GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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TUESDAY

APRIL 18, 2000

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The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 11:10 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ROBERT N. SOCKWELL	Vice Chairperson
RODNEY L. MOULDEN	Board Member
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner

COMMISSION STAFF PRESENT:

Sheri Pruitt	Secretary, BZA
Beverly Bailey	Zoning Specialist
Paul Hart	Zoning Specialist
John Nyarku	Zoning Specialist

OTHER AGENCY STAFF PRESENT:

Steven Cochran	Office of Planning
Mary Vogle	Office of Planning

A-G-E-N-D-A

Agenda Item	Page
Application of George and Mary Clark 16533	4
Application of Kass MA, L.L.C. 16457	26

P-R-O-C-E-E-D-I-N-G-S

(11:10 a.m.)

CHAIRPERSON REID: All right, the meeting will please come to order.

Good morning, ladies and gentlemen. We apologize for the delay. We want you to understand that when we're making decisions with our deliberations and discussions, as we have to sit in the capacity of both judge and jury, and particularly when we're dealing with extremely complex and complicated issues, we feel that the time that we utilize to do so is in the best interests of all parties concerned.

So it's very difficult to kind of gloss over these issues and come to a reasonable, fair and what we feel to be just conclusion. So please indulge us because we have a tremendous responsibility and we try to do all we can to serve the District of Columbia in the highest manner possible.

And as such, now we'll go into the session after Secretary Pruitt calls the Board's case that we will be giving our -- weathering our decision on.

SECRETARY PRUITT: Good morning, Madam Chair.

First case before you is Appeal No. 16533 of George and Mary Clark, Stuart Sloame and Ellen Seeherman and James D. and Emily Baker, pursuant to 11 DCMR 3100 and 3101 from the administrative decision of Lloyd J. Jordan, Director, Department of Consumer and Regulatory Affairs, made on July 7th, 1999 and

September 17th, 1999, to the effect that Forest Hills, LLC, did not comply with the height requirements of the zoning regulations for a private residence.

The appellant alleges that the permits were issued in error based on the existing grade of the property, inadequate side yard, and that the property does not conform to the height requirements in an R-1-A district at 4512 28th Street, N.W., Square 2251, Lot 29.

Following the hearing, the Board requested that findings of fact be submitted by the intervenor and the appellant, which you have, and supplementary exhibits and intervenor's February 26, 2000 site photos and intervenor's response to appellant's site photos.

They're all before you today for decision.

CHAIRPERSON REID: Okay. The first issue before our Board members is the issue of timeliness, and the question being whether or not the appeal was filed within a timely time frame and whether or not the Doctrine of Laches applies in this instance.

So let us speak to that matter.

MEMBER RENSHAW: Madam Chairman, I will say in my opinion, the case, the application No. 16533 has been filed in a timely manner.

CHAIRPERSON REID: Are we up for this discussion of something?

COMMISSIONER MITTEN: Well, there was a lot of information that was submitted to us about what was going on in the time frame when the community first became aware of this project and the extent of their knowledge and so forth.

And I think there is an issue about a person's ability to apply what they see in a plan which they were given quite early in their involvement in this process versus actually being able to see something taking shape and so forth.

And I think there is something to be said for the fact that the community's knowledge was not perhaps -- their knowledge became increased over time as the building took shape, as opposed to just seeing something from a set of plans.

And I'm persuaded by that. I'm also persuaded by the fact that the community was not doing nothing throughout this period of the high level of activity in the community, seeking some kind of resolution.

Whether or not they should have known or filed the appeal sooner, I don't think that a sufficient amount of time passed before they did file the appeal, that we should consider that the appeal was not made timely.

CHAIRPERSON REID: And can we hear from laches, Doctrine of Laches? Do you feel that that is a factor in this particular case?

Does Ms. Renshaw think she would have wanted to make a motion?

Can we get a second?

VOICE: I second the motion regarding timeliness.

CHAIRPERSON REID: Okay.

COMMISSIONER MITTEN: And I'll speak to the issue of laches as best I can. Is that all right?

CHAIRPERSON REID: That's fine. Go ahead.

COMMISSIONER MITTEN: I think that issue turns on the level of prejudice that is created towards the developer. And again, throughout this process, I think the developer was kept well-informed of what was happening in the community and chose to proceed at various points in time, and at times on the strength of nothing more than the oral representations of folks in the zoning office, given that there was a 30-day time lag between the time that the issue -- would basically be tenants between the time that there was an issue regarding the first permit and the number of stories in the house and the actual fabrication for the second permit and so on.

So, I mean I think that they were knowledgeable participants in the risk-taking that went on. And I don't find that laches applies in this case.

MEMBER SOCKWELL: I believe that the community, and I believe as well that the community had its opportunities to view various drawings and to watch the construction but may not have been fully aware of what the extent of the impact would be until such time as they actually saw the full height of the building.

So certain activities that the community undertook during the construction project were based upon observance of conditions as they evolved and would have made it very difficult for them as lay people necessarily to have been able to understand exactly what they were seeing and to interpret what the final product might be.

CHAIRPERSON REID: I would concur with my colleagues in regard to this matter of timeliness.

All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

SECRETARY PRUITT: Staff would record the vote as four to zero as the motion being timely. The motion made by Ms. Renshaw accepted.

CHAIRPERSON REID: Okay. As to the appeal we have before us now as to whether or not we thoroughly should grant the appeal or deny the appeal, what is your pleasure?

MEMBER RENSHAW: I move that we grant the appeal.

MEMBER SOCKWELL: I'll second that.

CHAIRPERSON REID: Fine.

Discussion?

MEMBER SOCKWELL: I'll start with the discussion.

There were a number of issues, a number of permit-related and zoning-related issues discussed in this case. Among them, the initial filing of a building which had all of its

elements on the main facade exposed virtually entirely, the building being constructed on top of a partial demolition of an existing two-story house, one clearly defining its lower story as basement rather than cellar, and its first story as what it was.

And the original building, while developed as three stories on top of an existing first story, would have been four stories in construction, it would have met the requirements of the zoning ordinance for the height limit within the zone.

And actually, it would have met the requirements for a building that is a mound-conforming structure devoted to conforming uses with regard to side yards based on Section 405.8, which does allow buildings in existence prior to May 12th of 1958 to have additions or enlargements constructed, as long as the side yard equaling at least five feet is not reduced, and therefore, the side yard issue would go away.

But with regard to the method by which the four-story was to be remedied, the house was constructed as its drawings portray it, as a real four-story building.

And the use of the zoning ordinance to reduce the particular deficiency seems unreasonable in allowing a berm solution for that extent of zoning nonconformance.

In regard to what might have been a one-foot berm necessary to change a four-foot height above grade to a less than four-foot height above grade, that would have been a minor change.

But in this case, the building needed to be

reconstructed at the ground story in such a manner as would have changed the entire window structure of the building, required putting a brick or equivalent wall up so that such could be waterproofed for the receipt of the earth that was to be bermed up against it.

The front steps had to be completely changed. There were any number of major modifications which evolved, some of which were not even indicated on the first revision permit, which was to adjust existing grade.

I believe that the zoning ordinance was not designed to allow for such major, catastrophic changes to be made to a building that's not conforming strictly to adjust to make it seem like something else.

I think that in this case, we're looking at a series of incidents, some of which unfortunately were, on both the developer's side and perhaps on the side of the city, an attempt to solve another difficult problem, but that the zoning ordinance should not be party to that type of solution.

CHAIRPERSON REID: Ms. Renshaw?

MEMBER RENSHAW: Well, I just wanted to point out here that it's ironic that this appeal could have been avoided if Forest Hills, LLC had taken to heart the neighbors' very well-placed concerns and then just adjusted the architectural plans as a concession to the community.

And here you see the community in action. It is

speaking out as to deficiencies in this development in its neighborhood.

Forest Hills could have earned and would have earned a return, a major return on its investment, being the sale of a slightly smaller-spec house more in keeping with the abutting property and would have, in this case, earned the respect of the neighborhood.

Unfortunately, this got out of hand, and the not-so-mute neighborhood spoke up for what it felt was its rights in pointing out to the developer, to the DCRA, and now to the Board of Zoning Adjustment that there were parts of the zoning ordinance that were, shall we say, not conformed to and, hence, we have this case.

But here we are going to be voting to support the appeal, and I think that that is a very well-placed decision on the Board, which I wholeheartedly support.

COMMISSIONER MITTEN: As the representative on the BZA today, here from the Zoning Commission, I guess I want to begin by saying that this case has highlighted some of the weaknesses of our zoning ordinance and there -- and terminology or -- that is not defined.

And I just want to mention what those terms are and that I'll be taking back to the Zoning Commission recommendations about how we can avoid situations like this in the future.

What came up in this case is the definition of

partial demolition versus total demolition, the issue of what constitutes an addition, the definition of finished grade, which relates to the issue of berming.

And that said, while we might like the zoning ordinance to be written differently, it isn't. It's written as it's written. And that's what we have to make our decision based on.

And I agree with Ms. Renshaw, that this appeal could have been avoided. I have a different perspective, though, regarding whose responsibility it was to avoid this situation, and I place that squarely on DCRA.

I think that this case points up many weaknesses in the zoning administrator's office. When the original permit was determined to have been issued in error, there should have been a stop work order issued and a resolution before there was a significant investment on the developer's part.

And we wouldn't be here today, and that building probably wouldn't exist as it exists today. I suspect the developer isn't happy with the building as it exists today.

So I guess I want to send a strong message to the people at DCRA and the zoning administrator's office that they bear a lot of responsibility in this case, and I would hope that a higher standard for the precision of their work would be adhered to in the future so we could avoid other cases like this.

I think, in addition, the issue that's before us is

whether the permits in this case were issued in error. And in that regard, it's a process question versus a substance question, as I see it, and the substance issue being, is the house as it is conforming to zoning?

So I'd like to just confine my comments to whether or not the permits were issued in error. I think they were. I think there's no dispute that the first permit was issued in error.

I didn't hear anyone suggest that the plans conformed to the zoning in that case. It was a -- the plans were for a four-story house. That's not permitted in this zone.

The second permit, I believe, was issued in error. And my primary basis for that is the fact that it was based as a revision of the first permit. And if you revise -- if you're issuing a revision based on a permit that was issued in error, then I don't think you can correct that problem by just adding another permit to it.

I think that there needed to be a total reworking of what had been submitted. In addition to that, the information that was submitted for the second permit did not, as Mr. Sockwell pointed out, did not disclose the true scope of the work because it was just a single page and it didn't have an elevation showing the steepness of the grade of the berm. It could not possibly have been properly evaluated regarding soil retention.

And those are my comments regarding why I will be

voting in favor of supporting the appeal.

MEMBER RENSHAW: Madam Chair, may I add to Ms. Mitten's comments about DCRA, because DCRA is very much on the front line of this case because the case is so awash with DCRA deficiencies, and let's enumerate some of them again.

Inadequate zoning inspection, failure to keep written records, officials inaccessible to neighbors who call DCRA in vain attempts to find out whether construction plans have been approved and permits that seem to be incorrectly issued and/or, quote, not publicly available, end quote.

And I just want to point out that Council member David Catania recently released the results of an ANC survey, which earned DCRA an unsatisfactory rating -- and that's in quotes -- due to a general lack of respect -- that's in quotes -- at the Department, with staffers giving misleading information and/or refusing to provide documents.

So this is a chronic problem with DCRA that has to be adjusted, and adjusted quickly, so that neighborhoods and ANC's are provided with as much information as is required to make a proper decision on a case before them or it.

I, myself, have given great weight to ANC 3S, January 10th, 1999 resolution on this case that passed by a vote of six to nothing, a quorum being four members present, and support its findings that the BZA should grant the appeal, that the BZA should hold that DCRA issued both permits erroneously,

that the BZA should require the respondent developers, Forest Hills, LLC, to remove the fourth level of the building at issue in order to conform to the three-story limit established by the zoning regulations for this property and, D, direct DCRA to retain an independent surveyor to assist in resolving the issue of the appropriate width of the side yards.

MEMBER SOCKWELL: Just for one other statement, and that is that the initial application for the building permit for this house could have included grades and design elements that would have made it a legal construction with perhaps its same projection out of the ground; perhaps.

But that was not done. So there's no way to evaluate how the city would have responded to a different set of criteria upon the original application.

On the other hand, perhaps if the building had been designed with a mezzanine as opposed to a full fourth floor, it might have complied with zoning and effectively kept it from coming before this body.

But none of those things were done. And therefore, we've had to rule upon something that's a very difficult issue because it involves a great deal of distress to more than just the developer and the community, but to a city agency and to us trying to protect the integrity of the zoning ordinance.

So it has been a case that has taught us all something about the ordinance and about the processes of

government. And it hopefully will lead us to more effective decisionmaking in the future on such cases, where the ordinance is not as specific as it might wish to be.

CHAIRPERSON REID: I find that this particular case was rather baffling and that there were times within the course of the hearing as well as reading the submissions and also in discussions in relation to my colleagues, my question was, well, how did we get here? How'd it come to this?

I mean here we have a situation where I happen to know the developer, who was in good faith, thoroughly in good faith, wants to build a property, and he goes through his billing process, he goes through the permitting process, and there are some problems but they're corrected, and he was issued a permit to proceed with the number of stories that he had applied for. And he then proceeded to comply with what he thought was the license or permit which was issued to him.

And the other aspect that would be germane to this development, like side yard requirements, the lot occupancy, the height, all seemed to be in order. And the only aspect of it primarily that was causing a question was the issue of this number of stories.

And in that is where that got complicated, because our regulations are solid as to how to best ascertain by the number of stories, and then that goes to things like the definition of the demolition of a building and being able to

ascertain at what point do you measure the finished grade of a building, and then at what point do you measure the height of the building?

And it just gets to be extremely complicated. And you have people moving forward with the permit that was given, then there was even authorization to do things and, at the same time, the community is in an uproar and they're raising all kinds of objections.

So what do you do?

Now, I definitely concur with my colleagues in regard to the admonishment of DCRA, in that they're entrusted with the authority to give the correct analyses and correct permits, correct licenses to the developers or to businesspeople who come to them or the citizens who come to them, and when they do, the citizens have to rely on what, in fact, they are permitting them to do legally.

When we have the testimony of -- and a hearing of the zoning administrator, as well as Mr. Morenco and Mr. Johnson and also Mr. Bella, who are the officials who defended the permits, and they defended the permits predicated upon what they said were regular properties, and they also talked about the fact that there was deficiencies in the regulations, and they participated in the process and how this was done and how it's supposed to be done.

But nonetheless, when we put this whole matter

under a microscope and try to look at it and try to get some clarity into the terms from level of reasonableness, we determine that even if the regulations were silent as to what would be considered a berm, the fact of the matter is what, then, would a reasonable person do?

What would be expected, particularly when you have opposition and there's a lot of uproar as to the impact and the effect of how this particular development is going to affect the community or the neighborhood?

And then, the ANC, who is afforded great weight, weighed in on this particular matter, and they made it very clear that they would not support this particular application or this development.

They also spoke to the fact that DCRA did not notice them as to the permit for the development, as well as the construction. Had that been done, then perhaps the ANC could have performed in the manner consistent with their responsibility to the community.

They could have intervened and said, then, well, we have a problem here, made some type of changes earlier on rather than later on. But that did not happen.

And it developed that the developer continued to pursue or to proceed with his development in a business manner. I understand that.

And it also is troubling to me that relying on

good-faith direction from DCRA, you have developers who will have their projects, someone, a community or some entity, comes up to appeal the decision of the zoning administrator, was with -- would in effect then cause a damage or loss to the developer as a citizen as a result of them relying on what has been deemed to be the official word of the D.C. government.

And I find that very troubling and difficult to call a case like that because it is not necessarily the fault of the appellant or the intervenor that this has come about, is convoluted, is a convoluted situation predicated upon flawed direction on the part of DCRA as well as the regulations being weak in this regard.

And when you have that kind of weakness, then it allows for interpretations that are not consistent with the intent and integrity, in my opinion, the intent and integrity of the zoning regulations and the zoning map.

So I think that in this particular instance, the Board has decided that it would not be in the best interests of the citizens of the District of Columbia to allow this development to go forth as it is, or to oppose or to deny the appeal.

I think that in fairness to all people involved here, we're probably going to make the decision that we want to send a signal to DCRA that we would like to have their process and procedures tightened up and strengthened to protect the citizens and the people in the business community, and also a signal to the

Zoning Commission that there's more work to be done in those particular regulations to better serve the citizens of the District of Columbia.

MEMBER RENSHAW: And also, may I add a signal to the communities in Washington, D.C. not to be silent if matters are what one feels is erroneous; in other words, to speak out.

There has been, across the board, a lot of hesitancy on the part of neighborhoods to get involved in cases like this. And I am pleased to see that in this case, the neighbors have spoken up and articulated to the developer the risk at hand.

It was decided that the -- by the developer to go forward in any case, but the community kept on with its appeals to the DCRA. And I think that a lesson has been learned, that you speak up and you speak out and you don't let go if you feel that something is wrong in your community.

So that is a big message and a very strong message that is being sent to the communities by the Board of Zoning Adjustment today.

MEMBER SOCKWELL: And it is also incumbent upon the design community to professionalize itself to the extent that we would, as architects and designers, civil engineers, et cetera, understand the ordinances, because these zoning decisions are early decisions in the process, not late decisions; that we must be well aware that DCRA lacks staff, that they lack capability to

effectively enforce their own regulatory requirements, and that we must be able to look effectively at anything that we prepare for design for permanent, so that we are positive that we have covered as many of the bases in the ordinance and that we have at least asked the questions that need to be answered at the beginning rather than after something goes wrong.

CHAIRPERSON REID: Thank you.

All right. All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Ms. Pruitt, do we have a proxy for Mr. Moulden?

SECRETARY PRUITT: No.

CHAIRPERSON REID: Staff will record the vote as four to zero, and no, one abstention.

VOICE: I'm sorry, I didn't hear you.

CHAIRPERSON REID: I had not yet --

VOICE: Oh, I'm sorry.

CHAIRPERSON REID: I abstain.

So the staff will record the vote as three to zero to one to reverse the zoning administrator's decision to grant the appeal.

The motion made by Ms. Renshaw, seconded by Mr. Sockwell, Ms. Reid abstaining.

All right, thank you very much. We'll return in just a little bit in discussion regarding the second case that we

have this morning. To be perfectly honest, we'll probably not be back for about 45 minutes, so if you'd like to take lunch or whatever during that time before we come back, we will come back by 12:30, okay?

Thank you.

(Whereupon, at 11:45 a.m., the luncheon recess was taken, to reconvene at 12:30 p.m. this same day.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:05 p.m.)

CHAIRPERSON REID: The meeting will please come to order. We'll now conclude our morning meeting session with the position for KSI, and then we'll continue with our afternoon session.

SECRETARY PRUITT: Before you today, Madam Chair, is to determine the conditions for Application 16457 of Kass MA, L.L.C., pursuant to 11 DCMR 3104, for a special exception under Sections 410 and 2516 to allow the construction of 33 new single-family detached dwellings with garages in a theoretical lot subdivision, and 176 luxury garden apartments, in R-5-A and R-5-B Districts at premises bounded by Good Hope Road, Southeast, between 24th Street, Southeast to the east, and 18th Street, Southeast, to the west, Square 5735, Parcels 211/96, 2210/31, and Lot 84 and Square 5763, Parcels 219/38.

Today you are dealing only with the conditions of the order.

CHAIRPERSON REID: Thanks very much, Ms. Pruitt. We're going to outline several of the conditions that will be made a part of the order for KSI, and there are several but I'm not going to go over each one of them. They are basically outlined in the order there, the ones that have been submitted by the various entities involved in this case.

But the pertinent ones I will highlight, the first

of which would be Community Liaison Committee. The applicant shall establish a Community Liaison Committee consisting of, at a minimum, representatives from both ANC-6A and 8B, a citizens association, a Community Improvement Council, a development association, a Business Council, National Park Service, representatives of the police jurisdictions involved, and representatives from Ketchum and Stanton Elementary Schools, as well as the applicant's lead community liaison person. And this basically -- these names I've called out so far are the persons on the Liaison Committee is -- includes, but it is not limited to, just those persons.

All right. Now, the community-based redevelopment effort -- the applicant shall provide the following specified funds for the community-based redevelopment effort. Funds shall be administered by an appropriate entity as determined by the Community Liaison Committee that I have just mentioned.

The specified amount shall be paid by the applicant to -- for the multi-family component of the Homes of Woodmont to achieve maximum occupancy, but in no event later than 36 months from the date of this order. And then it goes -- assessed by what, in fact, seed money sections are broken into.

The applicant shall assist the Community Liaison Committee to obtain additional funding or other resources, for example, from foundations and local or federal government sources, with which to leverage the seed funds. All such efforts shall be

documented.

The applicant shall designate a member of its senior site management team to serve on the Community Liaison Committee, and they shall ensure such that the applicant's community development efforts and training, if needed -- no, I'm sorry, efforts, period.

The applicant shall submit monthly reports to ANC-8B and 6A reflecting the number of jobs -- wait a minute. Hold on.

MEMBER RENSHAW: It's reflecting the number of jobs at the subject site and the number of jobs filled by local residents at all levels.

CHAIRPERSON REID: No. I was -- no, the reason I was hesitating was because I had -- with my notes, I had affixed this to number 3. It should be with number 4, regarding the --

MEMBER RENSHAW: Oh, I see.

CHAIRPERSON REID: It was because I was confusing myself.

The applicant shall maximize the hiring and training, if needed, of local residents in the purchase of goods and services in local businesses. The applicant shall submit monthly reports to ANC-8B and 6A reflecting the number of jobs available at subject site and number of jobs filled by local residents at all levels.

Okay. And then the other changes that we made.

This is -- now to go to Traffic Management. The applicant shall appoint a Community Transportation Coordinator from among its senior site management staff. Management shall disseminate information to all residents of the Homes at Woodmont that would encourage ride-sharing, carpooling, and other modes of travel other than single-occupant vehicles.

And the next one we changed was -- the applicant shall fully subsidize the monthly public transit fares for heads of household at the Homes of Woodmont properties for a period of 10 years.

All right. In regard to the number 2 that -- the traffic and management measure -- the applicant shall implement the following traffic plan. The applicant shall pay for a traffic management study that collects and analyzes traffic data and community traffic concerns, and provide traffic mitigation measures, such as improved signs and signalization and pavement markings to facilitate pedestrian movement at these locations.

The applicant shall present the traffic management strategies outlined in the study to the Department of Public Works and other appropriate agencies as necessary for implementation of such strategies -- or for implementation strategy.

All right. And then, under School Programs, the applicant shall support the enhancement of a school technology program at Ketchum Elementary School and Stanton Elementary School. The applicant shall provide a minimum of $30,000 for

program startup within 36 months, and a contribution of $5,000 for each of the ensuing six years. The applicant shall design an appropriate technological program, in cooperation with the school principals.

Let's see. The applicant shall designate a member of the -- senior member of its senior member site management staff to serve as liaison at Ketchum and Stanton Elementary Schools. The liaison shall employ best efforts to ensure the success of the applicant school's technology program and report quarterly to the Community Liaison Committee.

The applicant shall assist Ketchum and Stanton Elementary Schools to obtain additional funding or other resources from public or private sources to expand the initial program three-fold over 10 years, with the goal as shown in the long-term sustainability of the school's technology program.

The applicant shall fund and operate an after-school program for youth who live in the apartment component of the Homes at Woodmont, beginning within one year after occupancy of the apartment component.

The architectural site layout -- at least a minimum of 40 percent of the architecturally significant facade, including those facing Good Hope Road, shall be constructed of brick.

Two, architecture shall be compatible with existing structures in the community.

Three, the six single-family houses along Good Hope

Road shall have architecturally significant facade -- I'm sorry -- shall have architecturally significant facades, including brick elements, facing Good Hope Road.

Is that right?

The six single-family homes along Good Hope Road shall have architecturally significant, including brick elements, facing -- facade facing Good Hope Road.

All right. The applicant shall align the entrance road with Good Hope Road to the single-family site with the existing Marlboro Plaza intersection.

All right. Landscaping -- applicant shall implement landscape plans, as submitted, additional buffering elements along Good Hope Road.

All right. Then we go to the conditions -- suggestions by the National Park Service. The applicant and the National Park Service shall jointly provide construction markings on all phases of construction, especially during the site clearing in a rough grading operation.

The applicant shall appoint, subject to the agreement of NPS and the affected ANCs, a neighborhood liaison to monitor any construction violations, including routing of trucks through the street and construction vehicles parked on the side. Construction hours to be negotiated through the Community Liaison Committee.

All right. There were no other changes.

Here's the application of the other -- position by the National Park Service.

Now, Board member discussion?

MEMBER RENSHAW: I just wanted to point out, Madam Chair, that I was not here for the original vote, as I was out of town and I abstained on the vote. But I will be voting on the conditions, as I have participated in the hearings up to this point, and participated in the review of the conditions.

CHAIRPERSON REID: Okay. Any further comments? Ms. Renshaw?

MEMBER RENSHAW: No, not at this time. That's fine.

CHAIRPERSON REID: Mr. Sockwell?

All right. Then, let me before -- we have highlighted the salient -- pertinent conditions that I've read here today with regard to the approval of the KSI -- rehearing of the KSI application. I did not enumerate each one specifically. Nonetheless, it will be reflected in the order when it is submitted -- when the order is released.

And I just wanted to say that we -- the Board wishes the applicant luck in this endeavor, and we hope that the conditions that we have imposed would be those that would help to better ensure that the project is successful and that the adverse impacts, real or perceived by the area residents in the community, that these conditions will help to soften or to mitigate the

problems that may or may not arise.

Thank you.

Now, is there a motion?

MEMBER SOCKWELL: Move to accept the conditions as read and/or modified by the Board.

MEMBER RENSHAW: Second.

CHAIRPERSON REID: All in favor?

(Ayes.)

All right.

SECRETARY PRUITT: Any abstentions? I just wanted to be sure there are no abstentions or anything. So it's just four in favor, is that correct?

CHAIRPERSON REID: Yes.

SECRETARY PRUITT: The staff would record the vote as four to zero to approve the motion made by Mr. Sockwell, seconded by Ms. Renshaw.

CHAIRPERSON REID: Thank you.

(Whereupon, at 1:20 p.m., the proceedings in the foregoing matter went off the record.)