GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17211 of the National Broadcasting Corporation, pursuant to 11 DCMR 3104.1, for a special exception under section 211 to permit the continued operation of a commercial broadcasting tower in an R-1-B District at premises 4001 Nebraska Avenue, N.W. (Square 1722, Lot 1).

HEARING DATE: October 26, 2004
DECISION DATE: December 7, 2004

DECISION AND ORDER

On June 29, 2004, the National Broadcasting Company (NBC or the applicant), filed an application with the Board of Zoning Adjustment (Board) pursuant to 11 DCMR § 3104.1, for a special exception to permit the continued operation of a broadcasting tower pursuant to Section 211 of the Zoning Regulations at 4001 Nebraska Avenue, NW. (Lot 1, Square 1722). Following a public hearing on October 26, 2004, the Board voted to approve the application at a decision meeting held on December 7, 2004.

PRELIMINARY MATTERS

Self-Certification The zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3113.2 (Exhibit 6).

Notice of Public Hearing Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the applicant, all entities owning property with 200 feet of the applicant's site, the Advisory Neighborhood Commission (ANC) 3E, and the Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect (Exhibit 23).

ANC 3E The subject site is located within the area served by Advisory Neighborhood Commission 3E (3E or the ANC), which is automatically a party to this application. The ANC filed a report indicating that at a public meeting on October 14, 2004, with a quorum present, the ANC unanimously voted "not to oppose" the application (Exhibit 20).

Request for Party Status The Board received a request for party status (Exhibit 26) from ANC 3C, (3C or ANC 3C), a neighboring ANC whose area covers the McLean Gardens complex and borders the subject site to the east. The Board granted party status to ANC 3C as an affected ANC due to its proximity to the site. The Board also noted in its consideration that ANC3C had participated as a party in the original special application and that the abutting ANC 3C residential property may possibly be uniquely impacted by the change in slope between the ANC's coverage area and the site.

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ANC 3C in its Resolution No. 2004-027 stated that "ANC 3C does not support the special exception application because it finds that the existence of the two towers is a more visible presence than is the presence of one tower; that the height of the old tower is greater than what is necessary given that the old tower is not used for NBC transmissions , and what is provided on the old tower for NBC use could be moved to the new tower, and thus, there is no necessity as described in 11 DCMR 211 for the continued use of the tower. "

Government Report Submissions

Office of Planning (OP) Report. OP filed a report supporting the continued use of the 1955 tower, subject to specific conditions: (1) that the applicant maintain the muted gray color of the tower; and (2) that the applicant continue to meet with representatives from ANC 3E and 3C (Exhibit 25). OP also recommended that the special exception approval be limited to two years. However, OP's representative withdrew this last recommendation during testimony at the public hearing.

National Park Service Report The National Park Service recommended approval of the application, subject to two conditions: (1) that the applicant maintain the 1955 tower in a muted gray color, and (2) that the applicant convey a scenic easement to the Park Service.

FINDINGS OF FACT

Background

1. Beginning in 1955, the Board of Zoning Adjustment (the Board) granted permission to the National Broadcasting Corporation (NBC) to operate a broadcast studio office building with an antenna tower and parking. (Appeal No. 4159, Public Hearing June 1, 1955)

2. After the initial 1955 approval, NBC filed a series of applications with the Board and was granted permission to make various changes at the site, including permission to replace the original 1955 tower with a newer larger tower. (See, BZA Appeal No. 5494, Public Hearing May 20, 1959, BZA Appeal No. 8234, Public Hearing June 16, 1965, Appeal No. 10120, dated November 16, 1969, BZA Order 12539, dated March 7, 1978, BZA Order 13222, dated July 28, 1980, and BZA Order 13554, dated November 25, 1981)

3. NBC constructed a new tower in 1988 but also continued to use the original 1955 tower. Because the 1955 tower was to have been replaced under the terms of the 1981 Board order, NBC applied to the Board in 1992 for permission to continue the use of the 1955 tower.

4. The Board held public hearings on the application and voted in February 1993 to allow the 1955 tower to continue. However, the Board did not issue its written decision

until December 1994, by which time three of the four-member majority had been out of office for over a year because their terms had expired. An appeal was brought to the District of Columbia Court of Appeals based in part on this procedural defect. The Board then requested the Court to remand the case so its current Board members could consider NBC's application on the merits. The Court granted the Board's motion and issued an order remanding the application to the Board for further proceedings.

5. The Board conducted further proceedings on remand from the Court. Based upon its review of the record, the Board adopted the substance of the previous decision and order, approving the continued use of the 1955 tower until December 1, 2004 (BZA Order 15708-A of the National Broadcasting Company, dated January 21, 2004, 51 DC REG 1285).

6. This application was filed in June, 2004 to permit the continued use of the 1955 tower upon the expiration of the Board's 2004 order.

The Property and Surrounding Area

7. The property is located on the east side of Nebraska Avenue between Massachusetts Avenue to the south and Upton Street to the north, and is known as premises 4001 Nebraska Avenue, N.W. It is zoned R-1-B.

8. The site consists of 315,810 square feet or 7.25 acres in land area. It has 60 feet of street frontage on Nebraska Avenue. It is shaped somewhat like a baseball diamond. Vehicular access for the site is from a 310-foot long driveway from Nebraska Avenue. The site is improved with a three-story commercial broadcasting facility, two broadcasting towers – the 1955 tower and the tower constructed in 1988 -- and 172 on-site parking spaces.

9. The site is surrounded by a number of institutional uses. The U.S. Department of Homeland Security offices are located to the south of the site. The National Presbyterian Church headquarters and school facilities are located to the immediate north of the site. To the east of the site is Glover-Archbold Park followed by property in the C-3-A district and the McLean Gardens residential development in the R-5-A district fronting on Wisconsin Avenue.

The Special Exception Application

10. The two antenna towers are set back from the lot lines to conform to the Zoning Regulations, and are set back a distance of approximately 600 feet from Nebraska Avenue and approximately 200 feet from Glover-Archbold Park.

11. The 1955 tower is approximately 30 feet from the 1988 tower at the closest point. Each part of the ground mounted antenna tower is set back a minimum of 10 feet from each lot line or a distance of at least 1/6 of the antenna height. The 1955 tower –

approximately 700 feet from the nearest residence -- is not within close proximity to the neighboring residential properties.

12. Visibility of the 1955 tower is minimized as a result of the generous setbacks, landscaping and existing vegetation on the site, and the fact that the site abuts Glover-Archibold Park. The muted grey painting of the tower, endorsed by the National Park Service, helps the tower blend with the skyline.

13. The 1955 tower has an approximate height of 459 feet, a height which is 200 feet lower than the 1988 antenna tower. This height was approved by the District government during the 1955 permit process under the Act to Regulate the Height of Buildings in the District of Columbia (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 through 6-601.09). The height has had no impact on the use of neighboring properties.

14. Antenna space on the 1955 tower is leased by several tenants who use the tower along with NBC. These tenants currently include the DC Police Department, the Fairfax County Police Department, the DC Friendship Fire Association, the Federal Radio Service Corporation, and Univision, a Spanish language television broadcaster (See, Exhibit 10). Each of the tenants needs the tower space to provide its own broadcasting or communication service. (See, Exhibit 37, also tabs E, F, G and H appended thereto.)

15. The Board finds that the leasing of tower space is a key economic consideration in the construction, maintenance and continued use of broadcast towers. The leasing of broadcast towers in the DC region is a common practice, marked by a few towers with a number of tenants transmitting and broadcasting from each tower (See Regional Tower Inventory, appended as tab A to Exhibit 37).

16. The Board credits statements by the applicant and OP that the District of Columbia has a policy favoring the co-location of antennas.

17. The Board also credits the applicant's testimony that a continuation the 1955 tower, with tenants, is needed for NBC's operational and economic viability.

18. The Board accepts OP's finding that the larger 1988 tower would require a substantial height increase to support the tenant users who are currently located at the 1955 tower.

19. During prior proceedings the Board found the height of the 1955 tower to be reasonably necessary to render satisfactory service. The Board finds that this is still the case; NBC and the tenant users need the existing tower space to render satisfactory service.

20. Continuation of the 1955 tower will not result in adverse impacts to the community with respect to increased density or traffic. The commercialization of the site will not be increased by a continuation of the 1955 tower and will not result in an increase in office

space, number of employees, vehicular and pedestrian traffic or the establishment of other commercial uses on the site.

21. Continuation of the 1955 tower will not result in adverse impacts on the neighborhood stemming from the electromagnetic effects of the tower. Antennas located on the tower are licensed by the Federal Communications Commission (FCC), and the applicant has certified to the FCC that the site complies with the maximum permissible radiofrequency electromagnetic exposure limits under applicable federal law.

22. Robert Denny, Jr., the applicant's radio frequency engineer, submitted a report indicating that the radiofrequency radiation exposure limits are within the maximum permissible exposure limits allowed under federal law and industry standards (Exhibit 28). The Board accepts the findings and conclusions contained in Mr. Denny's expert report.

CONCLUSIONS OF LAW

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797, as amended, D.C. Code § 6-641.07(g)(2) (2001), to grant special exceptions as provided in the Zoning Regulations. The applicant applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 211 to permit the continued use of the 1955 tower at its broadcast studio facility.

The Board can grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are met. First, the requested special exception must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1.

The applicant has established that the continuation of the 1955 antenna tower is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The broadcast facility and tower has been operating at the site since 1955 and has been subject to periodic special exception reviews since that time. During this time period the tower has been compatible with the surrounding neighborhood, and there is no evidence to suggest that it would be incompatible with the neighborhood in the future.

Likewise, the tower has not adversely affected the use of neighboring properties in the past; and, there is no evidence to suggest that its continued use would adversely affect the neighborhood in the future.

The applicant claims that the Board is preempted under federal law from considering the potential effects of radio frequency emissions. Because this issue is not disputed by any of the parties, the Board need not reach this question. Based upon the record, however, the Board notes that the emissions standards under federal law have been met and there is

no reason to believe that there will be any adverse effects on surrounding properties or the public as a result of the radio frequency emissions.

Under Section 211.1 of the Zoning Regulations, the Board may permit the use of commercial broadcast antenna subject to the following provisions:

211.2 The proposed location, height, and other characteristics of the antenna shall not adversely affect the use of neighboring property. Because the 1955 tower is set back from lot lines substantially more than required under the Zoning Regulations and is also set back from neighboring residential properties, its location does not adversely affect the use of neighboring properties. The height of the 1955 tower, only 459 feet, is 200 feet less than the 1988 tower and less than the tower that was never built but was previously approved. The comparatively low height of the existing tower has had no impact on the use of neighboring properties (See, Finding of Fact 13).

211.3 The antenna shall be mounted in a location that minimizes to the greatest practical degree its visibility from neighboring property and from adjacent public space, or that is appropriately screened by landscaping or other techniques so as to soften or minimize the visibility of the antenna. Because of its muted gray color, the generous setbacks, and the landscaping at the site, visibility of the tower is minimized (See, Finding of Fact 12).

211.4 Each part of a ground-mounted commercial broadcast antenna, including support system and guy wires, shall be removed a minimum of ten feet (10 ft.) from each lot line or at a distance of at least one-sixth of the mounted height of the antenna, whichever is greater. This condition is met (See, Finding of Fact 11).

211.5 The proposed height of the tower shall not exceed that which is reasonably necessary to render satisfactory service to all parts of its service area. The height of the tower is necessary to support the required coverage area for the communication services supported by the tower. As explained in the Findings of Fact, several tenants occupy and use the tower as well as NBC. In addition to providing revenue to NBC, each of the tenants requires antenna space in order to meet its own broadcast needs. Thus, not only is the height required to sustain NBC's continued economic viability, the height is required to support the coverage needs for other broadcast users.

211.6 No transmission equipment shall be located in a Residence District, unless location in the district is necessary for technically satisfactory and reasonably economical transmission. The 1955 tower is not only necessary for technically satisfactory and economic transmission; it is needed for NBC's operational and economic viability (See, Finding of Fact 17). In addition, as explained above, the 1955 tower is critical to the broadcast needs of several other tenant users (Findings of Fact 14 - 19).

211.7 If review by the Historic Preservation Review Board or Commission of Fine Arts is required, concept review and approval shall occur before review by the Board of Zoning Adjustment. This review is not required. Therefore, this condition is inapplicable.

211.8 No height of an antenna tower in excess of that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 through 5-409 (1994 Repl. & 1999 Supp.))), shall be permitted, unless the height is approved by the Mayor. The height of the 1955 tower was approved by the District government[1] during the 1955 permit process (See, Finding of Fact 13).
211.9 Before taking final action on an application for use as an antenna tower, the Board shall submit the application to the D.C. Office of Planning for review and report. The Office of Planning (OP) reviewed the application and submitted a report recommending approval.

211.10 The applicant shall have the burden of demonstrating the need for the proposed height, and that full compliance with matter-of-right standards would be unduly restrictive, prohibitively costly, or unreasonable. Matter of right standards would permit only one ground mounted antenna not to exceed a height of 12 feet at its highest point (See, Sections 201.2—201.5 of the Zoning Regulations). Since 1955, when the subject tower was first approved and built, the Board has recognized that compliance with the matter-of-right standard would be unduly restrictive and unreasonable. The applicant has not only demonstrated the need for the existing 459 feet tower, it has previously demonstrated the need for a tower with greater height, i.e., the 659 feet 1988 tower The Board is persuaded that the applicant has satisfied its burden of demonstrating the continued need for the existing 459 feet tower.

For the reasons stated above, the Board concludes that the applicant has satisfied the burden of proof with respect to the application for a special exception under § 211 to allow the continued use of the 1955 tower in a residential zone.

The ANC Issues and Concerns

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, as amended; now codified at D.C. Official Code § 1-309.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC's issues and concerns."The "great weight" requirement pertains "only to the written recommendations of the ANC" and not to its oral testimony." *Neighbors United for a Safer Community v. District of Columbia Board of Zoning Adjustment*, 647 A2d. 793, [insert page #], 1994, citing *Friendship Neighborhood Coalition v. District of Columbia Board of Zoning Adjustment,* 403 A.2d 291, 295 (D.C. 1979). Further, the "written recommendations" to which great weight is afforded are those described in § 1-309.10(d)(1)- i.e. those considered at a duly noticed public meeting in accordance with the requirements set forth in § 1-309.10. These

[1] The District of Columbia did not have a mayor at that time. Height approval was obtained from the Commissioners of the District of Columbia instead.

requirements are incorporated and specifically set forth in the zoning regulations at 11 DCMR 3115.1

In this case, there are two affected ANCs, ANC 3E and ANC 3C. The Board has carefully considered the reports made by each ANC. ANC 3E submitted a written recommendation that met the requirents for great weight indicating that at a duly noted public meeting the ANC voted 3-0 not to oppose the application for special exception. The report raises no issues or concerns for the Board to address. ANC 3C also submitted a written resolution that met the requirements for great weight. ANC 3C's written report raises issues and concerns in its resolution not to support the application for special exception.which the Board addresses herein:.

The Tower's Visibility

The ANC claims that § 211.3, which requires, in relevant part, that the antenna be mounted in a location that minimizes its visibility from neighboring property, is not satisfied because the 1955 and 1988 towers together constitute a more visible presence together than would the 1988 tower alone.. While the 1955 tower, by necessity, is visible, the Board finds that its visibility has been minimized. The tower is more than 700 feet from the nearest residence, is not readily visible from the public space at grade, is adequately screened by landscaping and vegetation, and blends in with the skyline due to its muted grey color. In addition, the Board specifically explored this issue at the hearing in light of ANC 3C's concerns. The Office of Planning, to which this Board is also required to give great weight, definitively stated that the alternative to these two towers would have been one taller tower which would have beem more visually egregious.. OP also stated in its written report that the proposed 1988 tower that would have replaced the 1955 tower would have been taller and "would have had a negative impact on the visual aesthetic and character of the neighborhood" and that the two towers together have less impact on the skyline than the one tower alone would have. (OP Report at 8)

The Board agrees with the Office of Planning that one tower in place of the two towers would more negatively impact the skyline as well as the character of the neighborhood, and accordingly, does not find the argument of ANC 3C persuasive.

Necessity of Height The ANC asserts that NBC does not need the full height of the 1955 tower to meet its service needs under § 211.5. It claims that the language of this subsection does not encompass the service needs of tenant users and limits Board review to the service needs of the applicant. The ANC further asserts that the tenant users could meet their service needs by locating at the 1988 tower.

First, the Board does not agree that the plain meaning of § 211.5 supports the ANC's interpretation. Section 211.5 of the Regulations states: "The proposed height of the tower shall not exceed that which is reasonably necessary to render satisfactory service to all parts of its service area (emphasis supplied)." The ANC contends that the word "its" refers to the applicant's service area. However, the Board finds otherwise.. The words "applicant" and "owner" are conspicuously absent from the regulatory language. The Board concludes that the word "its" refers to the service area of all of

tenants of the tower. Although this particular tower happens to be owned by one of its users, that may not always the case. *See, e.g. Appeal of American Towers,* BZA No. 16990, 50 D.C. REG. 5421 (2003).. For the Board to accept the ANC's interpretation would be to establish a *de facto* prohibition against non-broadcasters owning transmission facilities intended to serve the needs of area radio and television stations. The Board finds no reason to believe that the Zoning Regulation intend such a restriction, particularly in view of the preemption and commerce clause consideration implicated.

Second, such a narrow reading of this provision would be a departure from Board precedent. In a previous case the Board construed this criterion to include the coverage needs of a tower user that was neither the owner nor the applicant. In Application No. 13524, the DC Police Department sought to increase the height of its tower to allow Channel 50 to broadcast from it (See, Tab C, appended to Exhibit 37). Rather than limiting its review to the service needs of the applicant, the Board evaluated the coverage needs of Channel 50 when it determined that the proposed height was reasonably necessary to render satisfactory service.

Third the ANC's interpretation is inconsistent with the District's policy in favor of co-location. Following the ANC's approach would result in no co-location at all because only the applicant's service needs could be taken into account.

Consistency with the Comprehensive Plan

Councilmember Phil Mendleson appeared as a person in opposition to the application.[2] In addition to sharing the same arguments as the ANC, addressed above, Councilmember Mendelson and ANC 3C argued that granting the application would be inconsistent with the Comprehensive Plan. In particular, they argued that granting the application would violate the public policy to limit the intrusion of antenna towers into the skyline and that the Board should exercise "prudent avoidance" in its decision in accordance with Sections 411 and 1403.13 (e) of the Comprehensive Plan.

The District Elements of the Comprehensive Plan provide guidance for executive and legislative decisions affecting the District and its residents. D.C. Code Section 1-301. 62. (a) (3)(b)(2). Pursuant to Section 112.6 (a) and (b) the Board shall look to the elements for general policy guidance, and to the extent they are relevant, consider the objectives and policies, in its consideration of a special exception or variance.

As set forth above, the Board specifically evaluated the question of the intrusion of the antenna tower on the skyline and the neighborhood and agreed with the Office of Planning that the two towers have less negative impact than would the alternative one tower. In addition, the Board considered this issue with respect to the regulatory findings it must make to grant this application, particularly Section 211.3 regarding the location and screening of the antenna tower.

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[2] Councilmember Mendelson stated that he was testifying as a resident of McLean Gardens, and therefore as someone who lives near the antenna towers, as a former ANC 3C commissioner who was active in the case ten (10) years ago, and as an at-large councilmember.

Section 411 of the Environmental Element and Section 1403.13(e) of the Ward 3 Plan state that District officials must incorporate "prudent avoidance" in their decision making with respect to "the approval, location, and routing , and the intensity of electromagnetic field (EMF) generating facilities such as generators, power lines , and antennas; and, that facilities should be located only when and where necessary based on the local service needs of property owners, and facilities should be designed using methods to mitigate, to the greatest extent practicable, involuntary exposures to the public and adverse effects on park land, public space and private property.

In evaluating this application under Section 211 of the Zoning Regulations, this Board has considered these factors and agrees with the Office of Planning that the continuation of the antenna tower that has been in the location since 1955 is consistent with the District's policy of encouraging co-location of antennas on structures to diminish the adverse impact of antennas at various locations and is beneficial to the public good. [3]

The Board further concludes that, as hereinafter conditioned, the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that the granting of the requested relief will not tend to adversely affect the use of neighboring property in accordance with the regulations and map. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. The applicant shall continue to maintain a Community Liaison/Advisory Council which shall meet with neighborhood representatives upon the request of Advisory Neighborhood Commissions 3E and 3C. The applicant's General Manager or his/her designee(s) shall provide any relevant information about their operations upon request, including but not limited to information regarding use of the broadcast towers, real property improvements, parking and traffic issues, or community outreach efforts. The applicant shall also provide upon request information regarding its intentions to seek any licenses or approvals required by any agencies of the Federal or District or Columbia governments regarding station operations.

2. The applicant shall maintain the 1955 tower in a muted gray color to help minimize its visibility.

[3] ZC Order 01-02: Text Amendment –*Regulation of Antennas, Antenna Towers and Monopoles February 24, 2003. 3118 DCR March 19, 2004.*

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

FINAL DATE OF ORDER: April 7, 2005

3. The applicant shall record the deed of easement granted to the National Park Service within 6 months of the final date of this Decision and Order.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann II and John G. Parsons, in favor of the motion, none opposed.)

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

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 17211

As Director of the Office of Zoning, I hereby certify and attest that on APR - 7 2005 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:

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