GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16897 of JBG/JER 6th Street, LLC, pursuant to 11 DCMR § 3104.1 for a special exception from the roof structure requirements under section 411 and pursuant to 11 DCMR § 3103.2 for a variance from the lot occupancy requirement under section 772, a variance from the rear yard requirement under section 774, variances from the residential recreation space requirements under sections 773 and 1706.4(f), for the construction of an apartment house in the DD/C-2-C District at premises located on 6th Street, between G and H Streets, N.W. (Square 486, Lots 8, 801, 802, and 803).

Note: In its pre-hearing submission, the Applicant withdrew its request for the variance from the Chinatown retail requirement under section 1705. At the hearing, the Applicant presented revised plans including a rear setback above the third floor and withdrew its request for variances from the parking drive aisle requirement under section 2117 and from the loading requirements under section 2201.

HEARING DATE: July 16, 2002
DECISION DATE: June 16, 2002 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

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) 6A, and to owners of all property within 200 feet of the property that is the subject of this application. The application was referred to the Office of Planning (OP) for review and report. The OP report supported the application. The application was also referred to the Department of Public Works (DPW) for review and report. DPW did not submit a report.

The subject property is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to the application, filed a written statement in support of the application. The Board waived the rules to accept the late filed report.

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 special exception

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pursuant to 11 DCMR §§ 3104.1 and 411, and variances from the strict application of the requirements of 11 DCMR §§ 3103.2, 772, 773, 774, and 1706.4(f). Avalon Bay, an adjacent property owner, filed a Request for Party Status in opposition to the case on July 5, 2002. By letters dated July 12, 2002, and July 15, 2002, Avalon Bay withdrew its opposition and supported the application.

Based upon the record before the Board, and having given great weight to ANC's statement and 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 §§ 3104.1 and 411 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, 772, 773, 774, and 1706.4(f), 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** in accordance with the revised plans submitted at the public hearing.

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, Anne M. Renshaw, Curtis Etherly, Jr., and James H. Hannaham to approve; David A. Zaidain, 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: JUL 30 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 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 14 IN TITLE 2 OF THE D.C. CODE. SEE D.C. CODE SECTION 2-1402.67 (2001). 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. NOTE IN SECTION 2-1401.01 OF THE D.C. HUMAN RIGHTS ACT THAT IT IS THE INTENT OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, IN ENACTING THIS CHAPTER, TO SECURE AN END IN THE DISTRICT OF COLUMBIA TO DISCRIMINATION FOR ANY REASON OTHER THAN THAT OF INDIVIDUAL MERIT, INCLUDING, BUT NOT LIMITED TO, DISCRIMINATION BY REASON OF RACE, COLOR, RELIGION, NATURAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, AND PLACE OF RESIDENCE OR BUSINESS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16897

As Director of the Office of Zoning, I hereby certify and attest that on JUL 30 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