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September 17, 2004

BY HAND

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 201
Washington, D.C. 20001

Re: BZA Application No. 17055
Army Distaff Foundation, Inc.
6200 Oregon Avenue, N.W.; Square 2339, Lot 3 (the Property)

KNOLLWOOD NEIGHBOR'S MOTION TO DISMISS FOR FAILURE TO REQUEST PROPER RELIEF AND
SUPPLEMENTAL STATEMENT IN OPPOSITION

The following Motion to Dismiss and Supplemental Statement in Opposition to the relief requested in BZA Application No. 17055 is submitted on behalf of the Knollwood Neighbors. For the reasons stated below, the Knollwood Neighbors request that the application be dismissed for failure to request the proper relief[1] and oppose the relief requested by the Army Distaff Foundation ("ADF") in the instant application.

BZA
Case No. 17055
Exhibit No. 124

[1] In the alternative, Knollwood Neighors request that the hearing be continued to allow for notice of the required use variance.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 124A1

Summary of Motion to Dismiss and Opposition

ADF has requested a special exception pursuant to sections 218 and 219. Although ADF claims that the special exception is needed to construct an addition to the existing facilities to house a dementia unit, it has become clear that the true justification is to allow the construction of an addition to house luxury apartments. However, as apartment use is not permitted in an R-1-A district, the application must be dismissed, or, in the alternative continued to allow proper notification of the application and relief sought – *ie.* to allow for notification of the required use variance.

Knollwood Neighbors oppose the application for several reasons. First, approval of the application will make it far less likely that future affected parties will attempt to resolve their differences without resort to the BZA and the judicial system. The instant application directly contradicts prior bans on construction on the Knollwood property, including the 25 year ban on construction on the Property set forth in the Order for BZA Application 15358 (the "1990 Application"), which was a critical factor in the agreement of the neighbors to allow the construction of an assisted living wing. With respect to the instant application, Knollwood Neighbors engaged in good faith negotiation with Knollwood, but on the eve of this hearing Knollwood has reneged on several commitments it had made during those negotiations. The ANC properly gave the integrity of the process primacy in its conditional approval of the application and the BZA should follow suit by denying the application.

Second, while somewhat improved from its earlier iteration, the proposed addition and medium density apartment use is incompatible with the zoning and surrounding

neighborhood, which is characterized by large single family homes, consistent with the R-1-A zoning. In addition to the adverse impacts on the the neighborhood in terms of density and incompatibility, the proposed construction will be harmful to the surrounding neighborhood due to damage to the environment. Further, irreparable damage to the environment will be caused by erosion and inadequate storm water management for this very large addition.

Finally, approval of the Application would be inconsistent with the zoning regulations because it includes the addition of 22 luxury apartments to the apartments already on the Property. By ADF's own admissions, the residences atop the Alzheimer's wing are apartments and, while they may be within a facility that provides a variety of services, they are still *independent living units* – that is, they are designed for people who do not suffer from *any* of the types of life problems that have been consistently required for a finding of a community-based residential facility. To be certain, ADF, in its own Admission Criteria, distinguishes between its independent living units and its assisted living and nursing care facilities. *Exhibit 1.*

In addition to the testimony to be presented by the Knollwood Neighobrs at the hearing in this matter, the following is an outline of the history of ADF/Knollwood in the zoning process, as well as a further discussion of the use variance issue.

A. History of the Property.

1. The Property and its Surrounding Neighborhood.

The Property, which contains 14.6 acres, is in the Chevy Chase neighborhood of Ward 3. The Property and the surrounding neighborhood is zoned R-1-A. The Property is bounded by Stephenson Lane on the south, 29th Street on the northwest, Tennyson Street on the north, Oregon Avenue on the east and Nebraska Avenue on the southeast. The Property boarders on Rock Creek Park along Oregon Avenue. Both the Property and the surrounding neighborhood are heavily wooded and the surrounding neighborhood is characterized by substantial single-family, detached homes. Many of the surrounding homes are on large lots that exceed the 7,500 square foot lot size requirement for the underlying zone district.

The existing structures at Knollwood are located in the center of Knollwood's property or along Nebraska Avenue and are shielded from most of the neighborhood by the heavily forested, undeveloped areas on the Property.

2. History of the Approvals of the Use of the Property.

a. The 1959 Proceedings.

In 1959, the owner of the property filed BZA Application No. 5550 for a special exception to develop the property with a retirement center for the female dependents of Army Officers and Career Reserve Officers. *See Exhibit 2.* The application, as filed, proposed a six (6) story building rising to a height of fifty-four feet (54'). The proposed building was to provided 414 living units.

During the proceedings in Case No. 5550, only a few homes registered or testified in favor of the application. *Id.* at 4. However, there was considerable opposition against the application on the grounds that the community believed the use would adversely affect the value and stability of the single family dwellings in the community. *Id.*

By Order No. 5550 (the "Original Order"), the Board granted the application and permitted the construction of a community based residence facility ("CBRF") on the Property. *Id.* Relevant conditions to the Original order were that the maximum accommodations were to be for no more than 300 persons, kitchens were to be of the Pullman[1] type only and, most importantly,

> The remainder of the entire site shall be used for no other purpose than landscaping, roadways and parking and shall not be sold or otherwise improved.

Exhibit 2 condition (c).

In June 1962, the ADF opened the facility, which is now known as "Knollwood". At that time, amenities consisted of 241 individual apartments, a dining room that seated 185 people, a chapel, a 48 bed health facility, offices and support facilities.

b. The 1967 Proceedings.

In 1967, the ADF applied for and was granted leave modify the Original Order to allow 318 persons to occupy the facilities. *See Exhibit 3.* No additions or changes to the

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[1] As described during the 1990 proceedings, a Pullman kitchen was:

> . . . sold in one piece, it basically has cabinets at the top, a refrigerator, stove and sink in the bottom and can be installed up against the wall, so it's a one-wall unit that is small.

Exhibit at p. 163.

facility were required by this increase. *Id.* Rather, several rooms in the facility were to be used for double occupancy. *Id.*

c. The 1990 Proceedings.

After two years of studying their needs, in 1990, the ADF, pursuant to BZA Application No. 15358, applied for a special exception to allow an addition to the facilities and to eliminate the conditions restricting Pullman kitchens only and against further development of the Property so as to allow for the construction of forty (40) units and support facilities at the Property. *See Exhibits 5 (p. 150) and 6.*

At the hearing on the application, the ADF testified that the need for the additional units was that Knollwood had expanded its mission to allow admission for men and couples, rather than restrict it to woman, as per its original purpose. *Exhibit 5* at p. 150. The ADF began to admit males and couples to Knollwood in 1989. As a result of admitting couples to Knollwood, it was quite simply stated that the ADF needed "bigger apartments". *Id.*; *see also Exhibit 5* at ¶ 5.

Another justification proffered during the 1990 proceedings was that the ADF recognized the need to serve individuals who could not live fully independently beyond the assisted living environment then provided but did not require the confinement to the Health Services Center ("HSC"). *6* at ¶ 6. Thus, the ADF proposed the addition of forty (40) assisted care units ("ACUs"), which were defined as "something less than intermediate nursing care however, almost constant accountability for the residents is provided." *Id.*

Prior to filing the 1990 Application, the ADF had met with its neighbors to discuss the proposed addition. Many neighbors were opposed to the project, as it violated the ban on further development of the property and the long standing recognition by the ADF of the importance of maintaining the natural landscape of the Property. However, as a compromise to the neighbors, in exchange for their support of the application, ADF agreed to request a condition that there be no new construction at the site for twenty-five (25) years.[2] This offer was relied upon by the neighbors in withdrawing their opposition to the application. Additionally, the ANC recommended approval of the application conditioned upon this twenty-five (25) year moratorium on further development of the Property. *Exhibit 6* at ¶24. There was testimony on behalf of thirty-two (32) neighbors that it was preferred that there be no new construction at the Property but, in the alternative, they would support the ANC's position, most notably, the twenty-five (25) year moratorium. *Exhibits 5* (pp. 181-183) and *6* at ¶ 27.

The park-like setting of the Property and surrounding neighborhood was also noted by the Office of Planning ("OP"). *Exhibit 6* at ¶ 14. In recommending approval of the 1990 application, OP noted that:

> The site is surrounded on all sides by single-family detached homes, within at least a three to four block radius. The existing buildings and proposed addition would be located in the center of the extremely large lot. The site, with its large trees and thick vegetation, provides a buffer between the retirement center and the neighboring properties. The site is barely visible from the surrounding

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[2] It was initially requested that the ban against any further development, after the addition of the forty (40) new units, be reinstated. However, through negotiations, the neighbors went from a total ban, to a fifty (50) year ban to, ultimately, the twenty-five (25) year ban that was included in the conditions of the 1990 Order.

> streets. Therefore, in OP's view, no adverse visual impacts are anticipated.

Exhibit 6 at ¶ 17. However, OP did recommend that the application be conditioned upon, *inter alia*, the restriction that the

> remainder of the entire site shall be used for no other purpose than landscaping, roadways and parking and shall not be sold or otherwise improved.

Exhibit 6 at ¶ 18.3.

The Board ultimately approved the 1990 application with the following relevant conditions:

> 1. The applicant shall not make any major structural additions to the property, except for outdoor recreational facilities, for a period of twenty-five years from the final date of this Order.
>
> * * *
>
> 3. The building shall not exceed three stories measured from site selected by the applicant at a point being on the 310 foot elevation at the front of the building.
>
> * * *
>
> 5. The applicant shall provide additional landscaping as shown on the plans marked as Exhibit No. 10 of the record.

Exhibit 6 at pp. 9-10. The date of the final order was January 31, 1991. *Id.*

d. The 1993 Proceedings.

Curiously missing from the applicant's submissions is mention of the 1993 proceedings. By Application No. 15860, ADF sought, and was granted, relief to establish a convenience store. This relief was requested

> Pursuant to section 354[2] to establish a convenience stor, or in the alternative, a special exception under section 218 to establish a convenience store as an accessory use to a community residence facility, health care facility and ***apartment house*** in an R-1-A District at premises 6200 Oregon Avenue, N.W.

Exhibit 7 (emphasis added).

B. The Proposed Apartment Use Requires a Use Variance, Not a Special Exception, as it Does Not Meet the Definition for a Community Resident Facility or Health Care Facility Under Sections 218 and 219, Respectively, of the Zoning Regulations.

The instant application (as amended) was filed for a special exception pursuant to sections 218 (pertaining to community resident facilities) and 219 (pertaining to health care facilities) of the zoning regulations. As illustrated below, the proposed apartment complex, or independent living units ("ILUs"), do not meet the definition for either of these types of facilities. The mere fact that meals and transportation is available to residents of the ILUs does not, as ADF would have the Board believe, alter the fact that these are apartments.

A use variance "permits a use other than that prescribed by the zoning regulations". *Association For Preservation of 1700 Block of N Street v. Board of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978). A use variance is required by an applicant when the applicant seeks to use a structure or property in a manner other than that prescribed by

the zoning regulations for that site as distinct from a use which is permitted by special exception or otherwise. *See Association For Preservation of 1700 Block of N Street v. Board of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978).

ADF attempts to circumvent the need for a use variance by relying on the order in BZA Application No. 16138 of the Presbyterian Home (December 4, 1996)("Presbyterian Home"). However, reliance on this case is misplaced, as the Board, in Presbyterian Home, failed to analyze the uses in relation to the relevant definitions of the zoning and health care regulations. When those regulations are applied to the uses at Knollwood, as outlined below, it is clear that Knollwood is seeking to add apartments that do not fall under the definition for a community residence or health care facility and, as such, requires a use variance. Buttressing the fact that Knollwood runs an apartment house is the history of ADF's use of the property, as evidenced by public records and its own statements.

1. The Proposed Luxury Apartments are not a Community Residence Facility, as Defined in the Zoning and Health Care Regulations.

ADF recently amended its application to include a request for a special exception pursuant to 218 for a community residence facility ("CRF") on the basis that "the program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location." 11 DCMR § 218.7. However, for the reasons stated below, such relief is inadequate, as the luxury apartments do not meet the definition for a CRF and the proposed luxury apartments do not meet any District goals and objectives.

Community residence facilities are defined as:

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[2] Section 354 of the zoning regulations pertains to convenience stores in apartment houses.

> A facility that meets the definition for and is licensed as a community residence facility under the Health Care Facilities and Community Residence Facilities Regulations, 22 DCMR § 3099.1, as that definition may be amended from time to time.

11 DCMR § 199.1.

Pursuant to Title 22, a CRF is defined as

> a facility providing safe, hygienic sheltered living arrangements for one (1) or more individuals aged eighteen (18) years or older (except that, in the case of group homes for mentally retarded persons, no minimum age limitations shall apply), not related by blood or marriage to the residence director, who are ambulatory and able to perform the activities of daily living with minimal assistance. The definition includes facilities, including halfway houses and group homes for mentally retarded persons, which provide a sheltered living arrangement for persons who desire or require supervision or assistance within a protective environment because of physical, mental, familial, or social circumstances, or mental retardation. The definition does not include facilities providing sheltered living arrangements to persons who are in custody of the Department of Corrections of the District of Columbia.

22 DCMR § 3099.1. Sheltered living arrangements are

> . . . living arrangement[s] in which *a responsible adult oversees the activities of daily living of each resident* so as to assist each resident in maintaining adequate personal hygiene; establishing social, community, and family contacts; and obtaining adequate medical, nursing, health, and social services. This type of living arrangement may include the supervision of the taking of medications prescribed for self-administration.

Id. Activities of daily living include "getting in and out of bed, bathing, dressing, eating, walking, and taking medications prescribed for self-administration." *Id.*

Similar to the health regulations definitions, the zoning regulations define a community-based residence facility (which a CRF is defined under) as "a residential facility for persons who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living." 11 DCMR § 199.1.

By these definitions, residents of a CRF require some assistance in day to day living. The assisted living aspect of Knollwood clearly falls under the definition of a CRF, as the assisted living units provide for assistance with "meals, dressing, or bathing." *Exhibit 1.* That there is a distinguishment between the level of care provided for the assisted living units and the ILUs is evidenced by ADF's application. Specifically, in its original Statement of Existing and Intended Use and Explanation of Relief Sought", ADF distinguished between the CRF units and its ILUs by explaining that:

> Services currently provided at the Knollwood facility include *independent living apartments, CRF apartments*, as well as nursing care services. The proposed addition will provide two elements currently not available to Knollwood. The Special Care Unit provides services beyond what Knollwood can currently provide in their nursing care facility. The new *independent living apartments* are generally larger and have more up to date floor plans than the *existing independent living apartments*, elevating what Knollwood can offer individuals entering the Knollwood community.

Record Exhibit 4 at p. 9 (emphasis added).

If the unequivocal definitions for the various levels of service and the applicant's language are not, alone, sufficient to prove that the proposed luxury apartments do not qualify as CRFs, both ADF's history of use and licensing, as well as the general practices in the retirement community with regard to the classification of independent living units,

provide guidance. Knollwood is licensed as an apartment house (*exhibit 8*). This is conssisent with the common practice that independent living units are qualified as "apartments" for purposes of zoning and licensing. *Exhibits 8 & 9.*

In the 1990 proceedings, after admitting couples, Knollwood sought to upgrade the kitchens it provided from Pullman style kitchens to full kitchens, allowing for greater independence of its residence. Additionally, in the 1993 proceedings before the Board, Knollwood sought relief to allow a convience for, *inter alia*, an "apartment house" – a classification used by Knollwood in its application. *Exhibit 7.*

2. The ILUs Do Not Qualify as a Health Care Facility.

A "health care facility" is defined in the zoning regulations as:

> a facility that meets the definition for and is licensed as a skilled care facility or intermediate nursing care facility under the Health Care Facilities and Community Residence Regulations, 22 DCMR § 3099.1 (1986).

11 DCMR § 199.1.

Under 22 DCMR §3099.1, a health care facility is

> a residential facility providing medical or non-medical services consistent with accepted professional, therapeutic medical care concepts and practices, as well as current health programs and legislation. The term shall include and refer to the following levels of care:
>
> (a) Skilled care facilities;
>
> (b) Intermediate nursing care facilities; and
>
> (c) Community residence facilities.

22 DCMR § 3099.1.

A skilled care facility is:

> a facility, or a distinct part of a facility, primarily engaged in *providing to in-patients continuous professional nursing coverage* and related health services under the direct supervision of physicians. Skilled care facilities are solely limited to those facilities classified as *nursing homes, convalescent homes, and extended care facilities which provide twenty-four (24) hour professional nursing services* and a complete program of health-related and rehabilitative services under direct supervision of a full-time Medical Director or principal physicians.

Id. (emphasis added).

An intermediate nursing care facility is a facility that "primarily engaged in providing intermediate care". 22 DCMR § 3099.1. "Intermediate care" is defined as:

> professional nursing services provided under the direction of a physician to individuals who do not have an illness, disease, injury, or other condition that requires the degree of care and treatment which a hospital or skilled nursing facility is designed to provide. Services include both regular and continuing health related services.

Id.

Clearly, the dementia unit fits within the definition of a health care facility. As indicated in Knollwood Neighbors' previous submissions, the Knollwood Neighbors have been consistently willing to work with ADF to develop a plan to incorporate this unit on the Property in such a manner that does not adversely affect the neighborhood and environment. However, it is equally clear that the independent living units ("ILUs"), by definition, are not part of the health care facility. In fact, as evidence by the applicant's submission with its application, the ADF is licensed as "Housing: Residential Apartment." *See* Record Exhibit 8.

The statement of support filed by ADF with its application belies the fact that the ILUs are luxury apartments and not part of the health care facility. For example, in its statement, the ADF three types of arrangements currently offered on the Property: (1) independent living apartments; (2) [community based residential facility] apartments (*ie.*, the ASUs); and (3) nursing care services (*ie.*, the HS1C). *Record Exhibit 4* at p. 9. The ADF goes on to state that the

> . . . proposed addition will provide two elements currently not available to Knollwood. The Special Care Unit provides services beyond what Knollwood can currently provide in their nursing care facility. The new impendent living apartments are generally larger and have more up to date floor plans than the existing independent living apartments, elevating what Knollwood can offer individuals entering the Knollwood community.

Id. Furthermore, with regard to the ILUs, the ADF proffers that these larger units will allow residents to "choose from a broader range of apartments *that may be more similar in size to the home they are leaving*." *Id.*

Conclusion

For the foregoing reasons, it is clear that Knollwood has failed to request the appropriate relief, in that a use variance is required to allow the apartment aspect of its application. Additionally, based on the evidence and testimony to be presented at trial, the requested relief (regardless of nature) must be denied, as the proposed addition will adversely affect the surrounding neighborhood. Accordinly, Knollwood Neighbors respectfully requests that the instant application be denied.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad

cc: Paul A. Tummonds, Esq. (by hand; w/encl.)
Anne Renshaw, Chair ANC 3/4G (by hand; w/encl.)
Office of Planning (by hand; w/encl.)

Exhibits

1. Admission Criteria
2. BZA Order No. 5550 (July 13, 1959)
3. BZA Order No. 9185 (April 12, 1967)
4. BZA Order No. 14626 (June 24, 1987)
5. September 19, 1990 Trascript, BZA Application No. 15358
6. BZA Order No. 15358 (October 3, 1990)
7. BZA Order No. 15860 (November 17, 1993)
8. Department of Consumer and Regulatory Affairs, Housing and Environment Regulation Administration Rental Housing Accommodations and Conversion Divsiion, Registartion/Claim of Exemption Form for Knollwood
9. Certificate of Occupancy for 1330 Massachusetts Avenue, N.W. (with description of facilities)

Admission Criteria

ELIGIBILITY

Regular and reserve career military officers, their spouses, sisters, daughters, mothers or mothers-in-law; Army National Guard Officers; and officers of all other uniformed services are eligible for residence in Knollwood regardless of race, religion, age, sex, handicap or disability.

ADMISSION PROCEDURE

After making application and paying the $1,000 application fee, a prospective resident is reviewed by the Foundation's admissions committee and given a priority number. After the admissions committee accepts the applicant, a contract is forwarded to the applicant . The contract is signed and returned to the Foundation with an additional $3,000 deposit toward the admission fee. The prospective resident's name is then placed on the future waiting list. A name on the future waiting list is not considered for move-in until the applicant indicates that he/she is ready to move in to Knollwood. At that time, the applicant selects an apartment type, pays an additional 10% of the admission fee for the apartment type selected, and is then placed on the active waiting list. All money deposited toward the admission fee (except the $1,000 application fee) earns 5% interest annually which is credited toward the admission fee balance. Once on the active waiting list, a prospective resident will be contacted by the Foundation's Executive Director when an apartment type of their choice becomes available. The prospective resident is free to accept or deny any offer without forfeiting their priority number or eligibility.

MEDICAL EVALUATION

Each resident is required to submit a comprehensive medical examination (performed by their personal physician) no earlier than six months prior to residency and have a consultation with Knollwood's registered nurse before final move-in arrangements can be made. The results of the examination will be reviewed by the Foundation's medical committee to determine the applicant's suitability for independent living, assisted living, or nursing care.

PROBATIONARY PERIOD

All residents are subject to a six-month probationary period during which he/she will be assessed for the appropriateness of the level of care. During this period, either the resident or the Foundation may cancel arrangements for residence. In this instance, the resident is refunded the admission fee less the initial deposit, 2% per month of occupancy and redecorating costs.

Levels of Care

Knollwood is a continuing-care retirement community, providing three distinct levels of living.

INDEPENDENT LIVING

The greatest percentage of Knollwood residents live in the independent living apartments. Here, residents share the comfort and camaraderie of living among people with similar military backgrounds while not having to worry about home maintenance, cleaning, meal preparation or safety.

ASSISTED LIVING

Knollwood's assisted living wing, The Terrace at Knollwood, features 38 individual apartments where residents who need some assistance with meals, dressing, or bathing will be attended by a professional staff of nurses, licensed practical nurses, and resident assistants. This care level is designed to provide care appropriate to the residents' needs, while allowing the greatest independence possible.

NURSING CARE

Professional nursing care and skilled nursing are available in Knollwood's Health Services Center. This fully-licensed 50-bed nursing center has recently undergone a major renovation making it a state-of-the-art center for 24-hour care. The center is medicare/medicaid certified and offers complete rehabilitation services on site.

Area Hospitals

WALTER REED ARMY MEDICAL CENTER

Walter Reed Army Medical Center is just one mile from Knollwood. Residents who qualify for care at military hospitals can receive care at Walter Reed and use Knollwood's free shuttle bus to travel to and from appointments. There are six shuttles daily.

BETHESDA NAVAL HOSPITAL

Bethesda Naval Hospital is just two miles away and is also available to those residents who qualify for such care.

SIBLEY HOSPITAL

Sibley Hospital is located just five miles away and is a public civilian hospital.

Fees & Charges

There are three basic charges associated with residence in Knollwood: admission fees, monthly service charges, and a dining service charge.

ADMISSION FEES: There are four admission fee options. Each is explained below. Under each option the application fee, contract fee and the 10% fee for moving to the active list are all part of the final admission fee payment. Final admission fees are paid within the first 30 days of residency.

Option I Standard Admission Fee: Under this option the applicant pays the standard admission fee listed on the annual price list. In the event of resident's withdrawal during the first 50 months of residence, refunds will apply to the net admission fee (defined as that portion of the admission fee paid or credited as having been paid by the resident remaining after deduction of the following items: (i) the application deposit; plus (ii) the reasonable cost incurred by the Foundation, as determined by its executive director, to renovate and repair any damage other than fair wear and tear to the apartment resulting from the resident's occupancy or to restore the apartment to its original condition) on a depreciated basis over the first 50 months of residency at a rate of 2% per month. There will be no refund after the 50th month of residence under this option.

Option II: Standard Fee x 1.5: Under this option the applicant pays 1.5 times the basic admission fee. Refunds are determined as follows: In the 25 months of residence, the net admission fee will be reduced by 2% per month. ***After the first year, fifty percent of the net admission fee is refundable upon resident's withdrawal or death.*** If the applicant is over age 80 at the time of entry into Knollwood the refund is reduced to 45% of the net admission fee.

Option III: Standard Fee x 2: Under this option the applicant pays double the basic admission fee. Refunds are determined as follows: ***One hundred percent of the net admission fee, as defined above, is refundable upon resident's withdrawal or death.*** If the applicant is over age 80 at the time of entry into Knollwood the refund is reduced to 90% of the net admission fee.

Option IV: Basic Fee with Rental Option: Under this option, applicant/resident makes the application deposit ($1,000) and the first contract payment ($3,000). ***No further payments of admission fee are required, and no refunds of admission fee will be made, except that any admission fee payment in excess of the application deposit and first contract payment will be refunded without interest.*** Under this option, the monthly service charge will be increased by 60%, exclusive of the dining room or meal component of the monthly service charge. These added payments are made in lieu of payment of the remainder of the admission fee, and they apply so long as a resident occupies an apartment in the independent living area, the assisted living wing, or in the Health Services Center. The surcharge is not applicable to any other charges, such as telephone or clinic charges.

An amount equal to 5% of the total amount paid toward the admission fee, including the application deposit, shall be credited to applicant's account each year until residency, with *pro rata* credit on a monthly basis being given for periods less than one year. Any credit accumulated is available to applicant/resident only as a reduction of the admission fee at the time of move in, and no credit is given against the application deposit and first contract payment paid by an applicant/resident who chooses the basic fee with rental option.

The entire unpaid amount of the admission fee, at the rate in effect as of the date applicant becomes a resident in the hall, shall be due and payable upon applicant's entry into the hall.

Effective: January 1999			OPTION #1 limited refund admission fee*	OPTION #2 50% refundable admission fee**	OPTION #3 100% refundable admission fee***	MONTHLY SERVICE FEE (Options 1, 2 and 3)	OPTION #4 Rental Option Monthly Service Fee
EFFICIENCIES							
C	350 sq.ft.	w/ bath & kitchen	**$34,000**	$51,000	$68,000	**$ 930**	$1,295
B-1	401 sq.ft.	w/ bath & kitchen	**42,000**	63,000	84,000	**1,050**	1,485
B-2	450 sq.ft.	w/ bath & kitchen	**46,000**	69,000	92,000	**1,080**	1,535
B	534 sq.ft.	w/ bath & kitchen	**56,000**	84,000	112,000	**1,255**	1,810
ONE BEDROOM APARTMENTS							
A	588 sq.ft.	w/ bath & kitchen	**62,000**	93,000	124,000	**1,325**	1,925
C-1	700 sq.ft.	w/ bath & kitchen	**73,000**	109,500	146,000	**1,505**	2,210
B-1C	751 sq.ft.	w/ bath & kitchen	**79,000**	118,500	158,000	**1,570**	2,315
B-2C	800 sq.ft.	w/ bath & kitchen	**84,000**	126,000	168,000	**1,600**	2,365
BC	884 sq.ft.	w/ bath & kitchen	**93,000**	139,500	186,000	**1,755**	2,605
BD	922 sq.ft.	w/ den, bath & kitchen	**97,000**	145,500	194,000	**1,865**	2,790
TWO BEDROOM APARTMENTS							
C-2	1050 sq.ft.	w/ two baths & kitchen	**110,000**	165,000	220,000	**2,135**	3,220
BB	1068 sq.ft.	w/ two baths & kitchen	**112,000**	168,000	224,000	**2,275**	3,440
AA	1176 sq.ft.	w/ two baths & kitchen	**124,000**	186,000	248,000	**2,410**	3,660
C-3	1234 sq.ft.	w/ two baths & kitchen	**130,000**	195,000	260,000	**2,460**	3,740
ASSISTED LIVING Terrace Apartment+ 408 sq.ft. w/ private bath & kitchenette			**$27,600******			**2,830**	4,055
HEALTH SERVICES CENTER Nursing care (semi-private, daily rate)						**133**	198

* Admission fee refund decreases 2% per month for 50 months.

** 50 % of the amount shown (less application deposits) is refunded to the resident's estate at the time of death or withdrawal. If the resident is over age 80 at time of move-in, 45% is refundable.

*** 100 % of the amount shown (less application deposits) is refunded to the resident's estate at the time of death or withdrawal. If the resident is over age 80 at time of move-in, 90% is refundable.

**** Admission fee refund decreases 4% per month for 25 months.

\+ Direct admission to The Terrace (Assisted Living Unit) and Health Services Center is on a space available, case-by-case basis.

1. An application deposit of $1,000 is required. It is applied toward the admission fee and is refundable only until the contract has been signed.
2. An initial contract payment of $3,000 is due when a contract is signed. It is applied toward the admission fee and is refunded in the event of withdrawal or death prior to admission.
3. All contracts for independent apartments contain a "dining service allowance (DSA)." The current cost for single occupancy of an apartment is $325.00 per month, which is included in the monthly service fee. For double occupancy of an apartment, the monthly service fee increases by $325.00 (or one DSA).
4. The rental option requires the payment of only $4,000.00 (the sum of the application deposit and the initial contract payment). It is not refundable.
5. The Health Services Center and Terrace charges include some nursing and/or personal care service and all meals. However, additional charges apply for ancillary services.



KNOLLWOOD

6200 Oregon Avenue, N.W. Washington, D.C. 20015

APPLICATION

I/we wish future single/double occupancy in Knollwood on or about_____ (year).
Name of Applicant_____ Birth Date_____
Social Security #_____ Military ID Card #_____ Exp. Date_____
Name of Spouse_____ Birth Date_____
Social Security #_____ Military ID Card #_____ Exp. Date_____
Date of Marriage_____ Place of Marriage_____

(Please attach a copy of retirement orders or DD Form 213)

ELIGIBILITY

SELF

Rank_____ Years of Service_____

RELATIVE

Name and Rank of Officer_____
Relationship to You_____
Branch of Service_____ Social Security #_____
Source of Commission_____ Date of Commission_____
Date Retired_____ Date Deceased_____

PRESENT ADDRESS

Street_____
_____City_____State_____Zip_____
Telephone Number ( )

Living Children or Nearest Relatives

Name	Address	Relationship

I do __ do not__ have sufficient financial resources to pay my admission fee and monthly servic

My assets and sources of income are as follows:

Description of Property	Ownership sole/joint	Approx. value property and interest	Amount/ Encumbrance

My annual income from all sources (i.e., retirement pension, compensation, Retired Serviceman Family Protection Plan, Survivor's Benefit Plan, investment income, old age assistance or Social Security):

Source	Amount per Month

I am__ am not__covered by Medicare Hospitalization Insurance under Social Security.

I am__am not___ enrolled under the medical insurance part of Medicare.
Your Medicare #_____Spouse Medicare #_____

I agree that when I become a resident of Knollwood, I will, if eligible, enroll in, or remain enrolled in, Medicare and the medical insurance part of Medicare; or provide my own private insurance coverage which, in the judgment of Army Distaff Foundation, will provide substantially equivalent benefits.

I currently have the following health, hospitalization, long term care or surgical insurance:

Name of Company	Amount and Type	Beneficiary

I have a will_____
State where executed_____State where located_____
Executor_____
I do not have a will_____

KNOLLWOOD

6200 Oregon Avenue, N.W. Washington, D.C. 20015

PRELIMINARY MEDICAL REPORT

(To be filled in by applicant)

Name_____

Address_____

Age_____ Telephone Number_____

Personal Physician_____

Address_____

1. What serious adult diseases have you had?_____

_____

_____

2. Do you, at this time, have either an acute or chronic ailment?_____

If YES, give details. _____

_____

_____

3. Are you on any medication? _____

If YES, please specify. _____

_____

_____

4. Are you able to walk, feed, and clothe yourself without assistance? _____

If NO, please specify assistance needed. _____

_____

_____

5. State all previous surgery with approximate dates. _____

_____

_____

6. Have you ever used alcohol or habit-forming drugs to excess which required medical treatment?

_____

This application shall be used to determine initial eligibility to enter Knollwood, and a MORE COMPLETE MEDICAL REPORT MUST BE SUBMITTED prior to residence.

_____

KNOLLWOOD

6200 Oregon Avenue, N.W. Washington, D.C. 20015

PRELIMINARY MEDICAL REPORT

(To be filled in by spouse)

Name_____

Address_____

Age_____ Telephone Number_____

Personal Physician_____

Address_____

1. What serious adult diseases have you had?_____

_____

_____

2. Do you, at this time, have either an acute or chronic ailment?_____
   If YES, give details. _____

_____

_____

3. Are you on any medication? _____
   If YES, please specify. _____

_____

_____

4. Are you able to walk, feed, and clothe yourself without assistance? _____
   If NO, please specify assistance needed. _____

_____

_____

5. State all previous surgery with approximate dates. _____

_____

_____

6. Have you ever used alcohol or habit-forming drugs to excess which required medical treatment?

_____

This application shall be used to determine initial eligibility to enter Knollwood, and a MORE COMPLETE MEDICAL REPORT MUST BE SUBMITTED prior to residence.

_____

ORDERED:

That the site plan and preliminary floor plans and elevations dated Revisions 13, April 1959 for the Army Distaff Foundation, Inc. with reference to Board of Zoning Adjustment Appeal #5550 are approved as follows:

Site plan - Unanimous, with Mr. Scrivener not voting.

Unit Plan - Messrs. Scrivener, Davis and Schwab "aye". Messrs. Clouser and McIntosh "no".

These plans in toto shall require additional review by the Board prior to submission to the Department of Licenses and Inspections for permit issuance.

Mr. Schwab:

I move that the following Order be entered:

ORDERED:

That the appeal of Gizelle Montgomery, owner, on behalf of the Army Distaff Foundation, Inc., to establish a philanthropic institution, being a residence for elderly women who are widows, daughters, sisters, mothers and mothe in law of army officers at 6200 Nebraska Avenue, N.W., parcels 62/64, 62/99, 62/9 and 62/41, squares 2342 and 2339, be conditionally granted.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the heaaring, the Board finds the following facts:

(1) The subject property located in the R-1-A District is a heavily wooded tract containing approximately 14.6 acres and is improved with one large dwellin and several accessory buildings. The property is bounded by Stephenson Lane, Nebraska and Oregon Avenues, 29th and Tennyson Streets, N.W. It lies adjacent to Rock Creek Park on the east and is almost completely surrounded by substantial detached dwellings in all other directions. Five detached homes are located contiguous to the tract at the southwesterly end, the lots on which located having been carved from the main tract.

(2) The appellant organization plans to construct, toward the center of the tract, a six-story institutional building occupying approximately 6-2/3% of the land area to a height of six stories on 54 feet. On-site parking both surface and under the building will be provided for 181 cars. The building as proposed will provide 414 living units.

(3) The Army Distaff Foundation, Inc. is a philanthropic institution within the meaning of the Zoning Regulations.

(4) There was considerable opposition to the granting of this appeal regist at the public hearing, which totaled not less than 95% of the owners of single family dwellings within the immediate area. Only a few home owners registered or testified in favor of the appeal. The principal contention of objectors was that the establishment of the use proposed would tend to adversely affect the value and stability of single family dwelling construction within the neighborho As limited by the terms of this order to be hereinafter set forth, the Board believes that this contention is not substantiated by the facts:

OPINION:

We believe that by limiting the total occupancy of this site, the number of persons who would normally reside therein if the tract were developed fully with detached houses, by reducing permitted height to the maximum limits prescribed by the R-1-A District, and by rigid control site planning (which includes off-street parking, driveways and landscaping) certain benefits will accrue to the neighborhood. These will include the concentration of development further remov from existing dwellings and retention of the wooded area in lieu of additional public streets andremoval of the bulk of the wooded area which would be necessar in single family construction.

This Order shall be subject to the following conditions:

(a) Maximum accommodations shall be for not more than 300 persons.

(b) The building shall be constructed not to exceed three stories measured from site selected by applicant at a point being on the 310 foot elevation at front of building.

(c) The remainder of the entire site shall be used for no other purpose than landscaping, roadways and parking and shall not be sold or otherwise improved.

(d) Any kitchens provided shall be of the Pullman type only.

(e) The existing residence may be retained for administration and staff residential use.

(f) Approval of entire adjusted site plan shall be required by the Board.

(g) The plans as submitted by applicant are rejected.

Mr. Davis: I second the motion. Motion carried with Mr. Scrivener dissenting in part.

Mr. Scrivener: I disagree with any order in this case which does not restrict the proposed building and its surrounding grounds to the area between the existing residence and Oregon Avenue leaving approximately one-half of the entire tract for single-family residential development. I therefore dissent from the order to the extent that it does not include this limitation.

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - April 12, 1967

Appeal No. 9185 Army Distaff Foundation, Inc., appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on May 22, 1967.

ORDERED:

That the appeal for permission to amend Order of the Board in Appeal No. 5550 (Condition (a)) to permit 318 persons in lieu of 300 persons to occupy existing accommodations at 6200 Nebraska Avenue, NW., Parcel 62/41, 62/64, 62/98, and 62/99, near Square 2342, be granted.

FINDINGS OF FACT:

1. The subject property is located in an R-1-A District.

2. The BZA in Appeal No. 5550 conditionally granted the appeal of appellant to establish a philanthropic institution, being a residence for elderly women, who are widow, daughters, sisters, mothers and mothers-in-law of army officers at 6200 Nebraska Avenue, NW., Parcels 62/64, 62/99, 62/98, and 62/41, Squares 2342 and 2339.

3. Condition (a) of the Order granting the subject appeal required that maximum accommodations be limited for 300 persons.

4. Appellant requests that previous Order No. 5550 be amended to permit 318 persons in lieu of the 300 persons authorized.

5. No change is to be made to the existing structure. Because of the size and location of several rooms, double occupancy will be feasible. The rooms in question were originally designed for double occupancy and there has been an increase in this type service facility.

6. The National Capital Planning Commission approved the request for amendment at its meeting on May 4, 1967.

OPINION:

The Board is of the opinion that enlargement of the number of persons from 300 to 318 to use the service facilities available upon the subject property will not adversely affect the present character or future development of the neighborhood, nor will such use impair the intent of the Zoning Regulations. Such use will not be detrimental to the public good and is consistent with the intent of the Zoning Regulations.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By: Charles E. Morgan
CHARLES E. MORGAN
Secretary of the Board

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14626 of the Army Distaff Foundation, Inc., pursuant to Sub-section 8207.2 (3108.1, DCMR 11) of the Zoning Regulations, for a special exception under Sub-paragraph 3101.414 (218.1, DCMR 11) to permit an addition to an existing health care facility in an R-1-A District at premises 6200 Oregon Avenue, N.W., (Square 2339, Lot per subdivision).

HEARING DATE: June 24,1987
DECISION DATE: June 24, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is bounded by Oregon and Nebraska Avenue to the east, Tennyson Street to the north, 29th Street to the west and Stephenson Lane to the south and is known as premises 6200 Oregon Avenue, N.W. It is zoned R-1-A.

2. The subject site contains 709,637.3 square feet of lot area and is irregularly shaped with 773.83 feet of frontage along Oregon Avenue.

3. The property is currently improved with a combined community residence and health care facility. The existing facility was established for 300 residents pursuant to Board of Zoning Adjustment Order No. 5550, dated May 29, 1959. By Order No. 9185, dated April 12, 1967, the Board approved an increase in the number of residents from 300 to 318.

4. The Army Distaff Hall is a non-profit, charitable organization established in 1959 to provide care for elderly women who are retired officers or are connected to the military such as widows, mothers, mothers-in-law, or daughters of active or reserve officers.

5. As originally established, the facility provided for a total of 300 residents with a health care component of eight hospital beds. In Board of Zoning Adjustment Order No. 9185, the facility was expanded to provide for a total of 318 residents with a health care component of forty-eight hospital beds.

6. The applicant is seeking a special exception to construct an addition of approximately 292 square feet near the existing lobby area. The proposed addition will function as

social activity space in the existing health services units as required by District of Columbia Health Regulations.

7. The proposed addition is part of the applicant's extensive modernization of the facility which is designed to upgrade the existing mechanical and electrical system; expand clinical consulation/treatment areas, and patient recreation areas; improve facilities for nursing administrative and support services; and provide required toilet and bathing facilities.

8. The addition will have no impact on existing parking or traffic as there will be no increase in the number of residents or staff at the facility. There are no other community residence facilities within 1,000 feet of the subject property.

9. The proposed addition does not alter the existing height of the building and does not affect the existing front, rear, or side yards. No additional parking spaces or loading berths are required.

10. The Zoning Regulations permit a maximum lot occupancy of forty percent or 283,854.92 square feet. The existing structure occupies 55,132.57 square feet or 7.77 percent. The proposed addition will result in a lot occupancy of 7.81 percent, an increase of 0.04 percent.

11. The facility is situated on a wooded, sixteen acre site which is well-screened from surrounding properties by distance and landscaping. The proposed addition will not be visible from any surrounding properties.

12. The proposed addition is necessary to improve the operation of the facility in compliance with applicable municipal health codes. No variance relief is required.

13. The Office of Planning, by memorandum dated June 16, 1987, recommended that the application be approved. The Office of Planning was of the opinion that the proposed addition serves the existing functions of the facility and meets the special exception criteria. The Board concurs with the recommendation of the Office of Planning.

14. Advisory Neighborhood Commission 3G, by letter dated June 9, 1987, supported the granting of the special exception. The Advisory Neighborhood Commission was of the opinion that the addition would have no adverse visual impacts on the neighborhood. The Board so finds.

15. There was no opposition to the granting of the application at the public hearing or of record.

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. In order to be granted such relief, the applicant must demonstrate substantial compliance with the requirements of Sections 218.1 and 3108.1 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. There are no community based residential facilities within 1,000 feet of the property. There is adequate, appropriately located and screened off-street parking to serve the needs of the facility. The facility is capable of meeting all applicable code and licensing requirements. The facility will not have an adverse impact on the neighborhood because of noise, traffic or operations. The facility has been filling District program needs and objectives in excess of twenty-five years.

The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property in accordance with said regulations and map. Accordingly it is ORDERED that the applicantion is GRANTED.

VOTE: 4-0 (Lindsley Williams, Paula L. Jewell, William F. McIntosh and Charles R. Norris to grant; Carrie L. Thornhill not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 8 1987

UNDER 11 DCMR 3103.1, "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."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

order14626/DEE2

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Discussion?

(No response.)

CHAIRPERSON THORNHILL: All those in favor, would you signify by saying aye?

(Chorus of ayes.)

CHAIRPERSON THORNHILL: Opposes, nay?

(No response.)

CHAIRPERSON THORNHILL: Abstentions?

(No response.)

CHAIRPERSON THORNHILL: The ayes have it. So ordered. Summary order.

MR. LYONS: Staff would record the vote as four to zero to approve the application; Miss Jewell, Mr. Ensign, Mr. McIntosh, Mrs. Thornhill to approve; Mr. Norris not present, not voting.

CHAIRPERSON THORNHILL: Oh, I know. Did you check the map?

MR. LYONS: It appears that the maps furnished to the Board in the record is correct.

CHAIRPERSON THORNHILL: Is correct. All right. May we proceed.

MR. LYONS: The next application is numbered

15358 of the Army Distaff Foundation, Incorporated, pursuant to 11 DCMR 3108.1, for a special exception under Section 219 to allow an addition to an existing 241-unit community residence facility and to modify Condition (c) of the Board's previous Order Number 5550, dated June 29, 1959, for an addition of forty units and support facilities in an R-1-A District at premises 6200 Oregon Avenue, Northwest, Square 2339, Lot 3.

All persons wishing to testify in this application, please rise to take the oath.

Please raise your right hand.

(Witnesses sworn.)

MR. LYONS: Please be seated and will the Applicant come forward.

MR. JACOBS: Madam Chairperson and Members of the Board, my name is Stanley Jacobs, I'm an attorney and I represent the Army Distaff Foundation and we'rehere today to obtain a special exception under Section 219 to allow an addition to an existing 241-unit community residence facility and asking you to modify Condition C of the Board's previous Order back in 1959 for an addition of 40 units with support facilities.

We also would like to --

CHAIRPERSON THORNHILL: Hold on, Mr. Jacobs. In the 1959 Order it was capped at 318?

MR. JACOBS: 300 and, then, in the 1967 Order that was increased to 318 persons.

CHAIRPERSON THORNHILL: Okay, and you're asking that --

MR. JACOBS: At this time we're not asking for an increase in the number of persons. We will explain to you. What we're trying to do is renovate the existing facility as well as put on a new addition, but we will not go over that 318 limit.

CHAIRPERSON THORNHILL: Oh. But when you made the request for the modification in Condition, I think you said, (c)?

MR. JACOBS: Condition (c), which, in other words, at that time allowed -- I think the Board looked at it that they had -- or that the -- Condition (c) was that the remainder of the entire site shall not be used for no other purpose than landscaping, roadways, parking and shall not be sold or otherwise improved; and what we are doing is asking that that be changed to allow a new wing to be put on

the building to accommodate the changes that had to be made in the building.

CHAIRPERSON THORNHILL: Oh. I see. Okay.

MR. JACOBS: We would also like to request the Board, although it wasn't in the submission, that there be a modification of (d) which provided that any kitchens provided shall be of the pullman type only. We would like to just eliminate that provision from the Order.

To address the situation, to give you a little background, the Army Distaff Foundation was organized in 1959. It's a nonprofit corporation under the laws of the District of Columbia. It was established as a retirement center for windows and other female dependents of Army officers and career military officers.

On June 29th, 1959, the Board of Zoning Adjustment entered an Order in Appeal Number 5550 granting the Army Distaff permission to construct the existing building with accommodations for no more than 300 persons.

On April 12th, 1967, the Board approved and increased the number of persons to 318 persons.

The center is located, as you know, at 6200 Oregon Avenue in the District of Columbia, and that was

opened in 1962.

In the past year the center has started to admit males as well as females, with hopes of admitting some married couples.

The existing use of the building as a residence which contains 241 individual apartments, a dining room that seats 185 people, a chapel, a 48-bed health facility, offices and an unused (unintelligible) area and other support facilities, within the apartment area are residents who require assistance in living and this has become a new problem that brings about us being here today.

A new addition is planned as a new wing to the existing building. The present facility will remain the same, except those needing assistance in living will be moved to this new wing.

The intended use of the new wing is to add 40 individual apartments for assisted living, a dining room, a crafts room, three lounges, three laundry rooms and three staff rooms. The (unintelligible) area itself will be renovated into a clinic and a large exercise and therapy room set up for those persons needing daily assistance; and we've indicated that at no time will the

number of persons exceed the 318 persons permitted under the Order back in 1967.

The purpose of the new wing is really to provide better facilities and not to increase the number of persons permitted.

We request -- our request -- is that you grant a special exception to allow the addition to the existing facility; that you modify Condition (c) of the Order Number 5550 dated in 1959 for the addition of the 40 units and support facilities; and that you modify the Order Number 550 to delete the requirement of a pullman-type kitchen. It becomes somewhat hard to define what is a pullman-type kitchen and there's really no real purpose in keeping that in the Order.

We would like -- I would like -- to introduce at this time Major General Benedict, who is the Executive Director of the Foundation.

MAJOR GENERAL BENEDICT: I'm Major General Calvert P. Benedict, Executive Director of the Foundation, and my home address is 1216 Mottrom -- M-o-t-t-r-o-m -- Drive, McLean, Virginia.

I have a statement that was submitted with our

application which I will not review, but there's a few points I would like to highlight at this time, Madam Chairman.

We have studied this project for over two years. In studying the project, we analyzed our needs, the design and the impact on our neighbors.

Our needs has a little bit of history to it in that we were built with 284 apartments, all but 33 were efficiencies and we were for women only.

Times have changed. We don't want women only anymore, nor do they. There is more money out there and an expanding eligibility to men and couples, we needed bigger apartments. There is a market out there that needs to be accommodated, so we need this living space that has 284 apartments with fewer apartments but with more space, so we're utilizing the building that way.

Further, the building was never handicapped designed which is a requirement nowadays for such things as assisted living or nursing care.

We have met several times with the neighbors and each time we have discussed all the issues, which include the footprint of the building, the architecture,

access to our grounds, screening and drainage.

We have received the Area Neighborhood 3 -- ANC 3G -- letter just after we submitted the application to you and they've made seven points and I'd like to comment on those.

The first one, that no part of the new construction beyond the existing building facing Stephenson Lane.

May I refer to the model that is right here.

This is a fraction of our building extends back this way and this is the southern part and you can see on this board the whole building, Morgan Avenue, Nebraska and Stephenson Lane, it's the vista from Stephenson Lane that seems to be objected to the most. So, the mock-up shows this and the wing, this is all the assisted living wing, the maintenance building and the swimming pool.

We cannot move that. That's impossible for us to do. We run into rock here. We get too far away from the main building. We thought putting it here was taking advantage of a road which would not require a new exit off Nebraska Avenue; and the distance from here over to houses

on Stephenson Lane is close to 200 feet and there's a large green area in between that provides us with a good opportunity for landscaping.

Number 2, well screened. We agree with that.

It says, agreeable to the neighbors; and we submit that, although we'll coordinate with the neighbors and accommodate everything we possibly can, we think the decision on whether it's adequate or not should be left to the City.

The current driveway that comes down on this part of the property right near this addition is one-way and we propose to leave that one-way, except to the very end and we think it's reasonable to have an entrance in here just for visitors to come to the assisted-living unit and we think probably the Fire Department will insist on that.

The question of drainage is Number 4. I think the City will take care of whatever drainage we need.

Five is no problem with us. We will write anything to the contracts that -- containment of noise and work habits, which are mostly the City laws.

And we will maintain our grounds. We do it

very well now and we promise to maintain our grounds in the future, but we think the judgment of that should be left with the City and not agreeable solely to the neighbors.

And we will certainly take care of Number 6, that the vehicles for the contract will be minimum impact on the neighborhood.

We have developed what we feel is an excellent team for our project. Mr. Jacobs, our lawyer, has already been introduced. We've engaged BI International as our health consulstants, been in the business over 25 years, and Suzaki (phonetic), Incorporation, is our architect. We think they're a very good team and we wanted a good team because we wanted a good project for ourselves and for the City.

As an example of Suzaki, renouned in landscape architecture and the Pennsylvania Avenue Master Plan was one they developed and received a national award.

We think we have a good facility. We think we've been good neighbors and we just want to make it better.

We provide a needed service and it actually meets one of the goals of the City's Master Plan to provide

housing for the elderly.

With this project, it positions our facility, Knollwood, to provide excellent service now and well into the future.

(Unintelligible) by Dr. Jean Bengtsson of International.

CHAIRPERSON THORNHILL: Thank you very much, Major Benedict.

Are there questions or comments from Board members?

Oh, I'm worry. What did I do?

MS. SMITH: Major General.

CHAIRPERSON THORNHILL: Excuse me, sir.

MAJOR GENERAL BENEDICT: Just lost 30 years there.

(Laughter.)

CHAIRPERSON THORNHILL: I was just in a meeting at lunchtime with, you know, all of the brass, and forgive me but I mean nothing except that I don't understand the ranks (laughing). One of these days maybe.

Major General. All right.

And there appears to be no cross-examination.

All right.

MAJOR GENERAL BENEDICT: I think we'll call Dr. Bengtsson next.

DR. BENGTSSON: My name is Dr. Jean Bengtsson. I'm President of BengtssonInternational, an affiliate health care planning firm with the American Association of Health Care Consultants. My home address is 10704 Hunters Valley Road, Vienna, Virginia 22181.

I have been the principal health care planning consulstant for the Army Distaff Foundation since January 1989. Nearly two years ago our firm was contracted to analyze the immediate and long-term needs of Knollwood with a ten-year projection. This analysis was part of a formal strategic plan and facility planning and programming process. Two major requirements became evident during this evaluation.

First, wellness and assisted living were the two functions indicating the greatest needs and deficits in the area of quality care, services, space requirements, adjacencies and barrier-free architectural provisions required by code.

The analysis included a review of National

Standards for Life Care Facilities and Services.

Many changes have occurred since Knollwood opened in 1962.

Our first choice, because of the cost to the Foundation, was to locate the wellness and the assisted living nucleous within -- with its support areas -- within the present structure; however, the function and interior architectural analysis clearly indicated the impossibility of this due to the configuration of the existing building.

Second, in addition to these requirements, the admittance of cuples now to Knollwood requires larger units. This is being accommodated by combining scattered single-room units with regular apartments, thus using any available extra space which was unsuitable for assisted living space in any event.

The cost to the Foundation is considerable to build new construction in order to provide these quality life care services. It is the only way, however, that the Foundation can meet this requirement and still operate a viable life care facility for all three levels of care, one that meets the requirements of the D.C. planning agency, CON, the comprehensive health plan for CRF, and that is a

service and credit to the neighborhood and to the District.

MR. JACOBS: I'd like to ask Mr. Resnick from the Suzaki firm to present (unintelligible).

(Brief pause.)

MR. RESNICK: My name is Alan Resnick. I'm an architect, principal firm is Suzaki Associates here in Washington. My home address is 424 South Fairfax Street in Alexandria, Virginia.

I would just like to make a couple of points with regard to the design of the project in question, giving a little bit of background. You have all the specifics, I think, at your disposal; but, when we were engaged by the Army Distaff Foundation, we were charged to pursue two principal objectives:

One was to create a project which could be built in harmony with the landscape and minimize disruption within the site; and,

Two, was to create a building addition, which would be residential in quality, both for the residents at Knollwood as well as to fit harmoniously within the community.

So, in pursuit of those two objectives, then,

there were a number of studies prepared exploring different alternative locations for the proposed addition.

As General Benedict mentioned, the main building, more or less in the center of the site, and the addition south and to the extention.

In examining the various options where you could have placed the addition, we did, in fact, conduct subsurface soil explorations and found, in fact, there was considerable ledge below the grade and we found that placing the structure any other place on the site, aside from perhaps not accommodating the functional mission of the development, would have created considerably increased disruption in the landscape.

So, consequently, we found that this location for the addition was the least disruptive and most harmoneous with the site in general.

As you can see from these photographs, there is ample foilage surrounding the entire perimeter of the site and we took a look even more closely at that as we perceived the design.

Speaking for the moment to the residential character of the design, you can see that the facade that

would be visible from Nebraska Avenue, looking in this direction, and we feel that by the introduction of balconies and finistration and dormers that we've proposed there's a certain articulation which gives the building a residential quality in scale as opposed to a broad, monolitic institutional look.

So, we feel that that concept meets the objective of creating a residential quality and character to the development and I think that's further exemplified by the model that you see in the center of the room.

As we examine the visual impact of the development on the surrounding neighborhood, we took certain cross-sections through the site and the building to determine view corridors.

What you're looking at now is an illustration taken at this point in plan which runs from the new addition all the way across Stephenson Lane, essentially depicting this view corridor that would be established at the address 2739 Stephenson Lane, for instance.

We took several other examples as well. As you can see, Stephenson Lane being here, the residence over here. Between the residence and the proposed addition, which

is shown in pink, you have a rather large natural earth burm which, in and of itself, even regardless of the foilage which sits on top of it, would prevent any direct view from the residence to the pool/mechanical space that's in question closest to Stephenson Lane.

We took, as I said, various other cross-sections through the site and found that, in fact, as we move down towards Nebraska Avenue at this point the earth burm also becomes lower as the street lowers in elevation and depicting the residence at that lowest point here, you see that, in fact, there is a view corridor above the burm and we are proposing that wherever that occurs new proposed screening would be incorporated to prevent frontal view of the building.

So, our examination shows us, one, that largely along Stephenson Lane there is a natural earth burm which interrupts the view, direct view, of the building; then as in any place where that doesn't occur, as in this zone, screening would be provided.

As you can see from 29th Street, Tennison the views are not impact, I don't think, at all by the proposed addition.

That concludes my comments.

MR. JACOBS: That would be our presentation.

MR. LYONS: Mr. Resnick, the last view that you represented, could you indicate how far the addition is from the street?

MR. RESNICK: Yeah. In fact, this last view, Section C, is taken along this red line and in actual fact it's -- I don't have the exact dimension but it's several hundred feet from this point to this point, so it's quite a distance off.

In fact, what you're looking at here is actually at this point over here which is considerably further back from the house than is actually the case -- I mean, the view corridor than is actually the case; but, to give you an instance, that's about 320 feet.

MR. JACOBS: Could you explain the elevation of the mechanical room and the swimming pool facility to the height of the building?

MR. RESNICK: The elevation I think you're questioning is this.

MR. JACOBS: Yes.

MR. RESNICK: That's approximately 16 feet of

wall showing.

MR. JACOBS: The existing building, though, has how many levels?

MR. RESNICK: The existing building is 1, 2, 3, 4, 5 plus the foundation, so it's probably around 60 feet, the existing building is about 60-feet tall. The proposed addition at this point is 16-feet tall at its highest point at the mechanical space.

The other thing to recognize, too, is that as you're looking at the elevations of the buildings, as you can see from the model, the entire addition sits quite low on the site and, in fact, comes up to about where the foundation ends on the existing building. So, we're building essentially from the first floor down not the first floor up.

MR. JACOBS: That's our case.

MS. JEWELL: Thank you.

MS. BAILEY: Good afternoon to the Board members.

My name is Beverly Bailey with the D.C. Planning Office.

Madam Chair, the Office of Planning has

submitted a report that's dated September 12th, 1990, on this case and we are recommending conditional approval of the application.

I would like to take just a moment to go over briefly the history, the Board's history, as it is associated with this case.

The Board of Zoning Adjustment approved use of this site on June 29th, 1959, and that is Appeal Number 5550, as a residence for 300 elderly women.

The retirement home was opened for occupancy in 1962.

On April 12th, 1967, the Board granted the request of the Army Distaff Foundation to increase the number of residents to the retirement home from 300 to 318 persons.

Also, based on Application Number 9185, the second Order, the facility's health care component was expanded from eight hospital beds to a total of 48 hospital beds.

The last application, Number 14626, which became effective on September 8th, 1987, granted the Applicant's request to permit an addition of approximately

292 square feet of social activity space in the existing health services unit, as required by the District of Columbia Health Regulations.

May I also add that the Applicant does meet all licensing and Code requirements. Of course, not zoning; that's why they're here.

Specifically, the Applicant has a Certificate of Licensure from the Department of Consumer and Regulatory Affairs and they also have -- the Department of Human Services -- excuse me -- has approved an application for a Certificate of Need for the renovation of the Knollwood Health Services Center.

There is one condition associated with the Department of Human Services Certificate of Need and I will be glad to discuss that further if the Board so desires.

And, finally, the facility has co-existed harmoneously with its neighbors for 28 years.

The proposed expansion is of a scale that should not create any adverse impacts on the surrounding community.

The Applicant's proposal should not impair the purpose and intent of the Zoning Regulations and Maps.

Madam Chair, the Office of Planning is recommending that the application be approved based on five conditions and those conditions incorporated some of the conditions that are contained in the first Order in addition to updating the Applicant's current status, and I'd be glad to go over those also if you would like.

I'd be glad to answer any questions you may have.

CHAIRPERSON THORNHILL: I have several.

You have discussed the -- or have you -- discussed the proposed conditions with the Applicant?

MS. BAILEY: The Applicant -- yes, I did; yes, I did.

CHAIRPERSON THORNHILL: I'm not going to speak to all of them but one of them has to do with the kitchens being of the pullman type and the Applicant no longer wants to have that kind of provision.

MS. BAILEY: We weren't quite -- we are of the understanding that a pullman-type kitchen would be something like a dinette, just without a lot of cabinets, just a stove and perhaps a sink.

The Applicant did inform us that it would be a

preference not to have that; but, because we were not quite sure how to define a pullman-type kitchen and how it would impact on what was originally contained in this application, we left that to be a judgment of the Board.

Did I make that clear?

CHAIRPERSON THORNHILL: Yes, you did, on the assumption that we know what a pullman-type kitchen is, and we assumed that you guys would work that out between you.

MR. JACOBS: I think the problem was that no one knew what we were talking about or that it was something that was minor and I guess glossed over.

A VOICE: (Unintelligible) -- that we just build kitchens that people like and that seems to be what you ought to do for somebody. We're not making them huge, we're just making them what they need and what they like and it didn't need a name. It's interior and nobody knows about it except us, so it just seemed unimportant.

CHAIRPERSON THORNHILL: Our historian, I'm sure, could tell us. Max? You were involved in that original Order, right?

All right, what is a pullman-type kitchen?

MR. MC INTOSH: What kind of memory do you think I have?

CHAIRPERSON THORNHILL: You remember everything.

(Laughter.)

MR. MC INTOSH: (Inaudible -- microphone not turned on.)

(Laughter.)

CHAIRPERSON THORNHILL: All right. I was hoping you were going to solve that for us.

MR. MC INTOSH: (Inaudible -- microphone not turned on.)

MS. SMITH: I understood that a pullman kitchen was almost like a brand name, it's sold in one piece, it basically has cabinets at the top, a refrigerator, stove and sink in the bottom and can be installed up against the wall, so it's a one-wall unit that is small.

CHAIRPERSON THORNHILL: Good for you.

MS. SMITH: And you have a Murphy bed on the other side.

(Laughter.)

A VOICE: And our question is, is that

important to the Board?

MS. SMITH: I don't think they're as available now as they were in the fifties.

CHAIRPERSON THORNHILL: They might be coming back, though.

Yes, ma'am?

MS. BAILEY: I'm very sorry, Madam Chair. The Applicant just brought something up. We had aksed that he identify each of the major components of the facility. We did not have that and that was just submitted.

So, if it's appropriate, may I submit that into the record.

CHAIRPERSON THORNHILL: Yes.

T3B(4:28) Are there members of the opposition who need to get this?

(Brief pause.)

CHAIRPERSON THORNHILL: All right. So, I think we are in agreement about maybe a better understanding of the pullman-type kitchen and we certainly don't think that that's appropriate here.

Are there further questions or comments for OP?

(No response.)

CHAIRPERSON THORNHILL: Oh, you said something about conditions of other government agencies?

MS. BAILEY: The Department of Human Services approved the Certificate of Need, however, they approved it with one condition. Can I just briefly read what that condition is?

CHAIRPERSON THORNHILL: Yes.

MS. BAILEY: That the Applicant provide a plan of action to the D. C. State Health Planning and Development Agency with its first quarterly progress report that details the manner in which non-white individuals and their dependents who meet the military requirements shall have equal access to the facility.

End of statement.

CHAIRPERSON THORNHILL: All right. So, this is a part of the reporting process that you have to --

MAJOR GENERAL BENEDICT: That's correct. We have no objection to that.

CHAIRPERSON THORNHILL: Now, not related to this and I -- we're always learning about the other government agencies -- I saw something, I don't see it

right away, in terms of the (unintelligible) policies and procedures. Beverly, they have a -- I thought something was said that they have -- I guess at the point that they make a decision on a Certificate of Need then there's a 30-day review period?

I'm really raising this related to another project, one that we had a few weeks ago on the hospital. Let's see. Here it is.

"Please note that any person can request reconsideration" -- oh, okay -- "of the review decision within 30 days of the date of the publication or mailing, whichever is later."

Okay. I see. All right. That was not related to you.

Any further questions or comments for OP?

(No response.)

CHAIRPERSON THORNHILL: Any cross-examination?

(No response.)

CHAIRPERSON THORNHILL: Do we have -- I thought I saw a representative of the ANC.

MR. JACOBS: They could present a report but they don't have a representative, I don't believe.

CHAIRPERSON THORNHILL: Yes, they did submit a report.

MR. JACOBS: I might suggest they did submit -- they approved it subject to certain, what they say, conditions, which I would like to address in conclusion or closing arguments.

CHAIRPERSON THORNHILL: All right. I'm not finding our report.

MR. JACOBS: We didn't have it in our package but we received it just the other day.

MR. LYONS: Who is it addressed to?

MR. JACOBS: It's addressed to the Board of Zoning Adjustment. I can give you a copy.

CHAIRPERSON THORNHILL: I was sure I saw one.

Maybe I didn't see it. I know there were references to it.

At the moment, why don't you just read that off to us, Sandi.

MS. SMITH: The ANC would support the proposed additional exception and only this exception for a period of 25 years, provided the following conditions are met:

No part of the new construction shall extend

beyond the existing building facing towards Stephenson Lane; the new addition shall be well screened by the planting of trees and shrubbary agreeable to the neighbors most affected; the current driveway exiting on to Nebraska Avenue will not be widened and will not be opened to two-way traffic; the question of draining shall be addressed well beforehand in order to prevent the natural swail at the bottom of the property from washing out on the road; it shall be written into any and all contracts and other agreements that no radios or other loud noise will be allowed prior to 7 a.m.; all construction activity will be confined to legal hours; the Army Distaff Foundation will maintain all of its grounds throughout the construction period and after construction has been completed to the satisfaction of its neighbors; care shall be taken to prevent construction debris from being scattered in the neighborhood; and all vehicles belonging to the contractor and their assigns shall be confined to parking within the boundaries of the Knollwood property.

CHAIRPERSON THOPNHILL: All right. Very well. And you wanted to -- well, this is not really the point where you ought to make those comments, that comes at the end.

Are there persons or parties who are in support of the application who wish to testify?

All right, sir.

MR. DIAMOND: My name is Robert Diamond. I have lived since 1971 at 6251 29th Street, Northwest in a two-storey brick house.

The rear property line of my property runs 50 feet along the property line of Knollwood. I use throughout the expression Knollwood rather than Army Distaff Foundation.

Over the years I have come to know many of the Knollwood residents, talking over the backyard fence about common gardening problems. In the past my children have gone sleigh riding on Knollwood property and I frequently walk on their paths.

In the winter my direct straight back view of the Knollwood property includes in the immediate foreground the garden maintained by the residents of Knollwood. Further out I have a view of the Knollwood parking lot and looking to the left I have a partially-screened view of the main Knollwood building through shrubs and evergreen trees.

In the summers in the foreground I see the

flowering garden. My view of the main building is totally screened by the trees and my view of the parking lot is almost entirely obstructed by the trees, shrubs and flowering plants.

I am here to support the application for the expansion of the facility at Knollwood for three reasons:

1. Knollwood has been a good neighbor.

2. The project as designed is attractive and will introduce only modestly on the various views from the neighboring properties.

3. If the project is not approved, Knollwood would become less competitive to the residential senior citizen market and, over the long run, that would be a negative development to the neighborhood.

Let me first address the good neighbor argument.

After the June 1989 -- there's a typographical error in my testimony -- 1989 storm, which devastated many of the old trees at the property, I have seen Knollwood initiate a replanting program on all parts of the property. Indeed, Knollwood conferred with 29th Street neighbors about the locations of new plantings to maximize screening

of the parking lot and the main building.

I know of eight trees, eight new trees, that were planted on Knollwood grounds at precisely the location requested by 29th Street neighbors.

In the past every time I ever approached Knollwood about common problems, such as damaged property line fences, trash deposited by third parties on Knollwood grounds, the staff at Knollwood has been extremely cordial and responsive.

And over the two-year period that this project has been under consideration Knollwood has communicated with neighbors and taken our views into consideration.

For example, an early version of the project envisioned a new entrance into the property from Stephenson Lane. This proposal was dropped when the neighbors objected strongly.

Now let me address the view of the impact on the neighborhood.

The project as designed is attractive and when completed will intrude modestly on the various views. The view from Nebraska Avenue, the new one, will provide, in my view, a more interesting facade than the rectangular building

we have now.

The view from Oregon Avenue of the new structure will not be visible in the summer and barely visible in the winter.

The view from 29th Street the structure will not be visible at all.

The view from Stephenson Lane, the structure will only be visible -- and there's a typographical error in my statement -- from two houses closest to Nebraska Avenue on Stephenson Lane; because, on Stephenson Lane, as you move up the hill toward 29th Street, the existing burm screens the view of the new wing and the proposed swimming pool mechanical room.

On Sunday I walked that burm again and I would confirm this diagram here because when I was on the burm, standing in the middle of it, I had to look down into this area over here; and the houses on Stephenson are, by and large, split-level houses which do not rise very high above the street, one floor above the street, so from the windows of those houses I was looking down at, too. So, I really don't see that the swimming pool and the mechanical room proposed for this area has any serious impact on

Stephenson Lane at all.

From the point of view of traffic impact, which has not been discussed, since the project does not envision increasing the number of residents at Knollwood, I don't see how the project will have a serious impact on traffic congestion.

Finally, on the future of the institution, the General has convinced me that Knollwood would become an increasingly anachronistic institution if it cannot provide assisted living facilities with a conveniently located swimming pool for residents and I think the Board should be sensitive to Knollwood's efforts to improve the quality of life for its senior citizens.

Over the long run, I would view the rejection of the project having a negative impact because it might be increasingly difficult to attract residents to Knollwood in a market for senior citizen services.

From the point of view of the neighborhood, the worst scenario would be for Knollwood some day to close its doors or to sell out to commercial interests who might see the property as a commercial nursing home or the prime prospect of 70 to 100 town houses, which we now have a

development slightly to the north on Oregon Avenue and Chadsworth.

The area is zoned for single-family houses and that type of development would have far greater impact on the neighborhood than Knollwood does.

In conclusion, I totally support the project, provided that Knollwood is barred from additional substantial construction for a period of at least 25 years. That part of the ANC restriction I support very strongly. I think we're going to go through 18 months, two and a half years disruption with the project of this structure. I don't want to see another one five years down the pike. I think we should be protected from that.

CHAIRPERSON THORNHILL: Thank you very much, Mr. Diamond. We appreciate your testimony and we received your full report.

Any cross-examination?

(No response.)

CHAIRPERSON THORNHILL: All right. Persons or parties in opposition to the application?

Please come forward.

Yes, ma'am?