.

HEARING DATE: March 16, 2004
DECISION DATE: March 23, 2004

SUMMARY ORDER

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 provided proper and timely notice of the public hearing on this application by publication in the D.C. Register (51 D.C.R. 734, 50 D.C.R. 11063) and by mail to Advisory Neighborhood Commission ("ANC") 1B and to owners of property within 200 feet of the site.

ANC1B: The subject property of this application is located within the boundaries of ANC 1B, which is automatically a party to this application. ANC 1B submitted a written statement and attended the public hearing in support of the application, requesting the Board to approve the application referencing the Development and Interim Usage Agreement ("Agreement"), dated March 10, 2004, entered into by the Applicant, ANC 1B and the Westminster Neighborhood Association (identified below), and included in the record as Exhibit Nos. 34 and 43. The Agreement addresses a process and timeline for redevelopment of the subject property, and also establishes specific landscape, security, and maintenance requirements for the interim use of the subject property for accessory parking by the Applicant for a period of 36 months.

Request for Party Status: The Westminster Neighborhood Association ("WNA") requested to participate as a party in this proceeding. The Applicant had no objection to

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the request. WNA was granted party status by the Board. While WNA's original application for party status was filed in opposition to the application, WNA withdrew its opposition and now supports the application based upon the execution of the Agreement. Consistent with the Agreement, WNA requests that the Board incorporate the Agreement into the Board's decision and order.

Report of the Office of Planning: The D.C. Office of Planning submitted a written report and testified in support of the application subject to the following conditions:

A. Approval shall be for a period of three (3) years.

B. The parking area shall be limited to Lot 827 with 20 parking spaces. Lots 824 and 825 shall be maintained as landscaped lots only.

C. The parking lot shall be used by tenants of the Applicant's building and members of the lodge only; spaces may not be used for commercial purposes.

D. The Applicant shall implement the landscaping plan as submitted. The parking lot shall be maintained and landscaped as specified in the Applicant's Development and Interim Usage Agreement with WNA and ANC 1B.

E. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

F. Any lighting used to illuminate the parking lot or its accessory building shall be arranged so that all direct rays of lighting will be confined to the surface of the parking lot.

G. All parking spaces shall meet code standards with respect to size and location as required by §§ 2115 and 2116 of the Zoning Regulations.

Report of the Department of Transportation: The D.C. Department of Transportation submitted a written report offering no objection to the application.

Agreements among the Parties: In addition to the Development and Interim Usage Agreement, the Applicant, ANC 1B, and WNA entered into a Planting Installation and Maintenance Agreement ("Planting Agreement"), included in the record as Exhibit No. 37. The Planting Agreement requires the Applicant to install and maintain a landscaping buffer in Lot 825 consistent with the original plans filed in Application No. 17099.

As directed by 11 DCMR §3119.2, the Board has required the Applicant to satisfy the burden of proving the elements necessary to establish the case for a special exception pursuant to §§ 3104.1, 214, and 2116.5, and for variance relief pursuant to § 3103.2 from §§ 214.3 and 214.4. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Pursuant to 11 DCMR § 3100.5, 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.

Based upon the record before the Board, including the Agreement, and having given great weight to the ANC's report and the Office of Planning's report, the Board concludes that the Applicant has met the burden of proof and that the requested relief can be granted as being in 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.

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

1. Approval shall be for a period of **THREE (3) YEARS.**

2. Use Restrictions -- The interim use of Lot 827 as an accessory parking lot shall be subject to the following parameters:

    a. The parking lot shall be limited to a maximum of 20 parking spaces, with a minimum of 2 spaces for handicapped parking, as shown in the drawings approved by the BZA in its approval of Application No. 17099;

    b. All parking spaces shall meet applicable standards with respect to size and location as set forth in §§ 2115 and 2116 of the Zoning Regulations;

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

d. The parking lot shall be reserved for the exclusive use of the Applicant, its members, and tenants of the Prince Hall Masonic Temple, and no spaces shall be used for any commercial purposes.

3. Landscaping -- During its interim use as a parking lot, the subject property shall comply with the following landscaping requirements:

a. A row of thickly planted evergreen hedges at least 12 inches thick and 42 inches high shall be planted and maintained along the east (except for the driveway) and south sides, and along the alley from 11th Street to and including along the locked gate on the north side of Lot 827. The hedges shall be planted so as to hide from view the chain link fence enclosing the parking lot. The hedges shall also be of sufficient thickness to effectively contain and screen any significant light from automobile headlights from shining outside the perimeter of the parking lot. The hedges shall be maintained so as not to grow above 50 inches high;

b. Landscaping with trees and shrubs shall cover a minimum of five percent of the total area of the subject property. The landscaping shall be purchased and planted within 90 days after March 23, 2004, (the date of the BZA's vote granting Application No. 17099). The Applicant shall solicit and consider the input of WNA and ANC 1B with respect to the landscaping materials to be chosen;

c. The Applicant shall retain the services of a qualified, reputable, professional, and licensed company for the purchase, installation, and continual maintenance of the landscaping. The retention of the landscaping professional shall occur within 60 days after March 23, 2004, (the date of the BZA's vote granting Application No. 17099). The landscaping chosen and planted shall be maintained in a healthy growing condition and in a neat and orderly appearance.

4. Maintenance -- During its interim use as a parking lot, the subject property shall comply with the following maintenance standards:

a. All areas of the parking lot devoted to driveways, access lanes and parking areas shall be paved and maintained so as to form an all-weather impervious surface;

b. All parts of the parking lot and surrounding area shall be kept free of refuse and debris. This area shall include the sidewalks surrounding the parking lot and leading from the parking lot to the Prince Hall Masonic Temple, and that portion of the public alley abutting the parking lot;

c. The Applicant shall implement a written plan for trash and debris removal from the parking lot and surrounding area and provide a copy of same to WNA and ANC 1B within 30 days after March 23, 2004 (the date of the BZA's vote granting Application No. 17099). Such plan shall address removal of "bulk trash" that might be dumped on the subject property, the frequency of trash removal, and the collection of litter from the sidewalks immediately adjacent to the subject property;

d. At least one trash receptacle shall be installed in the parking lot for the use of those utilizing the parking lot and shall be emptied on a regular basis. Such receptacle(s) should be aesthetically consistent with the historic character of the neighborhood and shall be installed within 30 days after March 23, 2004, (the date of the BZA's vote granting Application No. 17099;

e. All snow shall be cleared from the sidewalks along the east and south sides of the parking lot within 8 hours after the snow stops falling. The Applicant shall retain the advance services of a snow removal company that, on a consistent and reliable basis, shall provide for the timely removal of snow from these sidewalks.

5. Security and Traffic Control – During its interim use as a parking lot, the subject property shall comply with the following security standards:

a. The Applicant shall implement a written plan within 30 days after March 23, 2004, (the date of the BZA's vote granting Application No. 17099, for regular and periodic security monitoring of the parking lot;

b. All illumination of the parking lot shall be so configured to confine direct rays exclusively to the subject property;

c. The Applicant shall remind its membership at least quarterly, through regular announcements, leaflets, and other means, that the subject property is located within a residential area and that users of the parking lot should keep horn-honking, other noise, including conversations at the parking lot, and use of headlights to a minimum;

d. The Applicant shall encourage its membership at least quarterly, through regular announcements, leaflets, and other means, to utilize Metrorail or other public transportation to the Prince Hall Masonic Temple;

e. The Applicant shall erect a sign to be seen upon exiting that informs users of the parking lot not to enter the parking lot from the northbound lanes of Vermont Avenue.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr. (by absentee vote), John A. Mann II, and John G. Parsons (by absentee vote) voting to approve the application with conditions)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Summary Order and has authorized the undersigned to execute this Summary Order on his or her behalf.

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

FINAL DATE OF ORDER: MAY - 3 2004

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.

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/RSN

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BZA APPLICATION NO. 17099

As Director of the Office of Zoning, I hereby certify and attest that on MAY - 3 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:

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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
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