GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16407 of Capitol Hill Group pursuant to 11 D.C.M.R.§ 3108.1 (new 3104.1) for a special exception under Section 359 for opening an additional 32 beds in an existing nursing facility at 700 Constitution Avenue, N.E. (Square 865, Lot 76).

HEARING DATE: January 6, 1999

DECISION DATE: February 3,1999

DISPOSITION: The Board granted the Application for an additional 32 beds with conditions for an existing nursing facility at 700 Constitution Avenue, N.E. (Square 865, Lot 76) by a vote of 5-0 (Carol J. Mitten, Robert N. Sockwell, Rodney L. Moulden, and Anne M. Renshaw, to grant, and Sheila Cross Reid, to grant, by proxy).

FINAL DATE OF ORDER: October 21, 1999.

ORDER ON REQUEST FOR MODIFICATION

This Decision and Order arises from a request from the Capitol Hill Group for a Modification of the Board of Zoning Adjustment (BZA) Order No. 16407.

PROCEDURAL MATTERS

The property that is the subject of this application is Lot 76, in Square 865, located at 700 Constitution Avenue, N.E. The subject lot occupies most of Square 865. The site is bounded by Constitution and Massachusetts Avenues on the south, 7th Street on the west, C Street on the north, and 8th Street on the east. It abuts St. James Church. It is zoned R-5-D.

On July 24, 1991, BZA, in Application No. 15542 granted a special exception for the operation of a 130 bed nursing facility. On September 23, 1998, the applicant, Capitol Hill Group, d/b/a MedLINK Nursing Center at Capitol Hill, filed an Application for a special exception pursuant to 11 DCMR § 3108.1. The Application requested approval under Section 359 for an additional 32 beds at its existing nursing facility located at the subject premises.

By BZA Order No. 16407, which became final on October 21, 1999, the Board granted approval for the additional 32 beds for the nursing facility bringing the total number of

BZA
Case No.
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO.16407
EXHIBIT NO.44

beds for the facility from 130 to 162 beds. The approval was subject to the following conditions:

1. Approval shall be for a period of ten years from the final date of this Order;

2. The Applicant must provide 162 beds;

3. The number of employees shall not exceed 340;

4. The Applicant must provide 276 off-street parking spaces;

5. The Applicant must meet four (4) times per year with ANC 6A and other concerned neighbors; and

6. The Applicant must keep the subject site and surrounding property clear of trash as needed.

In a letter dated April 21, 2000, the Applicant requested a modification to Condition No. 4 of BZA Order No.16407 and the legal description of the subject site. The requested modification sought to reduce the number of parking spaces approved in Condition No. 4 from 276 off-street parking spaces to 200 off-street parking spaces and to reflect that the Square for which the relief was sought was Square 895, not, Square 865.

At its public meeting on January 7, 2000, the Board reviewed and discussed the record of the case and the modification request. The Board finds as follows:

1. The 276 off- street parking spaces provided were actually greater than the number of parking spaces required for the facility.

2. The actual number of parking spaces required for a 162-bed nursing facility is 162 parking spaces. The Applicant far exceeded the requirement.

3. Advisory Neighborhood Commission (ANC) 6A, which testified at the January 6, 1999, public hearing in Case No. 16407 and supported the application with three conditions which included availability of parking spaces for St. James parishioners and assurances that the Applicant would continue to empty its exterior trash containers regularly was notified of the modification request. The ANC has not indicated that it has any issue with this modification request.

4. The Board noted that the use of the facility is far less intensive than the original hospital use, which had over 700 patients and other issues that would have made it more active and that would have had an intrusive impact on the community around it.

Based on the above findings the Board concludes that granting the modification is in harmony with the general purpose of the Zoning Regulations and Zoning Map. The Board also finds that the modification will not adversely affect the neighboring or adjacent properties or change the material facts the Board relied upon in approving the application subject to conditions. Accordingly, the Board **ORDERED** that the **Parking Space** requirement in BZA Order No. 16407, be reduced from **276 spaces to 200**, and the legal description of the **site** to reflect **Square 895**, instead of Square 865.

VOTE: 5-0 (Carol J. Mitten, Robert N. Sockwell, Rodney L. Moulden, and Anne M. Renshaw, to grant, and Sheila Cross Reid, to grant, by proxy).

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

Attested By: _____
Jerrily R. Kress, Director

FINAL DATE OF ORDER: SEP 8 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1999), 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 (1999), 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 (new subsection 3125.9) NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOMES FINAL PURSUANT SUBSECTION 3125.6.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS THE USE IS ESTABLISHED WITHIN SUCH PERIOD.

BZA16407-A/VCE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16407-A

As Director of the Office of Zoning, I hereby certify and attest that on SEP 8 2000 a copy of the order (No. 16407-A) entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Daniel M. Pernell, III, Chairperson
Advisory Neighborhood Commission 6A
St. James Parish Church
1132 4th Street, N.E.
Washington, D. C. 20002

Linda M. Grigsby, Director of External Affairs
MedLINK Nursing Center at Capitol Hill
700 Constitution Avenue, NE
Washington, D.C. 20002

Richard B. Nettler, Esquire
Robins, Kaplan, Miller, & Ciresi, LLP, Suite 1200
1801 K Street, N.W,
Washington, D.C. 20006 - 1301

Michael Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D. C. 20002

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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#424

beds for the facility from 130 to 162 beds. The approval was subject to the following conditions:

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FINAL DATE OF ORDER: SEP 8 2000

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BZA16407-A/VCE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16407-A

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