GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16596 of Mount Vernon Development Group, L.P. and 500 H Street, L.P., pursuant to 11 DCMR 3103.2, for variances under Section 773 from the required recreation space and Subsection 1705.3 from the retail/arts floor area ratio requirements to construct a high-rise 200-unit apartment building in a DD/C-2-C District at premises 770 5th Street, N.W. (Square 486, Lots 35, 818, 819, 821, 822, 823 and 827, and the east-west alley closed pursuant to D.C. Law 13-18).

HEARING DATES: September 19, 2000
DECISION DATE: September 19, 2000 (Bench Decision)

SUMMARY ORDER

The zoning relief requested in this case is self-certified, pursuant to11 DCMR § 3113.2.

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 Commissions (ANC) 6A and (ANC) 2C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 6A and in proximity to ANC 2C. ANC 6A which is automatically a party to this application, did not submit a written statement.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variances from the strict application of the requirements of 11 DCMR Section 773 and Subsection 1705.3. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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. It is therefore **ORDERED** that this application be **GRANTED.**

BZA
Case No. 16596
Exhibit No. 39

Board of Zoning Adjustment
District of Columbia
CASE NO.16596
EXHIBIT NO.39

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 appropriate in this case.

VOTE: **4-0** (Robert Sockwell, Anthony J. Hood, Anne Renshaw and Rodney Moulden to approve; Sheila Cross Reid not present, not voting.)

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

Final Date of Order: NOV - 7 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1999), 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 (1999), 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 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL, PURSUANT TO SUBSECTION 3125.6".

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATION OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

SO16596 smp/poh

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16596

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 7 2000, a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Cynthia A. Giordano, Esquire
1150 17th Street, N.W., Suite 302
Washington, DC 20036

Sharon Ambrose, Councilmember Ward 6
Council of the District of Columbia
Washington, D.C. 20001

Jack Evans, Councilmember Ward 2
Council of the District of Columbia
Washington, D.C. 20001

Wanda C. Harris, Chairperson
Advisory Neighborhood Commission 6A
624 H Street, NE, Ground Floor
Washington, D.C. 20002

Daniel M. Pernell, III, Commissioner
Single Member District 6AO2
1132 4th Street, NE
Washington, D.C. 20002

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
941 North Capitol Street, N.E., Suite 200
Washington, DC 20009

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