GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15542 of the Capitol Hill Group, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 359 to establish a health care facility with 130 beds and 250 full-time staff, basement through sixth floors, in an R-5-C District at premises 708 Massachusetts Avenue, N.E., (Square 895, Lot 76).

HEARING DATE: July 24, 1991
DECISION DATE: July 24, 1991 (Bench Decision)

DISPOSITION: The Board **GRANTED** the application by a vote of 3-0 (Charles R. Norris, Paula L. Jewell, and Carrie L. Thornhill to grant; Sheri M. Pruitt and William L. Ensign not present, not voting). The Board **APPROVED** a **MODIFICATION OF PLANS** by a vote of 4-0 (Sheri M. Pruitt, Paula L. Jewell and Angel F. Clarens to approve; Carrie L. Thornhill to approve by proxy)

FINAL DATE OF ORDERS: August 16, 1991 and April 24, 1992

MODIFICATION ORDER

The Board granted the application by its order dated August 16, 1991 subject to five conditions. By its order dated April 24, 1992, the Board approved a request for modification of the originally approved plans.

By letter dated October 23, 1992, counsel for the applicant requested the Board to modify its approval of the application by adding the following condition:

> "The applicant shall be permitted to rent office space to the following health care providers: (a) Visiting Nurses Association, (b) Pentamidene clinic; (c) Chartered Health Plan, Inc.; (d) National Rehabilitation Hospital Research; and, (e) Brice Warren Corporation."

By letter dated November 12, 1992, counsel for the applicant submitted a letter agreement, dated June 27, 1990, executed by the State Health Planning and Development Agency (SHPDA) and the former owners of the property authorizing temporary use of 30 medical/surgical beds as skilled nursing beds, and Certificate of Need No. 90-6-3 authorizing the conversion of 130 medical/surgical beds to 70 intermediate and 60 skilled care nursing home beds.

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Counsel for the applicant argued that the proposed modification to the order would be minor and that the resulting use of the building would be consistent with previous use of the building and the use approved by the State Health Planning and Development Agency and the Board.

Upon consideration of the motion, the record in the case, and its final orders, the Board concludes that the proposed modification is not consistent with the Board's previous approvals which specifically dealt with special exception approval necessary to establish a 130-bed health care facility and minor modifications to the design of the building.

The Board further concludes that the modification, as proposed, projects multiple uses of the building. Multiple uses of the building would be permitted, provided all such uses were allowed in the R-5-C District as a matter-of-right or had received appropriate variance or special exception relief to allow for their establishment in an R-5-C District. The Board concludes that the proposed uses have not been reviewed by the Zoning Administrator to determine whether they would be permitted as a matter-of-right or would require specific zoning relief. If the Zoning Administrator determines upon review of the applicant's proposal that the proposed uses are permitted as a matter-of-right, the certificate of occupancy would be issued as a matter of course. If the Zoning Administrator determines that zoning relief would be required in order to establish the proposed uses, the applicant would be required to file for appropriate action by the Board.

Based on the foregoing, it is hereby **ORDERED** that the motion for **MODIFICATION** of the order is hereby **DENIED** as not being properly before the Board.

DECISION DATE: December 2, 1992

VOTE: 4-0 (Paula L. Jewell, Sheri M. Pruitt, Angel F. Clarens and Carrie L. Thornhill to deny).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: DEC 30 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15542/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15542

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on DEC 30 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Barry E. Hill, Esquire
Dickstein, Shapiro & Morin
2101 L Street, N.W.
Washington, D.C. 20037

Phil Feola, Esquire
Linowes and Blocher
800 K Street, N.W., Suite 840
Washington, D.C. 20001

Craig Lisk, Chairperson
Advisory Neighborhood Commission 6-A
1341 Maryland Avenue, N.E.
Washington, D.C. 20002

Madeliene H. Robinson

MADELIENE H. ROBINSON
Acting Director

DATE: DEC 30 1992

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 11735, of Rodgers Memorial Hospital pursuant to Sections 8207.2 & 3308.21 of the Zoning Regulations, for approval of structures to be located atop a proposed addition in the R-5-C zone at 708 Massachusetts Avenue, N.E., Lot 76 Square 895.

HEARING DATE: October 16, 1974
DECISION DATE: October 25, 1974

FINDINGS OF FACT:

1. The applicant proposes to construct an addition to the existing Rodgers Memorial Hospital involving the addition of two new roof structures and an enlargement of an existing roff structure.

2. The proposed roof strucutres requires no variance.

3. Mr. Kenneth Hammond, BZA staff architect, and Deputy Assistant Director of the Zoning Unit, Office of Planning and Management, stated in his report and the Board finds that the proposed penthouse will harmonize with the main structure in architectural character, material and color. Mr. Hammond also recommended approval of this application.

4. No opposition was registered at public hearing to this application, however, unanimous support was given by the Capitol Hill Restoration Society.

CONCLUSIONS OF LAW:

Based upon the above findings of fact, and the record, the Board is of the opinion that the applicant has complied with Section 3308.12 of the regulations, and concludes that the Granting of this special exception will not adversely affect the use of adjoining and nearby property.

ORDERED:

That the above application be and is hereby, GRANTED.

VOTE: 5 -0 (Mr. Harps not voting, not having heard the case.)

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CASE No. 16407
EXHIBIT No. 21

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: James E. Miller
JAMES E. MILLER
Secretary to the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

FINAL DATE OF ORDER: NOV 19 1974