Jerrily R. Kress, FAIA
Director
Board of Zoning Adjustment
Government of the District of Columbia
441 4th Street N.W., Suite 210-S
Washington DC, 20001

23rd July, 2001

Dear Ms Kress

Application Number 16740

I am writing to oppose the granting of a special exception to the applicant Jacobsen Builders Inc. to authorize construction of a new single family dwelling at 2989 Arizona Avenue, N.W. Authorizing such an exception would fail to recognize the serious violation committed by the applicant in removing many protected trees from this lot in contravention of the Chain Bridge Road/University Terrace Tree and Slope Protection Overlay District covered by Zoning Commission Order No 863, Case No. 97-6.

Last Autumn, choosing his day carefully so as to minimize the likelihood of a "stop work" order being placed upon him immediately, the Applicant clear-cut and partially excavated the steep slope of the site which previously was thickly wooded with mature trees of several native species – the very type of landscape, indeed, that the TSP Overlay was designed to protect.

The applicant contends that he was unaware of the TSP Overlay – which is totally contrary to evidence provided by the realtor who sold him the plot. He also contends that he was entitled to clear the property when granted a building permit by the District of Columbia Zoning Office. However, the erroneous issuance of a building permit by the District of Columbia does not free the applicant from the responsibility of complying with lawful zoning requirements – which evidence shows the applicant was on notice to abide by prior to him committing the violation.

In 1998/9, the residents of the Chain Bridge Road and University Terrace area of the Palisades neighborhood worked diligently to craft and build consensus for a tree and slope overlay designed to preserve "the park-like setting of the area by regulating alterations or disturbances of terrain, destruction of trees, coverage with impervious surfaces and by providing for widely spaced residences". The Applicant clearly knew what he was about; he saw an opportunity to acquire a desirable site on which to build a property far larger than anything else in the area – totally out of keeping with the surrounding environment - and was resolved to overcome the TSP Overlay requirements

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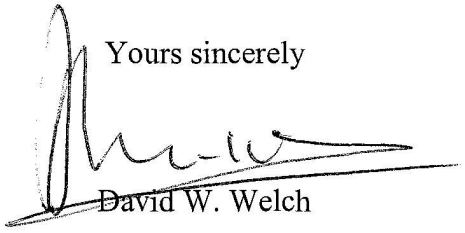
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firstly, by simply ignoring them and, secondly, by seeking, as he now does, a special exception on the basis of a "fait accomplis".

Since the violation occurred, the applicant has done nothing to seek to address the concerns of the neighborhood; indeed, he has failed repeatedly to answer letters and calls for meetings (up until the meeting on July 11th of the ANC 3D meeting); he has failed to produce a scheme that is in keeping with the area and respects the requirements of the TPS Overlay; and he has failed to adequately provide for run-off and plot deterioration on the site that is now nothing but an eye-sore on Arizona Avenue. His arrogant approach to the neighborhood has been evident since the day he acquired the site. His only interest is in being permitted to build a so-called McMansion and walking away with substantial profits.

The Board of Zoning Adjustment needs to send a message through its rejection of the application to all developers seeking to impose their individual wills on DC communities that laws are to be respected and abided by and that, in particular, Overlay violations will not be tolerated. Success for the Applicant will simply demonstrate the triumph of private greed over public need – and I am sure that the Board would not wish to be associated with such a brazen attempt to over-ride the wishes of a whole community. Not only should the Board reject the application, it should also require the Applicant to re-forest the lot (remarkably mature trees can now be successfully transplanted) and, unless a scheme is presented that meets the original requirements of the Overlay, be prevented from developing the site for the full period permitted under District of Columbia zoning laws.

Yours sincerely



David W. Welch

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