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June 20, 2001

CHRISTINE MOSELEY SHIKER
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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. 16733
525 and 575 Massachusetts Avenue, N.W. (Square 484, Lot 25)

Dear Mr. Nero:

On behalf of the Applicant in the above-referenced case, 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 June 19, 2001, hearing approving the application. An electronic copy has been included as well for your convenience.

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

Enclosures
cc: Greg Fazakerley, CG Investments, Inc.
David Jacobs, The JBG Companies
George Dove, Weihe Design
Norman M. Glasgow, Jr., Esq.
Steven E. Sher, Director of Land Use and Zoning

WAS1 #986412 v1

BZA
Case No. 16733
Exhibit No. 39

Board of Zoning Adjustment
District of Columbia
CASE NO.16733
EXHIBIT NO.39

DRAFT

Application No. 16733 of THE SALVATION ARMY, pursuant to 11 DCMR § 3103.2 for variances from the floor area ratio requirements (Section 1706.4), the residential recreation space requirements (Section 773.3), and the requirements for width of an open court (Section 776.1) for the construction of a hotel and apartment building in the DD/C-2-C District at 525 and 575 Massachusetts Avenue, N.W. (Square 484, Lot 25).

HEARING DATE: June 19, 2001
DECISION DATE: June 19, 2001 (Bench Decision)

SELF CERTIFICATION

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

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 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 application was also referred to the Office of Planning (OP) for review and report. The Board waived the rules to accept the filing of the OP report which supported the Application. The report noted in part that the FAR and residential recreation space variances would not be required if the Zoning Commission adopts in final action proposed regulations in Case No. 00-30T relating to those requirements.

The subject property is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, did not file a written statement and did not appear or participate at the public hearing.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR §§ 1706.4, 773.3 and 776.1. 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 closed the record at the hearing, except to allow the applicant to submit revised architectural plans in accordance with the Board's request. These plans were submitted on June 21, 2001.

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 pursuant to 11 DCMR § 3103.2 under §§ 1706.4, 773.3, and 776.1, that there exists an exceptional or extraordinary situation or condition related to the property that 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 is **GRANTED**.

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: **3-0-1** (Sheila Reid Cross, Anthony Hood and Geoffrey Griffis to approve; Anne M. Renshaw abstaining)

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

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 PURPOSES 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 THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

WAS1 #986348 v1