GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16407 of Capitol Hill Group pursuant to 11 DCMR § 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 3-0 (Betty King, Jerry Gilreath, and Sheila Cross Reid, to grant).

FINAL DATE OF ORDER: October 21, 1999

MODIFICATION ORDER: September 8, 2000

RULING ON ANC 6A'S MOTION FOR RECONSIDERATION

In a letter dated September 13, 2000, ANC 6A requested reconsideration of the Board of Zoning Adjustment's September 8, 2000, Order on Request for Modification. The ANC cited a lack of adequate and timely notice by the Applicant of its April 21, 2000, Request for Modification of Order. As a result, the ANC and community were unable to present the Board with information that they believed to be relevant to the request for modification.

The Board reviewed the ANC's request at its regularly scheduled public meeting on October 3, 2000, and voted 5 to 0 to rehear the Applicant's Request for Modification of Order. Under 11 DCMR § 3129.4, all requests for modification of plans must be served on all other parties to the original application at the same time the request is filed with the Board. The Applicant had inadvertently mailed a copy of the request to an ANC commissioner who was not the ANC chairperson and who failed to bring the request to the ANC's attention. The ANC did not receive actual notice of the Applicant's request for modification until August 10, 2000, long after the Board had approved the Applicant's request at its regularly scheduled June 7, 2000, public meeting. In addition, the ANC demonstrated that there was new evidence regarding the status of the underground parking that could not have been reasonably presented in response to the Applicant's request for modification, since the ANC did not have timely notice of the

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Exhibit No. 85

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District of Columbia
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EXHIBIT NO.85

request. The Board determined therefore that it was appropriate to hold a rehearing on the Applicant's request for modification.

In a notice dated December 21, 2000, the Office of Zoning served public notice to the parties that the Board will hold a public hearing for:

> Rehearing of a modification to Application No. 16407 of Capitol Hill Group, pursuant to 11 DCMR 3126 for a reduction in parking from 276 off-street parking spaces to 200 off-street parking spaces in an R-5-C District at premises 700 Constitution Avenue, N.E. (Square 895, Lot 76).

The notice was also published in the *D.C. Register* on December 22, 2000, at 47 DCR 10,035, and mailed to the owners of all property within 200 feet of the property involved in the request for modification. The above-referenced hearing is scheduled for Tuesday, February 13, 2001, during the Board's afternoon public hearing session.

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

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

Each concurring member has approved the issuance of this Ruling and has authorized the undersigned to execute this Ruling on his or her behalf.

Attested By: _____
Jerrily R. Kress, FAIA
Director, Office of Zoning

Date of Order: FEB . 2 2001

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO: 16407 (MODIFICATION)

As Director of the Office of Zoning, I certify and attest that on FEB 2 2001, a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter and the government officials who are listed below:

Yvette Basterrechea, Chairperson
Advisory Neighborhood Commission 6A
624 H Street, NE, Ground Floor
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 and Cerisi
1801 K Street, NW Suite 1200
Washington, D.C. 20006

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

Councilmember, Sharon Ambrose
Council of the District of Columbia
441 4th Street, NW
Washington, D.C. 20001

Ellen McCarthy, Deputy Director
Development Review Division
801 N. Capitol Street, NE, 4th Floor
Washington, D.C. 20002

Angela W. Cox, Commissioner
Single Member District 6A06
336-10th Street, NE
Washington, D.C. 20002

Attested by: _____
JERRILY R. KRESS, FAIA
Director

Attest No. 16407