GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17145 of the Government of the District of Columbia (Washington Convention Center Authority), pursuant to 11 DCMR § 3103.2, for a variance to allow a temporary all-day commuter parking facility at the site of the former convention center under subsection 1702.7(c), in the DD/C-3-C District at premises 900 9th Street, N.W. (Squares 344, 373 and 374, All lots).

HEARING DATE: April 13, 2004
DECISION DATE: June 8, 2004

SUMMARY ORDER

Self-Certification

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

The Application

This application was submitted by the Government of the District of Columbia and Washington Convention Center Authority (an independent agency thereof), owner and operator of the former Washington Convention Center site (the site). The Applicant proposes to demolish the former Convention Center building and redevelop the site, using it on an interim basis for short term parking, all-day commuter parking, tour bus parking, park use, and public events. This application concerns only the all-day commuter parking which, under § 1702.7(c) of the Zoning Regulations, requires Board approval as a variance.[1]

Notice of Public Hearing

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F, the Office of Planning (OP) and to owners of property within 200 feet of the site. The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this

[1] Short term parking is permitted as-of-right where the spaces are leased to merchants or park-and-shop organizations (see, § 1702.7(a)). However, the site is several blocks from the closest retail stores and outside the range for park-and-shop organizations. Thus, only a portion of the site may lawfully be used for short term parking.

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effect.

ANC 2E The site of the application is located within the jurisdiction of ANC 2F, which is automatically a party to this application, but did not appear at the hearing. The ANC submitted a report in support of the application, containing several suggested conditions.[2] Because the ANC report was submitted after the public hearing, the Board voted to waive the time limitation to admit it into the record (Exhibit 42).

Requests for Party Status There were no requests for party status.

Persons in Support/Opposition The Board received letters in support and in opposition to the application. The Board also heard testimony from individuals who advocated that the site should be used on an interim basis as a shelter for the homeless.

Government Reports

OP Report The OP submitted a report recommending approval of the application subject to conditions (Exhibit 26).

Department of Transpiration (DDOT) Report DDOT submitted an initital report (Exhibit 28) and supplemental report (Exhibit 41). Both reports recommended approval to use the site for short term automobile parking and tour bus parking, but not all day commuter parking.

DECISION

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 1702.7(c), that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

[2] Certain of those conditions are incorporated in this Order.

Pursuant to 11 DCMR § 3101.6, 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 not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. Approval shall be for a period of **SIX (6) YEARS**.

2. Mandatory cleanup shall commence immediately after the conclusion of any and all events held at the site.

3. The site shall be equipped with adequate illumination.

4. The Applicant shall ensure that the organization selected to program special events on the old convention center site shall provide advance notice to ANC 2F of any proposed special event at the site. The notice from the event organizer shall be given to ANC 2F in sufficient time to: (1) allow ANC 2F to comment and make recommendations to minimize any adverse impacts of the event on ANC 2F; and (2) allow the event organizer to act upon ANC 2F's comment and concerns, if any, in the planning of the event.

VOTE: **4-0-1** (Curtis L. Etherly, Jr., Ruthanne G.Miller, Geoffrey H. Griffis (by absentee vote), Anthony J. Hood (by absentee vote) to approve, and John A. Mann, II abstaining)

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

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

FINAL DATE OF ORDER: JUN 2 1 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 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

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As Director of the Office of Zoning, I hereby certify and attest that on JUN 2 1 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
Director, Office of Zoning