

CHAIN BRIDGE ROAD CORPORATION

2803 Battery Place NW

Washington DC 20016

Karla Bousquet, President
Ray Sternfeld, Treasurer
Dugan Romano, Secretary
Joan Richter, Director
Virginia Sloan, Director

July 8, 2006

Mr. Geoffrey Griffis
BZA Chairman
1 Judiciary Square
441 4th Street NW, 2nd Floor
Washington DC 20001-2714

Dear Mr. Griffis:

RE: Dorchester Associates (BZA Application No. 17309)

I am writing you in my capacity as a director on the Board of the Chain Bridge Road Corporation, a co-operative of 15, free-standing homes on Battery Place, Northwest, Washington, DC 20016. Our co-operative is situated parallel to Chain Bridge Road and shares the stream in the valley that separates Battery Place and Chain Bridge Road.

Enclosed is the 4-page "**Petition for BZA to Reject Bender Project,**" signed by eleven Battery Place homeowners. We respectfully request that this petition be incorporated into the proceedings at the BZA Hearing, scheduled for July 18, 2006, at 1 pm.

Respectfully,



Joan Richter, Director
Chain Bridge Road Corporation

Cc: Robert Sussman
CBRC Board of Directors

BOARD OF ZONING ADJUSTMENT
District of Columbia

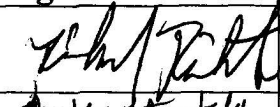
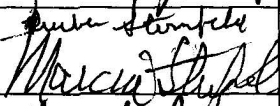
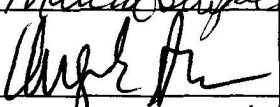
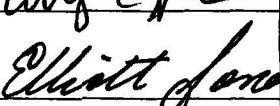
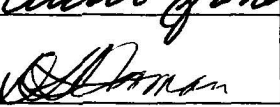
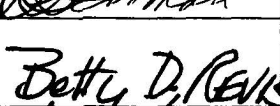
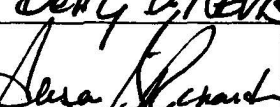
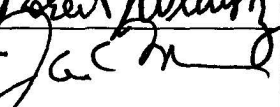
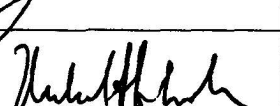
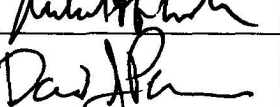
CASE NO. 17309

EXHIBIT NO. 137

Board of Zoning Adjustment
District of Columbia
CASE NO. 17309
EXHIBIT NO. 137

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Petition for BZA to Reject Bender Project

Name (print)	Signature	Address	Phone	Email
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Virginia Sloan		2808 Battery Pl NW	362-7135	sloan@constructionproject.org
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Eileen Dugan Roman		2812 Battery Pl	362-2178	DHRMAN@EARTHLINK.NET
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Susan S. Richardson		2814 BATTERY PL NW	966-9555	S Richardson@duke.edu
ROBERT S. WILENSKY		2807 Battery Pl NW	966-0407	robwilensky@ncr.com
JAMES MEERS		2802 BATTERY PL NW	766-9190	FCMEERS@AOL.COM
MICHAEL SCHOOLER		2809 Battery Place, NW	244-7148	mschooler@ncta.com
DAVID PARSONS		2810 Battery Pl NW	362-4898	parsons@simulationdynamics.com

Petition for BZA to Reject Bender Project
as Now Designed, with Its Troubled and Conflicted
Storm-Water Control Plan

The Chain Bridge Road/University Terrace Preservation Committee is urging that Morton Bender's application for his proposed theoretical subdivision of 13 very large homes on the old Murphy property be denied for a variety of reasons, including a threat to protected trees, traffic hazards on a steep, narrow, curving street, and a conflict with the character of the neighborhood. While we, the undersigned, share all these concerns, our complaint here is that Mr. Bender's plan for storm water management could do substantial harm to us, his neighbors to the south.

According to project plans, storm water not retained by the project's dry wells and other control facilities will be flowing by gravity from throughout the proposed subdivision---the north to south gradient is of some forty feet---to be discharged offsite through an 18-inch terra cotta pipe that runs directly beneath five of our home properties. We fear, for good reason, that these discharges will further overload the storm-water management system that serves us, and will affect to one degree or another twenty-four other homeowners to our south. If Mr. Bender can cite a right to do this by virtue of either an easement or some relevant law or precedent he hasn't told us or the BZA about it.

This drainage pipe's opening is at the bottom of a shallow sump at the Bender property's south boundary and at the edge of a driveway that serves three of our homes. After going under the driveway, the pipe dips beneath a steep grade and follows natural gradients a few hundred feet until it ends on the low side of the embankment for a driveway that serves four other homes in our neighborhood.

There, water emerging from this pipe creates a stream, hardly more than a trickle in dry periods but a torrent after heavy rains. A substantial part of today's discharges are from our own storm-water runoff, with storm water from our downspouts and driveways entering the pipe at various points along its length.

\The stream flows through the small, steep-sided valley that lies between Chain Bridge Road on the east and Battery Place, Eskridge

Terrace, and Fulton Street on the west, in some places causing considerable erosion of banks along the way. It finally disappears after passing close by a residence in MacArthur Court and entering a large culvert that goes beneath MacArthur Boulevard. Altogether, seven home sites on lower Chain Bridge Road back up to this stream, as do seventeen more on Battery Place, Eskridge, Fulton, and MacArthur Court.

If storm runoff from the Bender project as now designed is discharged into the pipe that runs beneath our properties the potential for an overloading of our system and its possible breakdown can only increase. Erosion along the creek that ultimately receives this runoff will surely get worse too.

We note that at the April 11 hearing when Mr. Bender presented his case, a member of the BZA, Mr. John Parsons, asked, “Where is this [the pipe] going? Is it across private property or what is it?....Is this an easement of some kind that goes across the property?...It’s a strange circumstance that apparently you are relying on a drainage system on private property, adjacent to yours.”

When, or how, the pipe came to be connected to the old Murphy property is not known to us, and apparently not to Mr. Bender either. The sump and opening to the terra cotta pipe were there when he bought the 3.5-acre property from the Murphy heirs in 2002. Except for the Murphy home, a fairly modest place that has since been removed, the property was undeveloped at that time.

Whatever the plausibility of the project’s hydraulic modeling of pre-Bender discharges, it is clear to us that its prediction that maximum flows through the pipe from the proposed subdivision will be less than in the past deserves no credibility. A review of the transcript of the applicant’s presentation on April 11 reveals the plans for storm-water management to be shot through with uncertainties and with “conceptual” designs as opposed to designs that are well understood and precise.

The uncertainties arise in part from the difficulty the project is having in designing and placing the various components of the storm-water management system----the swales, dry wells, “bay-saver” holding

tanks, the connecting piping, and the like---without encroaching on critical root zones of the numerous protected trees. Some piping is to be placed by actually boring beneath root systems.

Aggravating the uncertainties is the fact that at least five homes would be built at least partly, if not very substantially, either into or out over steep slopes. The prime example is to be found on the Bender tract's steep southerly slope, not than 50 feet or so from the discharge pipe. Built here would be a huge, 10,703-square-foot home---the subdivision's largest. One of its two towers would rise to a height of 57 feet, or higher than the beautiful magnolia that would have to be cut down to make room for it. The water-shedding or impervious surfaces associated with this home, which is to say the roof tops, parking areas, and the like, cover nearly half the entire 11,939-square-foot lot, again the subdivision's largest. (Three other large homes would be built on, or close by, this steep southerly slope.)

Water gushing from this huge home's downspouts during heavy rains would go into a dry well, a key storm-water control feature to be installed at each of the project's thirteen homes. For a home of this size the dry well can require an excavation four or five feet deep, several feet across, and maybe 20 feet long, creating a linear pit that then must be lined with filter cloth, filled with very clean gravel, and linked by outflow piping to the subdivision's overall storm-water management system.

On the advice of its arborist the project has been moving storm-water drains and dry wells about to make them less threatening to protected trees. But on this crowded site, the problem is not easily solved. For instance, for the huge home mentioned above, the storm-water management plan submitted to the BZA on April 4 shows that the dry well is no longer on the south side of the house---where it was almost on top of the critical root zones of two protected trees---but has been moved to the east side. Yet even there, it may still be endangering a handsome white pine by intruding at least partly upon its critical root zone.

When working properly, and under conditions that do not overtax its capacity, dry wells temporarily retain and gradually release storm water, keeping discharges offsite lower than the flows that occurred

before development. But standards and maintenance requirements are exacting. Dry wells fail whenever the gravel in them becomes dirty. From the experience of our neighbor Rudy Djabbarzadeh, builder of large, custom-designed homes, failure can be expected within five to fifteen years, even for dry wells properly installed in the first place.

Yet, under the Bender plan, maintenance of every aspect of the storm-water system is to be left to the vagaries of a subdivision homeowners association, operating under terms quite undecided at the time Mr. Bender appeared before the BZA in April.

What relief do we ask of the BZA?

First, that you call on Mr. Bender to produce an easement or provide citations under District law and precedent supporting his purported right to discharge his runoff through the pipe onto neighboring properties without an easement.

Second, that you deny Mr. Bender's application, explaining that for this exceptionally demanding site a convincing and transparently effective system of storm-water management for thirteen very large homes is beyond reach. We favor half as many homes as he proposes, on lots of about a half-acre each (twice the size of his existing lots), with all homes to be situated away from steep slopes and on the property's two generally treeless plateau areas. A peripheral greenway would encircle everything. If a relatively uncomplicated, un-crowded, and robust storm-water system is possible, it's under just these circumstances that it is most likely to be achieved. Also, fewer rooftops and other impervious surfaces would be generating storm flows.

Finally, we believe it imperative that the homeowners association (or whatever the entity) responsible for maintaining the storm-water system on this demanding property be bonded to afford neighbors relief in the event of flood damages.

We, the undersigned, stand ready to support Mr. Bender's development of the property if he will agree to these critically important changes. The community well knows that, ultimately, in the fullness of time, its development is inevitable and not necessarily undesirable.