GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17179 of Heritage Foundation, pursuant to 11 DCMR § 3104.1, for a special exception to continue an accessory parking lot (last approved under BZA Order No. 16250) serving single-family dwellings under § 214, and § 1202 (Capitol Interest Overlay), and § 2116.5 (Location of Parking Spaces), and pursuant to 11 DCMR § 3103.2, a variance to allow accessory parking spaces located elsewhere than on the same lot as the dwellings under § 214.1, a variance to allow the accessory parking spaces to be located more than 200 feet from the area to which they are accessory under § 214.3, and a variance to allow the accessory spaces not being contiguous to or separated by an alley from the area to which they are accessory under § 214.4, and a variance from § 2116.5, in the CAP/R-4 District at premises 415, 416, and 424 4th Street, N.E. (Square 780, Lots 43, 62, and 810).

Note: The Board amended the application to include special exception relief under § 1202 and special exception and variance relief under § 2116.5 of the Zoning Regulations.

HEARING DATE: June 29, 2004
DECISION DATE: July 13, 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 Application and Public Hearing: By memorandum dated April 12, 2004, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, Advisory Neighborhood Commission ("ANC") 6C, ANC single member district 6C08, and the Councilmember for Ward 6. The Office of Zoning provided proper and timely notice of the public hearing on the application by publication in the D.C. Register (51 D.C.R. 4067) and by mail to the Applicant, ANC 6C, and the owners of property within 200 feet of the site.

Parties: The subject property of this application is located within the boundaries of ANC 6C, which is automatically a party to this application. The Board denied a request for party status in opposition to the application from Henry Miller, a resident of the 400 block of 4th Street, N.E., who was not present at the hearing.

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Persons in support: The Board received letters in support of the application from the Capitol Hill Restoration Society, the Stanton Park Neighborhood Association, Unity Baptist Church, and several residents living near the subject property.
Government Reports: By memorandum dated June 29, 2004 and through testimony at the public hearing, the Office of Planning recommended approval of the application subject to conditions.

ANC Report: By letter dated June 21, 2004, ANC 6C indicated that, at a regularly scheduled public meeting on June 9, 2004, with a quorum present, the ANC voted 7-0 to pass a resolution in support of the application, subject to a term of seven years.

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, 1202, and 2116.5, and for variance relief pursuant to § 3103.2 from §§ 214.1, 214.3, 214.4, and 2116.5. 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, and having given great weight to the reports of ANC 6C and the Office of Planning, the Board concludes that the Applicant has met the burden of proof and that the requested relief, including the requested ten-year term, 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 ten (10) years from the effective date of this Order.

2. The number of parking spaces shall not exceed 55.

3. The lots shall be cleaned daily.

4. All parts of the lots shall be kept free of trash and debris.

5. The Applicant shall maintain a liaison person to ensure that the lots operate with minimal impact on the community. Community residents must be able to reach the contact person to express any concerns about the operation of the lots.

6. The lots shall be available for use between 7 p.m. and 8 a.m. and on weekends and holidays by those community members located within 200 feet.

7. Wheel stops shall be maintained at the top of each parking space.

8. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. The Applicant shall plant a minimum of one additional tree in the landscaped area at the center of each lot. In addition, the Applicant shall consult with a landscape expert to identify a hearty ground-level vegetation suitable for the alley lot location. The Applicant shall then install such vegetation in each of the three primary landscaped areas. The Applicant may also install additional landscaping, if feasible.

9. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a material forming an all-weather impervious surface.

10. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.

11. No other use shall be conducted from or upon the premises and no other structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zone district in which the parking lot is located.

12. Any lighting used to illuminate the accessory parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.

13. Signage shall be posted on the property, to include a telephone number, identifying the Heritage Foundation as the point of contact.

VOTE: 3-0-2 (Geoffrey H. Griffis, Ruthanne G. Miller, and John A. Mann, II to approve with conditions; Curtis L. Etherly, Jr. and Zoning Commission member not voting, not having heard

the case)

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, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUL 14 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. 17179

As Director of the Office of Zoning, I hereby certify and attest that on JUL 14 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