GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16881 of Greystar Atlantic Company, pursuant to 11 DCMR 3104.1, for a special exception to permit more than one roof structure, and of differing heights, under §411, and pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under § 772, to construct an apartment house with ground floor retail in the DD/C-2-C District, at premises 4th and Massachusetts Avenue, NW (Square 517, Lots 40, 41, 47, 48, 803-805, 808, 809, 811-817, 854, 855, 857-863, 868-870 (new Lot 51)).

Note: As a preliminary matter, the Board acknowledged the Applicant's withdrawal of its original request of relief from the side yard requirement of § 775.

HEARING DATE: June 11, 2002
DECISION DATE: June 11, 2002 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to § 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 Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party of this application, submitted a written statement in support of the application. The D.C. Office of Planning (OP) submitted a written report and testified in support of 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 special exception pursuant to 11 DCMR §§ 3104.1 and 411 and for variance pursuant to 11 DCMR §§ 3103.2 and 772. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the OP, the Board concludes that the applicant has met the burden of proof, pursuant to

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11 DCMR § 3104.1, 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.

The Board also concludes that the applicant has met the 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 this application be **GRANTED**, with the following provision:

The Applicant is granted flexibility to alter the design of the project for such modifications as are directed by the U.S. Commission of Fine Arts as part of its review and approval of the project so long as no additional zoning relief is necessary to implement the design modifications.

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 (Geoffrey H. Griffis, Ann M. Renshaw, Curtis L. Etherly, Jr. and David A. Zaidain to grant. The federal appointee, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Boar member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 2 4 2002

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 PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25. 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.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16881

As Director of the Office of Zoning, I hereby certify and attest that on JUN 2 4 2002 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 and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning