GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16914 of PN Hoffman, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure provisions of section 411 (770.6(b)) and 411.5, and 1906, and pursuant to 11 DCMR § 3103.2, a variance from the residential recreation space requirements under section 773, and a variance from the maximum permitted height of a roof structure under section 1902, for the construction of an apartment house with first floor retail uses in the Arts/C-3-A District at premises 1444 Church Street, N.W. and 1445 P Streets, N.W. (Square 209, Lots 901 & 903).

Note: As a preliminary matter, the Board of Zoning Adjustment, upon recommendation from the Office of Planning and with the concurrence of the Applicant, amended the application to request a special exception from the maximum permitted height of roof structures in the Uptown Arts-Mixed Use Overlay District as specified in 11 DCMR § 1906.

HEARING DATE: September 17, 2002
DECISION DATE: September 17, 2002 (Bench Decision)

SELF-CERTIFIED

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) 2F, 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 District Department of Transportation (DDOT) for review and report. DDOT did not submit a report.

The subject property is located within the jurisdiction of ANC 2F. ANC 2F, which is automatically a party to the application, filed a written statement in support of the application dated May 14, 2002.

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

BZA Case No. 16914 Exhibit No. 32

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pursuant to 11 DCMR §§ 411 (770.6(b)), 411.5, and 1906, and variance from the strict application of the requirements of 11 DCMR §§ 773 and 1902. 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. 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, 411 (770.6(b)), 411.5, and 1906, 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 specific requirements set forth in 11 DCMR §§ 1906.1(a) through 1906.1(e) have been met. The Board also concludes that the Applicant has met its burden of proof pursuant to 11 DCMR § 3103.2 under § 773, and 1902, 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**, subject to the following conditions:

1. A legally binding document ensuring access in perpetuity to underground parking via the building at Lot 94, Square 209 (1425 P Street, N.W.) shall be recorded on the title; and

2. A legally binding document ensuring access in perpetuity to the common roof area on Lot 902, Square 209 (1445 P Street, N.W.) by all residents of the building known as 1445 P Street, N.W., and 1444 Church Street, N.W. shall be recorded on the title; and

3. A copy of the title shall be filed with the Zoning Administrator.

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.

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, David A. Zaidain, and James H. Hannaham to approve; Curtis L. Etherly, Jr., 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: OCT 15 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.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE SECTION 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF

ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAR STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16914

As Director of the Office of Zoning, I hereby certify and attest that on OCT 15 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