The Capitol Hill Restoration Society
Presentation to
The Board of Zoning Adjustment
In Appeal 16791
December 4, 2001

My name is Robert Nevitt
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I am the President of the Capitol Hill Restoration Society.

The Capitol Hill Restoration Society SUPPORTS Southeast Citizens for Smart Development in Appeal 16791. The Society represents nearly 1,000 members who share a common goal of improving and preserving Capitol Hill as a model urban residential community. We are concerned that if the Zoning Administrator's decision is allowed to stand, large Community Based Residential Facilities masquerading as a number of small matter-of-right facilities will adversely affect our community.

Our Zoning Committee considered this appeal on November 15, and recommended support. At its regular meeting on November 20, the Board adopted the report of the Committee and voted unanimously to support the appeal.

I will summarize the Committee report, which was filed on November 28 for inclusion in the record.

Boys Town has acquired a large tract of land at the intersection of Pennsylvania and Potomac Avenues, SE. Phase I of the proposed development involves construction of four youth residential care homes, each having six residents plus staff.

The site has been subdivided so that each of the four homes will be on a separate lot of record. According to the Zoning Administrator, this makes each home a separate facility with no more than six residents. Since youth residential homes of that size are permitted as a matter of right in all residential and commercial districts, the Zoning Administrator concludes that no approval from this Board is needed. We believe that the determination is erroneous.

We believe that there is only one issue in this appeal: Does Phase I of Boys Town constitute four facilities or only one? We believe the facts clearly demonstrate that it is a single facility serving up to 24 persons.

This case turns on the definition of the term "facility," a term not defined in the regulations. The meaning given in the *Webster's Unabridged Dictionary*, which is used for terms not defined in the regulations, is helpful. The definition given there is:

> Something that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular need.

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This definition focuses on performance of a function. We think that the Board can and should find that the four Phase I homes perform a common function because they will be owned, operated, and supervised by Boys Town and will form part of a residential compound.

Furthermore, the Zoning Administrator was on notice that the project likely was a single facility: There were simultaneous applications for four separate building permits, construction of the four homes is to occur simultaneously, and the homes are part of a residential compound. These signals should have alerted the Zoning Administrator to look behind the façade of the separate lots of record to the common function to be served by the buildings.

This is not to say that existence on separate lots of record is unimportant, but given the situation presented by this case, the Zoning Administrator should have looked farther. Here there are ample indications that the four proposed homes are parts of a single facility.

A finding that the four homes are a single facility will not prevent Boys Town from seeking a special exception for a facility for 24 persons. That is what they should do.

For these reasons, we believe the Board of Zoning Adjustment should grant the appeal and reverse the determination of the Zoning Administrator that "the subject site is in compliance with current zoning regulations."

Thank you for your attention.