THE PALISADES CITIZENS ASSOCIATION

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RE: CASE NO. 17054

January 13, 2004

Mr. Geoffrey Griffis, Chair
Board of Zoning Adjustment
District of Columbia
441 N. 4th Street NW
Washington, DC 20001

Dear Chairman Griffis and Members of the Board:

17054

This is written in support of the appellants case no. ~~17504~~, involving violations of the zoning code and the Chain Bridge Road / University Terrace Tree and Slope Overlay at 3101 Chain Bridge Road by Bryan Logan. The appellants have presented their case, made on the facts, so we will not repeat them. The Palisades Citizens Association urges that the BZA hold for the appellants.

However, we ask for your help in dealing with not only this matter, but the larger question of continued violations of the zoning code and the CBR / UT Overlay along with the lack of enforcement by the DCRA of the codes and of your decisions in recent years because this is a problem not only in the Palisades, but all across the city.

Developers have been stretching the limits of the zoning and building codes for years. More recently, older housing stock, some from the early 20th century, has given the District's neighborhoods their character. Now, these are being bought, torn down, and replaced with over height, over massed houses that are radically changing the context, scale, existing streetscape with trees and character of this neighborhood.

While commercial development has been responsible for reviving the downtown's prospects as a lively and richly diverse mixed-use area where dense development is more in character with the context of the commercial areas, residential development has encroached and seriously eroded the character of neighborhoods across our city, causing the opposite problem.

The problem is essentially this.

Developers continue to change the context and scale of our neighborhoods by stretching the limits of an antiquated [1958] and incomprehensible zoning code, whose language is inconsistent and whose interpretation is subject to the individual understanding and whims of the city's site inspectors, of which there are too few. Combine this with our citizens' seeming inability to do anything about this, because of lack of response on the part of the zoning office, and we now have a prescription for becoming the equivalent of an "in-town" suburb where multi-story McMansions are built to extremes, ranging between 5,000-9,000 square feet on 5,000-7,500 square foot lots instead of two and one-half to five-acre parcels.

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The code allows for large houses to be built on lots whose blocks and squares were laid out decades ago, most of which are too small to accommodate them. This means there is less room for trees and other plant material to filter the air and provide for an adequate watershed. We must ask ourselves, "At what cost to density and the quality of life for all in our city?"

I have been working with ANC-3D to propose a series of amendments to the zoning code to correct problems of code interpretation that have come to my attention the past several years. I've made the following findings and recommendations.

1. The current code is in need of amendments by the zoning commission to allow for some type of plan review by residents who are immediately impacted by proposed construction because of its proximity to their homes.

2. The DCRA should conduct more thorough plan reviews and make site inspections where "mounding" is suspected, to assure that developers are not intentionally creating berms in order to artificially raise the height of houses under construction. This will stop end-runs around the code, while providing some assurances to neighbors that structures being built conform to the code as well as remain within the scale of the majority of the existing homes on any given street.

3. As it stands now, the process for remedies is cumbersome, daunting and long. Often times, people are unaware of their rights to question or simply review plans, and don't know who or where to call for assistance in these matters.

I cite another case at 5036 Klingle Street, where two out of three homeowners, whose properties abutted one recently under construction, were notified of an impending demolition only on the morning it began. Thereafter, their repeated requests to see plans of the proposed house were rebuffed and denied, they were repeatedly told the house would conform to heights not to exceed the current house to its left, leaving neighbors with the distinct impression that the third property owner had been informed about extensive root damage to an old growth pin oak because of excavation on the subject property for construction of a basement stair.

4. This kind of stonewalling should cease. The DCRA needs tools for responsible enforcement in order to halt construction that may be in violation. All too often, construction has gone too far and we arrive at a point where it's too late to do anything, making the question moot and neighbors left without any remedies.

5. Where disagreements are with foundation, the BZA's filing deadlines should be lengthened from 60 to 90 days so that affected neighbors have enough time to file. Often, because of the shorter filing period, neighbors who've not been shown plans do not know how high a house will be until roof framing has been completed, and by that time, the normal filing period has passed.

6. Many people do not understand how to read building plans, and thus cannot visualize, from two-dimensional drawings, what something will look like until it's too late. Builders should be required to include topographical maps, grading plans and contextual elevations with the plans they file for a building permit so the DCRA will be able to see how height and massing of existing structures will be affected by new ones. Plans are public filings and people, especially neighbors whose properties abut building sites, have a right to see them. ANCs should be notified of these and other situations such as demolitions of older, especially historic, structures.

7. The time has come to consider developing "standards of reasonableness" to curb the excesses seen in the city over the past several years. Some limits on size, massing, set backs, scale and

other site considerations are in order and consideration should be given to addressing these issues on an interim basis until such time as code amendments can be put in place. Otherwise, we will continue to lose much of our early housing stock, buildings in useable condition that should be recycled, but are taken down in the name of speed and progress.

8. We are all part of the same process, and that is one of collaboration. It consists of not only of the owner and/or the builder, but people in the neighborhood who will have to live with the consequences of the new construction. Taste in design is an entirely separate issue from those of context, massing and scale. If height and massing continue to increase at the current rate through demolition and new construction, the scale of existing neighborhoods will be irrevocably changed.

Many communities and neighborhoods remain opposed to the excesses noted above, making remedies such as "quick" BZA hearings necessary to review these matters in a timely fashion, where solutions can be proposed instead of allowing these matters to run their course, where delay favors outcomes that have often been shown to be in violation.

There are no easy solutions to these problems short of rewriting the zoning code because builders / developers have found innumerable ways to get around the existing code in order to build houses that exceed height limits, because of the way the code is interpreted on a case-by-case basis. They have violated the code's spirit even if they have done nothing illegal.

This is why it's important to gain control over these zoning and building issues now, before portions of the city awaiting economic redevelopment lose important buildings similar to what occurred during the well-intentioned, though unfortunate urban renewal period 40 years ago.

The nation's capital ought to be setting the benchmark for leadership in moving the city forward while respecting its past, by keeping open the window of residential architectural history in this city.

Respectfully submitted,

Stu Ross, President
Palisades Citizens Association

Alan Z Aiches, Chair
Chair, Zoning Committee of the Palisades Citizens Association
Chair, ANC-3D Task Force on Zoning