GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal No. 14763, of United Unions, Incorporated, pursuant to 11 DCMR 3200.2 and 3105.1, from the decision of the Acting Deputy Zoning Administrator made on August 28, 1987, to the effect that no variance or special exception is required for the proposed parking garage, because it is located in an Historic Preservation District, for the Corcoran Art Gallery office building addition and parking, in an SP-2 District at premises 500-530 - 17th Street, N.W., (Square 171, Lot 34).

HEARING DATE: April 13, 1988

DECISION DATE: May 4, 1988

FINDINGS OF FACT:

1. This appeal was filed on December 23, 1987, from the decision of the Acting Deputy Zoning Administrator that is referenced in the caption of this order.

2. On the motion of intervenor, the Corcoran Gallery of Art, and without objection, the Board incorporated the record in BZA Application No. 14703 into the record in this appeal.

3. BZA Application No. 14703 concerned the construction of the same office building that is at issue herein. The appellant and intervenor in this appeal were, respectively, a party in opposition and the applicant in Application No. 14703.

4. This appeal presents the same factual and legal issues that were considered by the Board in Application No. 10703. In that case, the Board rejected the legal arguments that are advanced by the appellant in this case.

5. The parking garage that is at issue is part of an office building, and the parking use is subordinate to the office use.

6. In Findings of Fact numbered 2 and 3 in Order No. 14703, the Board stated:

2. United Unions argues that Section 510.3 of

the Zoning Regulations requires the Applicant to seek special exception relief for the accessory parking spaces to be located in the garage, in addition to the special exception review for the subject building under Section 508 of the Zoning Regulations. United Unions believes that a garage of an SP office building may not exceed the minimum number of spaces required for the principal use. However, the Board finds that Section 510.3 is a subsection of Section 510 of the Zoning Regulations, which governs accessory parking spaces elsewhere than on the same lot or part of the lot on which the principal SP use will be located. The proposed garage in this case will be located on the same lot as the principal SP office use. Moreover, the Board finds that it has never limited the number of accessory parking spaces in the garage of a principal SP structure when both are located on the same lot or part of lot. In addition, in this instance, parking is not required pursuant to Section 2100.5, because the Corcoran Gallery is a landmark structure.

3. United Unions next argues that the parking garage for the proposed SP office building must undergo special exception review pursuant to Section 506 of the Zoning Regulations, in addition to the special exception review for the subject building under Section 508. United Unions also argues that, even if granted, the garage could not be used by the occupants of the office building due to the restriction set forth in Section 506.5. However, the Board finds that Section 506 is intended to apply to a parking garage as a principal use on a lot, and not as an accessory to a principal use on the same lot. A plain reading of that section indicates that it would defy logic to require an Applicant for an SP office use to seek a separate special exception [to allow the garage to be] used by the occupants of the building, pursuant to Section 506.5 of the Zoning Regulations. In addition, Sections 2100.1 and 2100.2 generally require that all new buildings constructed provide accessory parking. Thus, under the logic of United Unions, a building could undergo review for special exception relief for the office building and receive approval, and could subsequently undergo special exception relief for the garage, and be denied, and the office

building could then be built. The Board finds that this is not the intent of the Zoning Regulations.

7. The Board takes official notice of the fact that, in United Unions v. Board of Zoning Adjustment, 554 A. 2d 313 (1989), the District of Columbia Court of Appeals affirmed the decision of the Board in Application No. 14703.

CONCLUSIONS OF LAW

1. The Board adheres to and adopts in this order the conclusions of law that it reached in Application No. 14703, insofar as they apply to this appeal, that is, as referenced in Finding of Fact No. 6 of this Order.

2. Appellant is confronted by provisions of the Zoning Regulations that unambiguously allow that which appellant would resist. In such circumstances, relief is available only from the Zoning Commission, by a timely petition for an amendment of the regulations.

3. Appellant contends that the Board must take into consideration the overall purposes of the Zoning Regulations, and in particular, the Special Purpose Zone, as set forth, respectively, in 11 DCMR 101 and 500. To the extent that the Board would be usefully guided by those provisions in an appropriate appeal or application, those general provisions do not license the Board to engraft "improving" amendments upon unambiguous provisions of the Zoning Regulations.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the appeal is DENIED and the decision of the Acting Deputy Zoning Administrator is UPHELD.

VOTE: 4-0 (Elliott Carroll, Charles R. Norris, William F. McIntosh and Paula L. Jewell to deny; Carrie L. Thornhill abstaining).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUN 13 1989

UNDER 11 DCMR 3103.1, "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 BEFORE THE BOARD OF ZONING ADJUSTMENT."

appeal14763/BJW37

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14763

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 13 1996, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Benny L. Kass, Esquire
Kass, Skalet, Segan & Spwach
1050 17th Street, N.W., Suite 1100
Washington, D.C. 20006

Christopher H. Collins
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Chas L. Clapp, Chair
ANC 2A
1920 G Street, N.W.
Washington, D.C. 20006

Joseph Bottner
Zoning Administrator
614 H Street, N.W., Rm. 333
Washington, D.C.

EDWARD L. CURRY
Executive Director

DATE: JUN 13 1996