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December 3, 2004

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Office of Zoning
441 Fourth Street, NW, Suite 210 South
Washington, DC 20001
FAX: (202) 727-6072

Re: BZA Case No. 17221 - Application of Montrose, LLC

Dear Chairman Griffis:

This letter is in opposition to the application sought by Montrose LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure set-back provisions under subsection 411.11 (400.7(b)), for an existing five story residential condominium in the R-5-D District at premises 1819 Belmont Road, N.W., Washington, DC 20009 (Square No. 2551, Lot 45).

In a letter to the BZA on December 3, 2003, I contended that the Department of Consumer and Regulatory Affairs erred in granting permits to Montrose, LLC to erect what is now an eyesore to Adams Morgan. These permits, issued for construction work on 1819 Belmont were in violation of zoning regulations governing Floor-to-Area Ratio (FAR), height, and setback requirements.

The Board's vote in June 2004 is consistent with our position. 11 DCMR § 3104.1 allows for special exemptions where they are "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property." Additionally, 11 DCMR § 2510.1 requires that all buildings comply with the Building Height Act of 1910 ("1910 Act"). As the Board has already determined that the roof structure violates the 1910 Act, it certainly cannot be "in harmony with the general purpose and intent of the Zoning Regulations."

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Specifically, the argument that a special exemption is warranted under 11 DCMR § 411.11 is disingenuous. Section 411.11 allows for a special exemption where compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable." The only reason that compliance in this case would be either impracticable, unduly restrictive, prohibitively costly, or unreasonable is because Montrose LLC built a non-compliant roof structure to begin with. The developer in this case should not be rewarded in retrospect for such a clear violation of federal and District height regulations.

Furthermore, § 411.11 provides that the intent and purpose of the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." The photographic evidence in the record, confirmed by testimony from the Kalorama Citizens Association, clearly shows that the roof structure towers above adjacent buildings, blocking natural light and dramatically diminishing the neighborhood streetscape.

For these reasons, I again urge the Board of Zoning Adjustment to uphold it's previous decision to reverse the decision of the Director of DCRA to grant the permits in this case, and to order the developers to take corrective action to return the building to a state that is in keeping with the character of the neighborhood.

Sincerely,



JG/sh

cc: Ms. Ann Hargrove, Kalorama Citizens Association
Mr. Alan Roth, Advisory Neighborhood Commission 1C
Mr. David A. Clark, Director, DCRA
Ms. Mary Carolyn Brown, Holland & Knight, LLP