GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17200 of Potomac Foods, pursuant to 11 DCMR § 3104.1, for a special exception to permit the continued use of an accessory parking lot (last approved by BZA Order No. 16541) serving an existing Burger King restaurant under section 214, in the R-1-B District at the rear of 4422 Connecticut Avenue, N.W. (Square 1971, Lot 822).

HEARING DATE: October 5, 2004
DECISION DATE: November 2, 2004

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. ANC 3F submitted a resolution of conditional no objection to the application. The Office of Planning (OP) and Department of Transportation submitted reports in conditional support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 214. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1 and 214, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further

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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.

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. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. The application shall be approved for a period of **FOUR (4) YEARS**.

2. Deliveries and trash pick-up shall be limited to the hours of 10:00 a.m. to 6:00 p.m. daily.

3. Trash pick-up shall occur at least three times per week. The number of pick-ups shall be increased if the dumpsters are overflowing on a regular basis between pick-ups. On each of the dumpsters, the side door facing the western property line shall be welded closed.

4. Two trash cans shall be maintained on the parking lot and emptied at least once per day or more often if they are overflowing with trash.

5. All parts of the lot shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance, and the trees located on the Property shall be pruned at least once per year.

6. An exterminator shall perform monthly extermination services to control any rodents. In addition, the portion of the fence owned by the Applicant and located on the Property shall be reinforced underground to help prevent any rodents from entering the neighbors' properties.

7. A cable or chain shall be installed to close the entrance of the parking lot at times when the parking lot is not needed for operation of the restaurant.

8. The Applicant shall appoint a neighborhood and ANC liaison. The Applicant shall notify the ANC and all residences within 200 feet of the Property of the name, telephone number, and e-mail address of the appointed liaison. When that individual is no longer designated to act as the liaison, the Applicant shall use the same procedure to notify the neighborhood of his or her successor.

9. The Applicant shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions.

10. The Applicant shall replace non-existent or misplaced wheel stops.

11. The Applicant shall repaint and maintain the entrance and exit directional arrows on the surface of the parking lot.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller and John A. Mann II to approve, Curtis L. Etherly Jr. and John G. Parsons to approve by proxy vote).

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

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

FINAL DATE OF ORDER: November 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.

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. RSN

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BZA APPEAL NO. 17200

As Director of the Office of Zoning, I hereby certify and attest that on NOV 05 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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ATTESTED BY: _____
JERRILY R. KRESS, FAIA
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