Testimony of Kenan Jarboe, Chair ANC 6B
Board of Zoning Adjustment
BZA Case # 16791 – Boys Town
February 5, 2002

My name is Kenan Jarboe. I am Chair of Advisory Neighborhood Commission 6B. The proposed project at issue in this case is within the boundaries of ANC 6B.

At its regularly scheduled and properly noticed meeting of November 13, 2001, ANC 6B voted 10-0-0 (7 members constituting a quorum) to adopt the Report of the Planning and Zoning Committee regarding the zoning appeal BZA Case # 16791. That report was forwarded to the Board with a cover letter on November 27, 2001.

Rather than read the report, which should be in your files, I would like to summary the ANC's conclusions. I should note that the ANC has voted a number of different times on issues related to the proposed Boys Town site on Pennsylvania Avenue. In each case, the ANC has focused on the specifics of the issue before it. In the case before us, the ANC looked carefully and explicitly at the decision by the Zoning Administrator – and did not engage in an analysis and discussion about the merits of the proposed project. That discussion is properly the subject of a hearing on a request for a zoning variance or special exception.

The issue before the Board is the decision by the Zoning Administrator that the first-phase construction of a proposed Community Based Residential Facility (CBRF) is a matter of right under the zoning regulations. This is based on the presumption that this first-phase, which will consist of four "townhouses" housing a total of 24 long-term residents, are four separate developments. The Zoning Administrator also ruled that the requirements of 11 DCMR which limit the number of CBRFs per square and within 500 feet of an existing facility do not apply in this case.

It is the conclusion of ANC 6B, as represented in our unanimous vote of November 13, that the decision of the Zoning Administrator was in error and must be reversed to avoid setting a dangerous precedent. The intent of the zoning law is to provide for the control of the density of certain uses – in this case, CBRFs. It did not anticipate the construction of several contiguous buildings by the same developer for the same use.

The genius of our economic and legal system is that it allows for adaptation to unanticipated situations. It is the role of adjudicatory bodies, such as this Board, to make those necessary adaptations as circumstances dictate. This is one of those situations.

These contiguous buildings are a unit. They will be administered as a unit. They have always been presented to the community as a whole – not as four separate entities. Allowing the developer to now claim that they are wholly separate would set a dangerous precedent regarding not only the siting of CBRFs, but also for any other restriction placed on a project by zoning laws. It would allow developers to circumvent any discussion or decision about a project by circumventing the variance and special exception process.

Let me be clear. The ANC voted to uphold the principle that developers should not be allowed to circumvent the process. We voted that this project should be subject to the special exception process – particularly since it is part of a larger project. Dealing with the project in an atomistic fashion would undermine the existing checks and balances intended to control the density of CBRFs in the District of Columbia.

On behalf of ANC 6B, I respectfully request that you overturn this incorrect decision by the Zoning Administrator.

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