GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15156, of Paul I. and Josephine Burman, et al., as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 508 to establish offices for an international organization, nonprofit organization, labor union, architect, dentist, doctor, engineer, lawyer or similar professional persons for construction of an office building with accessory parking in an SP-2 District at premises 1499 Massachusetts Avenue, N.W. (Square 212, Lot 122).

HEARING DATES: November 8, 1989 and February 21, 1990
DECISION DATE: March 7, 1990

FINDINGS OF FACT:

1. The application was originally scheduled for the public hearing of November 8, 1989. At that public hearing, counsel for the applicant requested that the public hearing on the application be postponed indefinitely to afford the applicant an opportunity to meet with the Office of Planning, the ANC and the community in order to attempt to resolve the issues and concerns expressed by those entities. The Board granted the request for postponement.

2. The application was rescheduled for the public hearing of February 21, 1990. By submission dated February 7, 1990, and revised plans submitted at the public hearing, the application was amended to substantially reduce the size of the proposed SP office building and to eliminate any connections to the existing church and apartment building on lots 123 and 827 as originally advertised.

3. The property is located at the northeast corner of the intersection of 15th Street and Massachusetts Avenue and is known as premises 1499 Massachusetts Avenue, N.W. It is zoned SP-2.

4. The subject property is irregular in shape, containing 50,381 square feet of land area, with 319.61 feet of frontage along Highland Terrace which is parallel to Massachusetts Avenue, 90.88 feet of frontage along 15th Street and ninety-eight feet of frontage along N Street. The site is presently used as an all-day commuter parking lot for approximately 190 cars with an attendant's shelter. The site rises in elevation from 15th Street to the eastern portion of the site.

5. The site is abutted on the north by the ninety-foot high Towne Terrace East and West Condominium apartment buildings on the south side of N Street. On the north side of N Street are row structures and three to nine story apartment houses in the SP-2 and R-5-D Districts. Abutting the site to the northwest in the subject square are three four-story row structures, one of which is occupied for residential purposes and the remaining two of which are occupied as offices in the SP-2 District. Directly across 15th Street from the subject site is an office building containing the National Association for the Advancement of Science in the SP-1 District. Northwest of the site at the northwest corner of the intersection of Rhode Island Avenue and 15th Street is a nine-story Holiday Inn. South of the site across Highland Terrace and Massachusetts Avenue is the National Housing Center in the SP-2 District followed by the twelve-story Vista Hotel and a twelve story office structure on the south side of M Street in the C-4 District. On the southwest corner of the intersection of 15th Street and Massachusetts Avenue is a residential and office structure. The remainder of Square 192 consists of a small hotel and office structures in the SP-2 District. Abutting the site on the east is the eight-story Heatherington Apartment house followed by the National City Christian Church of Washington.

6. The contract purchaser of the site, hereinafter referred to as the applicant, proposes to construct a ninety-foot office building on the westernmost portion of the lot. The eastern portion of the lot will remain vacant pending future development of a residential component.

7. The subject site is in the broad swath of SP zoning which follows Massachusetts Avenue from Mt. Vernon Square to Dupont Circle, and lies between commercial zoning to the south and residential zoning farther to the north. Near Square 212, the SP-2 District extends 140 feet north of N Street, east to 12th Street, and south to M Street. The northwest corner of 15th and M Streets has recently been rezoned from SP-2 to C-4. West of Square 212, the area of 16th Street around Scott Circle and to the north is zoned SP-1, and 16th Street to the south is zoned SP-2. South of Square 212, across M Street, is the C-4 District, the high density commercial zone which extends into the Downtown area.

8. The subject site currently contains a parking lot with a capacity for approximately 190 cars. The entrance to the parking lot is located 20 feet north of the intersection of Highland Terrace and 15th Street. Attendants are on duty approximately 12 hours per day, Monday through Friday, and the patrons of the lot generally park, and then walk to commercial office buildings in the immediate vicinity. Lot 212 has received a series of approvals from the Board in order to operate as a commuter parking lot.

9. In its Order No. 13912, dated June 22, 1983, the Board approved the proposed construction of a hotel on the subject site. The proposed hotel project did not go forward. If the approved hotel had been constructed, as approved, it would have contained 420 guest rooms and two function rooms seating 450 and 250 persons each. The structure, as proposed, would have had an floor area ratio of 6.0, a height of ninety feet, and parking for 302 vehicles.

10. The applicant's original proposal for development of the subject site called for the construction of a 259,000 square foot office building joined by covered walkway to the adjacent Heatherington apartment building and the rear of the National City Christian Church combining the three lots into a single lot of record in order to use the non-residential floor area ratio of the Heatherington apartments and the Church for office construction on the subject site.

11. In response to the community's opposition to the original proposal, the applicant has substantially revised the proposed development of the site. The instant case does not propose to subdivide the three lots or to connect the proposed office building to either of the other two structures. The applicant us seeking special exception relief to permit the construction of a ninety-foot SP office building containing approximately 176,000 square feet at an FAR of 3.5, with underground parking for ninety-seven vehicles.

12. The proposed office building will occupy the full non-residential zone envelope permitted on the site under the provisions of the SP-2 District. The proposed office building will be constructed on the western portion of the site. The applicant does not plan to develop the eastern portion of the site at the present time. The undeveloped eastern portion of the site is large enough to accommodate the development of a residential building containing approximately 126,000 square feet and an FAR of 2.5.

13. The architectural treatment of the proposed structure has been designed to complement the surrounding structures including the National City Christian Church (NCCC), a landmark church fronting on Thomas Circle designed in 1929 by John Russell Pope. Careful study of the architectural character of the neighboring buildings and the adjacent Massachusetts Avenue area indicate that a classical design for the new building is most appropriate. The Heatherington, 90 feet high, faced with red brick and buff-colored stone, is directly to the west of NCCC and serves as a transition building between the church and this site. At the northwest corner of the site, there are three attached Victorian rowhouses. Other nearby buildings, including Towne Terrace East and Towne Terrace West Condominiums, the 1500 Massachusetts Apartment Building, and the Tunisian Embassy are simply designed following a Modernist style.

14. The ninety foot height of the proposed office building is consistent with other development in the square including the Heatherington to the east and the Towne Terrace East and Towne Terrace West buildings to the north. The project also includes setbacks from the fifth floor level on that portion of the structure abutting the town-houses located at the corner of 15th and N Streets, as well as setbacks on the N Street facade from the fourth floor, and further setbacks on the top two floors.

15. Development in the surrounding area includes a wide variety of buildings with a height of ninety feet including the Seville, James and Miramar apartment buildings north of N Street, and several buildings fronting on Thomas Circle. Development in the commercial district south of Massachusetts Avenue reaches a height of 130 feet. To the north, the buildings generally drop-off in height in the residential districts.

16. The use of the proposed structure for SP offices is not out of character with the existing mix of residential, hotel and office use in the area as set forth in Finding of Fact No. 5.

17. The SP-2 District permits a maximum floor area ratio of 6.0, no more than the 3.5 FAR may be for other than residential purposes. The floor area ratio of the proposed office building is 3.5 or 176,000 square feet. The bulk of the nearby Towne Terrace East and Towne Terrace West building is 6.0 FAR. The adjacent Heatherington apartment building is developed to 5.0 FAR. The undeveloped portion of the subject site would be limited by the zoning regulations to a future development for residential purposes only at a maximum additional FAR of 2.5, for a total FAR on the subject site of 6.0 consistent with the provisions of the SP-2 District.

18. The applicant's traffic engineer testified that the proposed use will not create dangerous or otherwise objection-able traffic conditions. The current site contains a parking lot with an approximate capacity of 190 vehicles. At present, there are 81 vehicles entering the parking lot in the morning peak hour, and 76 vehicles leaving in the evening peak hour. Approximately 50 percent of the 94 vehicles expected to park in the office parking garage will arrive during the morning peak hour and leave during the evening peak hour. Therefore, the morning inbound and evening outbound trips will be reduced. The report concluded that these increments would not affect current peak hour traffic conditions.

19. The Zoning Regulations require the applicant to provide two thirty-foot deep loading berths, two loading platforms of 100 square feet each, and one twenty-foot-deep

service/delivery loading space to serve the proposed office building. The Zoning Regulations require the applicant to provide ninety-seven on-site parking spaces to serve the proposed office building.

20. Access to the parking spaces and loading areas will be from 15th Street. Cars using the parking garage would enter and exit the project from 15th Street. Truck traffic would enter from 15th Street, access the loading areas connecting with the existing alley behind Towne Terrace West, and exit onto N Street using the existing alley behind and to the east of Towne Terrace West. The existing north-south private alley from N Street immediately west of Towne Terrace West would be blocked off at its southern end to limit the use of the north-south alley to access to the Towne Terrace West garage only.

21. The required loading berths are enclosed within the building. Access to the loading berths will be from the widened entrance on 15th Street in response to community concerns regarding truck traffic on N Street. There will be no access to the loading area through the private north-south alley off N Street adjacent to the Towne Terrace West building.

22. As a result of the widened entrance off of 15th Street, the first two floors of the portion of the building fronting on N Street are separated from the main entrance and lobby and requires a separate entrance from N Street. The portion of the building accessible from the N Street entrance will be limited to two floors and approximately 6,000 square feet of floor area.

23. The Office of Planning (OP), by memorandum dated February 14, 1990, recommended that the application be approved. The Office of Planning was of the opinion that the proposed development complies with the FAR, height and use requirements for an SP-2 District. The OP was further of the opinion that the design of the office building is compatible with the existing character of the area and would not create objectionable conditions.

24. The Board waived its Rules to accept the written report of the ANC less than seven days prior to the public hearing. Advisory Neighborhood Commission (ANC) 2C, by letter dated February 9 and 21, 1990, and a representative at the public hearing supported the granting of the application as revised. The ANC was of the opinion that the project, as revised, addressed all the legitimate issues raised by the community concerning the project. The ANC representative noted the numerous community meetings attended by the applicant and the applicant's agreement to provide certain improvements to the private alley; to not seek the removal of the Residential Permit Parking Program with the

exception of one drop-off or loading area at the entrance to the building; and to restrict the area of the building accessible from the N Street entrance to approximately 6,000 square feet.

25. The Department of Public Works, by memorandum dated November 1, 1990, offered no objection to the project as originally proposed. The DPW did not submit a report on the project as revised and considered by the Board.

26. Two residents of the 1400 block of N Street testified at the public hearing in support of the application. The residents in support requested that the Board require the applicant to provide a covenant requiring that the use of the remainder of the site be limited to residential purposes. The Board notes that the proposed development would utilize the maximum non-residential FAR of the subject site, thereby, making any non-residential development on the remaining portion of the site impossible without variance relief from the FAR requirements. In addition, the site could not be subdivided after the proposed project is completed to allow for separate development of the remaining portion of the site because the FAR of the proposed building relies on the total area of the lot as it presently exists. Any subdivision of the lot would render the proposed building nonconforming and would also require variance relief.

27. A resident of 937 N Street, N.W. testified at the public hearing in opposition to the application. The opposition was of the opinion that the failure of the applicant to construct a residential component concurrently with the proposed office building was inappropriate and inconsistent with the Comprehensive Plan and Zoning Maps which indicate the subject area as appropriate for housing purposes. The Board notes that the proposed office building is consistent with the provisions of the SP-2 District and that the Board is limited to applying the Zoning Regulations as they currently exist. The Board further notes that the SP-2 District does not mandate mixed-use development to employ the maximum non-residential FAR provided for by the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the application is a special exception. In order to receive such special exception relief, the applicant must demonstrate substantial compliance with the provisions of 11 DCMR 508 and 3108.1 and that the relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations.

The Board concludes that the applicant has met the requisite burden of proof. The use, height, bulk and design of the project are in harmony with the existing uses and structures on neighboring property. There are a wide variety of uses in the area including hotel, office, residential and institutional uses. Many of the nearby structures, including Towne Center East and Towne Center West are 90 feet in height with an floor area ratio of 6.0. The Board is persuaded by the traffic studies presented by the applicant that the use will not create dangerous or other objectionable traffic conditions. The Board also concludes that the proposed development is in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property. The development of a 3.5 floor area ratio professional office building is consistent with the SP-2 District in which the site is located. The project will effectively buffer the residential areas to the north and from the more dense commercial districts to the south.

Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The nonresidential use of the building on Lot 122 shall be limited to 3.5 FAR for use as offices for an international organization, nonprofit organization, labor union, architect, dentist, doctor, engineer, lawyer or similar professional person.

2. The building entrance on N Street shall serve a maximum of one suite or approximately 6,000 square feet of the building.

VOTE: 5-0 (Charles R. Norris, Carrie L. Thornhill, Paula L. Jewell and William F. McIntosh to grant; John G. Parsons to grant by proxy).

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

ATTESTED BY: Edward L. Curry by
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: AUG 17 1990

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15156order/LJP64

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION/APPEAL No. 15156

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this case, dated AUG 17 1990 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Edward L. Curry
EDWARD L. CURRY
Executive Director

DATE: AUG 17 1990