5403 Hawthorne Place, NW
Washington, DC 20016
July 24, 2001

Ms. Jerrily R. Kress, FAIA
Director, Board of Zoning Adjustment
441 Fourth Street, NW, Ste. 210-S
Washington, DC 20001

RE: BZA Application No. 16740

Dear Ms. Kress:

As a resident of the Palisades, I urge the Board of Zoning Adjustment to deny Jacobsen Builders, Inc. a special exception to the Chain Bridge Road/University Terrace Tree and Slope Protection Zoning Overlay.

Jacobsen Builders, Inc. has filed for what its attorney, Patrick Brown, refers to as a "remedial" exception. In other words, Mr. Edwin Jacobsen would like to be granted a special exception in light of zoning violations that have already occurred. Mr. Jacobsen's crew clear-cut the dense forest of mature trees on the steeply sloped lot at 2989 Arizona Avenue, NW.

Mr. Jacobsen and Mr. Brown contend, as they have stated during two ANC3D meetings (March 7 and July 11), that Mr. Jacobsen is the innocent victim of D.C.'s inefficient government – that the zoning office should not have issued a building permit without informing Mr. Jacobsen that his property was protected by the TSP Overlay.

However, it is the property owner's responsibility to follow the law. Therefore, even in the event that the zoning office failed to inform Mr. Jacobsen that 2989 Arizona Avenue, NW falls under protection of the TSP Overlay, it was his responsibility to research all zoning as it relates to the property.

This is the first case to test the TSP Overlay. By granting Mr. Jacobsen a special exception, the BZA would establish a precedent that developers can violate the TSP Overlay, claim ignorance of the regulation, and subsequently file for an exception. Granting the exception also would perpetuate an incorrect and unfortunate lingering public sentiment that D.C. government is disorganized, poorly managed, and easily duped.

In light of Jacobsen Builders, Inc.'s violation, the BZA, under D.C. regulations (Section 1514.1(f)), has the authority to prevent the property from being developed by anyone for seven years.

I ask for and encourage the following resolution:

- Denial of a special exception given Mr. Jacobsen's gross violation of regulations;

- Seven-year development moratorium placed on the site;

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EXHIBIT NO.58

- Remediation of the site (to include an evaluation by a licensed or certified soil scientist, ecologist, and/or a landscape architect and supervised planting of trees of the same species that were illegally removed);

- Funding and execution of an education program about the procedure and laws regulating development of properties in areas protected by TSP Overlays and other related environmental regulations for zoning office employees and for all developers who have developed properties in the past five years in D.C. neighborhoods protected by TSP Overlays;

- Addition of criminal punishments to D.C. code for developers who knowingly violate D.C. zoning regulations such as the TSP Overlays.

Under the leadership of the Chain Bridge Road/University Terrace Preservation Committee, the Palisades neighbors spent two years, thousands of hours of effort, and thousands of dollars in legal fees and other expenses to obtain the TSP Overlay for our neighborhood. By setting an example of Mr. Jacobsen, we can send a message to the developer community that the neighborhood, and hopefully the D.C. government, will uphold the integrity of its regulations and will not tolerate any violations against the natural resources of our city.

Thank you, Ms. Kress, for your time and consideration.

Sincerely,



Robert Moll