JORDAN KEYS & JESSAMY, LLP
ATTORNEYS AT LAW
SUITE 700
1400 SIXTEENTH STREET, N.W.
WASHINGTON, D. C. 20036-2217
(202) 483-8300
FACSIMILE (202) 328-6153

gkeys@jordankeys.com

ALLISON R. H. ALVARADO
KATHLEEN A. CAREY+
RACHEL C. EVANS+
SHIREEN JAYATILAKA+
RONALD C. JESSAMY
GEORGE R. KEYS, JR.+
O'NEIL S. KING+
KAREN J. MILLER+
+Also Admitted in Maryland

OF COUNSEL:
JOANNE DODDY FORT
HAROLD E. JORDAN
CHARLES J. OGLETREE, JR.

July 9, 2002

HAND-DELIVERED

Geoffrey Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 Fourth Street, N.W. - Room 220 South
Washington, D.C. 20001

Re: Board of Zoning Adjustment Application No. 16836
- The Washington Home and Hospice

Dear Mr. Griffis:

This letter is submitted on behalf of the Applicant in the above-referenced special exception before the D.C. Board of Zoning Adjustment (the "Board") and in opposition to the motion dated July 2, 2002, filed by Jonathan P. Graham, Esq., the spokesperson for Citizens Concerned About the Home's Expansion, the only party to the instant administrative proceeding (the "movant"). In his motion, Mr. Graham asks the Board to reconsider its decision to bifurcate the instant proceeding into a July 9, 2002 session to consider the hospice portion of the special exception and a September 10, 2002 session to resolve the parking lot expansion application. For the reasons set forth below, the Board should deny the movant's reconsideration request.

In the first instance, as evidenced by the Certificate of Service attached to the motion, the movant has not served the motion on all parties to the case. For that reason alone, the motion should be summarily denied.

Secondly, the movant's cites no authority for its motion for reconsideration. Under § 3126.2 of the Board's Rules of Practice and Procedure, "any party may file a motion for reconsideration ...

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of any decision of the Board, provided that such motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board." (emphasis added) The referenced rule clearly anticipates that reconsideration is a remedy available only after the Board has rendered a final decision in a case. If the movant's motion is otherwise considered, the Board effectively loses control over its own calendar and process, as every decision, however minor, made by the Board in the course of a hearing potentially becomes the basis for a reconsideration motion filed by one party and to be opposed by another party. The Board should avoid a result that would make it public hearings more cumbersome and less conclusive.

This special exception application has been characterized by an extraordinary number of procedural disputes which have consumed inordinate amounts of the Board's time, none of which have been initiated by the Applicant. For example, on the first day of public hearing in this case on April 2, 2002, the first three hours were consumed with two motions for delay from ANC-3F and a request for party status from the movant and others. On the second day of the public hearing on June 25, 2002, the first 42 pages of the hearing transcript are devoted to another set of procedural concerns raised by ANC-3C. In this instant motion, the stage is now set for further delay in the presentation of this case as the movant seeks to undo the Board's reasoned determination of how to proceed with this case. The Board should not permit its time to be wasted by frivolous motions based upon no authority under the Board's rules.

The Board has correctly surmised that the crux of this case and the weight of all testimony and evidence lies with the parking lot portion of the application. In all of the submissions from the parties opposing the application, there has been no mention of any opposition to the hospice addition. As a practical matter from a construction standpoint, the hospice is logically separate from the parking lot expansion. As a procedural matter, the justifications for the hospice expansion offered by the Applicant rest on completely different grounds than the parking lot expansion. The Board has decided that it would be efficient to bifurcate the matter in order to avoid real detriment to the Applicant. The movant can point to no corresponding harm to its case arising from the bifurcation. Indeed, one could more plausibly argue that

giving the parties opposing the parking lot expansion an additional two months to develop evidence and testimony for their position is a considerable advantage.

Respectfully submitted,

George R. Keys, Jr.
Counsel for the Applicant

cc: Jonathan P. Graham, Esq.
Citizens' Concerned About the Home's Expansion
Advisory Neighborhood Commission - 3F