

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
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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

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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

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

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

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

14 They're all before you today for decision.

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

20 So let us speak to that matter.

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

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

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

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

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

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

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

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

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

1 Can we get a second?

2 VOICE: I second the motion regarding timeliness.

3 CHAIRPERSON REID: Okay.

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

6 CHAIRPERSON REID: That's fine. Go ahead.

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

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

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

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

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

9 All in favor?

10 (Chorus of ayes.)

11 CHAIRPERSON REID: Opposed?

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

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

18 MEMBER RENSHAW: I move that we grant the appeal.

19 MEMBER SOCKWELL: I'll second that.

20 CHAIRPERSON REID: Fine.

21 Discussion?

22 MEMBER SOCKWELL: I'll start with the discussion.

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

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

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

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

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

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

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

25 But in this case, the building needed to be

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

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

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

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

19 CHAIRPERSON REID: Ms. Renshaw?

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

25 And here you see the community in action. It is

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

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

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

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

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

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

25 What came up in this case is the definition of

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

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

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

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

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

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

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

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

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

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

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

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

25 And those are my comments regarding why I will be

1 voting in favor of supporting the appeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 So what do you do?

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

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

25 But nonetheless, when we put this whole matter

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

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

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

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

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

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

25 And it also is troubling to me that relying on

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

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

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

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

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

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

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

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

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

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

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

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

7 CHAIRPERSON REID: Thank you.

8 All right. All in favor?

9 (Chorus of ayes.)

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

12 SECRETARY PRUITT: No.

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

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

16 CHAIRPERSON REID: I had not yet --

17 VOICE: Oh, I'm sorry.

18 CHAIRPERSON REID: I abstain.

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

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

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

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

5 Thank you.

6 (Whereupon, at 11:45 a.m., the luncheon recess was
7 taken, to reconvene at 12:30 p.m. this same day.)
8

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

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

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

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

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

1 documented.

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

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

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

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

16 MEMBER RENSHAW: Oh, I see.

17 CHAIRPERSON REID: It was because I was confusing
18 myself.

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

25 Okay. And then the other changes that we made.

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

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

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

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

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

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

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

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

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

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

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

25 Three, the six single-family houses along Good Hope

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

4 Is that right?

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

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

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

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

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

25 All right. There were no other changes.

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

3 Now, Board member discussion?

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

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

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

13 CHAIRPERSON REID: Mr. Sockwell?

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

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

1 problems that may or may not arise.

2 Thank you.

3 Now, is there a motion?

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

6 MEMBER RENSHAW: Second.

7 CHAIRPERSON REID: All in favor?

8 (Ayes.)

9 All right.

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

13 CHAIRPERSON REID: Yes.

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

17 CHAIRPERSON REID: Thank you.

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

20