

	ADVISORY NEIGHBORHOOD COMMISSION 3C GOVERNMENT OF THE DISTRICT OF COLUMBIA CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS MCLEAN GARDENS • WOODLEY PARK	
<i>Single Member District Commissioners</i> 01-Lee Brian Reba * 02-William Kummings * 03-Anne Marie Bairstow 04-Roger Burns * 05-Leila Afzal * 06-Trudy Reeves * 07- Victor Silveira 08-Catherine May * 09-Nancy MacWood	4025 Brandywine Street, NW Washington, DC 20016-1843 Website http://www.anc3c.org Email all@anc3c.org	

ANC 3C Resolution 2011-058
 Regarding 2750 32nd Street NW (BZA Appeal No. 18300)

WHEREAS, on July 13, 2011, the Department of Consumer and Regulatory Affairs (“DCRA”) issued a Building Permit (No. B1103986) authorizing the construction of addition to a single family residence located within the Tree and Slope Protection Overlay (the “TSP Overlay”) at 2750 32nd Street, NW; and

WHEREAS, the owners of the property adjoining the site for which Building Permit No. 1103986 was issued, have appealed the issuance of that Building Permit (BZA Appeal No. 18300), alleging several errors in issuing the permit including: (1) that there are significant anomalies in the plans reviewed by DCRA including the understatement of the size and location of critical root zones for at least two trees that are protected under the TSP Overlay, (2) that the excavation of the foundation area will immediately and irreparably impact protected trees under the TSP Overlay, and (3) that as the proposed construction is likely to cause fatal damage to protected trees, a special exception is required under 11 DCMR § 1514.1 before a building permit may be issued; and

WHEREAS, the TSP Overlay is designed to protect mature trees and environmentally sensitive areas, and specifically restricts the cutting, removal or “fatal damage” of trees having a circumference of 12” or greater at a height of four and a half feet above ground; and

WHEREAS, the Urban Forestry Administration (UFA) issued a memorandum to the Zoning Administrator dated June 3, 2011, which states that the proposed construction is likely to cause fatal damage to at least two protected trees under the TSP Overlay, a White Oak measuring approximately 96 inches in circumference, and a Northern Red Oak measuring approximately 75 inches in circumference; specifically, UFA stated: “UFA has great concern and does not feel these trees will survive the construction in the long term... coupled with the fact that the roots on the upward side are the tension roots, once these are root pruned the trees will be questionable as to their ability to remain standing during wind events over the next several years”; and

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WHEREAS, the June 3, 2011 Urban Forestry Memorandum also recommended six conditions be included in any building permit issuance to attempt to preserve the trees at issue;

WHEREAS, on September 7, 2011 the owners of 2750 32nd Street N.W. filed an application with DCRA with an amended tree protection plan which includes the six recommended UFA conditions, and has been assigned a different permit number, Building Permit No. B1111103, and this new application (Building Permit No. B1111103) has not been reviewed by either the Zoning Administrator or the Urban Forestry Administration to date and is listed as "pending";

BE IT RESOLVED THAT ANC 3C supports the claim that given the substantial risk that protected trees may be fatally damaged if construction is allowed to proceed, the subject Building Permit was issued improperly because a special exception was required pursuant to 11 DCMR Sections 1514.1(a), and 1514.1(c); and

BE IT FURTHER RESOLVED that ANC3C requests that the amended tree protection plan should be given proper evaluation by both the Zoning Administrator and the Urban Forestry Administration for compliance with the TSP Overlay and specifically to determine whether the six conditions included on the amended tree protection plan are sufficient to ensure that the protected trees on the subject property are not fatally damaged by the proposed construction; and

BE IT RESOLVED that ANC3C requests that construction under Building Permit No. B1103986 be stayed pending proper evaluation of the amended tree protection plan filed in Building Permit Application No. B1111103 and strongly urges DCRA to formally request that the Urban Forestry Administration evaluate the current site and the amended tree protection plan for compliance with the provisions of the TSP Overlay Zone; and

BE IT FURTHER RESOLVED that ANC3C requests that DCRA, the Zoning Commission and the Zoning Administrator:

- 1) Define how published Tree Protection Guidelines and the expertise of UFA are used in the process of reviewing applications and granting permits
- 2) Define what criteria are used in evaluating applications including for example such terms as the Critical Root Zone,
- 3) Define what provisions exist for the monitoring of construction sites to ensure that construction is proceeding in a manner consistent with the Tree Protection Plan and the Tree and Slope Overlay, and

BE IT FURTHER RESOLVED that ANC3C recommends that as there is no separate forestry office with the necessary expertise within DCRA, all permit applications to DCRA that would potentially impact trees in the TSP Overlay should be reviewed by UFA (a branch of DC Department of Transportation) as a prerequisite for permit approval; and

BE IT FURTHER RESOLVED that ANC 3C supports the appeal in BZA Case No.18300; and

BE IT FURTHER RESOLVED that the Commissioner for ANC 3C08, the Chair, or the Chair's designee, is authorized to represent the Commission on this matter.

Attested by



Anne-Marie Bairstow
Chair, on October 17, 2011

This resolution was approved by roll-call vote of 8-0 on October 17, 2011 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 9 commissioners) was present.