

Canal View Homeowners Association Statement
ZONING COMMISSION PUBLIC HEARING
CASE # 08-21; CANAL PARC DEVELOPMENT PROPOSAL
December 1, 2008

MY COMMENTS THIS EVENING

- REFLECT THE COMMENTS OF CV HOA LETTER OF NOVEMBER 12, 2008,
- HAND DELIVERED TO THE OFFICE OF ZONING ON NOV 13TH

WHILE THE CANAL VIEW HOA POSITION IS WORDED IN A SLIGHTLY DIFFERENT WAY, IT IS OUR INTENTION TO BE IN HARMONY WITH THE ANC AND PCA.

THE CANAL VIEW HOMEOWNERS ASSOCIATION **OPPOSES** THE CURRENT ATHENA PLAN TO DEVELOP THE RIVERSIDE SITE WITH 37 TOWNHOMES.

HOWEVER, WE WOULD SUPPORT A PLAN WHICH IS MODIFIED TO INCLUDE:

- THE ANC RECOMMENDED 'CONDITIONS'
- THE PALISADES CITIZENS ASSOCIATION RECOMMENDED CONDITIONS
- THE CANAL VIEW RECOMMENDED CONDITIONS AS OUTLINED IN OUR LETTER OF NOVEMBER 12th, AND AT THE END OF THIS STATEMENT

(ALL CONDITIONS ARE PRESENTED AT THE END OF THIS STATEMENT)

FROM THE BEGINNING WE HAVE HAD SOME PRIMARY CONCERNS REGARDING THE DEVELOPER'S PLAN:

- HIGH DENSITY, BUILDING HEIGHT, AND POTENTIAL LOSS OF LIGHT/AIR
- WETLANDS AT THE REAR OF THE PROPERTY
- POTENTIAL IMPACT ON CANAL VIEW PROPERTY
- POTENTIAL IMPACT ON THE ALREADY CONGESTED MACARTHUR BLVD RUSH HOUR TRAFFIC

WE HAVE COMMUNICATED AND/OR MET WITH THE DEVELOPER MANY TIMES TO DISCUSS POSSIBLE MODIFICATION OF THEIR PLAN:

- IN TRUTH, ATHENA HAS MODIFIED THEIR ORIGINAL PLAN BY:
 - REMOVING 4 UNITS (1 DUE TO DDOE MANDATE)
 - INCREASING THE DISTANCE FROM CANAL VIEW HOMES TO BLDG 3
 - DECREASING THE HEIGHT OF BLDG 3

DENSITY:

- ORIGINALLY, CANAL VIEW HOPED TO CONVINCE THE DEVELOPER TO BUILD SINGLE FAMILY HOMES ON THE SITE
 - HOWEVER, WE WERE ADVISED BY THOSE WITH MORE EXPERIENCE IN THE PROCESS THAT AN R-1-B ZONING FOR THE ENTIRE SITE WOULD HAVE NO CHANCE OF APPROVAL BY THE COMMISSION
 - AND THAT WE WOULD LOSE OUR OPPORTUNITY TO INFLUENCE THE OUTCOME OF THE APPLICATION
 - THEREFORE WE CONTINUED TO WORK WITH THE DEVELOPER TO MODIFY THEIR TOWNHOME PLAN

ZONING COMMISSION

CASE No. 08-21

EXHIBIT No. 30

- WE BELIEVE THE PLANNED DEVELOPMENT IS **STILL TOO DENSE**
- AS EVIDENCED BY DEVELOPER'S REQUESTS FOR 'FLEXIBILITY' FROM A SIGNIFICANT NUMBER OF ZONING REQUIREMENTS:
 - 4 OF 6 BUILDINGS DO NOT HAVE REQUIRED 20 FT. REAR YARD
 - ALL 6 BUILDINGS DO NOT MEET REQUIRED 8 FT SIDE YARD
 - 27 UNITS DO NOT HAVE STREET FRONTAGE
 - THE STREETS ARE ONLY 20 FT IN WIDTH, VICE THE REQUIRED 25 FT
 - THERE IS NO 60 FT TURNING AREA PROVIDED
 - 36 OF 37 TOWNHOMES EXCEED THE 40% MAXIMUM LOT PERCENTAGE
- WHILE NOT SPECIFICALLY REQUESTED AS A 'FLEXIBILITY', THE R-5-A ZONE REQUIREMENT INCLUDES A MAXIMUM OF 3 STORIES. 28 OF THE 37 TOWNHOMES ARE 4 STORY UNITS.
- HOMES THAT ARE UP TO 50 FT IN HEIGHT WOULD SET A NEW PRECEDENT ALONG MACARTHUR BLVD.
- IT SHOULD BE NOTED THAT:
 - AT LEAST 2/3rd OF THE SITE IS CURRENTLY ZONED R-1-B, SINGLE FAMILY
 - THE DEVELOPMENT SITE IS BOUNDED ON THE NORTH BY MACARTHUR BLVD, ON THE WEST AND SOUTH BY THE 40 FT HIGH (TO TOP OF ROOF) CANAL VIEW/LAVEROCK PLACE SINGLE FAMILY HOMES, AND ON THE SOUTHEAST BY THE TWO SINGLE FAMILY LINGAN WAY HOMES.

WETLANDS: A NUMBER OF ANC COMMISSIONERS, AND PCA AND CV HOA LEADERSHIP, WALKED THE PORTIONS OF THE WETLANDS BEHIND THE PROPOSED DEVELOPMENT WITH MEMBERS OF THE NATIONAL PARK SERVICE.

- THERE IS CONCERN ABOUT DEVELOPMENT IMPACT ON BOTH FOLIAGE AND WATER MANAGEMENT (QUALITY AND QUANTITY) IN THE WETLANDS
- THE CURRENT PLAN CALLS FOR RETAINING WALLS AT THE REAR OF BLDGS 3 & 4, ALONG THE NORTHERN BOUNDARY OF THE WETLANDS
 - **THIS DESIGN WOULD ARTIFICIALLY 'BOX-IN' THE WETLANDS, AND WOULD SEEM TO BE COUNTER PRODUCTIVE TO A DESIGNATED 'WETLAND' AREA**
- ANY INCREASE IN EROSION CAUSED BY A CHANGE IN WATER RUN-OFF COULD IMPACT THE VERY IMPORTANT CANAL VIEW RETAINING WALLS

POTENTIAL DAMAGE TO CANAL VIEW PROPERTY:

- THE SOUTHEAST END OF CANAL VIEW HAS SEVERAL SIGNIFICANT RETAINING WALLS, ONE OF WHICH IS 26 FT IN HEIGHT, AND SUPPORTS THE YARD AND HOME AT 4610 LAVEROCK PLACE.
 - ANY INCREASE IN WATER RUN-OFF AND/OR EROSION CAUSED BY CONSTRUCTION OR THE RESULTING LAND GRADING AND/OR DESIGN OF THE PROJECT COULD RESULT IN COSTLY DAMAGE TO OUR RETAINING WALLS AND/OR OTHER CANAL VIEW PROPERTY
- SOME OF OUR HOMEOWNER'S PROPERTIES ABUT THE STREAM AND WETLAND AREAS, AND WOULD BE SUSCEPTIBLE TO WATER INTRUSION CAUSED BY CHANGES IN GRADING OR RUN-OFF.

- WE HAVE CONCERNS REGARDING THE POTENTIAL FOR DAMAGE TO CANAL VIEW PROPERTY DURING CONSTRUCTION:
 - CONSTRUCTION EQUIPMENT INCURSION ONTO CANAL VIEW PROPERTY (FALLING CRANES) OR OTHER EVENTS CAUSING DAMAGE
 - HEAVY TRUCKS USING LAVEROCK PLACE AS A TURN-AROUND OR WAITING AREA, DAMAGING THIS PRIVATELY MAINTAINED ROADWAY.

TRAFFIC: A PLAN WHICH INCLUDES NARROW 20 FT WIDE STREETS, WITHOUT A TURN-AROUND AREA, DOES NOT PRESENT A REALISTIC VIEW OF DAILY LIFE ALONG MACARTHUR BLVD:

- POTENTIAL SAFETY ISSUES REGARDING FIRE TRUCK ACCESS
- REASONABLE INGRESS, EGRESS AND PARKING FOR ROUTINE DELIVERY SERVICES, TRASH TRUCKS, AND MOVING VANS
- LIMITED PARKING SPACES FOR RESIDENTS AND GUESTS MAY CAUSE OVERFLOW ONTO MACARTHUR
- THESE FACTORS MAY WELL IMPACT THE ALREADY OVERCROWDED MACARTHUR BLVD, ESPECIALLY DURING THE MORNING RUSH.

WE HAVE OPENLY DISCUSSED ALL OF THESE CONCERNS WITH THE DEVELOPER IN FREQUENT MEETINGS, EMAILS AND PHONE CALLS. THE FOLLOWING INFORMATION IS GERMAINE:

- ATHENA MADE CHANGES, MENTIONED BEFORE – WHICH WE APPRECIATE:
 - REDUCED TO 37 UNITS
 - INCREASED DISTANCE OF BLDG 3 TO CANAL VIEW
 - DECREASED HEIGHT OF BLDG 3
- THE CURRENT PLAN IS STILL TOO DENSE TO MEET ZONING REGULATIONS AND DOES NOT FIT IN WITH THE CHARACTER OF THE PALISADES
- IT WOULD APPEAR THAT, IN THIS PARTICULAR CASE, THE PUD PROCESS IS BEING USED TO CIRCUMVENT THE INTENT AND PURPOSES OF THE ZONING REGULATIONS IN THAT:
 - A LARGE NUMBER OF FLEXIBILITIES ARE BEING REQUESTED
 - THE PUBLIC BENEFITS AND AMENITIES ARE TOTALLY OUT OF SCALE WITH THE SPECIFICS OF THE CURRENT DEVELOPMENT PLAN
- WE BELIEVE THAT A PLAN OF LESSER DENSITY WOULD ENABLE THE DEVELOPER TO ELIMINATE MOST, IF NOT ALL, OF THEIR CURRENTLY REQUESTED ‘FLEXIBILITIES’, AND WOULD BE A BETTER FIT WITH THE CHARACTER OF THE IMMEDIATE NEIGHBORS AND THE PALISADES
- ATHENA HAS CONSISTENTLY MAINTAINED THAT A PLAN WITH FEWER THAN 37 UNITS IS NOT AN OPTION

I BELIEVE IT IS ONLY FAIR THAT ALL CONCERNED WITH THIS PUD APPLICATION BE AWARE THAT ATHENA HAS ADVISED CANAL VIEW AGAINST COORDINATING OUR CONCERNS AND EFFORTS WITH THOSE OF THE LINGAN WAY RESIDENTS

- **TO OUR SURPRISE, THE CV HOA EVENTUALLY BECAME AWARE THAT ATHENA WAS NEGOTIATING, AND DID CONCLUDE, SIDE LEGAL AGREEMENTS WITH THE LINGAN WAY RESIDENTS**
- **AS WELL AS WITH TWO OF OUR CANAL VIEW RESIDENTS**
- **FOR SEVERAL MONTHS WE WERE COMMUNICATING IN GOOD FAITH, WHILE BEING UNAWARE OF THESE PERTINENT SIDE NEGOTIATIONS, WHICH SIGNIFICANTLY REDUCED OUR ABILITY TO COORDINATE EFFORTS REGARDING THE ATHENA PLAN AS A UNITED GROUP**

I WILL CLOSE BY REITERATING OUR POSITION ON THE DESIRED OUTCOME OF THE PROPOSED DEVELOPMENT OF THE RIVERSIDE SITE:

- **WHILE WE WOULD BE HAPPY WITH AN R-1-B DEVELOPMENT, WE WOULD SUPPORT A DEVELOPMENT PLAN REVISION WHICH INCLUDES:**
 - **THE ANC 'CONDITIONS'**
 - **THE PCA 'CONDITIONS', AND**
 - **THE FOLLOWING CANAL VIEW 'CONDITIONS':**
 - **THAT CANAL VIEW BE ABLE TO MAKE INPUTS TO ATHENA'S CONSTRUCTION AND TRAFFIC MANAGEMENT PLANS**
 - **THAT ATHENA BE REQUIRED TO ENTER INTO A FORMAL INDEMNIFICATION AGREEMENT WITH THE CANAL VIEW HOA REGARDING PROTECTION OF CANAL VIEW HOMES, RETAINING WALLS, YARDS, FENCES, ROADS AND OTHER CANAL VIEW PROPERTIES FROM ANY DAMAGE CAUSED BY CONSTRUCTION EFFORTS, OR ANY RESULTING AFFECTS DUE CHANGES MADE IN THE LAND AREA OR GRADING DUE TO THE PROJECT.**
 - **THIS AGREEMENT MUST INCLUDE:**
 - **PROVISIONS THAT ATHENA WILL PAY FOR LEGAL ASSISTANCE TO CANAL VIEW FOR PREPARATION AND/OR REVIEW OF SUCH LEGAL AGREEMENT(S) PERTAINING TO THE ABOVE**
 - **PROVISIONS FOR ESTABLISHMENT OF AN ESCROW ACCOUNT BY ATHENA TO ENSURE FUNDS ARE AVAILABLE TO MAKE NECESSARY REPAIRS FOR ITEMS COVERED UNDER THE LEGAL AGREEMENT(S).**
 - **ANY UNUSED AMOUNTS OF THE ESCROW ACCOUNT WOULD BE RETURNED IN FULL TO ATHENA AT COMPLETION OF BOTH CONSTRUCTION AND AN AGREED UPON TIMEFRAME AFTER COMPLETION OF CONSTRUCTION.**
- **SUCH A MODIFIED DEVELOPMENT PLAN WOULD VERY LIKELY RESULT IN A QUADRUPLE WIN: FOR THE CITY OF WASHINGTON, THE DEVELOPER, THE IMMEDIATE NEIGHBORS AND THE PALISADES IN GENERAL.**

WE WOULD LIKE TO THANK MEMBERS OF THE OFFICE OF PLANNING AND THE OFFICE OF ZONING, AND PARTICULARLY MS. MAXINE BROWN-ROBERTS, AND MS DONNA HANOUSEK FOR ASSISTANCE PROVIDED IN GUIDING US THROUGH THE PUD AND DEVELOPMENT APPLICATION PROCESSES.

CONDITIONS (Requesting organization(s) are listed at the end of each 'Condition')

1. That any approval by the Zoning Commission of the application be granted only to The Athena Group, LLC and be made nontransferable; (ANC, PCA, CV HOA)
2. Building Number Three shall be 38 feet and three stories high to the top of the roof, all other buildings and units shall be limited to 40 feet and three stories in height; (ANC, PCA, CV HOA)
3. In advance of construction, and in cooperation with the U. S. Army Corps of Engineers and the District of Columbia's Department of the Environment, the entire delineated wetland area shall be reflagged. The delineated area, including the stream, shall be flagged and protected in perpetuity through a conservation easement by a uniform setback of 25 feet from all structures and other human interference from the outermost wetland boundary, in the event there is disagreement on such boundary; (ANC, PCA, CV HOA)
4. The width of interior roads shall be a minimum of 25 feet; (ANC, PCA, CV HOA)
5. An ample turn-around shall provide access for all types of emergency vehicles; (ANC, PCA, CV HOA)
6. The site shall contain 25 on-street parking spaces for guest vehicles and service and delivery vehicles **and each unit shall have two parking spaces**; (ANC, PCA, CV HOA; except that the portion in bold is not included in ANC Conditions)
7. The two affordable housing units shall be indistinguishable from other housing within the development; (ANC, PCA, CV HOA)
8. The total amount of impervious lot coverage shall not be greater than 50 percent for the entire project; (ANC, PCA, CV HOA)
9. By means of a covenant on the title to the land, the proffered green spaces (i.e., the central plaza, butterfly garden, rain garden and walking path), identified by dimensions and GPS and having a combined total of 13,500 square feet, shall be protected in perpetuity as open space and non-developable land **open to the public**; (ANC, PCA, CV HOA; except that the portion in bold is **not** included in the CV HOA Conditions)
10. That the developer shall not be limited to his design that includes a fountain in the central park; and (ANC, PCA, CV HOA)

11. That the developer will collaborate closely with representatives of the **Canal View Homeowners Association and the Palisades Citizens Association** to mitigate traffic impacts over the life of the project and especially during construction. (PCA, CV HOA, except that the portion in **bold** is not included in the PCA Conditions)

12. That the Canal View HOA shall have input to the Canal Parc Construction and Traffic Management Plans. (CV HOA)

13. That Athena be required to enter into a formal indemnification agreement with the Canal View Homeowners Association regarding protection of Canal View homes, retaining walls, yards, fences, roads and other Canal View properties, from any damage caused by construction efforts, or any resulting affects due to changes made in the land area or grading due to the project.

This agreement must include:

- Provisions that Athena will pay for legal assistance to the Canal View Homeowners Association for preparation and/or review of such legal agreements(s).
- Provisions for establishment of an Escrow Account by Athena to ensure funds are available to make necessary repairs for items covered under the legal agreement(s).
- Any unused amounts of the Escrow Account would be returned in full to Athena at completion of both construction and an agreed upon timeframe after completion of construction. (CV HOA)

In addition, amenities shall include:

- a) An additional 5,000 square feet of green space on site shall be protected and open to the public; (ANC, PCA, CV HOA)
- b) Hiring a landscape architect to design and oversee implementation of the beautification of lower MacArthur Boulevard – that is the area along MacArthur Boulevard from its intersection with Foxhall Road to its intersection with Q Street; and (ANC, PCA, CV HOA)
- c) Contributions to organizations that improve the quality of life in the Palisades and will enhance the project. (ANC, PCA, CV HOA)