3/4G
Chevy Chase
Advisory Neighborhood Commission 3/4G
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September 14, 2004

Please find attached the ANC 3 / 4 G report required for the September 21, 2004 hearing in connection with BZA Application 17055 of the Army Distaff Foundation.

Frank Buchholz
ANC Commissioner
3G02

ANC Commissioners
Board of Zoning Adjustment
Army Distaff Foundation
Shaw Pittman
Knollwood Neighbors

BZA
Case No. 17055
Exhibit No. 121

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 121

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September 14, 2004

Mr. Geoffrey Griffis
Chairman
Board of Zoning Adjustment
441 4th Street NW
Washington, DC 20001

Re: Application No. 17055 Application of Army Distaff Foundation, Inc. for a special exception to allow a four-story addition housing 25 nursing rooms accommodating 27 residents and the addition of 22 independent living units.

Dear Mr. Griffis:

At a regularly scheduled and advertised public meeting held on Monday evening, September 14, 2004, Advisory Neighborhood Commission 3/4G (the ANC) voted 7-0 (a quorum consisting of four members present) to support the application by the Army Distaff Foundation (the Foundation or Knollwood) for a special exception as described in the pre-hearing statement of the Foundation dated September 7, 2004 subject to the conditions outlined in the enclosure. In supporting this application, the Commission found that the proposed use is in harmony with the Zoning Regulations and will not adversely affect the use of neighboring property. (See Enclosure).

In supporting this special exception, the ANC takes special note that the addition will provide for 25 specialized units, on site, for the treatment of dementia, including Alzheimer's disease, primarily for Knollwood residents. This unit is needed now and Knollwood residents simply can't wait for the end of the 2016 moratorium to benefit from this facility. The ANC would also like to recognize the efforts of both Knollwood and Knollwood Neighbors to resolve their differences that resulted in changes to the initial proposal.

The ANC also notes that granting the application would be contrary to the 2016 moratorium on new construction set by the BZA in Application 15358 of January 31, 1991. The ANC decided, however, to recommend a waiver to that moratorium, in this instance only. In the ANC's view, the 2016 moratorium continues in force, until it is replaced by some mutually satisfactory alternative.

Commissioner Frank Buchholz is authorized to represent the ANC at the September 21, 2004 hearing and any subsequent hearings.

Sincerely yours,

Robert Gordon
Chairman
ANC 3 / 4 G

Enclosure:

1. ANC Report Required under Section 3115.1

Cc: Councilmember Adrian Fenty
Councilmember Kathy Patterson
Army Distaff Foundation
Knollwood Neighbors

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ANC 3/4 G Report on the Application by
The Army Distaff Foundation, Inc. for a
Special Exception

(a) Application number 17055 by The Army Distaff Foundation, Inc for a special exception to construct a 68,100 square foot addition to the existing Knollwood facility located at 6200 Oregon Avenue, NW in a R-1-A District (Square 2339, Lot 3)

(b) Dates of ANC public meetings to consider the application: January 12, 2004, May 10, 2004 and September 13, 2004. The long gap between these meetings was to give Knollwood Neighbors and the Foundation an opportunity to mediate the dispute.

(c) Proper notice was provided to all resident living within 200 feet of Knollwood and to residents of Knollwood.

(d) Four members of the ANC 3/4G constitute a quorum. Seven members were present on September 13, 2004.

(e) The concerns of the ANC are as follows:

1. Granting the application would be contrary to the 2016 moratorium on new construction set by the BZA in 1991. (Application No. 15358) However, the ANC took into consideration the fact that the proposed new construction would benefit sufferers of dementia and therefore decided to recommend waiver of the moratorium provision in this instance.

2. In addition, the ANC was concerned about the size of the building, its siting. the cutting down of mature trees, the impact of construction activity, and the possible negative impact on property values. Since the Foundation announced its plans in June 2003, it has engaged in professional mediation with Knollwood Neighbors, a group of neighbors with party status in this issue. Many of the issues raised by Knollwood Neighbors in a report to the ANC dated January 3, 2004 have been addressed by the Foundation.

(f) The ANC therefore recommends that the BZA accept the subject application for a special exception because the proposed use is in harmony with the general Zoning Regulations and will not adversely affect neighboring properties and on the assumption that the application is in conformity with the special conditions in the relevant titles of the Zoning Regulations. The ANC's positive recommendation is subject to the following conditions:

1. The Foundation shall establish an Advisory Committee composed of representatives of the community surrounding Knollwood including:

    a. One representative from the ANC;

    b. One representative each from Stephenson Lane; 29th Street, Tennyson Street, Rittenhouse Street, Nebraska Avenue, and 28th Place or 29th Place;

    c. One representative from Knollwood's residents' council;

    d. One representative from the Foundation's Board of Directors;

    e. The Chief Executive Officer of the Foundation.

2. The Advisory Committee shall meet on a regular basis to discuss and to make recommendations concerning construction operations, and the operations of Knollwood impacting on the community.

3. The new addition and parking, if any, shall be well-screened by the planting of trees and shrubbery agreeable to the neighbors most affected.

4. It shall be written into any contracts, subcontracts, and other agreements entered into in conjunction with this project that all construction will be confined to 7:30 AM to 5:30 PM Monday to Friday. No loud noises, including radios, will be permitted except during work hours.

5. There shall be no blasting.

6. The Army Distaff Foundation will maintain its grounds in a neat and orderly appearance through the construction period.

7. All dump trucks shall be covered. Surrounding streets will be swept and washed. Soil shall be watered to suppress dust. All vehicles belonging to contractors and their assigns shall be confined to parking, on the Knollwood property to the extent possible. Trucks shall not idle while parked.

8. The Army Distaff Foundation will compensate neighbors promptly for any damage caused to their property or person by construction.

9. Construction vehicles shall access the Knollwood property by the Oregon Avenue or Nebraska Avenue entrances. Such vehicles shall reach Knollwood solely by Oregon or Nebraska Avenues.

10. The mechanical penthouse shall include sound absorbing material to reduce noise.

11. The Foundation and Knollwood Neighbors shall reach a mutually acceptable written and binding settlement agreement substantially in the form of the Memorandum of Understanding attached hereto, that includes among other matters agreements of the parties with respect to

    a. extension of the existing 25-year development moratorium;

    b. location of all new buildings;

    c. removal of any trees;

    d. a proposed new exit to Tennyson Street;

    e. and landscaping.

12. The 25-year moratorium on new construction established by BZA Order 15358 of January 31, 1991 shall remain in effect until such time as a legally enforceable means to restrict future development of the site for a specified period time is devised.

13. The Board of Directors of the Army Distaff Foundation shall provide this ANC and the BZA the date and vote of their vote on its applications.

(g) This report was approved by ANC 3/4G by a vote of 7 to 0, four members of the commission constituting a quorum.

(h) Commissioner Frank Buchholz is authorized to represent the ANC 3/4G at the September 21, 2004 hearing and any subsequent hearings.

(i) Signed



Robert Gordon
ANC 3/4 G
Chairman

September 14, 2004

Attachment: Draft Memorandum of Understanding

DRAFT

MEMORANDUM OF UNDERSTANDING

This Memorandum captures the agreements reached between Knollwood Neighbors, (Neighbors) and the Army Distaff Foundation/Knollwood (Knollwood), and its successors and assigns, regarding Knollwood's intention to construct a unit for Alzheimer's patients and up to 22 independent living units. The parties have negotiated for a number of months, and have arrived at the following set of agreements:

1. Alzheimer's Unit and Independent Living Units: The new building will be sited on the southwest side of the existing Knollwood building as shown in Exhibit A (use currently available special care footprint in BZA filing but note that all structures will be fully contained within parking lot – a final exhibit will be generated before the BZA hearing), and will contain the elevations as illustrated in Exhibit B (for the moment, use height elevations from 29th St view in BZA filing, and note that the 3rd floor of apartments towards Stephenson will be reduced by 30 feet and a 3rd floor of apartments from the main core 23-26 feet towards 29th St will be added – a final exhibit will be generated before the BZA hearing).

2. Preservation of Green Buffer Zone: Knollwood agrees to establish a Green Buffer Zone as depicted on Exhibit C. For a period of _____ years from the date of this Agreement, Knollwood covenants and agrees not to construct, or seek from the District of Columbia a permit to construct, any buildings or structures in the Green Buffer Zone. Knollwood further agrees not to construct, or seek from the District of Columbia a permit to construct, within the existing Knollwood Property that is *not* part of the Green Buffer Zone, any building or structure that exceeds the height of an adjacent structure, or any addition to an existing structure that exceeds the current height of that structure.

3. Screening and Landscaping: Screening, preservation of existing mature deciduous trees, and landscaping are important ingredients in this agreement. In this

regard, the parties have agreed that:

a) transplanted screening trees are especially vulnerable during the initial years after transplantation and planting screening trees in locations exposed to sunlight is an essential condition for the success of transplantation, as well as their long term viability.

b) transplanted screening trees shall be placed in locations to minimize potential damage to all mature deciduous trees in woodlands and green buffer identified as preservation candidates.

c) screening trees at time of installation shall be of sufficient height and quantity to fully screen the view of the building and anyone standing on a rooftop terrace from each Neighbor's house if any Neighbor so desires.

d) Neighbors may employ an arborist to participate in the planning, execution, and protection of landscaping during construction, in the areas between Stephenson Lane and the new building and between 29th Street and the new building. Knollwood shall be responsible for the arborist's fees which shall not exceed _____. The arborist shall be entitled to participate in all material aspects of the landscaping, including, but not limited to, the planting of screening trees between the building and Stephenson Lane and 29th Street before construction begins; establishing the height and variety of trees (and other landscaping materials); the placement of new trees and other landscaping material; supervising the planting of screening trees; and preserving existing mature deciduous trees during construction.

e) Knollwood agrees to maintain the entire existing berm between Stephenson Lane, 29th Street and the new building. This shall include siting the new building so that (1) all of the new structures, including walls, shall be within the existing parking lot; and (2) the structures are far enough back to allow planting of screening trees on the space currently occupied by the road all the way around to the part of the current road that heads down towards Nebraska Avenue. It shall also include fencing off

the berm during construction, and the use of other construction techniques, such as no "overdig" and other appropriate techniques identified by Neighbors' arborist, so as to protect the berm and newly planted trees. In addition, Knollwood shall take all measures necessary to protect existing, mature, deciduous trees during construction. Singled out for special protection shall be the large white oak tree and the weeping cherry tree on the 29th Street side of the berm. This means that the limits of disturbance shall not go beyond the existing curb line along the 29th St. and Stephenson Lane sides.

f) Knollwood shall consult with the Neighbors' arborist on an amount to budget to fully execute an effective landscaping and screening plan. Once approved, Knollwood shall spend at least that budgeted amount on landscaping during the construction phase.

g) After construction, Knollwood shall maintain a separate annual budget amount for the maintenance of all new plantings. The amount of such budget as well as the frequency of maintenance and maintenance procedures, especially those pertaining to transplanted trees, shall be determined in consultation with Neighbors' arborist.

h) In the event that there is a dispute about any of the landscaping items set forth above, the arborists of Neighbors and Knollwood shall select a neutral expert arborist to resolve the dispute. This arborist shall be certified by the International Society of Arboriculture (ISA) and with demonstrated experience over 5 years in the field with both tree preservation and large tree transplantation. His or her decision will be binding on both parties. Knollwood shall be responsible for the fees of this neutral expert.

4. Construction Considerations:

a) Knollwood agrees that there will be no blasting associated with construction of the new building;

b) After a construction plan is developed, Neighbors shall select whether work can be undertaken on five or six days. Work generating noise that will carry into the adjacent neighborhood shall be limited to the hours between 7:30 am and 5:30 pm. This does not include work that will take place within the fully enclosed (including all windows and doors) structure. Further, Knollwood agrees to use good faith efforts to refrain from using heavy machinery before 8:00 am.

c) Knollwood agrees that it shall prohibit construction vehicles from idling on Stephenson Lane, 29th Street or Tennyson Street.

d) Vehicle parking for construction workers shall be contained within the Knollwood property to the greatest extent possible. There may be periods of time when street parking for construction personnel may be necessary. Knollwood shall provide a Neighbor member of the Liaison Committee one week advance notice of the need for street parking and shall provide an estimate of the length of time street parking shall be needed. Street parking for construction personnel shall be limited to the sides of streets directly abutting Knollwood's property. Parking shall not impede normal two way traffic. Knollwood shall vigorously enforce these parking restrictions on a daily basis.

e) Knollwood shall police the areas outside Knollwood property on a daily basis to ensure that debris and waste materials do not accumulate in the neighborhood.

f) Knollwood shall include provisions in its construction contracts requiring the contractor(s) to honor all obligations that Knollwood has entered into with Neighbors.

g) The parties agree to create an on-going Liaison Committee to handle construction-related complaints and concerns of Neighbors. Knollwood agrees to provide timely copies of all building permits to members of the Liaison Committee.

h) Knollwood agrees to photograph interior and exterior conditions of Neighbors' houses where access is granted by the owner, and shall

indemnify and hold its Neighbors harmless from and against any and all loss, damage, cost or expense, or personal injury including death, resulting from or arising out of the work performed. In instances in which damage occurs to neighborhood buildings or other property caused by the excavation and construction, Knollwood agrees promptly to repair any such damage.

i) Knollwood agrees to control dust by periodically watering soil as needed.

5. Sediment, Erosion Control and Stormwater Management:

a) Contractor shall retain on site at all times during construction a person holding a current "Green Card" or equivalent certification issued by the relevant governmental authority. This person shall be responsible for all sediment and erosion control measures necessary for the prevention of sediment transport out of the construction perimeter.

b) Contractor shall invite adjacent Neighbors to a pre-construction meeting for the purpose of explaining the measures to be employed, and the program to be followed in the maintenance of these control measures. Knollwood and its contractor shall permit designated representatives from Neighbors to inspect the site and the measures in place in order to satisfy all neighbors that these requirements are being followed.

c) All required temporary and permanent stormwater management measures shall be rigorously maintained as required by the DC DOH and as required by the measures adopted at the site. The existing SWM pond shall be carefully protected during the construction period. Any damage resulting from the new construction shall be immediately corrected.

d) Tracking of mud and dirt into adjacent streets shall be carefully controlled and the streets shall be kept reasonably clean.

6. Noise Abatement:

In addition to the noise abatement requirements applicable during construction, Knollwood shall include noise abatement measures in the general design of the building. Specifically, the mechanical penthouse shall include sound absorbing material in its wall section to reduce ambient noise generated by the chiller, condensing unit, and emergency generator.

7. Tennyson Street Exit:

Knollwood agrees that if an exit to Tennyson is constructed, it shall be used only in emergencies, and shall install a physical barrier to prevent its non-emergency use.

8. Utilities:

a. The parties agree to consider making a joint appeal to the utility companies and to the City to upgrade and bury the utilities on Stephenson Lane and then resurface the block.
b. Knollwood shall confirm that no utilities shall be routed through the woodland or any new plantings.
c. Knollwood shall ensure that all exterior lighting shall be either of low intensity and/or shielded to prevent glare and intensity when lighting fixtures are viewed from Neighbors' locations.

9. Effect Of This MOU On The Upcoming BZA Hearing:

The parties agree that Neighbors shall support Knollwood's current application before the BZA and before the ANC.

10. Force of this Agreement:

a) The parties intend to prepare and execute a final agreement incorporating this MOU. This agreement and any final agreement shall be interpreted

under the laws of the District of Columbia, and enforceable in a court of law by any Neighbor or Neighbors who are signatories, as well as by their assigns, heirs, and successors-in-interest, and shall be binding on successors to Knollwood.

b) This Agreement shall not be construed to prohibit the Neighbors from opposing, through the normal zoning process, any future Knollwood construction plans or proposed uses of the Knollwood Property, even if such plans would not be specifically prohibited under the terms of this Agreement.