June 9 '04

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING, HISTORIC PRESERVATION OFFICE
801 NORTH CAPITOL STREET, N.E., THIRD FLOOR
WASHINGTON, D.C. 20002

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IN RE: DARRIN PHILLIPS, et al **H.P.A. No. 03-480, No. 03-481**

On Behalf of Gtown 32nd LLC, Property Owner **Location:**

1515 and 1517 32nd Street,
(Lots 74 & 75, Square 1270)

ORDER
(Granting Petitioners' Motion For Reconsideration
Of Modified Decision And Order)

The Mayor's Agent issued a Final Order in the above matter on December 24, 2003, which directed that both the Applicant and the staff of the Historic Preservation Office, D.C. Office of Planning (the "staff"), should work in concert to arrive at a plan that would accommodate both the installation of a sidewalk and assure the maintenance and nurturing of the mature trees that were already on the site. At least one such meeting occurred, plus correspondence from staff, dated February 20, 2004, was sent to Anne H. Adams, Applicant's Architectural Historian. Staff concluded that, for a variety of reasons, the installation of a sidewalk on the east side of the 1500 block of 32nd Street, N.W., Washington, D.C., was both impractical and not necessary.

On April 2, 2004, Applicant requested that the Mayor's Agent approve a Revised Site Plan, based upon Applicant having, in their estimation, complied with the condition and directive that the Applicant and staff meet to explore accommodating both the sidewalk installation of a sidewalk and the maintenance and nurturing of the mature trees. Applicant concurred with staff, and determined that it was not possible to accommodate both the sidewalk and the trees. Further, Applicant determined that, given the option between a sidewalk and the trees, it would take all reasonable steps to retain the trees.

BZA
Case No. 17387
Exhibit No. 17

Board of Zoning Adjustment
District of Columbia
CASE NO. 17387
EXHIBIT NO. 17

Applicant likewise concluded that, having met with staff in good faith and having considered how to accommodate both options, they had met the spirit of the Mayor's Agent's Order of December 24, 2003, to work with staff in an effort to accommodate both the sidewalk and the trees.

On May 20, 2004, the Mayor's Agent issued a *Modified Decision and Order*, the effect of which granted Applicant's request for approval of a revised site plan with regard to pending applications for construction of two new houses. The Order also directed that the staff should approve the pending applications incorporating the revised site plan.

Petitioners, who had acquired Party Status on February 11, 2004, were not privy to the meetings between the Applicant and staff, and took exception to the fact that they were not previously aware of the discussions between the Applicant and staff, nor of Applicant's request for an approval on a revised site plan. On May 27, 2004, Petitioners filed a *Joint Petition for Reconsideration of the Modified Decision and Order* of the Mayor's Agent Order issued on May 20, 2004, in opposition to the Order and requested an opportunity to be heard before the Mayor's Agent rendered a final modified decision and order.

ORDER

Good cause having been shown, it is hereby this **9th day of June, 2004,**

ORDERED, that the Modified Decision and Order issued by the Mayor's Agent on May 20, 2004, is hereby VACATED; and, it is

FURTHER ORDERED, that a hearing *de novo* shall be conducted on **June 30, 2004, at 2:00 p.m.,** at the D.C. Office of Planning, 801 North Capitol Street, N.E., Fourth

Floor, to receive testimony and other relevant evidence addressing Applicant's Request for Approval of a Revised Site Plan and Petitioner's opposition thereto; and, it is

FURTHER ORDERED, that Applicant provide Petitioners, forthwith, with a copy of the February 20, 2004, letter of staff to Anne H. Adams, Applicant's Architectural Historian, and a copy of Applicant's letter to the Mayor's Agent, dated April 2, 2004, requesting approval of the revised site plan; and, it is

FURTHER ORDERED, that in consideration of the fact that Petitioners were formally accorded Party Status by the Mayor's Agent, that all future legal documents and correspondences between the Parties and the Mayor's Agent shall likewise be served upon the opposing Party and that a certificate of service shall be affixed to each such document filed with the Mayor's Agent.

ROHULAMIN QUANDER
SENIOR ADMINISTRATIVE JUDGE, AND
MAYOR'S AGENT FOR HISTORIC PRESERVATION

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Modified Decision & Order was served this 10th day of June, 2004, by mailing a copy of the same via e mail or U.S. Mail, postage prepaid, or both, to the following:

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