CAPITOL HILL RESTORATION SOCIETY
PO BOX 15264 • WASHINGTON, DC 20003-0264 • 202•543•0425

November 28, 2001

Ms. Jerrily R. Kress, Director
Office of Zoning
Suite 210
441 Fourth Street, NW
Washington, DC 20001

BZA # 16791
PREMISES: 1308-1314 Potomac Avenue, SE
SQ 1045, LOTS 134, 136, 137, 138
HEARING DATE: December 4, 2001
ZONING: C-2-B

Appeal of Southeast Citizens for Smart Development (Boys Town)

Dear Ms. Kress:

The Capitol Hill Restoration Society **SUPPORTS** the appeal of Southeast Citizens for Smart Development (SCSD) from a determination by the Zoning Administrator that Phase I of the Boys Town Development is in compliance with the zoning regulations.

On November 20, the Board of Directors of the Society voted unanimously to support the appeal by SCSD and to adopt the report of the Society's Zoning Committee (copy attached) as expressing the Board's views on this appeal.

Sincerely,

Robert L. M. Nevitt
President

BZA
Case No. 16791
Exhibit No. 31

Board of Zoning Adjustment
District of Columbia
CASE NO.16791
EXHIBIT NO.31

November 20, 2001

Report of the Zoning Committee on Appeal of Southeast Citizens for Smart Development, BZA No. 16791

The Zoning Committee of the Capitol Hill Restoration Society recommends that the Board of the Society support the appeal of Southeast Citizens for Smart Development ("Southeast Citizens") from the determination by the Zoning Administrator that Phase I of the Boys Town development is in compliance with the zoning regulations.

Appeals from decisions of the Zoning Administrator are made to the Board of Zoning Adjustment (BZA), which has set a hearing for December 4.

The Zoning Committee considered this case on November 15 and submits this report with recommendation for action.

Background

Boys Town has acquired a large tract of land at the intersection of Pennsylvania and Potomac Avenues, SE. Phase I of proposed development is the construction of four youth residential care homes, each home to have six residents plus resident staff. Building permits have been issued, based on an August 30 determination by the Zoning Administrator that this phase is in compliance with the zoning regulations.

Phase II of the project includes a short-term residential facility for 16 youths and an administration building. Because the Zoning Administrator has not yet determined whether Phase II complies with the zoning regulations, these buildings are not at issue in this appeal.

The site is zoned C-2-B, a zoning district designed to accommodate high-density residential and mixed use. Building heights up to 65 feet are allowed, although the buildings proposed by Boys Town seem to be much lower than the maximum allowable height.

Zoning Administrator's Determination in Phase I.

Boys Town has subdivided the land in such a way that each of the four homes will be on a separate lot of record. The Zoning Administrator interprets this to mean that each home is a separate facility housing no more than six youths. Since youth residential homes of that size are permitted as a matter of right in all residential and commercial districts (§ 201.1(n)), approval from the BZ A is not needed.

Discussion

A youth residential care home is defined in the zoning regulations as "a facility providing safe, hygienic, sheltered living arrangements for one or more individuals less than

eighteen years of age," but the term "facility" is not defined. The Zoning Administrator says that each home is a separate facility, but can the four homes collectively be considered a single facility? We think they should be considered a single facility housing 24 youths. Common ownership, operation, and management are indicators that they are a single facility. The facts that the site was purchased in a single transaction from one seller and that construction will occur simultaneously also signal that this is a single facility. Separate permits for the homes were applied for simultaneously following subdivision of the site. This should have been a "red flag" that further investigation was needed to see whether or not the operation was a single facility. This the Zoning Administrator seems not to have done – certainly the letter of determination does not indicate any such investigation.

A determination that the four youth residential care homes in Phase I constitute a single facility would require Boys Town to seek a special exception. Youth residential care homes having up to 25 youths are allowed by special exception in C-2 zones (§ 732.1(a)). However, these special exceptions are subject to "spacing requirements" i.e. no other community based residential facility for seven or more persons may be within 500 feet of the property (§ 358.3). But Southeast Citizens has discovered such a facility within 500 feet of the Boys Town site. This would not prevent Boys Town from seeking a special exception for Phase I, but they would have to show that the cumulative effect of the four houses and the pre-existing facility would not have "an adverse impact on the neighborhood because of traffic, noise, or operation." (§ 358.7)

If the BZA finds that the four houses of Phase I constitute a single facility, Boys Town probably would seek to use more recent zoning regulations based on the Fair Housing Act (§§ 201.1(o) and 330.5(i)), rather than the cumbersome process indicated above. However, application of these newer regulations is speculative and not involved in this appeal.

Recommendation

The Zoning Committee recommends that the Board of Directors support the appeal by Southeast Citizens and that testimony based on this report should be presented before the BZA.