GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14305 of Fannie Byrd, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3105.46 to use the subject premises as an adult rehabilitation home for twenty persons and seven staff and under Paragraph 3105.475 to approve the proposed use where there are other community based residential facilities within the same Square or within 500 feet of the subject site in an R-5-A District at premises 1620 V Street, S.E., (Square 5777, Lot 1023).

HEARING DATE: July 10, 1985
DECISION DATE: July 10, 1985 (Bench Decision)

1. The subject site is located at 1620 V Street, S.E., in the Old Anacostia Historic District. The site is situated on the north side of V Street, between 16th and 15th Streets. The site in the R-5-A District.

2. The subject site is rectangular in shape and developed with a two story apartment building constructed of brick. The property consist of a 12,480 square feet lot which except for the dwelling is grassed.

3. To the north of the subject site is an R-3 District developed with detached and semi-detached dwellings. To the east of the site fronting on both sides of V Street there are semi-detached and detached single family dwellings and apartment houses in the R-5-A District. To the south of the site is the wooded and steeply sloped side yard of an apartment house in the R-5-A District. To the west are single family detached dwellings in the R-5-A and R-3 Districts.

4. The subject site is located one block from Good Hope Road to the north and approximately five blocks from Fort Stanton Park to the east. The site is served by Metro bus routes on Good Hope Road and Martin Luther King Avenue. Ketcham Elementary School is located two blocks east of the subject site. Fire Department Engine Company No. 15 is located two blocks south of the site.

5. The applicant proposes to use the subject site as an adult rehabilitation home for twenty persons and seven staff members. The proposed use requires a special exception from Paragraph 3105.46 and Sub-section 8207.2 of the Zoning Regulations.

6. Sub-section 8207.2 authorizes the Board to grant special exceptions where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said zoning regulations and maps.

7. Other community based residential facilities exist within the same square or within 500 feet of the subject site. Under these circumstances an additional special exception is required under Paragraph 3105.475 of the Zoning Regulations which states that the Board may approve more than one community based residential facility in a square or within 500 feet only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

8. The residents of the proposed adult rehabilitation home will be in a pre-parole status referred through the D.C. Department of Corrections. The residents will be under intensive supervision and must perform programmatically in order to be released on parole.

9. Human Department Systems (HDS), Inc. is the non-profit social service agency which will operate the proposed facility. HDS will be responsible for insuring control and accountability of residents and providing or making arrangements for custody, subsistence, medical care, education and training opportunities for those persons in the proposed facility.

10. The main goal of the proposed center is the integration and transition of residents into productive community living.

11. Area jails are faced with a serious overcrowding problem and the District of Columbia is under court order to resolve the issue. Facilities such as the one proposed by the subject application may provide an alternative to the mandatory release of offenders without strict community supervision.

12. The proposed home will not have any live-in staff. Staff will be employed on a 24 hour basis. The staff will consist of a director, three counselors, a cook and a secretary. A maximum of five staff will be on the site at any given time.

13. The proposed facility will institute a screening process whereby no referrals will be taken who have a history of violence or PCP use.

14. Residents will stay at the proposed facility from four to six months. They will be released only if they have

employment, a place of residence, a savings and a good performance record in the program.

15. Most residents of the proposed facility are expected to find employment within two to three months. While residents are seeking employment they will meet with a vocational counselor and case worker and take part in job-readiness programs.

16. Drug screening tests for residents of the proposed center will be administered three times a week. Residents found to be using drugs will have to appear before a disciplinary review board. The review board may decide to remand the resident to the correctional facility. This process takes from two to three days.

18. HDS will institute a community service program where each client of the proposed facility will perform 80 hours of community service work: cleaning vacant lots, alleys, painting and maintaining community appearance.

19. HDS will use its professional staff to organize an attack on the street drug scene near the subject site. It proposes to organize picket lines around the drug area, with the cooperation of area churches to alert the police of witnessed drug sales, and to encourage police to set up roadblocks on a weekly basis to check drivers' license and registrations of traffic traveling through the drug area to discourage participants.

20. During residency in the proposed facility, the client will become a wage earner and a taxpayer thereby defraying some of his court costs.

21. Four parking spaces will be provided at the subject site for visitors and staff. Residents of the center will not be allowed to bring their private vehicles to the site.

22. The subject structure is vacant.

23. The most recent certificate of occupancy, No. B141041 dated January 23, 1985 allows the subject premises to be used as a community based residential facility - nursing home - for four residents and four staff.

24. There are seven sites within the same square or within 500 feet of the subject site which have certificates of occupancy for community based residential facilities (CBRF).

25. Four of the sites on V Street allowing CBRFs do not house them but could be reoccupied as such since the certificates of occupancy are still valid.

26. The three CBRFs located along Fendall Street are part of one program for mentally retarded adults but they do operate at three separate lots.

27. The Office of Planning (OP) by memorandum dated July 2, 1985 recommended denial of the subject application. The Office of Planning reported that it did not believe that the proposed facility would have a singular impact on the surrounding area because of noise or traffic, however, the OP was concerned about the cumulative affect of the subject home when viewed in relationship to the number of other CBRF's in the immediate area. Of significant issue in this case is whether or not the approval of the subject facility will tip the scale of the balance of uses in this neighborhood which appears to have reached a level of saturation in regards to its population of CBRFs.

28. The Office of Planning referred the subject application to the Office of the Coordinator for Community Based Residential Facilities.

29. The Office of the Coordinator is a newly founded D.C. agency established for the coordination of CBRFs. Some of the major goals of this office are to develop and operate a one-stop inventory and referral service, hot-line for District citizens and advocacy groups; and develop a public information and education program about CBRFs.

30. The Office of Planning relied heavily on the opinion of the D.C. Office of the Coordinator for CBRFs in assessing the cumulative impact of these facilities on themselves as well as the other land uses in the communities that they are proposed to locate. In the subject case the Office of the Coordinator for CBRFs reported in a memorandum to the Office of Planning dated June 27, 1985, that given the number and types of CBRFs within close proximity to 1620 V Street, S.E. it recommended against the opening of an Adult Rehabilitation Center at that address. The Office of the Coordinator advised OP that the subject facility as proposed has the potential for being a model adult rehabilitation home given the past record of the applicant, but that it would be inappropriate from a planning prospective to locate the facility in an area which is already heavily populated with CBRFs. The Department of Public Works (DPW) further advised OP that the subject site would require four parking spaces. The Board concurs with the reasoning and report of the OP.

31. Advisory Neighborhood Commission 6C, by letter dated July 1, 1985, reported its opposition to the subject application on the grounds that the neighborhood currently has too many CBRFs and that the proposed facility would have a severly detrimental affect on the community. The ANC also reported that the proposed CBRF would be harmful to the

area because no provisions for parking have been made for the center, the addition of known felons would worsen the drug problem that currently troubles the neighborhood, the mentally handicapped residents of other CBRFs within a five hundred-foot radius, including one house occupied solely by single women, would be particularly vulnerable to antisocial behavior, and the occupants of other CBRFs in the neighborhood being treated for severe behavior problems would necessarily suffer from the example set by residents of an adult rehabilitation center.

32. The Board is required by statute to give great weight to the issues and concerns of the ANC and to the recommendation thereon. In addressing these concerns the Board concurs that the establishment of an additional CBRF would impact negatively on the neighborhood due to a cumulative effect since it already has numerous CBRFs within its boundaries. The Board also finds that the parking for the proposed center is adequate. The Board further finds that the other concerns raised by the ANC are of a highly speculative nature and do not address zoning issues. The Metropolitan Police Department would be the appropriate government department to respond to such concerns.

33. In a letter dated July 1, 1985, District of Columbia City Council member Nadine P. Winter reported her opposition to the subject application and that neighborhood associations in opposition would be submitting letters to the record and testifying at the public hearing.

34. In a letter dated July 8, 1985, Council Member Carol Schwartz reported her opposition to the proposed CBRF. It was her opinion that there are already too many such facilities in the area. The proposed facility is of the most intrusive kind. Zoning Commission Order #347, issued on July 9, 1981, in Case 78-12, recognized three impact classes of CBRFs with seven subcategories. That Order read in part: "Class C facilities are those types of facilities that are residential in nature but potentially would have the greatest impact and would be the least compatible with other normal residential uses." The Commission further said: "Class C facilities include those for youth and adult offenders and substance abusers". To place a facility of the type least compatible with residential use next door to seven other facilities in the neighborhood would have a critical, adverse impact on the normal life of the community. It would destroy the fabric of community life.

35. Council Person Schwartz further reported that at a recent meeting called by the Office of the Mayor for the purpose of informing Advisory Neighborhood Commissioners of the policies and practices that would guide and implement the establishment of CBRFs in the District, the Mayor and numerous agency representatives pledged themselves to making

sure that every neighborhood shared in the burden of absorbing CBRF clients. Public support for the CBRF concept must rest upon the reality of shared burdens. Overloading a neighborhood that has done more than its fair share will engender public bitterness and distrust.

36. The Board concurs that the placement of CBRFs should be distributed throughout the city and that no one area should be overburdened by their placement. The Board finds however that each proposal would be judged on its own merits. In the subject application, as discussed below, the cumulative effect issue, is dispositive of this case.

37. The Fairlawn Citizens Association Inc. and the Neighborhood Housing Services, Anacostia as well as a neighboring property owner within 200 feet of the subject site submitted letters to the record in opposition to the subject application on the same grounds as recited in Findings No. 31, 34 and 35.

38. At the close of the cross-examination of the OP, the Board determined the application. The Board found that the applicant had not met its burden of proof and failed to overcome by probative evidence the issue of cumulative affect.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to establish an adult rehabilitation home for twenty persons and seven staff and a special exception to approve the proposed use where there are other community based residential facilities within the same square or within 500 feet of the subject site. The granting of the special exception requires a showing through substantial evidence that the proposed use satisfies all requirements of Paragraphs 3105.46 and 3105.475 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met this burden of proof. The applicant has not demonstrated that the cumulative affect of the proposed facility and the existing facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

The Board is opined that the proposed facility would be a model CBRF. However, the Board concludes that since the neighboring area of the subject site already must accommodate seven CBRFs, the addition of another CBRF could have an adverse impact on the neighborhood. The Board has accorded the ANC the "great weight" to which it is entitled by

statute. Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 4-0 (Lindsley Williams, William F. McIntosh, Charles R. Norris, Carrie L. Thornhill to deny, Douglas J. Patton not present, not voting).

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

ATTESTED BY: _____
CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 28 OCT 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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