GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17202 of First Washington Equities, LLC, pursuant to 11 DCMR § 3103.2 for a variance to establish an all-day commuter parking lot for eight (8) parking spaces under subsection 1702.7(c) in the DD/C-2-C District at premises 1017 4th Street, N.W. (Square 526, Lot 808).

HEARING DATE: September 14, 2004
DECISION DATE: September 14, 2004 (Bench Decision)

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 First Washington Equities, LLC. The property that is the subject of this application (the "Property") is located in the middle of the block that is bound by 4th Street, L Street, 3rd Street and K Street, N.W. The Property consists of only 2,552 square feet, is not paved or improved, and does not have alley access. The general area surrounding the Property consists of large vacant and underutilized properties and a few developed properties. A significant amount of loitering and prostitution occurs in the area surrounding the Property and on the property itself. The application requests variance relief[1] to establish an all-day commuter parking lot on the Property with eight (8) parking spaces in order to alleviate some of the parking constraints that currently exist in the surrounding area, and to provide more activity on the Property to prevent improper activities from occurring on the Property and in the surrounding area. The parking lot will be managed by a parking lot operator.

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") 6C, the Office of Planning ("OP"), and the owners of property within 200 feet

[1] Parking lots that provide short-term parking spaces, all of which are leased to merchants or a park-and-shop organization, and a parking facility only for residents are permitted as a matter-of-right in the DD/C-2-C District pursuant to 11 DCMR §1702.7(a) and (b).

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of the site. The Applicant posted placards on the Property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

Requests for Party Status and Persons in Support/Opposition

There were no requests for party status. There were no submissions to the record in support or opposition to this application.

ANC 6C

The site of this application is located within the jurisdiction of ANC 6C. ANC 6C is automatically a party to this case and filed a resolution in support of this application. The Board granted a waiver of 11 DCMR §3115.1 to allow the ANC resolution to be submitted into the record of this case less than seven (7) days prior to the public hearing.

Government Reports

The application was referred to OP and the District of Columbia Department of Transportation ("DDOT") for review and report. OP submitted a report recommending denial of the application. DDOT did not submit a report in this application.

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. The Applicant presented that the requested variance relief is for a hybrid use/area variance.

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 and an undue hardship for the owner in complying with the Zoning Regulations. The Board also concludes 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.

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 **FIVE (5) YEARS.**

2. The parking lot shall include eight (8) parking spaces, a rain garden, a parking lot operator kiosk, appropriate lighting, and the perimeter of the parking lot shall be enclosed with a chain link fence.

VOTE: **4-1-0** (John G. Parsons, Curtis L. Etherley, Jr., Ruthanne G. Miller, Geoffrey H. Griffis, to approve, and John A. Mann, II to deny)

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

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

FINAL DATE OF ORDER: OCT - 6 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 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 § 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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As Director of the Office of Zoning, I hereby certify and attest that on OCT - 6 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