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May 3, 2001

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RECEIVED
D.C. OFFICE OF ZONING
2001 MAY -3 PM 3:59

VIA HAND DELIVERY
Members of the Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001
ATTN: Rick Nero

Re: BZA Case No. 16687
JBG/JER 2440 M, LLC

Dear Mr. Nero:

On behalf of JBG/JER 2440 M, LLC, enclosed please find a draft summary order in the above-referenced case reflecting the bench decision rendered by the Board of Zoning Adjustment at its April 24, 2001, hearing approving the application.

Should you have any questions regarding this matter, please do not hesitate to contact me at (202) 457-7167.

Sincerely,

Christine Shiker

Christine Moseley Shiker*
*Admitted in Texas only

cc: Stewart Bartley, The JBG Companies
Chris Todd, The JBG Companies
George Dove, Weihe Design
Whayne S. Quin, Esq.
Steven E. Sher, Director of Land Use and Zoning

WAS1 #953024 v1

BZA
Case No. 16687
Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO.16687
EXHIBIT NO.36

DRAFT

Application No. 16687 of JBG/JER 2440 M, L.L.C., pursuant to 11 DCMR 3104.1 for a special exception from the roof structure requirement of Section 411.3, and 11 DCMR 3103.2 for variances from the residential recreation space requirement of Subsection 773.3 and the rear yard requirement of Subsection 774.1, to allow construction of an apartment house of 142 units in a C-2-C District located at 2440 M Street, N.W. (Square 25, Lot 20).

HEARING DATE: April 24, 2001
DECISION DATE: April 24, 2001 (Bench Decision)

D.C. OFFICE OF ZONING
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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) 2A and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2A. ANC 2A, which is automatically a party to the application, filed a written statement, dated March 23, 2001, in support of the application.

The applicant proposes the construction of an apartment house of 142 units as an addition to an existing medical office building, to be part of a multi-phase, mixed-use development on the northern portion of Square 25.

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 774.1. A group of tenants from the existing medical office building at 2440 M Street, N.W., (the "Tenants") filed a Motion for Party Status on April 10, 2001. Andrea Ferster, legal counsel to the Tenants, withdrew the request for party status as a preliminary matter at the hearing and stated that the Tenants supported the application. The Knightsbridge Condo Association, through its representative Michael Ryan, filed a request for party status by letter dated April 9, 2001. No representative appeared or participated at the hearing. One person, Ms. Christine Garner, testified in opposition.

The Board closed the record at the hearing, except to allow the applicant to submit additional parking plans to show the lower two and one-half parking levels. The Board received those materials by letter dated May 2, 2001.

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 § 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. Construction shall be in accordance with the plans marked as Exhibit 31-A of the record.

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: 3-0-0 (Anne M. Renshaw, Susan Hinton, and John Parsons to approve; Sheila Cross Reid not attending, not voting)

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

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

FINAL DATE OF ORDER: _____

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 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO §3125.6"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.