GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**Application No. 16905 of Capitol Apartment Property Associates LP**, pursuant to 11 DCMR § 3104.1, for a special exception for a new residential development under section 353, a special exception to allow a group of buildings to be erected and deemed a single building under section 410, for the construction of 30 apartment units in an R-5-A District at premises 3817-3819 2nd Street, S.E., and 172-174 Mississippi Avenue, S.E. (Square 6118, Lot 41).

**HEARING DATE:** July 30, 2002
**DECISION DATE:** September 4, 2002

## 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 Advisory Neighborhood Commission (ANC) 8C and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 8C. ANC 8C, which is automatically a party to the application, filed a written statement in support of the application. The Office of Planning (OP) submitted a report in support of the application. The District Department of Transportation (DDOT) submitted a report having no objection to the application.

As directed by 11 DCMR § 3119.2, the Board has required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1, 410, and 353. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to 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 letter and OP report, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under §§ 410 and 353, and that the requested relief can be granted as in harmony with the general purpose

BZA Case No. 16905 Exhibit No. 35

Board of Zoning Adjustment
District of Columbia
CASE NO.16905
EXHIBIT NO.35

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. It is therefore **ORDERED** that the application be **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:** **4-0-1** (Geoffrey H. Griffis, Curtis Etherly, Jr., Anne M. Renshaw to approve, Anthony J. Hood to approve by proxy, 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:** SEP 12 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 THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**BZA APPLICATION NO. 16905**

As Director of the Office of Zoning, I hereby certify and attest that on SEP 12 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:

George R. Keys, Jr., Esq.
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rsn

**ATTESTED BY:** Jerrily Kress

**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**