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October 1, 2004

2004 OCT -1 PM 4:58

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

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

Dear Mr. Griffis:

Enclosed you will find twenty copies of the testimony of Larry Fenster, with exhibits, as requested at the close of the hearing on September 21, 2004. We will be forwarding to the Board the cases requested next week.

Thank you for your attention to this matter.

Sincerely,

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

Jeannine Rustad
Richard B. Nettler

cc: Paul Tummonds, Esquire (by hand; w/encl.)
Stephen Cochran, Office of Planning (by hand; w/encl.)
Frank Buchholz, ANC 3/4G (by hand; w/encl.)
Lawrence Fenster, President, Knollwood Neighbors

Word 45663921.1

BZA
Case No. 17055
Exhibit No. 148

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 148

Testimony of Larry Fenster
September 21, 2004
Case No. 17055

Adverse Impacts On Stephenson Lane and The Entire Neighborhood

Good afternoon Chairman and Commissioners. My name is Larry Fenster. I am President of Knollwood Neighbors. I have lived at 2730 Stephenson Lane, NW, since 2001, and directly abut Knollwood's property.

My testimony describes the adverse impacts Knollwood's proposed plan will have on the neighborhood and tells a story that others will enhance. This is the story of Knollwood's disregard of BZA Orders and its disregard of promises to the BZA and its neighbors.

As a condition of approving Knollwood's Assisted Living Wing in 1990, the ANC required Knollwood to provide landscape screening to conceal the large, new building from its neighbors on Stephenson. Knollwood acknowledged in the BZA hearing that the new building needed to be screened from neighbors living on the lower end of Stephenson Lane.

Mr. Resnick, Knollwood's landscaper, stated that "we do propose evergreen screening to mitigate **WHATEVER** effect the view corridor may have – **WHATEVER** effect the building may have on those view corridors from those homes in this area of Stephenson Lane." (***Transcript of BZA Hearing, Application No. 15358, pp. 211-212***)

The BZA incorporated these commitments by Knollwood into its Order, stating that "the applicant shall provide landscaping to adequately screen the new addition from nearby properties..." (***Order, BZA Application No. 15358, pp 8-9***)

Now Commissioners. 14 years after promising and being ordered to provide landscaping to adequately screen the addition from nearby properties, see what screening Knollwood has been able to achieve.

- The first picture is taken at the last house on Stephenson Lane, and shows 5-6 small evergreens that 10 years after construction provide no real screening. ***(Exhibit Fenster-1)***
- The second picture is a little farther up Stephenson Lane. As you can see again, screening is not adequate. Knollwood planted maybe 3 very small evergreens that have not achieved effective screening after 10 years. These pictures show the utter disregard Knollwood has of its neighbors' needs, how it disregards its own promises, and how it disregards a direct Order by the BZA. ***(Exhibit Fenster-2)***

(***Exhibit Fenster-3***) Now Knollwood wants to go back on its promise to not build for 25 years and build another large mass building that will stand far above Stephenson Lane. This picture was taken from Exhibit B of Knollwood's application. As you can see, the building stands far

above Stephenson and is of massive scale. This is the same picture Knollwood attempted to cover up with a bunch of trees. It's also clear that the building does not taper away from Stephenson more than the original plan as stated by Mr. Cochran. This picture shows that it extends further towards Stephenson Lane at the lower end of the street. The entire length of the apartment building is visible from mid and lower Stephenson Lane ***(Exhibit Fenster -4*** . The new building is still very large. It spans 150 feet by 150 feet. This is understandable. Knollwood only proposes reducing the number of apartments by 4, so the footprint is essentially as large as the original. It's still a large apartment building, and the entire length of the apartment building will be seen from lower Stephenson. Without effective screening the residential character of this neighborhood will be destroyed, a huge adverse impact for the neighbors.

(Exhibit Fenster-5). Knollwood again claims it will plant large evergreens to screen the view of the building. Yet, Knollwood's proposed building extends 8 feet into the berm out of the parking lot, and has a meandering wall that further intrudes into the berm. In a minute our expert arborist, Mr. Pitchford, will testify about the unlikely prospects for effective screening, and more important, on the adverse impacts on the Rock Creek Park ecosystem posed by Knollwood's proposed building.

The ineffective screening and adverse ecosystem impacts are especially upsetting, since neighbors supported Knollwood's petition to obtain a federal grant to spend $1 million for non-construction expenses such as landscaping. We did this based on early understandings that Knollwood agreed to a long term moratorium, that it agreed to full screening, and it agreed to a process that would ensure that large trees survived construction.

To conclude: Neighbors do not trust the promises of effective screening made by Knollwood and neither should the BZA:

- They promised full screening in 1990, but they only made token efforts - it was a failure.
- During mediation they agreed to use no over-digging, which is a construction technique Mr. Pitchford has said that must be used to protect both large transplanted screening trees, and large deciduous trees on 29th st during construction. But they rescinded that understanding at the last minute.
- They agreed to spend a minimum amount of money (to be determined by an arborist) to ensure effective screening but they rescinded on that agreement at the last minute.
- They agreed to a line item for annual maintenance of the screening landscaping with an agreed amount to spend, but they rescinded this at the last minute.
- They agreed to back this meandering wall off the berm and. keep the building in the parking lot, unless a neutral expert arborist determined that the incursion would not threaten trees, but at the last minute they agreed only to protect the trees "to the extent possible."

The BZA has consistently cited preserving the residential character of the neighborhood as a condition of granting Knollwood's zoning exceptions. Knollwood has not kept its screening

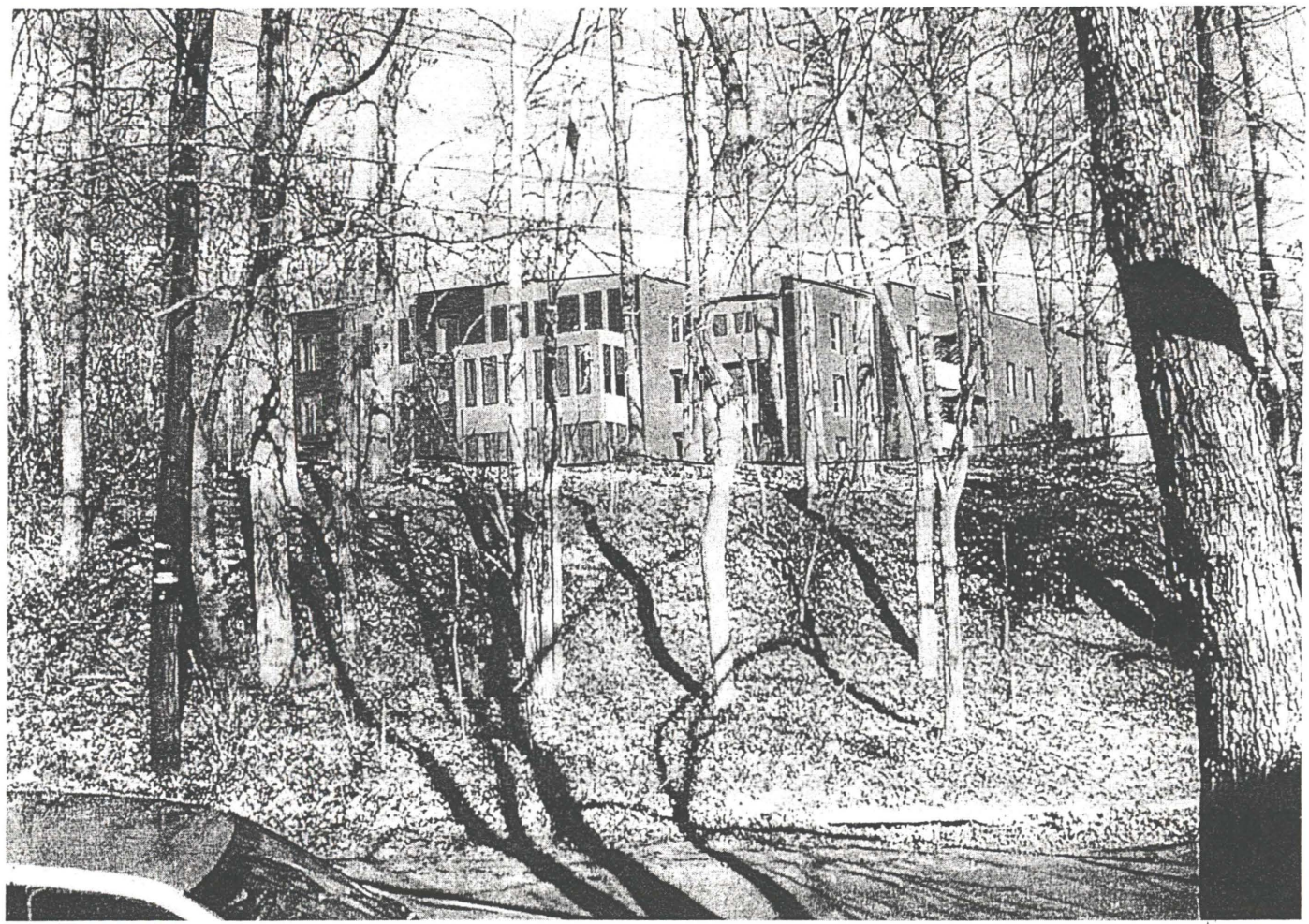
promises to neighbors or BZA in the past, and it is clear it will not do so for this project either. Since effective screening is the only thing that will mitigate the adverse impacts of this building, and since Knollwood's plan could destabilize the tree ecosystem of this part of Rock Creek Park, the BZA must reject this application. Mr. Pitchford will now explain the screening, over-digging and ecosystem issues in more depth.



Fenster-1



Fenster - 2



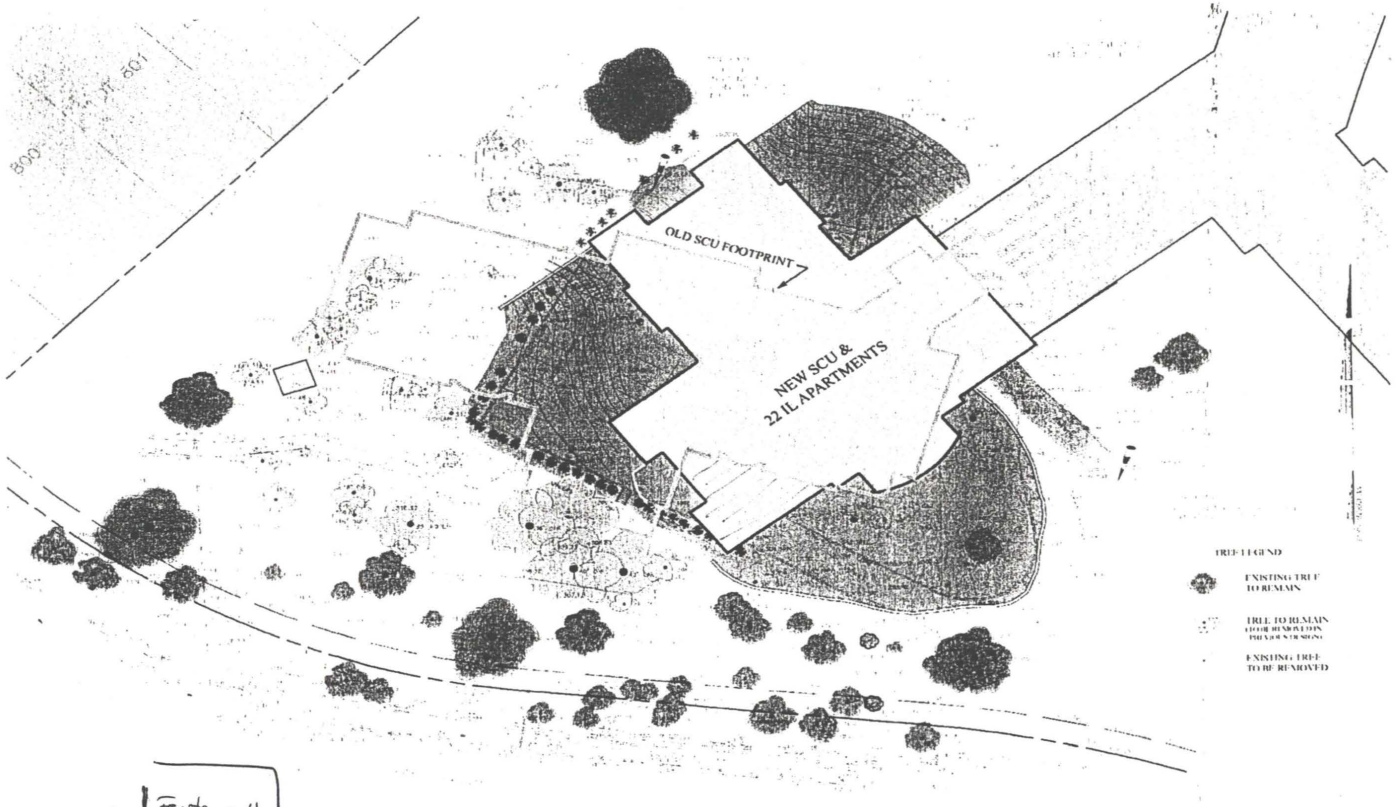
KNOLLWOOD
Special Care Building

Building Mass Study

Winter View from Stephenson Lane without Tree Screening

SFCS

August 31, 2004
1119.06

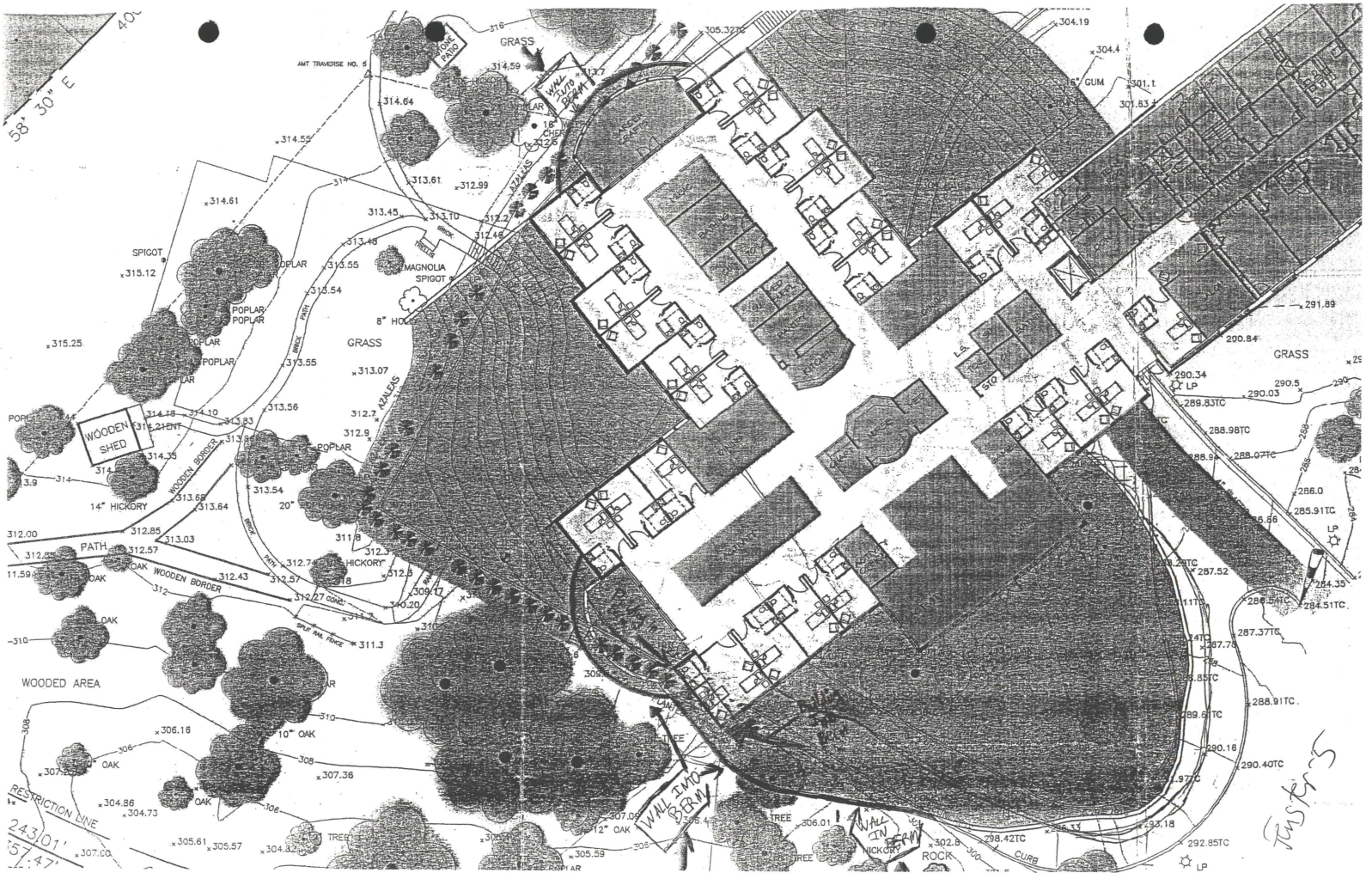


KNOLLWOOD
Special Care Building

L Fenster - 4

SITE PLAN

SFCS
September 21, 2004
1119.03


GRASS
WALL INTO BERM
AMT TRAVERSE NO. 5
SPIGOT
MAGNOLIA
POPLAR
8" HOLLY
WOODEN SHED
AZALEIS
BRICK PATH
WOODEN BORDER
14" HICKORY
20"
PATH
OAK
WOODEN BORDER
WOODED AREA
10" OAK
RESTRICTION LINE
12" OAK
TREE
HICKORY
ROCK
CURB
6" GUM
GRASS
LP
WALL IN BERM