BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

Appeal of Decision by DCRA to issue certificates of occupancy to Father Flanagan's Boy's Home construct single family dwellings at 1308, 1310, 1312 and 1314 Potomac Ave., S.E. (Square 1045, Lots 134, 136, 137, 138)	) No. 17121

MOTION TO POSTPONE HEARING AND MOTION REQUESTING THIS BOARD TO DIRECT THE D.C. GOVERNMENT TO FILE ALL DOCUMENTS THAT PROVIDE THE BASIS OF THE ZONING ADMINISTRATOR'S DETERMINATION NOW ON APPEAL

Appellant Southeast Citizens for Smart Development, Inc. ("SCSD") and Advisory Neighborhood Commission ("ANC") 6B hereby request that the hearing on the above-captioned appeal, presently set for March 9, 2004, be postponed for 60 days. Postponement is warranted on the following independent grounds: (1) subsequent events due to occur within the next month may make this appeal moot, and (2) the unreasonable refusal of the D.C. government to release public documents that SCSD needs in order to prosecute this appeal. In the event postponement is denied, SCSD requests that this Board direct the D.C. government to file with the Board and serve on the parties all documents that provide the basis for the decision now on appeal.

Background

On September 18, 2003, David Clark, Administrator of the D.C. Department of Consumer and Regulatory Affairs ("DCRA"), made a determination, on behalf of the Zoning Administrator, that the 24-person community based residential facility (CBRF) to be operated by Father Flanagan's Boy's and Girls Town (Boys Town) at 1308, 1310, 1312, and 1314 Potomac Ave., S.E. "are intended to be operated as housing for persons with handicaps," and that Boys Town was therefore entitled to certificates of occupancy as a matter-of-right pursuant to the provisions

BZA
Case No. 17121
Exhibit No. 14

Board of Zoning Adjustment
District of Columbia
CASE NO. 17121
EXHIBIT NO. 14

of 11 DCMR § 330.5(i). See Exhibit 1. Under Section 330.5(i), a CBRF is permitted to locate as a matter-of-right in an R-4 zone (and all other less restrictive zones), provided that:

> the Zoning Administrator has determined that such community based facility, which otherwise complies with the zoning requirements of this title that are of general and uniform applicability to all matter of right uses in an R-4 District, is intended to be operated as housing for persons with handicaps. For purposes of this subsection, a "handicap" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities, or a record, or being regarded as having, such impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

11 DCMR § 330.5(i). Mr. Clark's September 18, 2003 determination was made, *sua sponte*, as a part of DCRA's decision to grant the request made by Boys Town for a "reasonable accommodation" from the zoning regulations pursuant to 14 DCMR § 111 *et seq.*

On December 12, 2003, SCSD filed this appeal with this Board challenging DCRA's determination, made on behalf of the Zoning Administrator, that the intended residents of Boy's Town's CBRF are "handicapped" within the meaning of 11 DCMR § 330.5(i). In addition, SCSD filed a separate lawsuit, *Southeast Citizens for Smart Development v. D.C.*, C.A. No. 9896-03 (Super. Court), challenging DCRA's "reasonable accommodation" determination under 14 DCMR § 111 *et seq.*, (Unlike DCRA's determination on behalf of the Zoning Administrator, DCRA's "reasonable accommodation" determination is administratively final, and cannot be appealed to this Board). Accordingly, this appeal concerns only the Zoning Administrator's determination under 11 DCMR § 330.5(i). A hearing on this appeal is set for March 9, 2004.

On December 17, 2003, SCSD formally requested copies of all documents related to Father Flanagan's Boys Home's reasonable accommodation application, after informal attempts to failed to produce all the necessary documents . See Exhibit 2. After months of delays and foot

dragging, on January 13, 2004, the D.C. government, Office of Corporation Counsel, denied this request, based on the assertion that SCSD was a party to two lawsuits concerning this project, and that "SCSD's request has been made for the sole purpose of obtaining documents for the ongoing, above-referenced litigation, while avoiding the rules applicable to discovery in those cases." See Exhibit 3.[1] The D.C. government failed to reference or acknowledge SCSD's pending appeal of DCRA's determination that Boys Town's facility served as a residence for persons who are "handicapped" under 11 DCMR § 330.5(i).

On and after January 24, 2004, various newspaper reports revealed that Boys Town is in negotiations with JPI Apartment Development LP, a Dallas-based developer, for the sale of the proposed CBRF site. Washington Post, "Boys Town Ready to Fold Project " (Jan. 24, 2004); Omaha World-Herald, "Girls and Boys Town May Sell D.C. Land," (Jan. 29, 2004) (Exhibit 4). According to these articles, JBI proposes to construct four story apartment buildings on the site, containing 250-300 units and possible ground floor retail space on the site Id. The articles further state that JBI has 60 days in which to assess feasibility of its development plans Id.

Discussion

SCSD hereby requests a one month postponement of the scheduled March 9, 2003 hearing on its appeal. Two, independent grounds are hereby asserted for this postponement. First, a postponement is warranted due to the new information indicating that Boys Town is in active negotiations with a developer for the sale of the site of the proposed CBRF for a mixed-use development project, a use which would be matter-of-right without resort to the provisions in 11

[1] SCSD notes that, in fact, SCSD is no longer a party to *Father Flanagan's Boys Home v. D.C.*, C.A. No. 01-1732-JR (D.D.C.), having been dismissed as a party defendant.

DCMR § 350.5(i). If Boys Town goes forward with the proposed sale, this zoning appeal, which challenges the Zoning Administrator's determination that the permanent residents of Boys Town's proposed facility will be "handicapped" within the meaning of 11 DCMR § 350.5(i), will be moot. Accordingly, a one-month postponement of the hearing will avoid the unnecessary expenditure of time and resources by this Board and the parties in holding a hearing on this appeal if subsequent negotiations, due to be completed within the next 45 days, moot this appeal entirely.

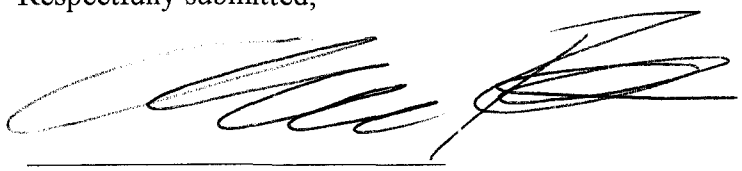
Another independent ground for a postponement exists by virtue of the actions of DCRA in unreasonably and unlawfully denying SCSD's request for public documents, under the D.C. Freedom of Information Act (FOIA), concerning DCRA's September 18, 2003 reasonable accommodation determination. While the reasonable accommodation determination itself is not before this Board, the determination of the Zoning Administrator was made in context of Boys Town's reasonable accommodation request and as part of DCRA's reasonable accommodation decision. Hence, both the Superior Court case and this appeal share the same administrative record, and all documents related to Father Flanagan's Boys Home's reasonable accommodation application are also the basis of the Zoning Administrator's determination at issue here. Contrary to the view expressed by the D.C. Corporation counsel in denying SCSD's FOIA request, it is entirely appropriate, if not essential, for SCSD to rely on the D.C. FOIA to obtain the basis for a Zoning Administrator decision since this Board's supplementary rules of practice and procedure before this Board give SCSD no automatic right to seek discovery to obtain these documents from the District of Columbia.

In any event, the D.C. government's denial of SCSD's FOIA request is unreasonable and

without legal support, and SCSD intends to appeal this decision. In its appeal, SCSD argues that the cases cited by the government do not support the general proposition that FOIA is not available to parties who are also in litigation. Rather, these cases stand only for the general proposition that a party cannot use FOIA to obtain information that it could not obtain during discovery because of a *specific privilege*. No claim was made that the information requested by SCSD and withheld by the D.C. government was subject to any privilege. However, assuming this appeal is successful, these documents will still not be produced until after March 9, 2004, the date for a hearing on this appeal.

Consequently, a 60-day postponement of the hearing is necessary in order allow SCSD an opportunity to secure documents that are needed by SCSD in order to prosecute its appeal. In the event postponement is denied, SCSD hereby requests that this Board direct the Zoning Administrator to file and serve on all parties all documents that provide the basis for the decision now on appeal prior to February 25, 2004, which is the date on which SCSD's pre-hearing submission would otherwise be due.

Respectfully submitted,



Andrea C. Ferster
1100 17th Street, N.W. 10th Fl.
Washington, D.C. 20036
(202) 974-5142

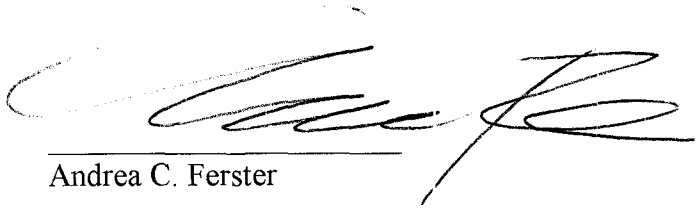
CERTIFICATE OF SERVICE

I hereby certify that, on February 13, 2004, a copy of the foregoing Motion to Postpone Hearing was served by first-class mail, postage pre-paid, on:

Julie Olson, Chair
ANC 6B
921 Pennsylvania Ave., S.E.
Washington, D.C. 20003

Arthur Parker
Assistant D.C. Corporation Counsel
441 4th Street, N.W. Room 600 South
Washington, D.C. 20001

Phil Feola
ShawPittman
2300 N Street, N.W.
Washington, D.C. 20037-1128



Andrea C. Ferster

Exhibit 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Office of the Director

September 18, 2003

Phil T. Feola, Esq.
Martin P. Sullivan, Esq.
Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

Re: Reasonable Accommodation Request – Fr. Flanagan's Boy's Home

Dear Messrs. Feola and Sullivan:

This is in response to your July 10, 2003, letter requesting that I reconsider my November 22, 2002, decision denying your client's Fair Housing Reasonable Accommodation Request, which you submitted on October 11, 2002, for housing located at 1308 – 1314 Potomac Avenue, S.E.

In your October 11, 2002, request, you stated that your client "requests accommodation from 11 DCMR 732.1." That provision of the Zoning Regulations provides that certain community-based residential facilities "shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment." As the accommodation requested under the federal Fair Housing Act (42 U.S.C. §3601 *et seq.*), you sought authorization for your client to use and occupy those housing units as youth residential care homes, a subcategory of community-based residential facility, without requiring approval from the Board of Zoning Adjustment. One of the items submitted in support of your request was an affidavit, dated January 9, 2002, from Michael L. Handwerk, Ph.D., Director of Clinical Services, Research and Internship Training, at Fr. Flanagan's Boys Home in Boys Town, Nebraska. Through his affidavit, Dr. Handwerk sought to establish that the subject housing would be occupied by handicapped persons, as that term is defined in the Fair Housing Act.

In my Decision and Order, dated November 22, 2002, I stated that "[a]fter reviewing the Applicant's request for accommodation, the Director concludes that Father Flanagan's did not describe any condition or impairment that meets the definition of handicapped as defined in the Fair Housing Act (42 [USC] §3602(h))."

Although in your request you had asserted that the four residences would house handicapped children, Dr. Handwerk's affidavit was insufficient to support such a finding. The affidavit stated that "the children to be served by Girls & Boys Town at its planned long-term residential facilities at Pennsylvania Avenue will be abused, neglected, and abandoned children referred by the local government protection agency." Dr. Handwerk then discussed the studies he had made of the children served at the long-term facilities at Boys Town, Nebraska, and used the results of his studies to reach a conclusion as to whether children in local facilities will be "handicapped." Notably, although he concluded that the "majority of the children" served at the facilities in Boys Town, Nebraska, "have mental and/or emotional disorders which substantially limit one or more of their major life activities such as caring for themselves, learning and working," his affidavit specifically recited: "I conclude that the same will be true as to Girls & Boys Town's planned long-term facilities at Sargent Road in the District of Columbia." No conclusion was offered with regard to the children who would reside at the Pennsylvania Avenue/Potomac Avenue site that was the subject of the Fair Housing Reasonable Accommodation Request. Your request was accordingly denied.

However, now with your July 10, 2003, letter requesting reconsideration of that decision, you submitted a copy of a different affidavit from Dr. Handwerk. This affidavit, dated January 30, 2003, had not previously been submitted to the Department by Fr.Flanagan's, nor had it otherwise been shared with the Department. The newer affidavit does offer a conclusion as to the children who would reside at the subject housing units on Pennsylvania Avenue. After reciting much of the same background and analysis as stated in his January 9, 2002, affidavit, Dr. Handwerk states that: "Because the background and population of the children to be served at the Pennsylvania Avenue Homes [the subject housing units] are the same as that of the children in the study described above, I conclude that the same will be true as to the children who will reside in Girls and Boys Town's planned Pennsylvania Avenue Homes, namely that about two-thirds of those children will have mental and/or emotional disorders which substantially limit one or more of their major life activities such as caring for themselves, learning and working."

On reconsideration of your Fair Housing Reasonable Housing Accommodation Request, I find that you have now satisfied the procedural requirements for such requests, as set forth in 14 DCMR §111 ("Procedures Regarding Requests for Reasonable Accommodation under the Fair Housing Act"), and have established that the subject housing will be for handicapped persons. Accordingly, your request is GRANTED, with the requested accommodation provided as follows.

Pursuant to a "Stipulated Agreement Between the United States and the District of Columbia" executed in September 1997, the District of Columbia amended its zoning regulations to specifically incorporate such reasonable accommodations for a community-based residential facility that is intended to be operated as housing for persons with handicaps. Section 330.5 of the Zoning Regulations provides, in pertinent part.

> The following uses shall be permitted as a matter of right in an R-4 District [and a C-2 District, by extension]: ...
>
> (i) Community-based residential facility; provided that, notwithstanding any provision in this title to the contrary, the Zoning Administrator has determined that such community-based residential facility, that otherwise complies with the zoning requirements of this title that are of general and uniform applicability to all matter-of-right uses in an R-4 District, is intended to be operated as housing for persons with handicaps. For purposes of this subsection, a "handicap" means, with respect to a person, a physical or mental impairment that substantially limits one or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such item does not include current, illegal use of, or addiction to, a controlled substance.

Having granted your Fair Housing Reasonable Accommodation Request, I have determined, on behalf of the Zoning Administrator, that your proposed community-based residential facilities, to be located at 1308 – 1314 Potomac Avenue, S.E., are "intended to be operated as housing for persons with handicaps." Accordingly, pursuant to the provisions of 11 DCMR §330.5(i), your use of these housing units as community-based residential facilities[1] for persons with handicaps is a matter-of-right use.

I have been informed by the Administrator, Building and Land Regulation Administration, that, except for the unit located at 1314 Potomac Avenue, S.E., these housing units otherwise comply with applicable zoning requirements that are of general and uniform applicability to all matter-of-right uses in an R-4 District. In accordance with Zoning Regulation §405.6 (11 DCMR §405.6), which pertains to side-yard requirements in residential districts, in an R-4 District a community-based residential facility for persons with handicaps is not required to have any side yards. Thus, no side yard is required for these units. That regulation does stipulate, however, that "if [a side] yard is provided, it shall be at least three inches (3 in.) wide per foot of height of building, but not less than eight feet (8 ft.) wide." Inspection of the property at 1314 Potomac Avenue, S.E., reveals that there is a non-complying three-foot side yard. Consequently, no certificate of occupancy for that

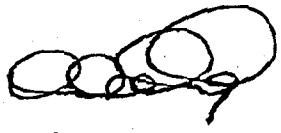
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[1] An April 1, 2003, oral decision of the Board of Zoning Adjustment in Appeal No. 16935, Appeal of Southeast Citizens for Smart Development, Inc. (currently pending issuance as a final, written decision), held that the unit at 1314 Potomac Avenue, S.E., when considered as a single-family semi-detached dwelling in a C-2 District, did not comply with Zoning Regulation §775.3, which provides that "[a] one-family semi-detached dwelling is subject to the side yard requirements of an R-2 District [which requires an 8-ft. side yard]." However, in now granting Fr. Flanagan's Fair Housing Reasonable Accommodation Request, a certificate of occupancy will be issued for that unit pursuant to Zoning Regulation §330.5(i), which requires compliance with the requirements applicable to an R-4 District—not an R-2 District. A community-based residential facility in an R-4 District is not required to have a side yard (11 DCMR §405.6), and the referenced BZA decision would not be applicable.

unit may be issued until its side yard is either eliminated or expanded to comply with the size required by §405.6.

Upon satisfactory completion and submission by your client of the standard application forms for certificates of occupancy for these units (and correction of the zoning deficiency noted above with respect to one unit), and with payment of all applicable fees, the Building and Land Regulation Administration will promptly issue the certificates of occupancy

Sincerely yours,



David A. Clark

cc: Denzil Noble, Administrator
Building and Land Regulation Administration

Exhibit 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Corporation Counsel



Equity Division

January 15, 2004

BY FAX TO (202) 544-3785
ORIGINAL BY U.S. MAIL
Ms. Ellen Opper-Weiner
Southeast Citizens for Smart Development, Inc.
701-14th Street, S.E.
Washington, D.C. 20003

Re: Freedom of Information Act request

Dear Ms. Opper-Weiner:

This letter responds to a request under the Freedom of Information Act request" ("FOIA request" or "request") that you have submitted to David Clark, Director of the D.C. Department of Consumer and Regulatory Affairs ("DCRA") on behalf of Southeast Citizens for Smart Development, Inc. ("SECSD"), dated December 17, 2003. Upon careful review of your request, we have concluded that it is an attempt to use the District of Columbia's FOIA statute inappropriately, as a substitute for properly seeking these documents as a party in *Southeast Citizens for Smart Development, Inc. v. District of Columbia,* Civil Action No. 9896-03 (Superior Court) and *Father Flanagan's Boys Home v. District of Columbia,* Civil Action No. 01-1732-JR (U.S. District Court). Notably, SECSD made its request under FOIA just two days after filing its lawsuit in Superior Court on December 15, 2003. The four categories of records identified in your letter are directly relevant to issues and claims in one or both of the aforementioned cases. Because SECSD clearly seeks to use the records requested in one or both of these cases, I provide the following response to your request on behalf of DCRA.

SECSD's request has been made for the sole purpose of obtaining documents for the ongoing, above-referenced litigation, while avoiding the rules applicable to discovery in those cases. This places the District of Columbia at an unfair disadvantage in the litigation. Further, it is improper to use FOIA as a means of avoiding the discovery rules in private litigation; that is not the intent of the statute. *Renegotiation Bd. v. Bannercraft Clothing Co.*, 415 U.S. 1, 24 (1974); *Fruehauf Corp. v. Thornton*, 507 F.2d 1253, 1254 (6th Cir. 1974); *Metex Corp. v. ACS Indus. Inc.*, 758 F.2d 150, 155 (3d Cir. 1984); *United States v. Weber Aircraft Corp.*, 465 U.S. 792 (1984); *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 143 (1975) ("[FOIA] is fundamentally designed to inform the public about agency action and not to benefit private litigants"); *Martin v. Office of Special Counsel*, 819 F.2d 1181, 1186 (D.C. Cir. 1987); *Washington Post Co. v. Minority Business Opportunity Comm'n.*, 560 A.2d 517, 522 (D.C. 1989) (*citing NLRB v. Robbins Tire & Rubber*

Co., 437 U.S. 214, 242 (1978)). For these reasons, your FOIA request is denied as an improper attempt to circumvent the discovery rules in the above mentioned private lawsuits in which SECSD is a party.

Very truly yours,

ROBERT J. SPAGNOLETTI
Corporation Counsel

By: _____
ROBERT C. UTIGER
Deputy Corporation Counsel
Equity Division

cc: DCRA General Counsel

Exhibit 3

The Washington Post

METRO

SATURDAY, JANUARY 24, 2004

THE DISTRICT

Boys Town Ready to Fold Project

In Face of Opposition, Group May Sell Site to Developer

By CARYLE MURPHY
Washington Post Staff Writer

Faced with unrelenting neighborhood opposition, Nebraska-based Girls and Boys Town is negotiating to sell the site of its proposed facility for troubled youths on Capitol Hill to a company that wants to erect luxury apartment buildings on the property.

If the sale to Dallas-based JPI Apartment Development LP goes through, it would end a four-year effort by Boys Town to get the city's permission to occupy its already-built facility of four townhouses.

"Nothing is set in stone," Boys Town spokesman John Melingagio said of the talks between the nonprofit group and the commercial developer. "We're always willing to listen to a proposal and offer."

But selling the property and finding another site, he added, might be the only way for Boys Town to reach its goal of helping young boys in the District.

"The bottom line on this is that every time we try and do something to get the buildings occupied, a roadblock is thrown up," Melingagio said. "If it means moving elsewhere, we're going to do it. There is a great need in the District for our work. . . . We're not abandoning our project to help kids in D.C."

JPI analyst John Begert said Boys Town has tentatively agreed to JPI's offer, made in December, for the 1.6-acre parcel, which is bordered by Pennsylvania and Potomac avenues and 13th Street SE. Begert declined to disclose how much the firm is offering for the site, which was purchased by Boys Town for $8.2 million.

Begert said JPI plans to make a decision in 60 days. Before that, he added, the firm wants to get neighborhood reaction to its plans, which call for constructing four-story buildings, with 250 to 300 apartments and possible ground-floor retail space.

"Before we jump in, we want to make sure everyone wants us," said Begert, who works in JPI's Vienna office.

Neighbors who had opposed Boys Town's project, because they said it would block economic development and increase crime, expressed delight about the proposed change at the site.

"Wow! That would certainly be a more appropriate development," said Ellen Opper-Weiner.

Will Hill said, "I feel wonderful about it." Hill predicted that the neighborhood would give a green light to JPI. "It all goes to prove that if you stand up for what you believe in, you'll succeed in it," he said.

Hill and Opper-Weiner formed Southeast Citizens for Smart Development Inc. to block the Boys Town project. In its latest move, the group appealed a September decision by the D.C. Department of Consumer and Regulatory Affairs to allow Boys Town to occupy its townhouses.

Each of the four townhouses, whose construction was funded by a 1999 congressional appropriation of $7.1 million, was meant to accommodate six youths, who would be referred by city child protective services because of neglect or abuse, and a live-in married couple to supervise them. Begert said JPI would tear down the townhouses.

Boys Town parried the neighborhood opposition in part by filing a federal lawsuit under the Fair Housing Act against Hill, Opper-Weiner and the D.C. government. The suit alleged that attempts to block the project through the city's regulatory processes interfered with the rights of disabled youths Boys Town sought to help.

Hill and Opper-Weiner were dismissed as defendants, but the suit is pending against the city. The U.S. Department of Justice has threatened to sue the city for allegedly violating the federal housing law.

Tony Bullock, communications director for Mayor Anthony A. Williams (D), said the Boys Town project is emblematic of the "desperate situation" faced by the city when it tries to place community-based facilities for the disadvantaged.



Council member Sharon Ambrose said the Capitol Hill site was wrong for a facility for troubled youths.

"It's probably good news to the immediate neighbors, but the larger problem of siting these kinds of facilities . . . remains a huge challenge for the city," Bullock said. "We don't celebrate this decision. . . . These kinds of facilities have to go somewhere."

But the current site is not right for the Boys Town project, said D.C. Council member Sharon Ambrose (D-Ward 6), an opponent of the project. Ambrose, who was briefed by JPI on Thursday, said its plans are "exactly what should have been there from the beginning." She said she "was never convinced there was a need" for the Boys Town facility.

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Published Thursday
January 29, 2004

Girls and Boys Town may sell D.C. land

BY JAKE THOMPSON
WORLD-HERALD BUREAU

WASHINGTON - After running into neighborhood resistance, Girls and Boys Town is negotiating to sell a Capitol Hill property meant for neglected youths to a developer planning luxury apartments.

If the deal goes through, it could end a four-year battle by Omaha-based Girls and Boys Town to win city approval to serve up to 24 abused or troubled youths in four townhouses it finished building last year.

The Rev. Val Peter, executive director of Girls and Boys Town, said Wednesday that JPI Apartment Development LP of Dallas approached the nonprofit organization in December.

"They have an interest in buying the property and that interest is being explored," Peter said.

Greg Lamb, a JPI partner and vice president, said that the company's offer for the Capitol Hill site has been tentatively accepted by Girls and Boys Town and that the two are working on a sales contract.

He declined to disclose how much JPI offered for the 1.6-acre property about 10 blocks southeast of the Capitol on Pennsylvania Avenue. Girls and Boys Town bought the land in 2000 for $8.2 million.







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Peter said that if the sale goes through, Girls and Boys Town would turn its attention to other land it owns in residential northeast Washington. That property currently holds group foster homes, an emergency shelter and administrative buildings.

The charity already has the needed permits and would begin building a facility there to serve half the young people it planned to work with on Capitol Hill, Peter said.

"We want to take care of kids in the District of Columbia as fast as we can," he said.

Boys Town built the four townhouses at the Capitol Hill site with a $7.1 million appropriation from Congress.

Lamb, the JPI partner, said the townhouses would be torn down to make way for apartments.

The company is considering erecting four-story buildings with more than 200 apartments and possibly ground-level retail space on the site, he said.

It would be "much nicer" than other commercial and residential buildings in the neighborhood, Lamb said.

JPI also wants to win backing from neighbors and city officials.

"Truly, it's our goal to try to obtain support," Lamb said.

Ellen Opper-Weiner, a leader of the neighborhood group that battled Boys Town, said she was thrilled with the idea of the site becoming a residential apartment complex.

"They have a magnificent opportunity to transform a neighborhood," she said. "It's just a much better development for that site."

Opper-Weiner and others formed Southeast Citizens for Smart Development to oppose Girls and Boys Town's proposed facility. The group wanted a commercial development and said a facility for troubled youths wasn't appropriate because the neighborhood is known for crime and on-street drug sales.

For months, city officials delayed giving needed building permits to Girls and Boys Town. The charity then sued Opper-Weiner, the neighborhood group and the city, alleging that they were discriminating against needy young people.

Opper-Weiner and other neighborhood representatives were dismissed from the case, but the city remained an active defendant.

As recently as December, city officials seemed poised to grant permits to Boys Town, perhaps prodded by a warning from the U.S. Department of Justice that it

was violating the Fair Housing Act.

Peter said Girls and Boys Town is still pursuing its case against the city.

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