B

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 120A2



KNOLLWOOD
Special Care Building

CAMPUS PLAN

SFCS
August 31, 2004
1119.06



SFCS

August 31, 2004
1119.06

SITE PLAN

KNOLLWOOD
Special Care Building



KNOLLWOOD
Special Care Building

SITE SECTION/HEIGHT STUDY

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1119.06



North Elevation

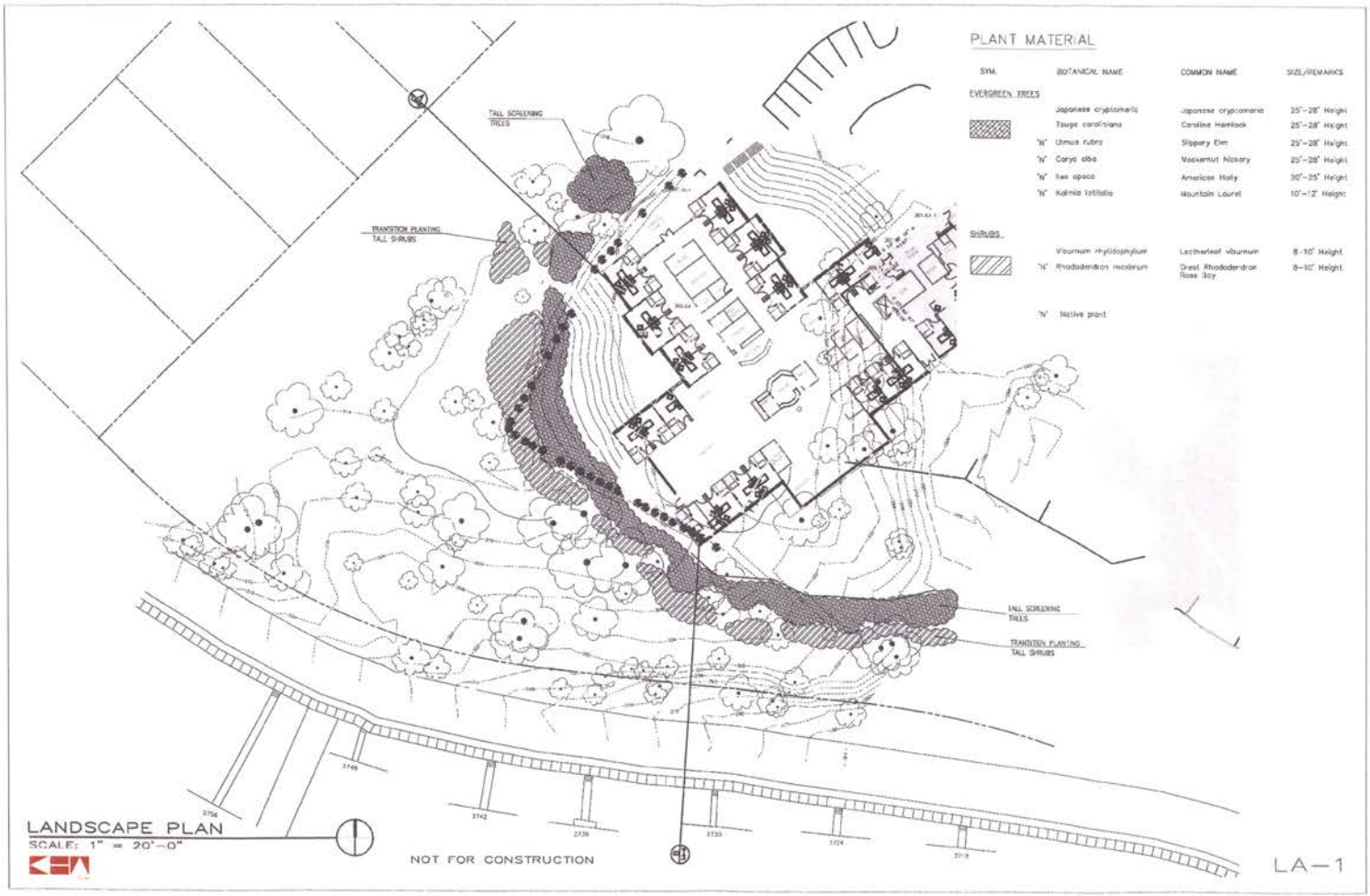


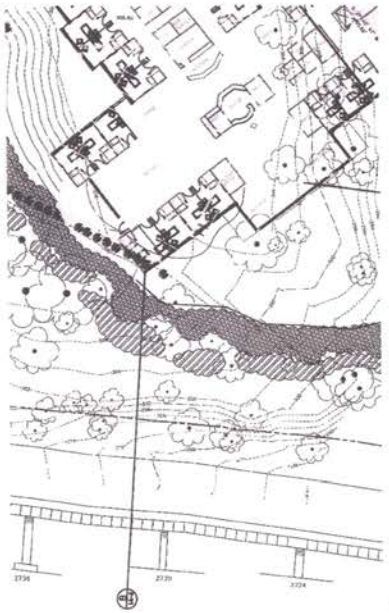
South Elevation

KNOLLWOOD
Special Care Building

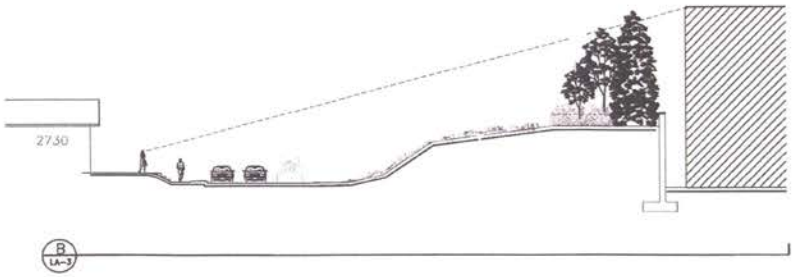
BUILDING MASS STUDY
Comparison to January 2004 Scheme

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TALL SCREENING TREES
TRANSITION PLANTING TALL SHRUBS
TALL SCREENING TREES
TRANSITION PLANTING TALL SHRUBS
PLANT MATERIAL
SYM. BOTANICAL NAME COMMON NAME SIZE/REMARKS
EVERGREEN TREES
Japanese cryptomeria Japanese cryptomeria 25'-28' Height
Tsuga caroliniana Caroline Hemlock 25'-28' Height
'N' Ulmus rubra Slippery Elm 25'-28' Height
'N' Carya alba Mockernut hickory 25'-28' Height
'N' Ilex opaca American Holly 20'-25' Height
'N' Kalmia latifolia Mountain Laurel 10'-12' Height
SHRUBS
Viburnum rhytidophyllum Leatherleaf viburnum 8-10' Height
'N' Rhododendron maximum Great Rhododendron Rose Bay 8-10' Height
'N' Native plant
LANDSCAPE PLAN
SCALE: 1" = 20'-0"
NOT FOR CONSTRUCTION
LA-1



LANDSCAPE PLAN
SCALE: 1" = 20'-0"



LANDSCAPE SECTION
SCALE: 1" = 10'-0"

PLANT MATERIAL

SYM.	BOTANICAL NAME	COMMON NAME	SIZE/REMARKS
EVERGREEN TREES			
	Japanese cryptomeria	Japanese cryptomeria	25'-28' Height
	Tsuga caroliniana	Carolina Hemlock	25'-28' Height
'N'	Carya alba	Mockernut Hickory	25'-28' Height
'N'	Ilex opaca	American Holly	20'-25' Height
'N'	Kalmia latifolia	Mountain Laurel	10'-12' Height
SHRUBS			
	Viburnum rhytidophyllum	Leatherleaf viburnum	8-10' Height
'N'	Rhododendron maximum	Great Rhododendron Rose Bay	8-10' Height

'N' Native plant

GENERAL NOTES:

1. The Landscape Contractor shall be responsible for all materials, testing and labor required to fully install the plant material per the plans including: soil testing, soil amendments (as necessary), bed preparation, plant installation, fertilizing, mulching, watering, maintenance and warranty.
2. The Landscape Contractor shall be responsible for coordination of his work with that of all other contractors. This plan does not guarantee the existence or non-existence of any utilities. Prior to commencement of any work, the Landscape Contractor shall verify the locations of all above ground and underground utilities.
3. The quality and size of all plant material shall conform to the most current standards as set forth in ANSI Z60.1-80 - American Standard for Nursery Stock.
4. In the case of a quantity discrepancy between the plans and the plant schedule, the plans shall take precedence.
5. No plant substitutions shall be made without the written consent of the Project Landscape Architect.
6. Where plant material is proposed in areas adjacent to any property line, the Landscape Contractor shall verify the exact location of the property line. All new plant material shall be installed such that the entire root ball of the plant lies on the subject property. Under no circumstances shall any portion of the root ball extend beyond the limits of the subject property.
7. Shredded hardwood mulch shall be applied to all plant material immediately after installation. See details for mulch depth.
8. The Landscape Contractor shall be responsible for maintaining his work for a period of one year after final acceptance by the Owner. Maintenance shall include: mowing, weeding, watering, mulch replacement, removal and replacement of dead material, resetting of plants to proper grades or upright positions, fertilizing, debris removal and any required chemical applications to ensure the health of the plants.
9. All plant material that fails to exhibit new growth after the first dormant period following installation shall be replaced by the Landscape Contractor at his expense. All replacements shall conform to the original specifications as to size and type.

NOT FOR CONSTRUCTION

EVERGREEN SCREENING PLANT LIST

Scientific Name	Common Name
TREES	
"N" Cryptomeria japonica	Japanese cryptomeria
"N" Ilex opaca	American Holly
TALL SHRUBS	
"N" Kalmia latifolia	Mountain Laurel
MEDIUM SHRUBS	
"N" Rhododendron maximum	Rose Bay
Chamaecyparis obtusa 'Nana Lutea'	Hinoki False Cypress cultivar
Cryptomeria japonica 'Globosa Nana'	Japanese Cryptomeria cultivar
GROUNDCOVER	
"N" Phlox subulata	Moss Phlox

"N" Native plants



PARKING LOT LANDSCAPE SCREEN – BEFORE

SCALE: NTS LOOKING FROM OREGON AVENUE



PARKING LOT LANDSCAPE SCREEN – AFTER

SCALE: NTS LOOKING FROM OREGON AVENUE



North Elevation



South Elevation

KNOLLWOOD
Special Care Building

BUILDING ELEVATIONS

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August 31, 2004
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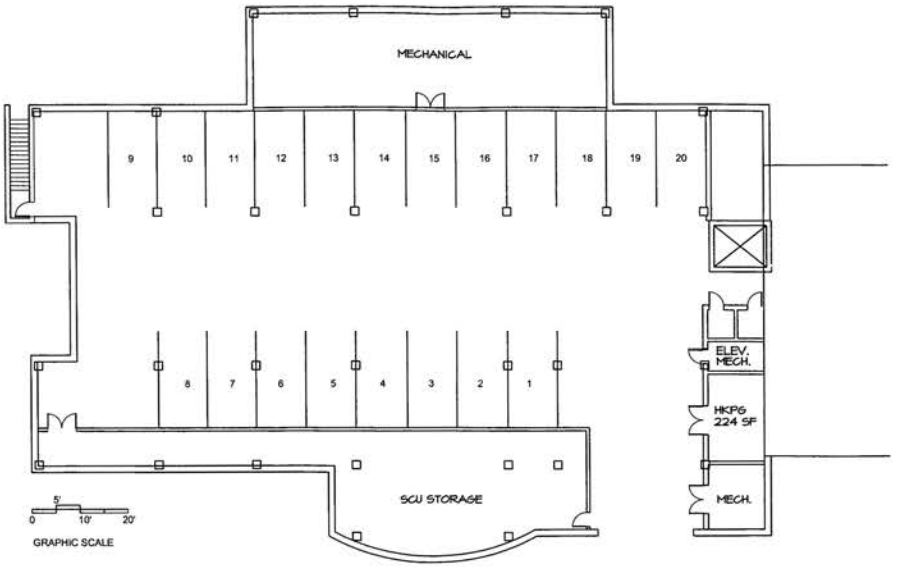


West Elevation

KNOLLWOOD
Special Care Building

BUILDING ELEVATIONS

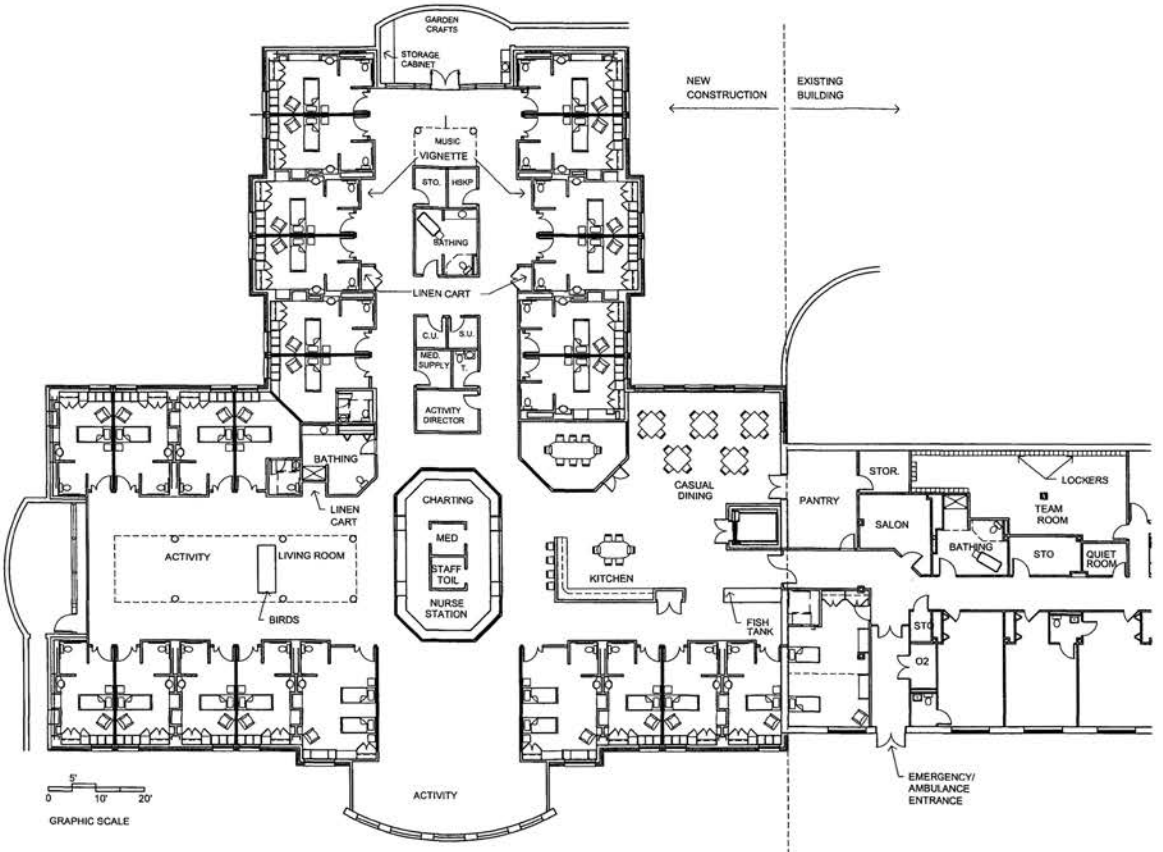
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KNOLLWOOD
SPECIAL CARE BUILDING

PARKING LEVEL

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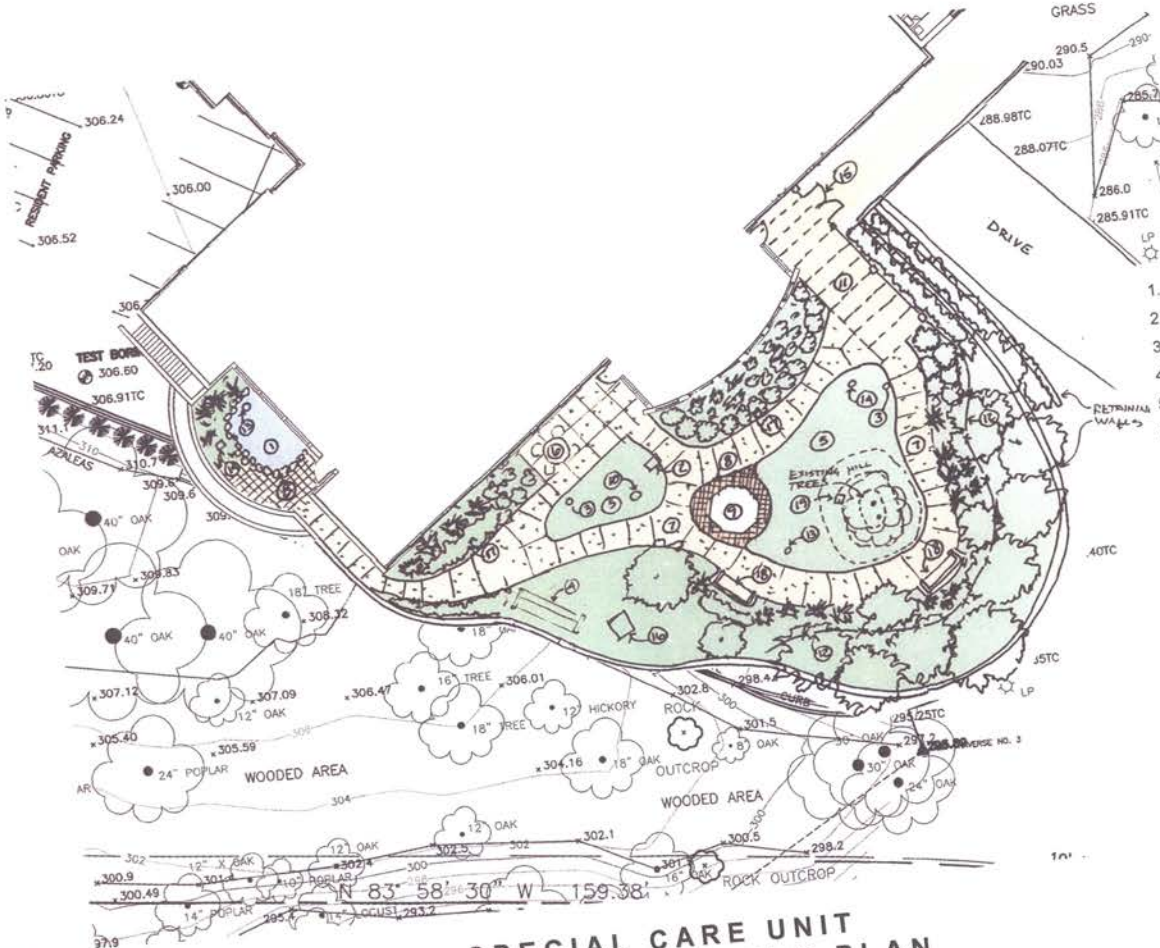


KNOLLWOOD
SPECIAL CARE BUILDING

SPECIAL CARE UNIT PLAN

SFCS

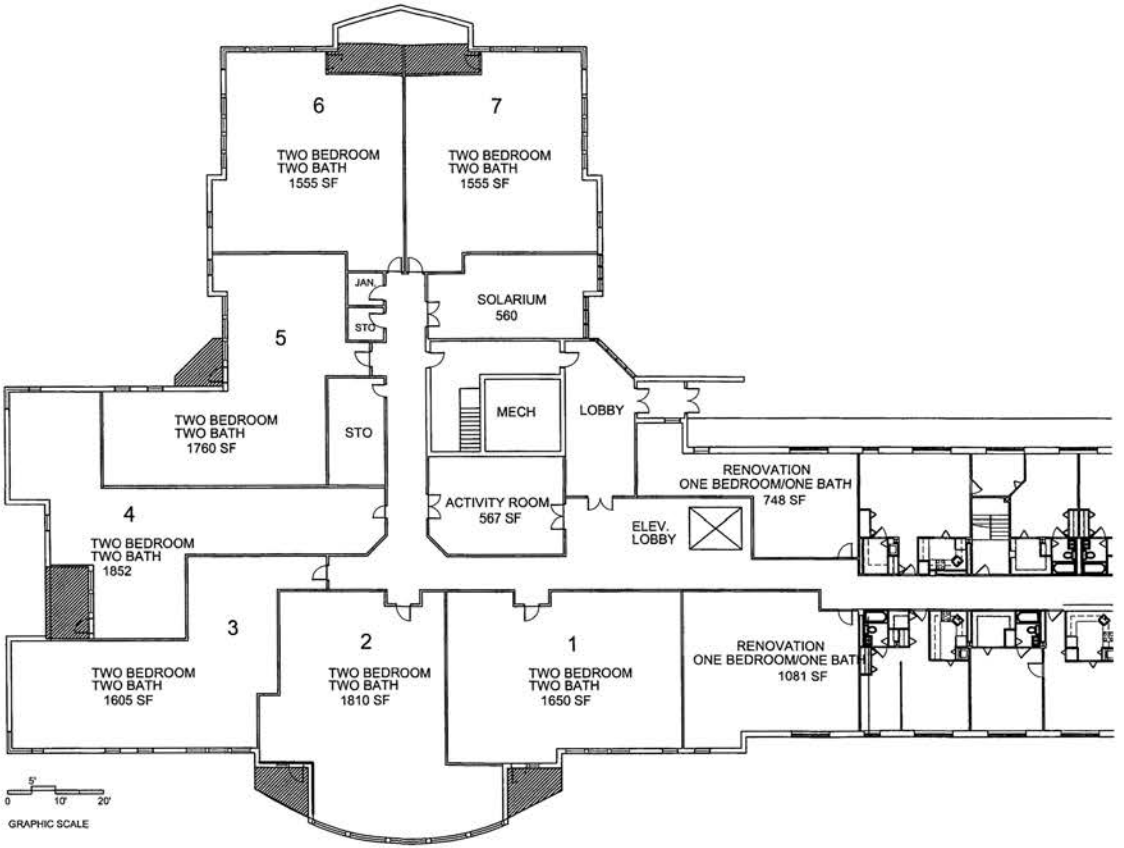
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SPECIAL CARE UNIT
WANDERING GARDEN PLAN

KNOLLWOOD
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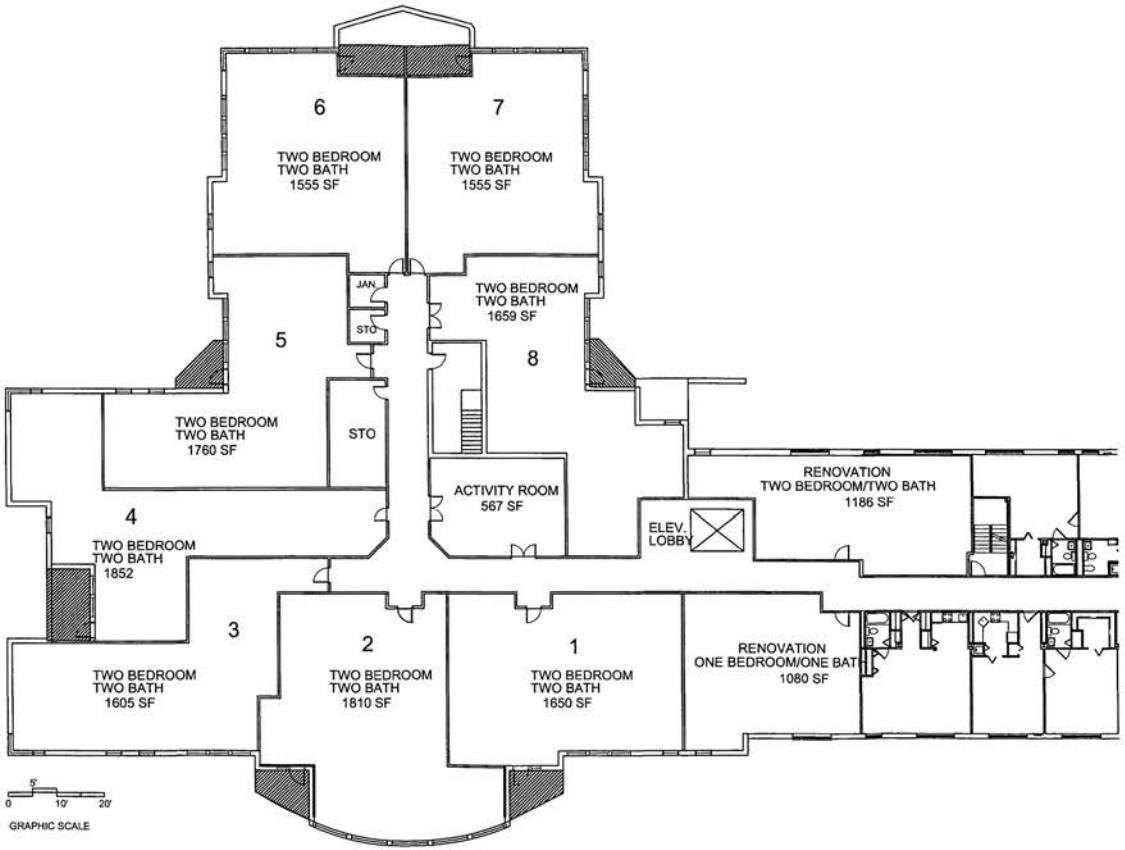


KNOLLWOOD
SPECIAL CARE BUILDING

FIRST APARTMENT FLOOR PLAN

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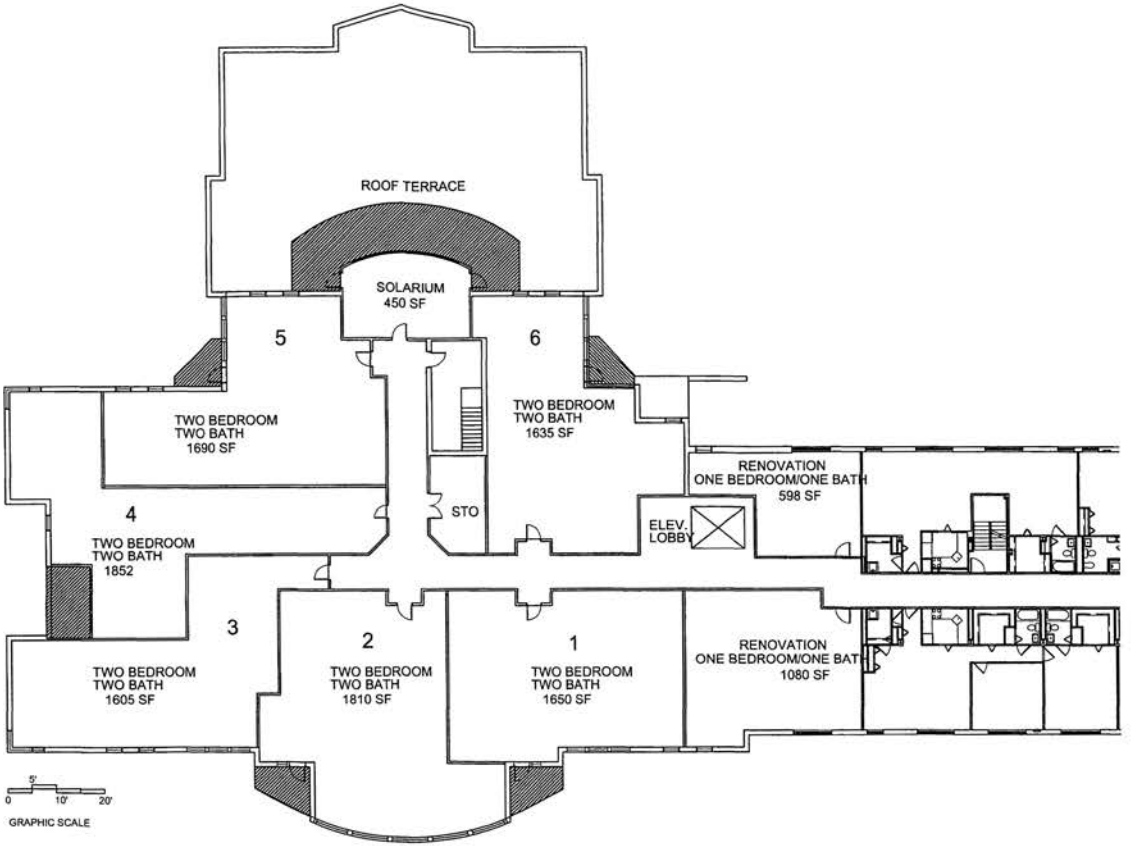


KNOLLWOOD
SPECIAL CARE BUILDING

SECOND APARTMENT FLOOR PLAN

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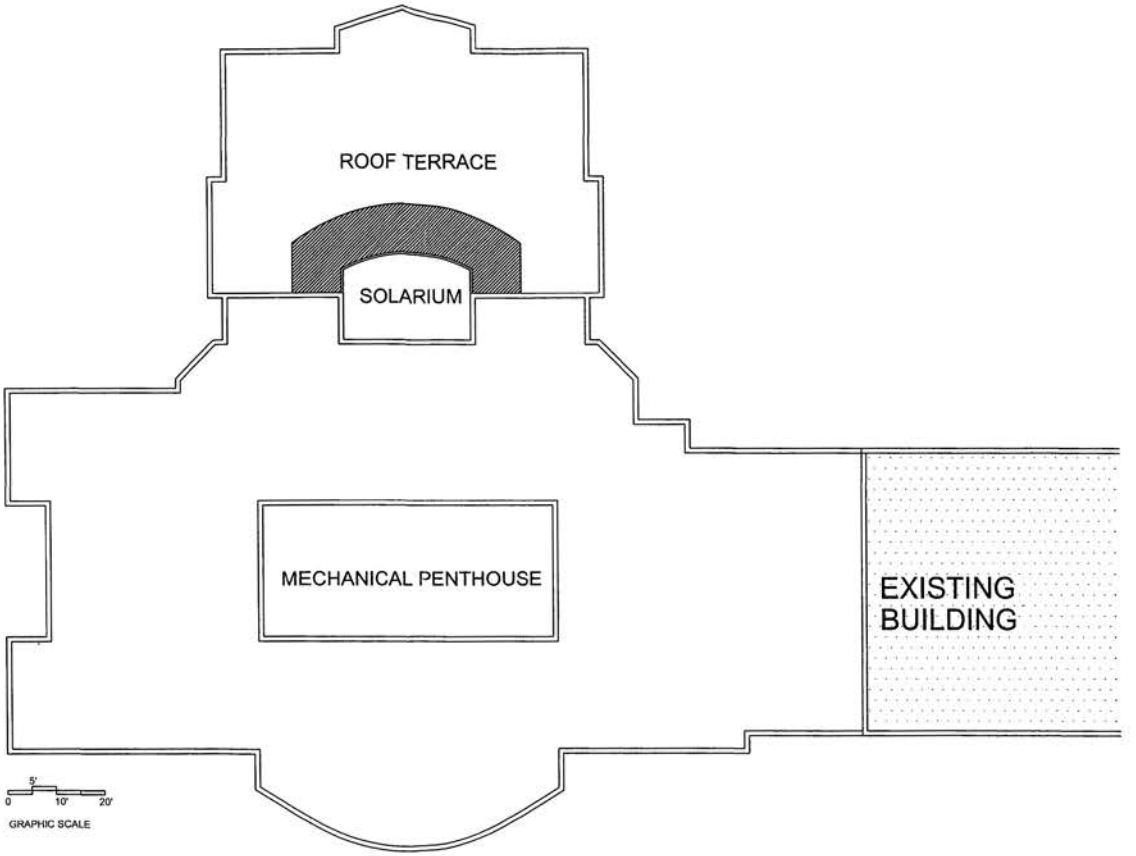


KNOLLWOOD
SPECIAL CARE BUILDING

THIRD APARTMENT FLOOR PLAN

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1119.06



KNOLLWOOD
SPECIAL CARE BUILDING

ROOF PLAN

SFCS

August 31, 2004
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KNOLLWOOD
Special Care Building

Building Mass Study
Winter View from 29th Street Home without Tree Screening

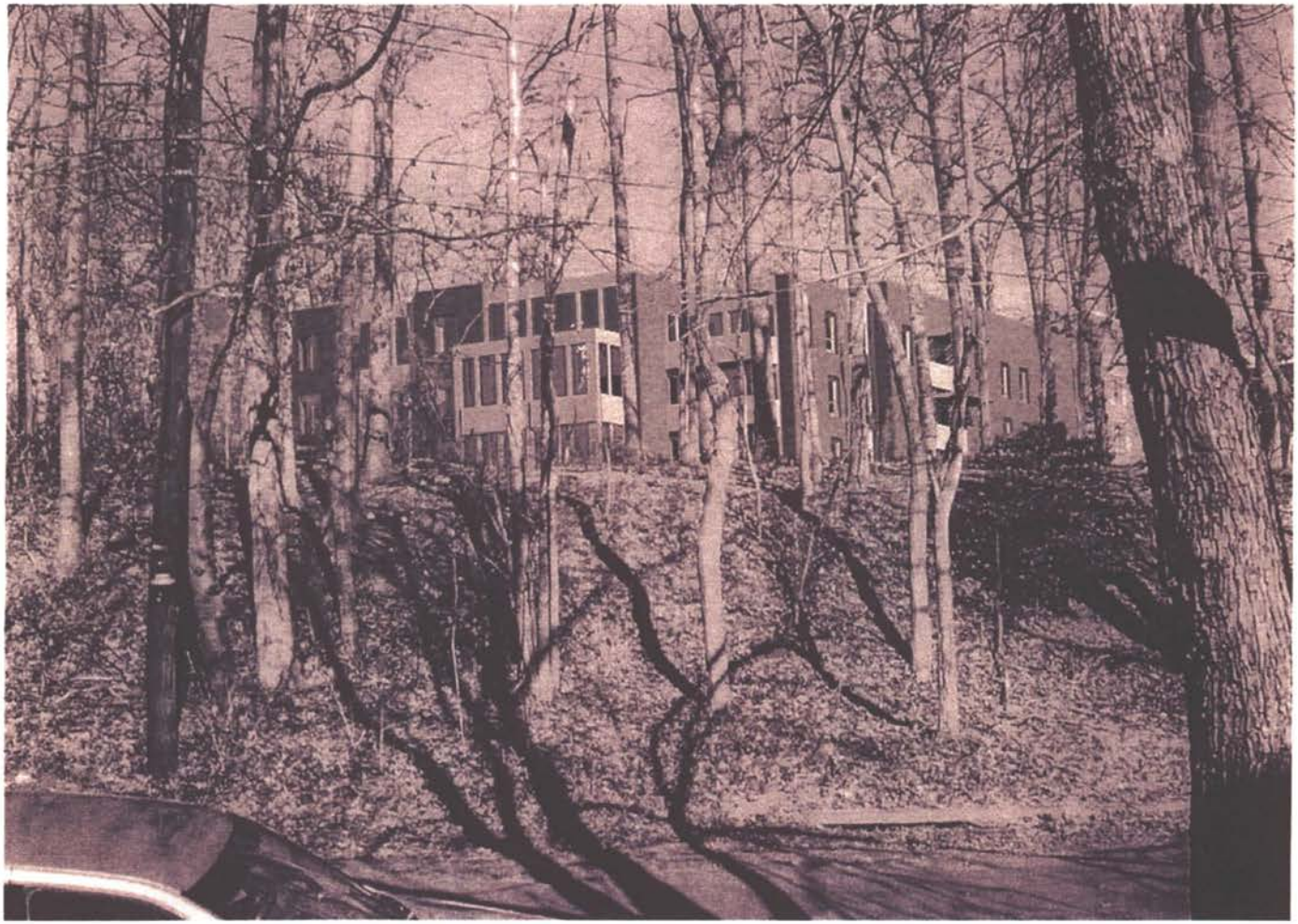
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August 31, 2004
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KNOLLWOOD
Special Care Building

Building Mass Study
Winter View from 29th Street Home with Tree Screening

SFCS
August 31, 2004
1119.06



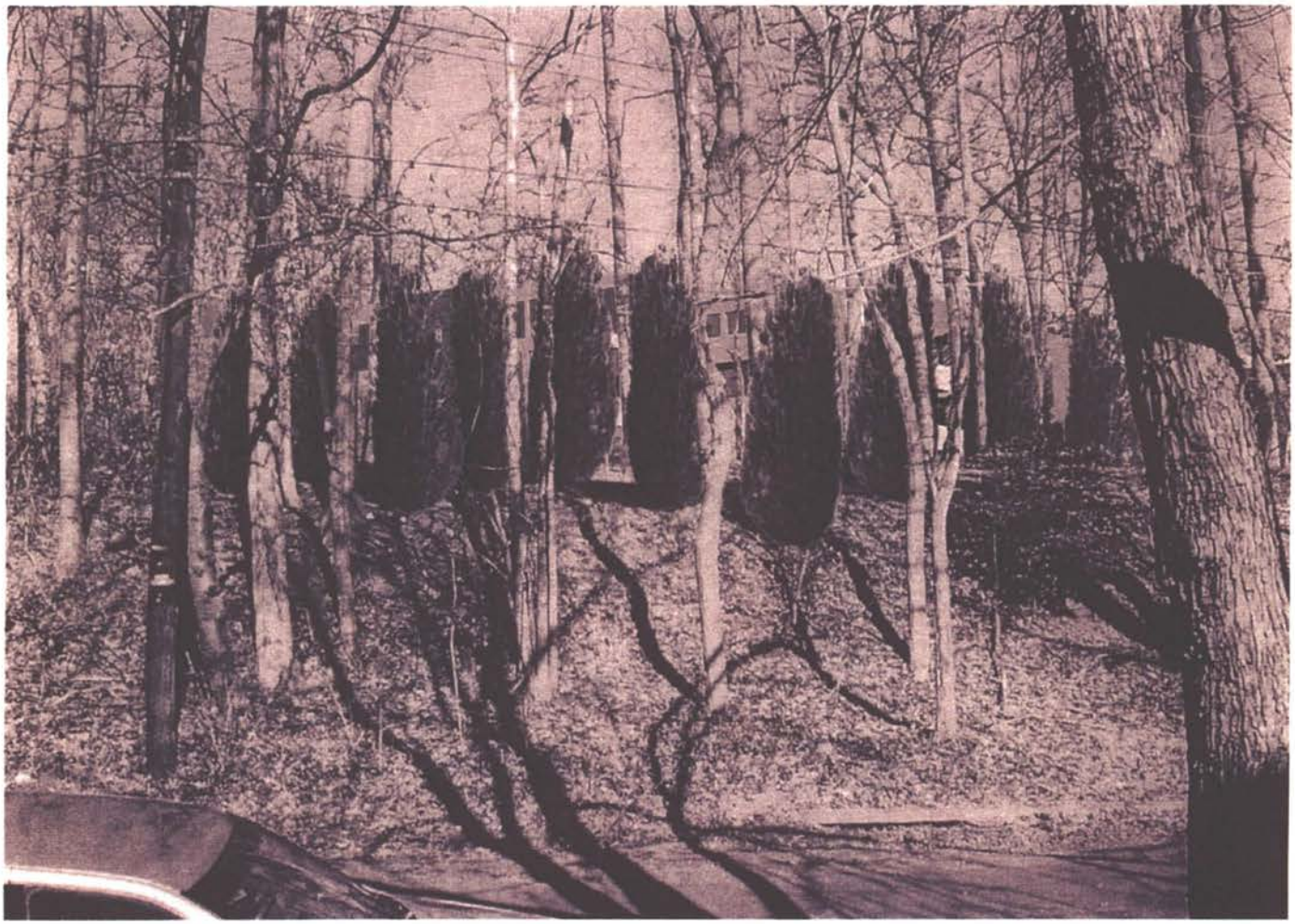
KNOLLWOOD
Special Care Building

Building Mass Study

Winter View from Stephenson Lane without Tree Screening

SFCS

August 31, 2004
1119.06



KNOLLWOOD
Special Care Building

Building Mass Study

Winter View from Stephenson Lane with Tree Screening

SFCS

August 31, 2004
1119.06



KNOLLWOOD
Special Care Building

Balloon Test – Original Building Mass

Study Done January 2004

SFCS

August 31, 2004
1119.06



KNOLLWOOD
Special Care Building

Balloon Test – Revised Building Mass

Study Done January 2004

SFCS

August 31, 2004
1119.06



KNOLLWOOD
Special Care Building

Balloon Test – Current Building Mass

Study Done August 2004

SFCS

August 31, 2004
1119.06



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16138 of the Presbyterian Home pursuant to 11 DCMR 3108.1 for a special exception under Section 218 to increase an existing community residence facility by the addition of 102 units in an R-1-A District at premises 3050 Military Road, N.W. (Square 2287, Lot 807 and Square 2285, a portion of Lot 5).

Hearing Dates: September 18, 1996 and October 30, 1996

Decision Date: December 4, 1996

ORDER

PRELIMINARY MATTERS

As a preliminary matter, the Abutters of the Presbyterian Home (APH) filed a motion to appear as a party in opposition and a motion to postpone the hearing due to defective notice. APH alleged that the application was improperly advertised for public hearing as a special exception to increase an existing Community Residence Facility when the use was actually an apartment house, which is not permitted in the R-1-A District. APH argued that a use variance is necessary. The Chairman ruled to postpone a decision on the motion until the development of the factual record.

SUMMARY OF EVIDENCE

1. The subject property consists of 12.5 acres of land in the R-1-A District. It borders single family houses along Military Road to the north and along 29th Street to the east, institutional uses to the west (Temple Sinai and the Carnegie Institution) and the Embassies of the Ivory Coast and Tunisia to the south. The existing building is located in the western portion of the site where it borders the site of Temple Sinai.

2. The existing building was constructed on the site in 1960. The building is owned and operated by the Presbyterian Home ("applicant") and has been used continuously by the applicant since it was constructed.

3. The existing use comprises both a community residence facility (CRF) currently consisting of 121 beds and a health care facility, currently consisting of 55 beds.

4. The Board had previously approved several applications regarding the applicant including Appeal No. 5205, dated August 18, 1958, approving the original construction, Appeal No. 9232, dated November 21, 1967 and Order No. 11147 dated January 10, 1973. The later two additions were never constructed.

5. Two approved additions were constructed. In Application No. 12164, dated June 16, 1976, the Board approved an addition of 90 beds. This three-story addition expanded the facility to provide a total of 138 residential and 32 infirmary beds for a total of 170 beds. Finally, in Application 13940, dated June 28, 1983, the Board of Zoning Adjustment approved a two-story addition to the south wing of the existing home to add 43 beds.

6. The subject application requests approval of an addition to the Presbyterian Home. The addition would contain 102 independent living beds. The number of nursing beds would not change.

7. The applicant attempted to establish that the substantial infrastructure costs associated with an independent living project must be spread among a critical mass of 102 units, therefore, the construction of the smaller project would not be economically feasible. Further, the applicant testified that the substantial demand for the proposed units far exceeds the proposed number of units. A reduction in unit count, even if economically feasible, would not be consistent with the District's goal of addressing the demand for housing for the elderly.

8. The applicant presented extensive testimony to establish that there is no other reasonable alternative to meet the program needs of that area of the District. Ward 3 has the highest population of elderly residents of all eight wards 64 of the 158 depositors are D.C. residents and more than half are from Ward 3. The applicant established that although there are several nursing homes in Ward 3, there are few facilities that offer independent living beds and all the facilities are either entirely or almost entirely filled. The applicant demonstrated that it had examined virtually every reasonable alternative way to provide the independent living units on the site. The applicant presented numerous alternative plans to the community over the course of 11 months.

9. The applicant withdrew the originally filed plans for an addition containing five to six stories in two building elements because of strong community opposition. The subject application involves an entirely new design with reduced height, increased setbacks and revised massing.

10. The applicant proposes to construct the addition immediately east of its existing facility. The addition would consist of three building elements that are three and four stories with a connecting courtyard.

11. The addition has been designed to be compatible with the existing building. The roofline of the addition would not extend higher than the roofline of the existing building.

12. The residential units in the addition are 160 feet away from the property line along Military Road. The addition is 250 feet removed from the closest property line along 29th Street.

13. The building and the addition would have total lot occupancy of 15.1 percent, substantially below the 40 percent maximum occupancy permitted in the R-1-A District.

14. The landscaping proposed by the applicant includes extensive landscaping of the addition itself as well as the installation of landscaped buffers to screen the addition from the abutting property owners. The landscape plan indicates specific tree types and heights.

15. The applicant presented evidence to show that as designed, the addition would meet of all code and licensing requirements.

16. Applicant contends that the facility would provide a safe, hygienic and sheltered living arrangement for seniors who are ambulatory and able to perform the activities of daily living with minimal assistance. The facility is only available to the elderly. The residents enter into a life care contract and make a lump sum payment to gain entry. Subsequently, residents make a monthly payment that includes meal service. They are offered a supportive living environment including an activity director, three meals daily, emergency alarms in their rooms, on-site medical care and transportation and laundry service. Increased levels of care are automatically provided by the applicant, as needed.

17. The Presbyterian Home presently has 92 parking spaces on its property. There would be a total of 209 spaces on the site after the construction of the addition including 138 spaces in the addition. These spaces would be designed to address the additional staff and visitors to the site that would result from the addition.

18. Applicant presented evidence to the effect that the Presbyterian Home is quiet in its operation because of the large size of the site, the substantial buffers from neighboring properties and the inherently quiet nature of the use.

19. Applicant's plans involve the construction of an enclosed loading area to replace the existing open loading area. The enclosure of the loading area would address concerns relating to delivery-related noise.

20. The placement of the addition was stated by applicant to be designed to address concerns about the site's topography, including the ravine. Applicant claims that the addition has been placed in a manner that would not cause any adverse impact on the ravine.

21. The Office of Planning (OP) by memorandum dated October 23, 1996, and by testimony at the public hearing, recommended approval of the application with those conditions made by applicant in conjunction with the neighborhood concerns. The OP stated that there is only one community-based residential facility within 1,000-foot radius of the site and that there will be no adverse community impact as a result of the facility. The basis of the OP's recommendation are the following:

a) The number of parking spaces that are proposed for the project will meet the existing needs of the applicant as well as the additional needs that will be generated by the addition.

b) The proposed project will meet all applicable code and licensing requirements of the District of Columbia.

c) Given the large size of the site with ample distance and landscape buffers between it and the surrounding neighborhood, there will be no adverse noise impacts. Through the proposed conditions on deliveries, lighting and other matters related to the general operation of the applicant set forth in the proposed conditions, the applicant will not have an adverse impact on the neighborhood due to operation.

d) The only community residence facility within 1,000 feet of the applicant is licensed for only 13 beds. Given its small size and distance from the applicant, the cumulative impact of the two facilities will not be objectionable.

e) Given the tremendous need in Ward 3 for housing for the elderly, the District's program goals and objectives cannot be achieved by a smaller facility.

22. Advisory Neighborhood Commission 3G (ANC 3G) filed two reports with the Board. The first report dated July 3, 1996 detailed the basis for the ANC's unanimous vote and opposition to the original plan that was later withdrawn by the applicant. The concerns included significant neighborhood opposition to the expansion. The concerns were: an adverse traffic impact on the neighborhood due to additional cars traveling to the site daily, noise impacts due to construction activities, the impact of the operations of the

growing institutional facility, the potential for devaluation of residential property, environmental issues including the need to protect the site through the imposition of a Tree and Slope Overlay Protection District, effects on wildlife, the presence of pollutants in the stream and the state of the sewer line traversing the property. Final concerns included the cumulative effect of institutional expansion in the ANC and fire safety issues.

23. ANC 3G's second report dated October 18, 1996 set forth the ANC's decision not to object to the proposed expansion subject to the following conditions:

a) The height of the new addition is not to exceed the height of the existing building by more than five feet.

b) The number of units in the new addition shall not exceed 102 units.

c) The applicant shall be bound by the condition set forth in the applicant's Statement of the applicant except as amended by agreement with the abutting property owners and except that the proposed building moratorium must be for at least 25 years to the year 2021.

d) The applicant will appoint a working committee of board members and staff to work with the neighbors, the ANC and other interested parties toward finding a solution to the broken sewer pipe which crosses the applicant's property.

24. A representative of the National Park Service (NPS) filed a letter in the record and appeared at the hearing to discuss certain concerns about the application. Specifically, the NPS representative noted that the project should not proceed until a determination is made that the sewer line that serves the applicant has adequate in capacity for the new development. Further, the NPS representative stated that the project should not proceed until the line is either replaced from Military Road to Broad Branch Road or rebuilt at the stream crossings and relined internally over the same distance to contain sewage leaks. The NPS representative recommended minimal excavation and grade manipulation, as well as substantial erosion controls. The representative recommended compliance with D.C. Stormwater Regulations and also recommended the retention of the forestry specialist or arborist to inspect the site work.

25. There were many letters in support of the application, noting the ample size of the site, the minimal impact of the applicant on the neighborhood, the benefits to the District of Columbia from the applicant, the need for the proposed expansion and the extensive efforts of the applicant to address community concerns through redesign.

26. The application was opposed by many owners and residents of many of the single-family dwellings that surround the property to the north and to the east. Some of these neighbors organized themselves into the Abutters of the Presbyterian Home (APH). While many in opposition expressed their general support for an addition to the applicant, they felt that the proposed addition was not suitable. The grounds for the opposition were as follows:

a) The addition would create adverse impacts on Military Road and Broad Branch Road due to an increased number of cars associated with the facility and increased vendor service.

b) Construction activities would generate adverse noise impacts. Over the years, the applicant's operation has given rise to complaints about exterior lighting, uncut underbrush along the 29th Street alley, emergency generator noise, idling truck engines, noise from traffic deliveries, trash dumping into the ravine, employees cutting through abutter's property and employees disturbing abutter's yards.

c) The addition would likely depress property values in the community.

d) The loss of trees associated with the addition combined with the topography of the site would have adverse environmental impacts.

e) The leaking sewer line must be fixed before construction begins.

f) The cumulative effect of institutional expansion in ANC 3G would be particularly burdensome because there are already several retirement homes in ANC 3G.

g) The applicant's property is unsuitable and unsafe for all types of multistory development due to a lack of rear road access for fire emergency vehicles.

h) The building size should be reduced to maintain a proportional balance between the existing institution with the new addition and the surrounding neighborhood of single family homes.

i) The addition should be no higher than the existing building.

j) The applicant's property on the east side of the ravine should be held under perpetual conservation restriction as a permanent buffer.

27. There were many letters and petitions submitted in opposition to the application, essentially repeating the concerns set forth in the Summary of Evidence No. 26 above.

28. The Concerned Neighbors appeared as a party in support of the application. The representative of the Concerned Neighbors described the 11-month negotiation process that ultimately resulted in the compromise plan. The compromise process involved over 30 meetings, 300 neighbors received numerous meeting announcements and newsletters delivered by the Concerned Neighbors. The Concerned Neighbors ultimately supported the final plan because they felt that it represents substantial progress and addresses the design and environmental concerns voiced by the neighborhood. The Concerned Neighbors held a final meeting to determine whether there were any continued concerns about the final plan prior to submitting its statement in support of the application. The principal bases of the Concerned Neighbors to support the application were as follows:

a) The applicant's agreement to the proposed conditions.

b) The complete redesign of the project including the substantial increase in setbacks, reduction in height and change of massing.

c) The applicant's willingness to install individually designed landscaped projects and the construction mitigation procedures.

FINDINGS OF FACTS

Based on the evidence of record, the Board finds as follows:

1. The proposed use constitutes a Community Residence Facility and not an apartment building.

2. The program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location.

3. The Board finds that, balancing the applicant's program needs with all expressed concerns of the opposition, the proposed plan is the best plan for the project.

4. There are no community-based residential facilities (CBRFs) for seven or more persons in the same square; however, there is one CBRF for seven or more persons within 1,000 feet of the subject property. The Shoemaker home, which is licensed to serve only 13 elderly residents, is located almost 1,000 feet from the property. Because of its extremely small size and substantial distance from the site, the cumulative effect of the two facilities will not create an adverse impact on the neighborhood.

5. There will be sufficient parking to accommodate the needs of residents, visitors and employees of the applicant.

6. The applicant, with the proposed addition, will not have an adverse impact on traffic conditions on Military Road, 29th Street or Broad Branch Road.

7. The proposed addition will meet all applicable codes and licensing requirements.

8. The design of the addition, as proposed by the applicant, including the individually designed landscaped buffers for abutting property owners will not have an adverse impact on the surrounding residences and institutional properties. The concerns with the original design were addressed effectively in the following ways: the height was reduced, the setbacks from Military Road and 29th Street were increased substantially, there was increased sensitivity to environmental issues particularly through the change in the placement of the addition, the massing was reduced, and the exterior design was changed to a more residential and less institutional appearance.

9. With respect to the concerns about noise, the Board finds that the current use of site is quiet and unobtrusive. The proposed addition will continue the current quiet level of operation. The proposed enclosure of the loading area will reduce delivery-related noise.

10. The conditions agreed to by the applicant, the ANC and the Concerned Neighbors, will minimize any adverse impacts because of construction of the addition or the future operation of the Home. The applicant's conditions include a 12-year moratorium on institutional construction on the applicant's property located east of the ravine that crosses the property. The ANC recommended an extension of the proposed moratorium to at least 25 years. The Board notes with favor the report of ANC 3G in which the ANC recommended approval of the application including the proposed conditions set forth by the applicant. The Board is in agreement with the ANC recommendations. The Board further notes the recommendation of the Office of Planning to approve the application incorporating the conditions that were adopted by the ANC.

11. The application, including the addition, meets all of the setback and density requirements of the Zoning Regulations. The lot occupancy, at 15.1 percent and all other setbacks meet or exceed the minimum requirements established under the Zoning Regulations.

12. The District of Columbia sewer line that traverses the property originally contained leaks on the applicant's property. The applicant has also established that leaks have been repaired. The applicant is not responsible for the condition of the D.C.-owned line on or off of its property.

13. With regard to the request for preparation of an independent Environmental Impact Statement prior to this Board's disposition of the

application, the Board notes that it is not the lead agency for the review of the environmental issues. Pursuant to the D.C. Environmental Policy Act, there will be a further review of environmental issues in connection with the building permit process. A condition requiring an EIS would be unnecessary and duplicative. The Board has reviewed environmental issues only as they relate to the impact test applicable in special exception applications. The Board credits the expert testimony of the applicant's environmental witness and finds that all environmental concerns have been addressed to the Board's satisfaction in connection with its assessment of impacts. The siting of the addition has been adjusted in response to the recommendation of the environmental expert, the applicant will implement an aggressive tree preservation program with oversight from an urban forester, the adequacy of the sewer line has been verified by the Water and Sewer Utility Administration and concerns about wildlife have been addressed.

CONCLUSIONS OF LAW AND OPINION

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to increase an existing community residence facility by the addition of 102 units in an R-1-A District.

The granting of such a special exception requires that the proposal meet the requirements set forth in 11 DCMR 218 and 3108.1, that the relief requested can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and that the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met the requisite burden of proof. Based on the testimony and evidence of record, the Board concludes that there is no community-based residential facility in the same square and there is one such facility within 1,000 feet of the Home. Since the facility is licensed for 13 beds and is almost 1,000 feet from the applicant, the Board finds no adverse cumulative effect. The Board concludes that the addition, as proposed, will meet all code and licensing requirements. The Board concludes that the Home and the addition will not have an adverse impact on surrounding properties because of traffic, noise, operations or the number of similar facilities in the area. The Board concludes that the program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location and that there is no reasonable alternative to meet the program needs of that area of the District.

The Board concludes that it has accorded ANC 3G the "great weight" to which it is entitled.

The Board concludes that the granting of the special exception will be in harmony with the general intent and purpose of the Zoning Regulations and Map and, as hereinafter conditioned, will not tend to adversely affect the use of neighboring property in accordance with Zoning Regulations and Map. Accordingly, in light of the foregoing, the Board **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

I. The Presbyterian Home of Washington (the Home) shall establish an Advisory Committee that includes representatives of the community surrounding the applicant. The community representation shall include one resident of the 2900 or 3000 block of Military Road, one resident of the 5300 block of 29th Street, one Commissioner of ANC 3G and one resident of ANC 3F as appointed by the Chairman of ANC 3F. The Military Road representative shall be chosen by the residents of the 2900 and 3000 blocks of Military Road. The 29th Street representative shall be chosen by the residents of the 5300 block of 29th Street. Both representatives shall serve for a two-year term and may be reelected. If a representative is unable to complete his/her term, a new representative shall be chosen by the residents. The applicant's representation shall include individuals (employees or members of the applicant's Board of Trustees or other committees) who are in a position to discuss the immediate and long-range plans of the applicant. The Advisory Committee shall meet two to four times per year or when necessary to discuss and make recommendations concerning any conditions contained in BZA Order No. 16138 relating to the applicant's operations as they affect the community. The Advisory Committee shall also discuss the applicant's long-range plans. The applicant shall provide the Advisory Committee with notice of any property dispositions or the acquisition of any abutting property within 30 days of settlement. The Advisory Committee shall meet as needed during the construction phase of the project to address construction-related issues. The applicant shall give strong consideration to the views and recommendations of the Advisory Committee.

II. Landscaping

A. The landscape plan shall be implemented by the applicant, which includes a list of specific plant, tree and shrub types and their sizes; number and installation height is identified as Exhibit 101 in the record.

B. The tree and shrub buffer for abutting homeowners who have participated in and approved the design at their individual buffers will be installed prior to the initiation of construction activities. The list of the affected houses noting the exact areas to be planted is set forth in Exhibit 101 in the record.

C. The applicant shall make every effort to maintain all landscaping on its property and to preserve the landscaped buffers. If a change or substitution to the landscape plan is required in order to address site or other conditions, including plant availability, the Advisory Committee will be consulted about such a change. The landscape plan includes all of the proposed landscaping for the site, including the landscaping designed to screen the existing building as well as Ingleside. The owners of property bordering the applicant's property shall make every effort to maintain the landscaping on their property. The applicant shall maintain the tree and shrub buffer for five years, including any replacement of dead trees or shrubs.

III. Noise

The applicant shall ensure that all noise emanating from the building and associated equipment will not exceed legally-permitted limits.

IV. Exterior Lighting Concept

The lighting concept that will be implemented by the applicant shall be developed with input from the Advisory Committee.

V. Rodent Control

The applicant shall continue to use an exterminator to address the control of any rodents on the site, particularly during the construction phase. After the completion of the addition, the applicant shall continue to use the services of an exterminator on a regular basis to address this issue.

VI. Vendor Deliveries

The applicant shall use its best efforts to prohibit deliveries by vendors prior to 7:00 a.m. In the event of extenuating circumstances such as an urgent need for medical suppliers, earlier deliveries shall be permitted. Vendors will be encouraged to drive only on major roads in the neighborhood. The applicant shall maintain regular contact with the vendors to enforce these restrictions.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16138 of The Presbyterian Home, pursuant to 11 DCMR 3108.1, for a special exception under Section 218 to increase an existing community residence facility by the addition of 102 units in an R-1-A District at premises 3050 Military Road, N.W. (Square 2287, Lot 807 and a portion of Lot 5).

HEARING DATES: **September 18 and October 30, 1996**
DECISION DATE: **December 4, 1996**

DISPOSITION: **The Board GRANTED the application by a vote of 5-0 (Laura M. Richards, Herbert M. Franklin, Sheila Cross Reid and Angel F. Clarens to grant; Susan Morgan Hinton to grant by absentee vote).**

FINAL DATE OF ORDER: **September 30, 1997**

RECONSIDERATION ORDER

The Board granted the application at its public meeting of December 4, 1996. The order was issued on September 30, 1997. On October 10, 1997, Abutters of the Presbyterian Home, opposing parties to the application, filed a timely motion for reconsideration of the Board's decision pursuant to 11 DCMR 3332.

Under Subsection 3332.4, a motion for reconsideration shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds for the motion and the relief sought.

The movant maintained that the Board should reconsider its decision to grant the special exception to operate a CRF because in the final order the Board concluded, without any supporting analysis, that "[t]he program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location." (BZA Finding of Fact #2, at p. 7). The movant argued that the Order failed to specifically identify what the program goals of the District of Columbia are with respect to the CRF at issue in this case. The movant noted that these goals are specified in the Ward 3 Plan of the D.C. Comprehensive Plan, which identifies the program goal of the District for human services to the elderly as providing "food and shelter to needy populations, but of a size or in settings that avoid adverse effects on surrounding property uses. The ward can host numerous facilities without impact if those facilities are consistent with the area's low density character." 10 DCMR Subsection 1408.3(d) (emphasis supplied by movant).

The movant stated that this Board is required to ensure that "the objectives and policies of the District elements [of the Comprehensive Plan] are considered in . . . special exception, variance, and other decisions." Council Report on Bill 5-282, D.C. Comprehensive Plan Act of 1984, at 52 (Jan. 17, 1984). The movant argued that the September 30, 1997 Order shows no evidence that any consideration was given to whether or not the proposed CRF will further the objectives and policies of the District, as set forth in the D.C. Comprehensive Plan, much less whether a lower-density facility would further such policies as well, if not better.

The movant argued that the Board's conclusion in the September 30, 1997 Order, that "[t]he program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location," is clearly erroneous, and lacks support in the record. While the record indicates that there may be a demand for the type of facilities provided by the proposed CRF, there is nothing in the record indicating that this CRF will serve the City's "needy populations," or otherwise achieve the program goals and objectives of the District. Accordingly, the movant maintained that the Board may not approve the proposed CRF since there is no evidence to support a finding that "the program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location" and "there is no other reasonable alternative to meet the program needs of that area of the District." 11 DCMR Subsection 218.7. Therefore, this Board may not approve any CRF unless it is consistent with the low density of the area.

The final argument made by the movant (in the subject motion), related to matters not part of the record, and therefore irrelevant for purposes of considering a motion for reconsideration.

By letter dated October 20, 1997, the applicant, (respondent herein) through counsel, opposed the motion for reconsideration and requested that the motion be denied by the Board.

The respondent argued that the Board did not err in granting the application with regard to the program goals of the District. The respondent pointed out that the Home serves the elderly population of the District of Columbia in Ward 3, the Ward that contains the highest percentage of elderly residents in the District of Columbia. The respondent stated that there is a demonstrated need for housing for seniors in Ward 3 and that the number of depositors speaks for itself. It was noted that the Ward 3 plan specifically cites the objective of expanding housing opportunities for the elderly in the ward (Section 1200.303(d)(2) and providing zoning flexibility for the production of new housing especially for the elderly (Section 1200.303(d)(34)). In the respondent's view the project clearly supports these objectives.

The respondent further argued that the Home serves those in need, and noted that 20 percent of the Home's residents receive financial assistance. Over $300,000 annually is spent on financial assistance, and the members of the Presbyterian faith are admitted to the Home without regard to financial means. The Home's charitable mission allows for these substantial subsidies. For all of the reasons stated, the Home requested that the Board deny the motion for reconsideration.

No other responses were received in support of or in opposition to the motion for reconsideration.

Upon consideration of the motion and the response thereto, the Board concludes that it did not err in granting the relief requested in the application. The Board concludes that the population being served by the Presbyterian Home is the elderly population in this area, that there is a need for elderly housing of all kinds. The record shows that there is a waiting list at the site and that other facilities in the area were full or nearly full.

Therefore, the Board is of the view that it did not err in finding that the program goals could not be achieved by a facility of a smaller size is not erroneous.

In light of the foregoing, the Board hereby **ORDERS** that the **MOTION** for **RECONSIDERATION** be **DENIED**.

DECISION DATE: November 5, 1997

VOTE: 4-0 (Sheila Cross Reid, Susan Morgan Hinton, and Laura M. Richards to deny; Herbert M. Franklin to deny by absentee vote).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

Final Date of Order: FEB 13 1998

UNDER 11 DCMR 310.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

16138ord/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16138

As Director of the Board of Zoning Adjustment, I certify and attest that on FEB 13 1998 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison C. Prince, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Anne M. Renshaw, Chairperson
Advisory Neighborhood Commission 3G
P.O. Box 6252
Northwest Station
Washington, D.C. 20015

Andrea Ferster, Esquire
1400 16th Street, N.W., Suite 300
Washington, D.C. 20036

Darryl Stephens, President
Concerned Neighbors of the Presbyterian Home
3014 Military Road, N.W.
Washington, D.C. 20015

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: FEB 13 1998



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15831 of the Methodist Home for the District of Columbia, pursuant to 11 DCMR 3108.1, for special exceptions under Sections 218 and 219 to allow an addition to a community residence and health care facility in an R-1-A and R-5-D Districts at premises 4901 Connecticut Avenue, N.W., (Square 2033, Lot 16).

HEARING DATES: July 21 and September 22, 1993
DECISION DATES: October 6 and 14, 1993, September 7 and December 7, 1994, December 11, 1996 and March 5, 1997

ORDER ON REMAND

PROCEDURAL BACKGROUND:

On October 14, 1993, the Board granted the application with conditions by a vote of 3-1 (Carrie L. Thornhill and Paula L. Jewell to grant; Sheri M. Pruitt to grant by absentee vote; Angel F. Clarens opposed to the motion). The Order granting the application was issued on May 27, 1994. On September 7, 1994, the Board denied a motion for reconsideration or rehearing by a vote of 5-0 (Maybelle Taylor Bennett, Susan Morgan Hinton, Laura M. Richards and Angel F. Clarens to deny; Craig Ellis to deny by absentee vote). The order denying reconsideration was issued on September 26, 1994.

On March 20, 1995, a petition for review of the Board's decision to grant the application was filed in the District of Columbia Court of Appeals by the opponents to the application, Methodist Home United Neighborhood Committee (The Committee). During the pendency of the appeal, counsel for the applicants requested a stay of the effectiveness of the Board's order until the court proceedings were complete. The Board granted the stay at its public meeting of December 7, 1994, by a vote of 5-0 (Craig Ellis, Laura M. Richards, Maybelle Taylor Bennett, Susan Morgan Hinton and Angel F. Clarens to grant).

In arguments before the Court, the Office of the Corporation Counsel (the OCC), counsel for the Board, requested that the Court remand the case to the Board for a clarification of the issues related to gross floor area and the required number of loading facilities at the site. The OCC also requested that the case undergo the exceptions process.

In accordance with the request made by the OCC on March 12, 1996 the Court of Appeals ordered that the case be remanded and the final order reviewed under the exceptions process.

On September 19, 1996, the Office of Zoning referred the final order to the parties as a proposed order and afforded them an opportunity to file exceptions by October 11, 1996, with responses to other parties' exceptions due by October 25, 1996.

On October 11, 1996, the Board received a letter from the applicant, the Methodist Home ("The Home") stating it had reviewed the proposed order, fully supports it and therefore has no exceptions. The Board also received a statement from The Committee taking exceptions to the proposed order. In its statement to the Board, The Committee argued that the proposed order should not be adopted for a number of reasons:

A. The proposed order was not validly issued since the members who heard the case were not on the Board when the order was issued.

A. The proposed order relies on out-dated information.

C. The proposed order does not correct the deficiencies explained in The Committee's brief to the D.C. Court of Appeals, namely:

1. The proposed expansion is incompatible with the R-1-A District;

2. The proposed complex will have an adverse impact on the neighborhood;

3. There is no evidence that Ward 3 needs a CRF of the size proposed;

4. Reasonable alternatives to the facility have not been considered;

5. The home will have more than 100,000 square feet and therefore does not comply with the code and licensing requirements.

The Committee requested a new hearing and opportunity to present oral argument.

Prior to considering any exceptions to the proposed order, the record in the application was sent to the following Board members for their review: Laura M. Richards, Angel F. Clarens, Susan Morgan Hinton, Sheila Cross Reid and Maybelle Taylor Bennett.

At its public meeting of December 11, 1996, members stated that they read the record in the application. The Board then denied the request for oral argument and rehearing and reopened the record to receive a report, with calculations, from the Zoning Administrator (ZA) on the gross floor area of the project and the required loading berths.

The Acting Zoning Administrator, Gladys Hicks, filed a report on January 21, 1997 indicating that the subject property is split-zoned R-1-A/R-5-C residential and that the maximum floor area ratio permitted in the R-5-C zone is 3.0.

With regard to the area of the structure and loading requirements the ZA provided the following information:

> The total amount of gross floor area of the structure without attic space totals 104,714.37 space feet (0.695 FAR). The attic space totals 11,779.75 square feet. The total gross floor area calculated with the attic space is 116,494.12 square feet (0.773 FAR).
>
> Under Subsection 2201.1, a structure with 100,000 square feet or more requires the following:
>
> **1 loading berth @ 30 feet deep**
> **1 loading berth @ 55 feet deep**
> **1 loading platform @ 100 square feet**
> **1 loading platform @ 200 square feet**
> **1 service/delivery space @ 20 feet deep**
>
> The loading requirements for this application are adequately met.

Responding to the ZA's report, The Committee, by letter dated February 3, 1997, argued that the proposed order should be rejected because one of the Board's findings is that the expansion contains less than 100,000 square feet. This is clearly erroneous, as indicated in the ZA's report, and the applicant therefore fails to comply with the code and licensing requirements.

On February 4, 1997, the ZA filed an amended report and computation sheets. In the amended report, the ZA corrected the original report and stated that the current zoning classification of the subject property is R-1-A and R-5-D residential, (not R-5-C as originally reported). She stated that the maximum allowed gross floor area for the R-5-D District is 3.5 not 3.0. The ZA stated that the gross floor area for the basement, first and second floors is 81,999 square feet (0.544 FAR) and the gross floor area which

includes the attic is 93,778.75 square feet (0.622 FAR). She stated that the loading requirements for 93,778.15 (sic) square feet for all other uses becomes:

1 loading berth @ 30 feet deep
1 loading platform @ 100 square feet
1 service delivery space @ 20 feet deep

To explain the reduction in the gross floor area and the changes in loading requirements the ZA stated:

> There is a difference, by definition under Section 199 of the Zoning Regulations between cellar area and basement area. Therefore, the lowest level of the existing structure and the proposed addition is predominantly cellar (ceiling height to adjacent grade measurement is less than 4 feet). Cellar area is not counted into the computation for gross floor area. (See definition of gross floor area.) A perimeter calculation should have been done in the initial computations to determine the percentage of linear feet classified as basement against the overall total number of linear feet all around the building. The percentage is then multiplied by the total number of gross square feet at the lowest level (14.4 % x 14,482 Square Feet).

The applicant submitted a letter to the Board dated February 28, 1997 stating that The Home fully supports the conclusions of the ZA regarding the gross floor area of the existing Methodist Home building and the proposed addition. The memorandum correctly states that the loading requirement for the 93,778.75 square foot project will be met by the loading berth, platform and service delivery space that will be provided.

The applicant stated that the ZA's January 27, 1997 report erroneously concluded that the project contained two loading berths because the service delivery space was incorrectly counted as a loading berth. Further, Ms. Hicks erred in including the entire square footage of the lower level of the existing building in the total gross floor area. Only that portion of the level constituting basement space should have been included in the gross floor area. The second memorandum corrected these errors and is fully consistent with the testimony of The Home's architect at the public hearing.

In a statement of The Committee, dated February 26, 1997, responding to the ZA's amended report, The Committee maintained that the applicant has made efforts to manipulate the administrative process to secure approval for the proposed expansion. The

Committee pointed out that the ZA's initial report was consistent with The Committee's position, but the "amended" report is adverse to it. The Committee stated that the two reports are a result of the manipulation by the applicant, the amended report coming after a series of ex parte meetings between the applicant and the ZA. The Committee requested that the Board set the matter for a proper hearing to afford all affected parties a fair opportunity to participate in the application on the record.

The Committee set forth arguments about the gross floor area being over (100,000 square feet and discussed evidence on the record in support of this fact. The Committee argued that the ZA failed to explain how she arrived at the square footage for the lowest level of the structure which she concludes is 13,482 square feet. In her first report she noted that the figure is 24,852.37. The Committee stated that in the second report, the ZA failed to explain how the conclusion was reached that only 14.4 percent of the lowest level was basement. Specifically, The Committee argued that the report does not state: 1) What area of the lowest level the Zoning Administrator found to be "cellar" as opposed to "basement"; 2) what grade the ceiling heights were measured against to reach these conclusions; and 3) what grading plans were used to make this comparison. Without making findings as to these crucial underlying facts, the Board cannot properly conclude that 86 percent of the lowest level is cellar. See Citizen's Ass'n of Georgetown v. BZA, 402 A.2d 36, 45 (D.C. App. 1979) (D.C. Code's requirement that agency fact-finder make "conclusions upon each contested issue of fact" means agency must make findings as to "basic" and "underlying" facts).

The Committee stated that the lack of proper grading plans is especially important. The Board had no basis to evaluate The Home's "cellar" argument because proper plans have not been submitted on The Home's application. When this matter was previously before the Board, the Neighborhood Committee pointed out that The Home had never submitted required grading plans. The Home responded that this was not necessary. The Home's attorneys and architects presumbly showed the Zoning Administrator some type of grading plans to persuade her that the ceiling was sufficiently close to the adjacent grade to make 86 percent of the lowest level a "cellar." Those plans, however, are not in the record.

Finally, The Committee challenged the credibility of The Home's architect because his testimony that the expansion would have less than 100,000 square feet was, without explanation, inconsistent with The Home's initial representation that the addition would have more than 100,000 square feet. The Committee maintained that the Board can place no weight on the credibility of The Home's architect, and the proposed order, which is largely founded on his testimony, should be rejected.

At the public meeting of March 5, 1997, the Board considered the record, the reports from the ZA, responses to the reports and the proposed order. The Board determined that the ZA's report of February 4, 1997 is in order and the calculations are in agreement with the record in terms of the structure occupying less than 100,000 square feet of gross floor area, the corresponding loading requirements and the correct zoning category for the site. Based on the gross floor area determinations made by the ZA, the Board concluded that the required loading berth, loading platform and service delivery space provided for on the proposed plans comply with the Zoning Regulations. The Board determined that the ZA's report addressed the only outstanding issues for which additional information was needed. Therefore, the Board adopted the proposed order with changes consistent with the ZA's conclusions. The substance of this order follows:

ORDER

PRELIMINARY MATTERS:

As a preliminary matter, the Methodist Home United Neighborhood Committee filed a motion to strike a letter dated July 27, 1993 received from Acting City Council Chairman John Ray. The Committee alleged that the letter from the Acting Chairman was improper, was an ex parte communication and would have undue and unfair influence on the Board. The letter was received on August 3, 1993 and is marked as Exhibit No. 88 of the recoird before the Board. The Chairman ruled to leave the letter in the record, that the Board would give the letter the weight it deserved and that the motion to strike was denied.

2. As a second preliminary matter, The Committee moved to strike the report of Advisory Neighborhood Commission (ANC) 3F on the grounds that Commissioner Douglas Mitchell should be disqualified from participating in the proceeding because he had a financial interest in the outcome of the ANC's decision. The Chairman ruled that the Board was not the proper forum for The Committee to challenge the validity of the actions of the ANC, and that the Board would not interfere in the internal functioning of the ANC.

SUMMARY OF EVIDENCE:

1. The subject property is located on the east side of Connecticut Avenue between Ellicott and Fessenden Streets, N.W. The building is known as premises 4901 Connecticut Avenue, N.W., and is located on Lot 16 in Square 2033.

2. The subject property is located in both the R-1-A and R-5-D zoned districts. The boundary line between the two zones is located 100 feet from and parallel to the right-of-way of Connecticut Avenue, except that the property located at the southeast

corner of the intersection of Connecticut Avenue and Fessenden Street is owned by the National Park Service and is not subject to zoning. The R-5-D portion is located on the west side of the site and the R-1-A portion is located on the east side of the site.

3. The subject site contains approximately 3.5 acres of land. The site has frontage of approximately 260 feet on Connecticut Avenue, 410 feet on Fessenden Street, and 255 feet on Ellicott Street. There is a 15-foot building restriction line located along the Ellicott Street side of the property.

4. The existing building on the site was constructed in 1926. The building is owned and occupied by The Methodist Home of the District of Columbia, and has been continuously occupied by The Home since it was constructed.

5. The existing use comprises both a community residence facility (CRF), currently consisting of 52 beds, and a health care center, currently consisting of 26 beds, both located in the same building.

6. In order to proceed with the proposed construction, The Home requires two special exceptions under the Zoning Regulations. The addition to the CRF is regulated under Section 218 of the Zoning Regulations and the addition to the health care faci-lity is regulated under Section 219 of the Zoning Regulations. No variance relief is required.

The combined provisions of those two sections require the Board to find that:

a. There shall be no other property containing a community-based residential facility for seven or more persons in the same square or within a radius of 1,000 feet from any portion of the subject property.

b. There shall be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility.

c. The proposed facility shall meet all applicable code and licensing requirements.

d. The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area.

e. The Board may approve more than one community-based residential facility in a square or within 1,000 feet only when the Board finds that the cumulative effect of

the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

f. The Board may approve a CRF of more than 15 persons or a health care facility of more than 300 persons only if the Board finds that the program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area or the District.

g. The Board shall submit the application to the Director of the Office of Planning for coordination, review, report and impact assessment along with reports in writing of all relevant District departments and agencies.

7. The Board previously has approved applications regarding The Home. In BZA Appeal No. 5656 dated September 18, 1959, the Board approved the enlargement of The Home through the construction of a basement and a two-story addition. The Board approved two additional building expansions, in BZA Order No. 15531, dated December 18, 1973, for a two and one-half story emergency egress stairway and in BZA Order No. 11838, dated February 25, 1975, for a two-story apartment addition.

8. The D.C. State Health Planning and Development Agency (SHPDA) issued a certificate of need dated February 22, 1993 to The Home. The certificate establishes that there is a net need for 387 skilled nursing and intermediate care beds in the District of Columbia, taking into account current licensed nursing home capacity and those beds that have been approved since 1990.

9. The subject application requests approval of an addition to The Home. The addition will raise the total number of beds in The Home from 78 to 114. The addition will contain 24 health care beds, resulting in a total of 50 beds in the health care facility. At present, The Home also contains 52 independent living beds in the CRF. In connection with the addition, the existing health care facility will be converted into 12 independent living beds, resulting in a total of 64 independent living beds in the CRF.

10. The applicant proposes to construct the addition primarily in the northeast quadrant of the site. The addition will contain two stories and a basement to be devoted to the new health care center for The Home. Additional construction will occur at the north end of the existing building and in a portion of the open space now located at the front of the building. The area upon which the addition is to be constructed is primarily devoted to surface parking and outdoor service areas for The Home.

11. The addition to The Home has been designed to match the existing building in terms of facade, building materials, height and roof line. The height of the building is 32 feet 8 inches, as measured at the level of the curb on Connecticut Avenue to the highest point of the roof.

12. At the rear, the addition is 61 feet from the east lot line, more than twice the minimum required rear yard of 25 feet.

13. The building and the addition have a total lot occupancy of 29 percent, substantially below the 40 percent maximum occupancy permitted in the R-1-A District and the 75 percent lot occupancy permitted in the R-5-D District.

14. The building will have a total floor area ratio (FAR) of 0.57. The R-5-D District permits a maximum floor area ratio of 3.5. The R-1-A District does not specify a permitted FAR, but the combination of lot occupancy and height allows an effective FAR of 1.2 in the R-1-A District.

15. All mechanical equipment incidental to the operation of The Home will be located inside the existing building and the proposed addition, except for one cooling tower to be located on the roof of the building and screened from view by parapet walls. The mechanical equipment has been designed and will operate such that it is in compliance with the requirements of the Building Code regarding noise and decibel levels.

16. The landscaping proposed by the applicant to be included along the northern boundary of the property facing Fessenden Street and the eastern boundary of the property facing three adjoining single-family dwellings will constitute an intensive screen which will minimize and tend to eliminate any visual and noise impacts from the proposed addition. In particular, the hedge of Foster hollies, to be planted along the eastern property line, will be planted at an initial height of ten to 12 feet and will grow to approximately 25 feet at maturity. These trees normally grow ten to 15 feet wide and will be planted approximately six feet on center. The ten to 12-foot size is the largest size generally available in sufficient quantities. Given the diameter to which the tree grows, it is not prudent to plant the trees any closer than six feet apart.

17. The Home presently has 48 parking spaces on its property, all located on the R-1-A portion of the site. At the request of the ANC 3F, the applicant's proposed parking layout includes the same number of parking spaces. More than 70 percent of The Home's employees are residents of the District of Columbia.

18. Eighty percent of The Home's employees use public transportation to arrive at the subject property. As a result of the addition, the number of employees coming to the site will increase by only six. It is anticipated that the proportion of the employees using public transportation will remain the same.

19. Surveys done by the applicant's transportation consultant indicated that the peak usage of the existing parking spaces occurs on Sunday afternoon, when 43 of the 48 spaces presently on the lot were occupied. The applicant's transportation consultant estimated that, after the addition is completed, the peak demand for parking will likely increase to approximately 51 spaces. Therefore, one time a week, three cars coming to the site could not be accommodated on-site and will have to seek parking on the street. At all other times, all those persons likely to come to the site by automobile could park in the spaces available on the site.

20. Seven of the proposed parking spaces will be located off the circular driveway which leads from Connecticut Avenue to the main entrance to The Home. A total of 17 parking spaces will be located in two parking areas adjacent to Fessenden Street, N.W. Twenty-four spaces will be located along the driveway which connects Fessenden Street to Ellicott Street near the eastern edge of the property. Eight of those spaces will be located immediately next to and facing the new health care addition on the west side of the driveway. Four of the spaces will be located on the west side of the driveway near the Ellicott Street gate. Twelve of those spaces will be located in three groups of four on the east side of the driveway.

21. The landscaping plan included in the application indicates that all of the spaces located north and east of the building will be screened from adjoining residential property by an intensive landscape buffer primarily consisting of evergreen trees and shrubs.

22. The intersection of Connecticut Avenue with Fessenden Street is signalized. It operates at a level of service "C" during peak hours. The intersection of Connecticut Avenue with Ellicott Street is unsignalized. It operates at a level of service "A" during peak hours.

23. At present, the site has driveway access to Connecticut Avenue, at two points to Fessenden Street and at one point to Ellicott Street. The Ellicott Street driveway is currently closed off and locked with a gate, but The Home is free to use that driveway at any time. Under the proposed plan, the points of access would remain the same. The driveway to Ellicott Street would be controlled by a gate and would serve as an egress only to Ellicott

Street. Use of that gate would be limited to those residents of The Home who own and drive cars, to certain key staff and use by emergency personnel.

24. The report of the applicant's transportation consultant and his testimony at the public hearing indicated that the number of additional trips resulting from the proposed addition to The Home would not significantly change the number of trips traveling through the critical intersections and that the proposed addition would not have an adverse effect because of traffic.

25. The Home presently has 46 full-time employees and 20 part-time employees for a total of 66 employees. With the addition, six full-time employees will be added, for a total of 72 employees. The maximum number of employees on the premises at any one time is 35, when the shifts change.

26. At present, The Home experiences less than one emergency ambulance visit every six months. Even with an increase in the number of health care beds, any projected increase in the number of ambulance visits which requires use of emergency sirens will have a minimal and insignificant impact on the surrounding neighborhood, especially when compared to the emergency traffic out of the D.C. Fire Station located directly across Connecticut Avenue.

27. The applicant stated that The Home is inherently a quiet operation in the neighborhood. The average age of the residents in The Home is 92 years.

28. The loading facility for The Home is located on the basement level, with access from the westernmost driveway on Fessenden Street. The loading area will be enclosed with a roll-up door which will face west towards Connecticut Avenue. All loading and service activities will occur inside the building, except for the actual emptying of the trash dumpster, which will occur immediately outside the door in a location screened from the adjoining residences across Fessenden Street. After it is emptied, the dumpster will be returned to the enclosed loading area.

29. The Office of Planning (OP) by memorandum dated July 15, 1993, and by testimony at the public hearing, recommended approval of the application with conditions. The OP stated that there are no other community-based residential facilities in the subject square or within a 1,000-foot radius of the site and that the applicant had received approval to construct the proposed addition from the SHPDA. The bases of the OP's recommendation are the following:

a. The number of parking spaces that are proposed for the project will meet the existing needs of The Home as well

as the additional traffic that will be generated by the addition.

b. Given the proposed dense screen of evergreen trees to be planted on the east property line, the lower half to two-thirds of the proposed addition would not be visible from anywhere in the back yards of the single-family residences to the east initially, and after four years the roof would disappear as well.

c. Traffic generated by the addition would be minimal over a 24-hour time period and the proposed restrictions on the use of the exit to Ellicott Street would substantially reduce the likelihood of any significant adverse traffic impacts.

d. The increase in residence from 78 to 114 should have little direct effect on noise levels because of the high average age of residents and the fact that they are rarely outside.

e. Increased activity on the site would not be of a magnitude that would be disruptive to the community if precautions are taken by the applicant to safeguard all of the nearby property owners.

f. Upon evaluation of the addition as proposed by The Home and an alternative scheme proposed by The Committee, it is not at all clear that an alternative design scheme would be justified.

The Office of Planning therefore recommended approval of the application incorporating the conditions identified by ANC 3F.

30. The Department of Public Works (DPW), by memorandum dated July 21, 1993 stated that it had no objection to the proposed addition. The DPW believed that the proposed addition will create a slight increase in parking needs which could generally be accommodated by the number of spaces in the existing parking facility. The DPW anticipated that there would be an occasion when the parking facility will be at capacity, and when those times occurred, that the neighborhood would be minimally affected.

31. Advisory Neighborhood Commission (ANC) 3F filed two reports with the Board. The first report, dated June 25, 1993, reflected that the ANC supported the need for a skilled nursing home facility on The Home's property but took no position on the exact plan for the addition, urging The Home and neighbors to continue negotiations. By report dated September 8, 1993, the ANC reported that it had voted to recommend that the Board give

approval with conditions to the application. The ANC proposed 14 conditions to be applied to approval of the application, and a 15th condition which notes that the previous 14 are contingent upon approval of the plans filed by The Home in connection with the BZA application and the implementation of construction in accordance with the Board's order. The conditions cover the establishment of an advisory committee, landscaping, the loading dock, the HVAC and cooling tower, noise, lighting, rodent control, operational features of The Home, maintenance of the public space and the National Park Service parcel, vendor deliveries, construction activities, parking, future construction on The Home's site and bus parking (Exhibit No. 93 of the record).

32. The representative of The Home stated at the hearing that The Home agreed to all of the conditions except condition No. 14, regarding bus parking. The ANC requested that the Board include a condition that The Home not be permitted to park any buses on The Home's property. The Home requested permission from the Board to park a maximum of two, 12 to 16-passenger handicapped accessible buses on the property, with those buses to be parked in the westernmost spaces of the parking area located adjacent to Fessenden Street, in an area best screened from surrounding residences.

33. There were many letters and petitions in support of the application, noting the minimal impact of The Home on the neighborhood, the benefits to the District of Columbia from The Home and the need for the proposed expansion of The Home.

34. The application was opposed by the owners and residents of many of the single-family dwellings which surround the property to the north and east. The neighbors organized themselves into the Methodist Home United Neighborhood Committee (The Committee). While many in opposition expressed their general support for an addition to The Home, they felt that the proposed addition was not suitable. The grounds for the opposition were as follows:

a. The Home has not always been a good neighbor, causing adverse impacts from time to time because of noise, light and other intrusions on the single-family neighborhood. The identified noise impacts were primarily a result of deliveries to the site and collection of trash, including the emptying of the dumpster, before 7:00 a.m.

b. The Home has misrepresented its plans and proposals to the neighborhood, including the amount of activity, the location of the principal entrance, the number of employees and the impact of construction on the well being of the existing residents.

c. The Home has installed "no trespassing" and other signs designed to keep the neighborhood out of The Home's property.

d. The addition will cause adverse impacts on Ellicott Street because of the re-opening of the driveway access to that street.

e. The height and bulk of the addition are substantial and institutional in character, causing visual encroachment on the adjoining residences, particularly those immediately to the east.

f. The location of the driveway connecting Fessenden Street to Ellicott Street at the eastern end of the property will adversely impact the three adjoining residences because of traffic, headlights at night, cars backing up because they could not use the exit gate and a general increase in activity along that boundary line.

g. The location of the cooling tower will result in audible noise exceeding the allowable standards at the property line.

h. The addition should be built in the R-5-D portion of the property, since the R-1-A zone is the most restricted single-family portion.

i. The neighbors retained an architect to prepare an alternative plan, which The Committee alleged would meet the objectives of The Home. The alternative plan would move the bulk of the addition further away from the adjoining properties and would allegedly create less impact on the neighborhood.

j. The design of the loading facility is not functional.

k. The plans are deficient in that three loading berths are required and only two are provided.

35. There were a large number of letters and petitions submitted in opposition to the application, essentially echoing the arguments set forth in the Summary of Evidence No. 34 above.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The Home has responded to all the complaints from neighbors by correcting the offending conditions, including the

termination of the trash contractor for failure to respond to The Home's directions not to arrive before 7:00 a.m. The neighbors indicated that issues related to the lights had been corrected by The Home. The design of the addition will further reduce impacts by locating the loading area inside the building further removed from the immediate neighbors.

2. The plans are clear as to the location of the principal entrance. The Home's agreement with the ANC will result in limited use of all the other entrances.

3. The number of employees has fluctuated to a minor degree because of small changes in the actual work force. The differences cited by the opposition are minimal and insignificant in determining the impact of the proposed addition. As noted in Summary of Evidence No. 25 above, the maximum number of employees on the premises at any one time will be 35.

4. The Home is entitled to and must control access to its grounds to protect the safety of its residents. It is not unreasonable for The Home to post its property to deter unauthorized use.

5. The Board credits the expert testimony of the applicant's transportation consultant and the report of the DPW in establishing that there will be sufficient parking to accommodate the needs of residents, visitors and employees of The Home including those required as a result of the proposed addition. The same testimony and report also establish that The Home with the proposed addition will not have an adverse impact on traffic condi-tions on Fessenden Street, Ellicott Street or their intersection with Connecticut Avenue.

6. The control of egress to Ellicott Street by a card-controlled gate will result in minimal use of the driveway. The site is private property and has not been and will not be a thoroughfare. The Home will post a sign indicating that there is no public access to Ellicott Street. The use of the parking areas and driveway at night will be limited to very few cars. The intensive landscape screen will further reduce any intrusions of noise or light to adjoining property.

7. As set forth in Summary of Evidence Nos. 11 through 14 The Home, including the addition, meets all of the setback and density requirements of the Zoning Regulations. The lot occupancy and FAR are well below the permitted limits and the rear and side yards are substantially greater than the minimum requirements established by the Zoning Regulations.

8. The construction of the addition to The Home in either the R-1-A or the R-5-D District requires the same special exception approval from the Board. The standards applicable to the application are the same for both zone districts. The Board notes that, as proposed by the applicant, portions of the new construction are located on both sides of the zone boundary line.

9. The design of the addition as proposed by the applicant, including the intensive landscaping and screening proposed, are such that the addition will not significantly impact the surrounding residences. The exterior facade has been designed, and building materials selected to match the existing architecture of The Home. The elevations have been articulated to reduce the impact of the length of the building.

10. The cooling tower is the only mechanical equipment to be located outside the building and will meet the standards of the Building Code. Any noise which would come from the cooling tower is likely to be lower than and be subsumed by the background noise already emanating from traffic and activity along the Connecticut Avenue corridor.

11. The loading dock has been designed so that it is enclosed and in a location which faces away from the surrounding residences and is buffered by a substantial landscaped screen.

12. The supplementary information submitted by the applicant demonstrates that access is available to the loading dock by trucks which would use that facility.

13. The building contains 93,778.75 square feet of gross floor area, less than 100,000 square feet of gross floor area as that term is defined in the Zoning Regulations. The building is required to have one 30-foot loading berth, one 20-foot service delivery loading space and one 100 square foot loading platform. All of these spaces are shown on the plan marked as Exhibit No. 123C of the record.

14. The principal entrance to The Home is and will remain located on Connecticut Avenue. The entrance located at the rear will be open to the public only between the hours of 7:00 a.m. to 4:00 p.m. At all other times, access will be limited to employees or for emergency access.

15. The design of the addition is constrained by a large number of complicated and interrelated requirements of The Home, including municipal building and licensing requirements, as well as the specific functional needs of the existing and future residents. The alternate plan submitted by the opposition may contain space for the same number of beds as proposed by the applicant. However,

the applicant identified a number of significant deficiencies in that plan which convinced the Board that the alternate plan is not a viable solution which meets the needs and requirements of The Home.

16. The applicant is further not required to demonstrate that there are alternative ways to construct the addition to the building which may have greater or lesser impacts than the design proposed in the application. The applicant is only required to demonstrate that the addition it has proposed meets the specific standards of Sections 218 and 219 of the Zoning Regulations.

17. The conditions suggested by the ANC, to which the applicant has agreed, will minimize any adverse impacts because of construction or operation of the addition to The Home.

18. With respect to the ANC's recommendation regarding prohibition of bus parking, the Board agrees and finds that it is reasonable to restrict the applicant to park only mini-vans on the property. The vans should be parked on the northwest corner of the parking area in a location where they are substantially distant from any of the surrounding properties. If parked in the proposed location, small vans are not likely to become objectionable or obstrusive.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions, the granting of which requires that the proposal meet the requirements set forth in 11 DCMR 218, 219 and 3108.1, that the relief requested can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and that the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met the requisite burden of proof. Based on the testimony and evidence of record, the Board concludes that there are no other properties containing a community-based residential facility in the same square or within 1,000 feet. The Board concludes that the addition, as proposed, will meet all code and licensing requirements. The Board concludes that The Home and the addition will not have an adverse impact on surrounding properties because of traffic, noise, operations or the number of similar facilities in the area. The Board concludes that the issuance of a certificate of need from the State Health Planning and Development Agency is evidence that the program goals and objectives of the District cannot be achieved by a facility of

a smaller size at the subject location and that there is no other reasonable alternative to meet the program needs of that area of the District.

The Board notes with favor the report of ANC 3F, in which the ANC recommended approval of the application fashioning a set of conditions to apply to the construction of The Home and its operation thereafter. The Board further notes the recommendation of the Office of Planning to approve the application incorporating the conditions of the ANC. The Board is in agreement with the ANC recommendations, with the exception of its proposal to exclude all bus parking from the property, as addressed in Finding of Fact No. 18 above.

The Board concludes that granting the special exception will be in harmony with the general intent and purpose of the Zoning Regulations and Map and, as hereinafter conditioned, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. Accordingly, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Construction shall be in accordance with the plans marked as Exhibit Nos. 28 and 123 of the record.

2. **Advisory Committee**

   A. The Home shall establish an Advisory Committee that includes representatives of the community surrounding The Home including:

      i. One representative from Advisory Neighborhood Commission 3F;

      ii. One representative from the 3400 block of Fessenden Street;

      iii. One representative of the owners of property nearby or adjacent to the eastern boundary of The Home's property; and

      iv. Two representatives of The Home's Board of Trustees and the Chief Executive Officer of the Methodist Home.

   B. The Advisory Committee shall meet on a regular basis to be determined by the Committee to discuss and make recommendations concerning construction operations, and the operations of The Home impacting on the community.

C. The Home shall send a notice of all such meetings to property owners within 200 feet of the site.

D. The Advisory Committee shall meet regularly during the construction phase of the project to address construction-related issues and thereafter, no fewer than three times each year unless otherwise agreed to by the committee.

E. The Home will give great weight to the views and recommendations of the Advisory Committee.

3. **Landscaping**

A. The landscape plan that shall be implemented by The Home, which includes a list of specific plant, tree and shrub types and their sizes, is identified as part of Exhibit No. 28 in the record.

B. The Home shall make every effort to maintain all landscaping on its property in a healthy and growing condition. The Home shall replace any vegetation that is planted in connection with the landscape plan and fails to survive, within six months of the death of such vegetation, as long as weather conditions and sound horticultural practice permit a replanting within such time frame. If a change or substitution to the landscape plan is required in order to address site or other conditions, including plant unavailability, the Advisory Committee shall be consulted about such a change.

C. If feasible, the large spruce tree near the Fessenden Street driveway of The Home shall be relocated to another location on the property such that it will afford similar screening of the site from the same houses that are currently screened by the tree. If it is not feasible to relocate the existing tree, it will be replaced with another spruce tree of the maximum size available to the applicant.

4. **Loading Dock**

The Home shall locate its loading dock inside its addition with the loading dock doors facing Connecticut Avenue, N.W. rather than the 3400 block of Fessenden Street. The Home's loading, trash pick-up, and deliveries shall be accomplished inside the loading dock