GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17114 of Ingleside at Rock Creek, pursuant to 11 DCMR § 3104.1 for a special exception under section 218 to increase an existing community residence facility and section 219 to increase a healthcare facility by the addition of thirteen independent living units and storage space by the conversion of underutilized space in an R-1-A District at premises 3050 Military Road, N.W. (Square 2287, Lot 809).

HEARING DATE: February 17, 2004
DECISION DATE: February 17, 2004 (Bench Decision)

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 Advisory Neighborhood Commission (ANC) 3/4G and to owners of property within 200 feet of the site. The application was also referred to the Office of Planning for review and report.

The site of the application is located within the jurisdiction of ANC 3/4G. ANC 3/4G, which is automatically a party to the application, filed a written statement expressing its unanimous support for the application. Anne M. Renshaw appeared as the representative of ANC 3/4G. The Office of Planning submitted a report 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 exceptions, as set forth in 11 DCMR §§3104.1, 218 and 219. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in 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, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR §3104.1, for a special exception under sections 218 and 219, which will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. The proposed construction is to be built in accordance with the plans entered into the record of the application. The plans include the addition of thirteen independent living units in space presently used as crawl space, an office and an

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exercise room and the construction of storage space over the ramp to the parking garage. Eight parking spaces are to be eliminated through the construction.

2. The approval of the construction plans includes the approval of phasing the construction of the additional independent living units. Ten units will be constructed initially and the final three units will be added within five years after the effective date of this order.

3. All conditions included in BZA Order No. 16138 governing the use and operation of Ingleside at Rock Creek are incorporated into this Order except for those conditions specifically relating to the construction phase of the completed project which was the subject of Order No. 16138, specifically Condition VII's provisions regarding photographic surveys and Condition VIII's provisions regarding Advisory Committee review and comment on portions of the building exterior unaffected by Application No. 17114.

Pursuant to 11 DCMR §3100.5, the Board has determined to waive the requirement of 11 DCMR §3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **4-0-1** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, David A. Zaidain to approve, the Zoning Commission member not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member has approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 0 5 2004

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 OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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BZA APPEAL NO. 17114

As Director of the Office of Zoning, I hereby certify and attest that on MAR 0 5 2004 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Allison C. Prince, Esq.
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037

Chairperson
Advisory Neighborhood Commission 3/4G
Chevy Chase Community Center
P.O. Box 6252
Washington, DC 20015

Single Member District Commissioner 3/4G03
Advisory Neighborhood Commission 3/4G
Chevy Chase Community Center
P.O. Box 6252
Washington, DC 20015

Acting Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20009

Councilmember Kathleen Patterson
Ward 3
1350 Pennsylvania Avenue, N.W.
Suite 107
Washington, DC 20004

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein
Office of the Corporation Counsel
441 4th Street, N.W., 7th Floor
Washington, DC 20001

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

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