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October 24, 2002

CHRISTINE MOSELEY SHIKER
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VIA HAND DELIVERY
Members of the Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Board of Zoning Adjustment Case No. 16930
500 New Jersey Avenue, N.W.
Proposed Order

Dear Board Members:

As requested at the public hearing on Tuesday, October 25, 2002, enclosed please find the proposed order granting the above-referenced case with conditions. As requested by staff, the proposed order has also been sent via electronic mail to Rick Nero at the Office of Zoning.

Should you have any questions regarding this matter, please do not hesitate to call me.

Sincerely,

Christine Moseley Shiker

Christine Moseley Shiker

Enclosure

cc: David McGettigan, Office of Planning (Via Facsimile; w/enclosure)
ANC 6A (Via U.S. Mail, w/enclosure)
Rob Hall, ANC 6A01 (Via Hand Delivery; w/enclosure)

BZA
Case No. 16930
Exhibit No. 100

Board of Zoning Adjustment
District of Columbia
CASE NO.16930
EXHIBIT NO.100

Application No. 16930 of Lawrence N. Brandt, Inc., (the "Applicant") pursuant to 11 DCMR § 3103.2 for a variance from the floor area ratio ("FAR") requirement of Section 771, a variance from the height requirement under Section 770, a variance from the parking requirement under Section 2101, and a variance from the loading requirement under Section 2201 and pursuant to 11 DCMR § 3104.1 for a special exception from the roof structure requirement of Section 411.5 for the construction of an office building to serve as the National Association of Realtors ("NAR") headquarters building, with ground floor retail uses, located at 500 New Jersey Avenue, N.W. (Square 627, Lots 7, 12, 801, and 802) and located in the HR/C-3-C District (the "Application").

HEARING DATE: October 22, 2002
DECISION DATE: October 22, 2002

DECISION AND ORDER

SELF CERTIFICATION:

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

PRELIMINARY MATTERS:

1. The Board of Zoning Adjustment (the "Board"), pursuant to its rules, 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") 6A and to owners of property within 200 feet of the subject site.

2. The subject site is located within the jurisdiction of ANC 6A, which is automatically a party to this application, and which did not file a report as directed by 11 DCMR § 3119.2. Rob Hall, the single member district representative for 6A01 in which this subject site is located, attended the meeting, testified in opposition to the Application, and requested that consideration of the Application be postponed until the ANC 6A took a position on the Application. Corporation Counsel determined that Mr. Hall was not acting or appearing on behalf of the ANC 6A.

3. The Board received no requests for party status. While permitted as a party under the rules, ANC 6A did not participate as a party.

4. 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 a special exception pursuant to 11 DCMR § 3104.1 and for variances pursuant to 11 DCMR § 3103.2.

5. Twelve witnesses testified in support of the application. Two witnesses testified in opposition to the application.

6. The Board received letters in support of the application from the following organizations, companies and persons: the United States Department of the Interior through its National Park Service (under whose jurisdiction adjacent Federal Reservation 196 falls); the Union Station Redevelopment Corporation; Georgetown University (nearby property owner); Hyatt Hotel (nearby property owner); Federal Trade Commission (nearby property owner); Washington Court Hotel (nearby property owner); Greenhoot Cohen (nearby property owner); Holiday Inn (nearby property owner); Hotel George and AE Capital Associates (limited partner of Hotel George) (nearby property owner); Lenkin Company (nearby property owner); Phoenix Park Hotel (nearby property owner); the John Akridge Companies (nearby property owner); Louis Dreyfus Property Group (nearby property owner); George White (former Architect of the Capitol); Hugh Jacobson (local architect); W. Chapin (former president of the American Institute of Architecture and consultant to the architectural design jury for the NAR); S. Henshaw Jones (District resident); L. McPherson (District resident); E. Miller (Ward 6 resident); J. Sebree (District Resident); J. Maheady (District resident); J. Molinaro (District Resident); D. French (District resident); L. Johnson (District Resident); N. Resnick (District resident); P. Dennis (District resident); J. McDonagh (District resident); S. Kim (District resident); J. Saunders (District resident); G. Parades (District resident); J. Ferruggiaro, III (District Resident); Congresswoman Connie Morella (MD); Congressman Tom Davis (VA); Congressman Eric Cantor (VA); Congresswoman Jane Harman (CA); Congressman Ken Calvert (CA); Congressman Tom Reynolds (NY); Congressman Gary Miller (CA, Assistant Whip at Large); Congressman Mark Foley (FL) (Deputy Whip); Congressman Brad Sherman (CA); Congressman Johnny Isakson (GA); Congressman Jerry Weller (IL); Congressman Sherwood Beohlert (NY); Congressman John Sullivan (OK); and Senator Jack Reed (RI). One letter of opposition was received from CHAMPS (Capitol Hill Association of Merchants and Professionals).

7. The Office of Planning ("OP") timely filed an initial report on October 15, 2002, and filed a supplemental report on October 21, 2002. The Board accepted the

supplemental OP report by waiver of its seven day advance filing ruling set forth in 11 DCMR § 3114.2.

8. The District Department of Transportation ("DDOT") filed its report during the hearing. The Board expressed concern regarding the lateness of the DDOT report. Despite objections from Board members, the DDOT report was accepted into the record by waiver of its seven day advance filing ruling set forth in 11 DCMR § 3114.2.

FINDINGS OF FACT:

1. The subject site is known as 500 New Jersey Avenue, N.W., in Square 627, Lots 7, 12, 801, and 802 (the "Site"). The Site is located in the HR/C-3-C District, within the Downtown East Receiving District, and within the Central Employment Area.

2. The Site is a narrow, extremely small triangle consisting of approximately 8,312 square feet. The Site comprises the entire private land area of Square 627 and is bounded by New Jersey Avenue to the east, E Street to the south, First Street to the west and Federal Reservation 196 and F Street to the north. The combination of private land area and public, open space comprises over 37,000 square feet of land. The Site is currently improved with a closed, boarded and fenced-off gasoline station, vacant retail structures and incidental surface parking.

3. The Site is located northwest of the Capitol along the New Jersey Avenue monumental corridor. The Generalized Land Use Map of the Comprehensive Plan designates the Site and the surrounding area in the highest density commercial designation. The surrounding area is dominated by hotel, commercial and institutional uses.

4. The Board previously approved identical variance relief for development of the Site in Board of Zoning Adjustment 16744 in July, 2001.

5. The C-3-C District is designed to permit medium-high density development, including office, retail, housing and mixed use. The Site is also located in the HR (Hotel-Residential) Overlay District as well as the Downtown East Receiving Zone. The C-3-C District permits a maximum height of ninety feet and a maximum FAR of 6.5 for any permitted use. The HR Overlay District permits as a matter of right a height of 130 feet and a maximum FAR of 8.5, as long as at least 2.0 FAR is devoted to hotel or residential use. The Downtown East Receiving Zone permits additional height and FAR through Transferable Development Rights ("TDRs").

With TDRs, a building may be built to a height of 110 feet, with a maximum of 9.0 FAR, as a matter of right.

6. The Applicant presented testimony and evidence of the proposed construction of a twelve-story office building, with ground floor retail uses, having a total height of 130 feet (the "Building"). The Building contains approximately 87,995 square feet of gross floor area or 10.59 FAR. As a design feature, the Building incorporates curved sides projecting into public space, which provide an additional 9,720 square feet of floor area. Initially, the top four floors of the Building will serve as the Washington headquarters for the NAR, with remaining portions of the Building being leased to outside tenants.

7. Richard Rosenthal, representative of the NAR, testified regarding the NAR's decision to locate its Washington headquarters at this Site. Mr. Rosenthal further testified as to the selection of the design of the Building by Graham Gund and Associates. The design was selected by a panel of three jurors, including Harry Robinson, the present chair of the Commission of Fine Arts, George White, former Architect of the Capitol, and Colden "Coke" Florance, noted architect in the area.

8. John B. Schlichting from CarrAmerica Development, Inc., an expert in real estate development, testified regarding the small size and narrow shape of the Site and the basis for its uniqueness in the District. Mr. Schlichting further testified, as stated in the letter submitted in the record, that the primary reason for the practical difficulty on the Site was due to the higher construction costs resulting from the size and configuration of the Site itself. Due to the generous public right-of-way surrounding the Site on all sides, the building site itself is a relatively small portion of the square. The site factors contribute to higher costs due to (a) a much larger proportion of Class A, fully articulated facades as compared to usable interior square footage, (b) a much higher percentage of building core relative to usable space, and (c) an unusually large amount of sitework and landscaping costs associated with both the generous right-of-way as well as the Applicant's commitment to re-landscape the National Park Service Reservation 196. Mr. Schlichting explained in detail each of these factors that contribute to higher costs, such factors also being explained in the letter dated October 18, 2002, filed in the record of this case. Furthermore, in Mr. Schlichting's experience, construction costs for a Class A office building the area are typically in the $80 to $100 per square foot rent and that the Building, including the sustainable features, will have construction costs in the $140 to $165 range. Mr. Schlichting concluded that should the variance requests not be granted, the practical difficulty of constructing

a smaller office building at the Site would be so extreme as to be financially infeasible.

9. Based on the Building's proposed gross floor area of approximately 87,995 feet, or 10.59 FAR, and proposed height of 130 feet, the Applicant must request an area variance of 4.09 FAR and a height variance of forty feet from the matter of right provisions. The variances allow the Building to expand the envelope of the Site yet result in a building that is comparable in height with surrounding development but still unusually small in terms of gross square footage.

10. Section 2101 of the Zoning Regulations requires that an office building within the C-3-C District provide one parking space for each 1,800 square feet, after the first 2,000 square feet, requiring the Building to provide a total of forty-eight parking spaces on the Site. The Applicant presented evidence that only twenty-five parking spaces can be provided completely within the property line due to the small size and narrow shape of the Site. Mr. Schlichting testified, however, that an additional forty-three parking spaces can be located within vault space, yielding a total of sixty-eight parking spaces, more than that required by the Zoning Regulations.

11. Section 2201 of the Zoning Regulations requires that an office building with less than 100,000 square feet of gross floor area in the C-3-C District provide at least one thirty foot deep loading berth, at least one 100 square foot loading platform, and at least one twenty foot deep service/delivery loading space. The Building includes one ten foot by twenty foot service delivery space and one loading platform in excess of 100 square feet. The Applicant presented evidence that due to the size and shape of the Site, the Building cannot include the required loading berth. At its widest point, the Site is sixty-eight feet wide. Due to the entrance to the garage, the service area must be located along First Street. If a thirty foot loading berth were provided, the Building would almost be cut in half because the Building is only forty-five feet wide at the point where the service/delivery area is located. The Applicant, however, presented evidence that service/delivery space would adequately satisfy most of the loading needs for the Building and that an additional screened loading area within the public space would be provided along First Street, with the required approvals, to accommodate additional loading needs ("Buffer Loading Area"). Furthermore, the Applicant indicated that a loading zone is designated on First Street between 9:30 a.m. and 6:30 p.m. and that this additional loading area can be used as a third level of loading in the situation that it may be needed.

12. The Applicant provided further testimony and evidence as to the necessity for multiple roof structure heights. The tallest portion of the roof structure is approximately 17'11¾" in height. This height is the minimum necessary to enclose the elevator equipment which is required for elevator access to the roof of the Building. The roof structure steps down to sixteen feet surrounding the elevator core and enclosing mechanical equipment, and further stepping down to nine feet, ten inches for the elevator/circulation lobby. On the eastern portion of the roof, the roof structure is ten feet, eight inches in height to enclose the cooling towers. The size of the Site dictates this outcome, with the width of the Building being only approximately sixty-eight feet. In order to enclose all of the required elevator and mechanical equipment and meet the setback requirements dictated by both the Zoning Regulations and the Act of 1910, the penthouse must have this shape and size. The steps in height reduce the overall height and bulk of the roof structure, and the roof structure as a whole harmonizes with the main structure in architectural character, material and color.

13. Graham Gund, an expert in architecture, described the Building's design and its relationship to the context of the surrounding area and Capitol area. Mr. Gund testified that the Building had a modern design, including a curved glass curtain wall projecting into public space on the east and west sides. The ground floor retail spaces are visually transparent for the pedestrian experience. The Building's form takes cues from the great monuments: the curve of the Capitol dome, the transparency of the White House portico, and the verticality of the Washington monument. The sculptural form is anchored by an architectural tower at the convergence of the surrounding streets, creating an overlook into the park and an identifying beacon for the area. Mr. Gund's remarks were supplemented by Ms. Laura Cabo, an associate of Mr. Gund.

14. James van Sweeden, the landscape architect, testified as to the proposed landscaping surrounding the Building, including the proposed concepts for improvements to Federal Reservation 196. The Applicant presented testimony that it would work with the National Park Service to improve Federal Reservation 196 and that it would maintain the reservation thereafter.

15. By submission of a report in the Applicant's Prehearing Submission as Exhibit I, the Applicant submitted expert testimony in real estate economics from Bolan Smart Associates, Inc. ("Bolan Smart"). Bolan Smart established that the Building is financially infeasible if only permitted to build to the matter of right height and density. In an extensive comparison of the Building and a typical District office building, Bolan Smart found that to rent the Building in a competitive manner

with the generic building would result in a loss of approximately $15.00 per rentable square foot. Bolan Smart concluded that the high development costs would mandate rents per rentable square foot far above market competitive rents, which for the Building would actually need to be significantly below market in order to compensate for chronic building inefficiencies, resulting in a building that could not be built.

16. Bolan Smart further provided evidence that additional methods of achieving more height and density under the Zoning Regulations were infeasible in this case. The acquisition of TDRs is not feasible and would only compound the problem at the Site. The acquisition of TDRs would add to the costs of the Building, worsening the underlying economic situation, while at the same time capping development at 110 feet in height and 9.0 FAR, which are not sufficient to make the development financially viable.

17. Although additional height and FAR could also be achieved under the HR Overlay District, Bolan Smart concluded that the addition of a hotel or residential component to the Building would worsen the project's economics and viability. These uses generally generate less income than office space, making an already unprofitable office structure an even more unprofitable mixed use structure. In addition, significant design changes would be required which would have a devastating impact on the Building's economics, such as a second elevator core, a second lobby and changes to HVAC and mechanical systems. Regardless of the economic conditions, the Site can not physically support an additional use due to its extraordinarily small, narrow footprint.

18. By submission of a report in the Applicant's Prehearing Submission as Exhibit J, the Applicant submitted expert testimony in traffic engineering from O.R. George and Associates ("Traffic Consultant"). The Traffic Consultant provided evidence that the level of trip generation resulting from the Building's increased height and FAR would not adversely impact traffic flow within the subject area or adversely impact access to neighboring properties.

19. The Traffic Consultant also concluded that based upon empirical evidence discussed in the report and the relatively small size of the parking garage (at approximately sixty-eight spaces), the variance from the parking requirements of the Zoning Regulations would not adversely impact neighboring properties or area roadway users in general.

20. The Traffic Consultant also reviewed the proposed loading variance. The Traffic Consultant stated that loading provisions do not typically impact peak hour vehicle trip generation and that the more critical factors are the points of access to the public roadway and the degree to which there might be conflicts with adjacent through traffic. The Traffic Consultant found that the loading activities on and off First Street, a very lightly used section of the roadway, would not have an adverse impact on the local area. The Traffic Consultant also concluded that the loading arrangement as proposed would be adequate to accommodate the needs of the Buildings.

21. By submission of a report attached to the Applicant's Prehearing Submission as Exhibit H, the Applicant submitted expert testimony in land use from Lindsley Williams. Mr. Williams established that the Site is affected by a host of exceptional conditions based on the size of the Site, the configuration of the Site, the three zone categories now applicable to the Site and the requirements of the Zoning and other Regulations as to public space and street design. Mr. Williams provided evidence that the strict application of the Zoning Regulations would create significant difficulties and impose exceptional costs for the construction of the Building. Mr. Williams also provided evidence that the variances and special exceptions can be granted without substantial detriment to any surrounding properties or the integrity of the underlying zone plan.

22. The Office of Planning ("OP"), by an initial report filed on October 15, 2002, supplemented by a report dated October 21, 2002, and by testimony at the hearing, recommended that the Application be approved with conditions. The OP testified that, with further information that had been provided to OP prior to the hearing, that OP was of the opinion that the Applicant had satisfied its burden of proof for both the variance and special exception relief requested. The OP presented the following three conditions for approval:

    a. The Applicant shall obtain a "green" building rating from the US Green Building Council prior to the issuance of a certificate of occupancy.
    b. The Applicant shall proved the streetscape proposed in the Schematic Streetscape/Landscape Plan prepared by Oehme, van Sweeden & Associates, Inc., as modified by the following design guidelines:

        i. Provide an additional entrance from the northern retail space onto the courtyard;

ii. Make the planted areas more permeable to pedestrians to encourage interaction between pedestrians and retail spaces;

iii. Provide transparent glass to allow visibility of activity within the building.

c. The Applicant shall construct the Building in substantial conformance with the building plans prepared by Graham Gund and SMB Architects.

23. The Applicant provided evidence and testimony that it would seek LEED Certification for the Building, as discussed in the summary of the anticipated sustainable features for the Building filed at the hearing. The Applicant and the OP agreed that the OP's proposed condition regarding obtaining LEED certification prior to the issuance of a certificate of occupancy was unworkable. After discussion, the Board concluded that such a condition was unnecessary because practical difficulty had been established even without inclusion of the sustainable development features.

24. The District Department of Transportation, by memorandum dated October 21, 2002, and filed on October 22, 2002 (the "DDOT Report"), concluded that the proposed traffic generated from the use will not significantly impact the level of service on adjacent streets and intersections during the AM and PM peak hours. The DDOT Report recommended that the Buffer Loading Area be removed from the plans, stating that loading activities should occur within the Building's service/delivery space with vehicles heading in and heading out onto public streets. Instead, the DDOT recommended that the Applicant provide additional loading space along the curb of First Street, N.W. No one from DDOT appeared to testify at the hearing. The DDOT further indicated that the proposed circular driveway was not permitted unless approved by the Director.

25. The Board did not agree with the DDOT Report with respect to the Buffer Loading Area. The Board decided to condition the approval on its recommending to DDOT that there be no requirement to have a solid barrier separating the proposed loading area in public space from the sidewalk area and recommended that low plantings and landscaping or decorative bollards be used to separate this area from pedestrian traffic flow. The Board further noted that in connection with the loading area on First Street, it would like to keep loss of metered parking spaces to a few spaces as possible and create minimal adverse impact on possible peak hour traffic. The Board indicated that it supported the

proposed circular driveway on New Jersey Avenue and requested that the Applicant obtain the required approval from the DDOT Director for this feature.

26. Rob Hall, ANC 6A01 Single Member District Representative, in which the Site is located, appeared at the hearing to testify in opposition to the Application and requested that the hearing be continued until such time as ANC 6A could achieve a quorum and take a position on the Application. Mr. Hall submitted a letter into the record, which was accepted by the Board. Corporation Counsel concluded that Mr. Hall was not representing the ANC 6A with respect to his testimony or request, as he had not presented authorization from the ANC 6A to do so. The Board allowed Mr. Hall to fully testify as to his position on the Application and the ANC 6A Zoning and Licensing Subcommittee's proceedings and stated position regarding the Application. The ANC 6A Zoning and Licensing Subcommittee did not submit a report into the record. The Board conducted extensive discussion of the merits of postponing decision of the case until after the ANC 6A had another opportunity to take a position on the case. The Board, however, concluded that Mr. Hall's primary concern was with the aesthetics and design of the Building, which is not within the Board's jurisdiction, and that it had sufficient information to proceed forward at that time without awaiting further information.

27. The following persons testified in support of the Application: M. MacNeil (general manager and resident at the Washington Court Hotel); L. McPherson (District resident); E. Miller (Ward 6 resident); C. Watkins (East Capital Center for Change); J. Sebree (District Resident); J. Maheady (District resident); J. Molinaro (District Resident); D. French (District resident); L. Johnson (District Resident); N. Resnick (District resident); W. Chapin (former president of the American Institute of Architecture and consultant to the architectural design jury for the NAR); and P. Dennis (District resident).

28. Mr. Robert Gabany testified in opposition to the Application. Mr. Gabany submitted a letter from Harry Schnipper, Chair of the Economic Development Committee of CHAMPS (Capitol Hill Association of Merchants and Professionals). Mr. Gabany noted that his position and that of the letter was not the position of the entire organization, as no vote had been taken. In fact, Mr. Gabany noted that members of CHAMPS had testified in support of the Application.

CONCLUSIONS OF LAW AND OPINION:

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant is seeking area variances from Sections 770, 771, 2101, and 2201 and a special exception under Section 411 of the Zoning Regulations.

With respect to the requests for variance relief, the Applicant must prove that it has complied with the requirements of Section 3103 of the Zoning Regulations. The Board concludes that the requested relief is for area variance, the granting of which requires proof of a practical difficulty upon the Applicant arising out of some exceptional condition or situation of the property. The Board further must find that the relief requested can be granted without substantial detriment to the public good and without substantial impairment to the zone plan.

The Board concludes that the Applicant has met the requisite burden of proof. The Board further concludes that the Site is subject to extraordinary or exceptional conditions by virtue of its small size, its narrow, triangular shape, and its unique posture in the District. The Board concludes that this confluence of factors results in an exceptional condition or situation impacting the Site.

The Board concludes that the extraordinary or exceptional situation or condition of the Site results in a practical difficulty upon the Applicant. The Applicant has demonstrated through testimony and evidence that it is unable to economically construct any building on the Site due the higher construction costs resulting from the size and configuration of the Site, including site factors such as a much larger proportion of fully articulated facades as compared to interior square footage, a much higher percentage of building cord relative to usable space, and an unusually large amount of sitework and landscaping costs associated with both the generous right-of-way as well as the committed to re-landscape the National Park Service Reservation 196. The Board further concludes that the size of the Site prevents compliance with the parking and loading requirements of the Zoning Regulations.

The Board concludes that the relief requested can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations. The Building is supported by a significant majority of adjacent and nearby property owners and will serve to revitalize and benefit the surrounding community. Any issues with respect to the design or façade of the Building are note within the Board's jurisdiction. Furthermore, with respect to the variance from the parking requirements, the Building will provide additional parking in vault space. Because these additional parking spaces are provided in the same garage as all other

parking spaces and with access to the Building from the garage, there will be no detrimental impact on the public or on the Zone Plan. Moreover, the loading variance will also not cause detrimental impact on the public or zone plan, as the service/delivery space should adequately satisfy the loading needs for the Building. The Applicant also proposes the Buffered Loading Area in public space and can use the designated loading zone on First Street in the event that additional loading space is needed.

For purposes of the special exception request, the Applicant must prove that it has complied with the requirements of Section 411 of the Zoning Regulations. Section 411.5 requires that a roof structure must have walls of equal height. Based on the evidence and testimony, the Board concludes that maintaining walls of equal height is impracticable because of the size and shape of the Site and that compliance with this requirement would be unduly restrictive, prohibitively costly, and unreasonable. The intent and purpose of Chapter 400 and the Zoning Regulations is furthered by the special exception because the proposed roof structure and varying heights of its walls harmonize with the Building in architectural character, material and color as required by Section 411.3 of the Zoning Regulations. The Board is satisfied by the Applicant's testimony and the letters of support from neighboring property owners that the proposed roof structure will have no adverse impact upon neighboring properties. The Board concludes that the special exception does not materially impair Chapter 400 or the Zoning Regulations and the light and air of adjacent buildings is not affected adversely.

The Board further concludes that the ANC 6A has not submitted its position as to the Application and accordingly, did not participate as a party in this proceeding.

In light of the foregoing, the Board **ORDERS** that the application be and the same is hereby **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The Applicant shall construct the Building in substantial conformance with the building plans prepared by Graham Gund and SMB Architects.

2. The tower proposed on the north side of the Building will be used only as an architectural embellishment and for no other purpose.

3. Recommend to DDOT that no solid barrier or wall separate the proposed loading area in public space on the west side of the Building from the sidewalk area.

VOTE: **5-0-0** (Geoffrey H. Griffis, Anne M. Renshaw, David A. Zaidain, Anthony Hood, and Curtis Etherly, Jr., to approve)

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

FINAL DATE OF ORDER: _____

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 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). 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.

WAS1 #1130328 v3