GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16681 of Square 456 Associates 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

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR 3113.2.

The Board provided proper and timely notice of the public hearing on this application, by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 2C and to owners of all property within 200 feet of the property that is the subject of this application..

The subject property is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, did not participate in this application.

As directed by 11 DCMR § 3119.2, the Board has required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR § 411.11 and a variance from the strict application of the requirements of 11 DCMR §§ 770.6(b), 773.3 and 776.4. No person or entity appeared as a party 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 and having given great weight to the Office of Planning's report filed in this case, the Board concludes that the applicant has met the burden of proof under 11 DCMR § 3104.1, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use

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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 § 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 the application be **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 § 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 appropriate in this case.

VOTE: 4-0-1 (Robert N. Sockwell, Susan Morgan Hinton, Sheila Cross Reid 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 (Robert N. Sockwell, Susan Morgan Hinton, Sheila Cross Reid 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 (Robert N. Sockwell, Sheila Cross Reid, Susan Morgan Hinton, 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: APR 18 2001

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.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16681

As the Director of the Office of Zoning, I hereby certify and attest that on APR 18 2001, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

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

Att/VCE