Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

Annapolis
Atlanta
Bethesda
Boston
Bradenton
Chicago
Fort Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
New York
Northern Virginia
Orlando
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
Washington, D.C.
West Palm Beach

International Offices:
Caracas*
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo

*Representative Office

LISA L. JACKSON
202/419-2559
lljackso@hklaw.com

July 18, 2001

Richard S. Nero, Jr.
Special Assistant to the Director
District of Columbia Office of Zoning
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA No. 16729
114-124 Wayne Place, S.E.

Dear Mr. Nero:

Enclosed please find a draft Board of Zoning Adjustment order in the above-referenced case as well as a disc containing the order.

If you need anything further, please do not hesitate to contact me at (202) 419-2559.

Sincerely,

Lisa L. Jackson

Enclosures

WAS1 #995876 v1

BZA
Case No. 16729
Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO.16729
EXHIBIT NO.42

DRAFT

Application No. 16729 of Wayne Place Senior Living Limited Partnership, pursuant to 11 DCMR 3103.2, for a special exception under § 3104.1 to allow a new senior living apartment facility in the R-5-A District at 114-124 Wayne Place, Southeast (Lots 42 and 43, Square 6118) and to allow variances at same from the story limitation requirements (§ 400.1), floor area ratio requirements (§ 402.4), and the lot occupancy requirements (§ 403.2).

HEARING DATE: July 17, 2001
DECISION DATE: July 17, 2001 (Bench Decision)

SELF-CERTIFICATION

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

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Applicant, Advisory Neighborhood Commission (ANC) 8C, and to owners of property within 200 feet of property that is the subject of this application. The Board waived the rules to accept the filing of the Office of Planning report which supported the Application.

The subject property is located within the jurisdiction of ANC 8C. ANC 8C, which is automatically a party to the application, filed a written statement dated June 2, 2001 (which the ANC Commissioner reporting on behalf of the Commission noted at the hearing should properly have been dated July 2, 2001) in support of the application.

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 § 3104.1 and for variances from the strict application of the requirements of 11 DCMR, §§ 400.1, 402.4, and 403.2. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC report filed in this case, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR 3104.1, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map; and, in addition, the Board also concludes that the Applicant has met its burden of proof pursuant to 11 DCMR

3103.2 under §§ 400.1, 402.4, and 403.2 that there exists an extraordinary or exceptional situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**:

VOTE: 5-0-0 (Carol Mitten, David Levy, Geoffrey H. Griffis, Sheila Cross Reid, and Anne M. Renshaw to approve)

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

ATTESTED BY:_____
Jerrily R. Kress, FAIA
Director
Office of Zoning

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.

THIS 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 #995564 v1