ShawPittman LLP

A Limited Liability Partnership Including Professional Corporations

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November 30, 2001

By Hand Delivery

Richard Nero
DC Office of Zoning
441 4th Street, NW
Room 210
Washington, DC 20001

Dear Rick:

Per our conversation, attached is the Certificate of Service for the Motion we filed yesterday. Note that we served all parties by hand delivery on November 29th. Please contact me if you have any questions.

Sincerely,

Martin Sullivan

Martin Sullivan

Attachment

Document #: 1190107 v.1

BZA
Case No. 16791
Exhibit No. 35

Board of Zoning Adjustment
District of Columbia
CASE NO.16791
EXHIBIT NO.35

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November, 2001, I served a copy of the foregoing Motion, via hand delivery to:

Ellen Opper-Weiner
c/o Andrea Ferster
Rails to Trails Conservancy
1100 17th Street, N.W.
Washington, D.C. 20036

Toye Bello
Acting Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Washington, D.C. 20002

Charlotte Parker, Esq.
Office of the Corporation Counsel
441 Fourth Street, N.W.
Room 600 South
Washington, D.C. 20001

Kenan Jarboe
Chair, ANC 6B
711 10th Street, S.E.
Washington, D.C. 20003



Martin P. Sullivan, Esq.
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037

Document #: 1190016 v.1

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November 29, 2001

Mr. Geoffrey Griffis, Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Appeal of Southeast Citizens for Smart Development, Inc. ("SCSD")
Motion to Strike Portions of Appellant's Pre-hearing Submission Which Are Outside the Scope of the Appeal; Board of Zoning Adjustment Case No. 16791

Dear Chairperson Griffis and Members of the Board:

Father Flanagan's Boys Home, Inc., the owner of Lots 134, 135, 136 and 137 in Square 1045, Potomac Avenue, S.E., hereby moves to strike from the record of this case elements of the Appellant's Pre-Hearing statement which are irrelevant to this appeal.

The sole issue before the Board is whether the Zoning Administrator erred by determining that the four youth residential care homes are permitted as a matter of right under the D.C. Zoning Reglations. Much of the text of the Appellant's Pre-Hearing submission is entirely meaningless in helping the Board determine whether the Zoning Administrator erred. It is not relevant for the Board to entertain evidence related to:

(1) any future development activity of Boys Town, whether actually planned or simply speculated on by the Appellant;

(2) the pending lawsuit filed by Boys Town related to the subject properties;

(3) the Ward 6 Plan and other community planning efforts; and

(4) information on selling prices for nearby homes, Boys Town's finances, the number of CBRFs in Ward 6, all references to "Phase II" of the project and references to Boys Town's Sargent Road site.

All of the above items are meaningless to the Zoning Administrator's decision, because they are not, by law, criteria which the Zoning Administrator can view a permit application for compliance with the Zoning Regulations.

Appellant has filed three binders of exhibit materials. We request only that the Board strike the following sections:

(1) Volume 1, Sections 3, 4 and 5.

(2) Volume 2.

(3) Volume 3, Section 10.

Finally, Boys Town hereby moves to suppress any testimony regarding issues not germane to the Appeal, including testimony regarding other social services in the District, (such as city jails and DC General Hospital), the state of the real estate market in the surrounding area, speculation on Boys Town's future plans, the Comprehensive Plan, the "central operations" of Boys Town, Boys Town's alleged lack of communication with community groups, "the likelihood of expansion" of the project, economic development in the subject area and "other impacts on zoning and planning goals."

Appellant has filed this Appeal obviously in the hope to gain a forum to discuss any issue it feels passionate about. The law is clear that this is not the forum for such discussion. The issue of the Appeal is narrow in scope and does not include material extraneous to the Zoning Regulations.

Respectfully submitted,

Phil T. Feola/bymps
Phil T. Feola

Martin P. Sullivan
Martin P. Sullivan