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March 22, 2001

MARY CAROLYN BROWN
202-862-5990

Internet Address:
mcbrown@hklaw.com

VIA HAND DELIVERY

Sheri M. Pruitt, Secretary
Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2001 MAR 22 P 5:45

Re: BZA Case No. 16681
507-511 7th Street, N.W.

Dear Ms. Pruitt:

Enclosed please find a draft summary order for the above-referenced case reflecting the bench decision rendered by the Board of Zoning Adjustment at its March 13, 2001, hearing approving the application. As requested by the Board members at the conclusion of the hearing, we are also enclosing the resume of David Mayhood, the expert witness in housing development who testified on behalf of the Applicant.

Should you have any questions regarding these materials, please do not hesitate to call me at (202) 862-5990.

Very truly yours,

Carolyn Brown

Carolyn Brown

Enclosures

cc: Robert Carr
Judy Renfrew
John Murphey
Steven E. Sher
Norman M. Glasgow, Jr.

WAS1 #930183 v1

BZA
Case No. 16681
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO.16681
EXHIBIT NO.28

DRAFT

Application No. 16681 of Square 456 Associates[1] pursuant to 11 DCMR § 3104.1 for a special exception from the roof structure requirements of subsection 411.11 not meeting the set back provisions of subsection 770.6(b), and 11 DCMR § 3103.2 for variances from the residential recreation space requirements of subsection 773.3, and the court area requirements of subsection 776.4, to allow construction of a residential building containing 33 units with ground floor arts and retail space in a DD/C-4 District at premises 501-507 7th Street, N.W. (Square 456, Lots 37 and 39).

HEARING DATE: March 13, 2001
DECISION DATE: March 13, 2001 (Bench Decision)

SUMMARY ORDER

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

The site of the application is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, did not file a report either in support or opposition to the application.

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 a special exception pursuant to 11 DCMR § 411 and a variance from the strict application of the requirements of 11 DCMR §§ 773.3 and 776.4. No person or entity appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board received certain requested corrections to the architectural drawings and closed the record at the conclusion of the hearing, except to allow the applicant to submit the resume of David Mayhood, expert witness in residential development testifying on behalf of the applicant. The Board received the resume into the record.

Based upon the record before the Board, the Board concludes that the applicant has met its burden of proof pursuant to 11 DCMR §§ 3104.1, and that the requested relief can be granted as 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 in accordance with the Zoning Regulations and Map. The Board also concludes that the applicant has met its burden of proof pursuant to 11 DCMR §

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[1]Square 456 Associates is the former owner of the property. It is currently owned by Galapagos II, LLC. CarrAmerica Urban Development, Inc., is the contract purchaser of the property.

3103.2, 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 the application is GRANTED, subject to the following CONDITIONS:

1. Prior to the issuance of the building permit, the applicant shall record a combined lot development covenant, pursuant to section 1709 of the Zoning Regulations, for the properties within Square 456 known as Lots 37, 39, and that portion of Lot 40 previously known as Lots 868 and 869, as adjusted, to achieve a composite floor area ratio for the entire development.

2. The applicant shall provide a minimum of 708 square feet of residential recreation space on the first cellar level of the building.

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 not prohibited by law.

VOTE: 4-0-1 (Sheila Cross Reid, Susan Hinton, Anthony Hood, and Anne M. Renshaw to grant a special exception from the roof setback provisions of 11 DCMR § 770.6(b); John Parsons not present, not voting);

VOTE: 4-0-1 (Sheila Cross Reid, Susan Hinton, Anthony Hood, and Anne M. Renshaw to grant a variance from the court area requirements under 11 DCMR § 776.4; John Parsons not present, not voting);

VOTE: 3-1-1 (Sheila Cross Reid, Susan Hinton, and Anthony Hood to grant a variance from the residential recreation space provisions of 11 DCMR §773.3; Anne M. Renshaw to deny; John Parsons not present, not voting.)

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY:_____
Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: _____

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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 PURPOSE OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

The Mayhood Company

David Ross Mayhood

CAREER SUMMARY:

President, The Mayhood Company
McLean, Virginia
1982 - Present

The Mayhood Company specializes in the design, merchandising and marketing of new multi-family developments, townhomes and condominiums. The firm has been involved in projects in Colorado, Florida, and Pennsylvania as well as the Washington Metropolitan Area. Annual sales exceed 700 homes.

Vice-President, Shannon & Luchs
Washington, D. C.
1972 - 1982

As head of the Project Sales Department, directed a sales staff of 45 agents and 3 regional managers. Expanded the department from $10 million annual sales to over $120 million.

U. S. Navy - Lieutenant
1967 - 1971
Graduated from Navy's Nuclear Power School and made five patrols aboard Fleet Ballistic Missile submarines.

EDUCATION:

B. S. Mechanical Engineering - Marquette University, 1967

ORGANIZATIONS:

National Association of Realtors

National Association of Home Builders

Urban Land Institute

National Press Club

PERSONAL:

Married, two children
Reside in Arlington, Virginia