DCHA
District of Columbia
Hospital Association

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Robert A. Malson
President

December 20, 2004

Mr. Jeffrey Griffis
Chairman
D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Suite 225 South
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2004 DEC 21 AM 10:01

Re: Board of Zoning Adjustment Appeal No. 17249

Dear Mr. Griffis and Members of the Board:

On behalf of the eighteen member hospitals of the District of Columbia Hospital Association, I write to urge the Board to fully support the Zoning Administrator's decision to issue a certificate of occupancy to each of the food venues that are located within the George Washington University's Ivory Tower student residence dormitory on its Foggy Bottom campus.

We take keen interest in this Appeal because it appears to challenge well settled law and practice regarding the permitting of a use that is customarily incidental and subordinate to a principal use. Like the Ivory Tower dormitory, many of our non-profit institutions are located in residential districts where stand-alone retail facilities are not otherwise permitted. Nonetheless, food services, coffee shops, gift stores and other similar activities that are common and essential to the principal hospital use are also permitted as accessory uses because they serve a role and meet a need that is wholly consistent with the mission of the principal use. To that end each is fully located either within the hospital building or within its "campus" area, and each is primarily there to serve the patients, medical personnel and staff of the hospital. Although the overwhelming number of customers to these facilities are directly associated with the hospital use, guests of the hospital, including family members of the patients and others who are not directly affiliated with the hospital are also welcome to use them. Such is a well-established practice that has been repeatedly approved by the Zoning Commission and, in one key case, sustained by the D.C. Court of Appeals.

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Case No. 17249
Exhibit No. 19

In my professional opinion, I believe that hospitals employ this approved practice throughout the Washington region and nationwide. This has been freely done because zoning authorities have consistently recognized the fact that these facilities are reasonably and necessarily related

Board of Zoning Adjustment
District of Columbia
CASE NO. 17249
EXHIBIT NO. 19

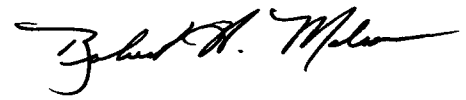
to the mission of a hospital. They also see the impracticality and managerial difficulty and inconvenience to the public of prohibiting those who are already at the hospital, and who are not employees or patients, from availing themselves to the incidental food, flower and card, and other services that are provided as an accessory to the principal use. No one comes to a hospital for the exclusive purpose of using accessory services.

From a policy perspective, I know of no evidence that any of these accessory uses are inconsistent with any zoning order, nor do they have an adverse impact on the use and enjoyment of neighboring property because of noise, traffic or other objectionable condition. In fact, these facilities are located within the hospital building and generate little, if any, additional pedestrian or vehicular traffic.

Finally, a successful challenge to of these "status quo" accessory facilities would adversely limit an important use activity of our hospital membership. We are confident that the Zoning Commission will continue to recognize the importance of permitting food service venues as incidental and subordinate to an approved hospital or university use. Accordingly, the Board of Zoning Adjustment must respond to existing zoning policy and practice by sustaining the established policy of permitting accessory uses that are customarily offered by hospitals and universities to be offered to all who choose to use them.

The Zoning Administrator's decision in the above-referenced Appeal is correct in policy and law and, for that reason, should be affirmed and the Appeal denied.

Sincerely,



Robert A Malson
President