GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16498 800 8th Street, N.W., LLC and Chinese Consolidated Benevolent Association, pursuant to 11 DCMR **3108.1 (new 3104.1)** for a special exception under Section 774.2 to waive the rear yard requirements, Section 411.11 to approve the elevator machine room which does not meet the normal setback requirements; and pursuant to 3107.2 **(new 3103.2)** for variances from Section 773.7 to have residential space on a roof with a dimension less than twenty five feet; Section 2101.1 to have fewer than the minimum number of required parking spaces; Section 2117.4 to provide parking access by car elevator rather than an improved driveway, and Section 2205.3 to have less than the one required loading berth in a DD/C-3-C District at premises 800 8th Street, N.W. (Square 404, Lots 800 and 801.

HEARING DATE: **October 13, 1999**
DECISION DATE: **October 13, 1999**

CORRECTED SUMMARY ORDER

The Summary Order has been corrected to reflect a change in the following sentence: "It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITION**". The corrected sentence reads as follows: "It is therefore **ORDERED** that the application be **GRANTED**".

The application was amended at the public hearing to eliminate the variance from 11 DCMR 773.7 to have residential recreational space on a roof with dimension less than twenty-five feet. The applicant submitted into the record a change in the application eliminating the proposed apartment on the top floor, therefore, a variance from Section 773.7 is no longer requested. The Board determined that due to the elimination of the apartment on the top floor the variance from Section 773.7 is no longer needed.

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 Advisory Neighborhood Commission (ANC) 2-C, ANC 2-F, 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 this application, submitted a written statement in support of the application.

As directed by 11 DCMR 3324.2, **(new 3119.2)** the Board required the applicant to satisfy the burden of proving the elements, which are necessary to establish the case

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for a special exception pursuant to 11 DCMR Sections 774.2, 411.11, and a variance from Sections 2101.1, 2117.4, and 2205.3. No person or entity appearing as a party to this case testified in opposition to the application. 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 3108.1 **(new 3104.1)** and 3107.2 **(new 3103.2)** that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED.**

Pursuant to 11 DCMR 3301.1 **(new 3101.6)** the Board has determined to waive the requirement of 11 DCMR 3331.3 **(new 3125.3)** that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3 – 0 (Robert Sockwell, Sheila Cross Reid and Jerry Gilreath to grant.)

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
DIRECTOR

FINAL DATE OF ORDER: NOV - 3 1999

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 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 CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

SMP.10.17.99

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO.: 16498

As Director of the Office of Zoning, I certify and attest that on NOV - 3 1999 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 this matter, and who is listed below:

Norman M. Glasgow, Jr.
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, NW, Suite 1100
Washington, D.C. 20006

Lawrence L. Thomas, Chairperson
Advisory Neighborhood Commission 2C
First & Pierce Streets, NW
Terrell Junior High School
Washington, D.C. 20001

Attested by: **JERRILY R. KRESS, FAIA**
Director

Date: NOV - 3 1999

Attest/SO /POH