

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of
Dorchester Associates LLC

BZA Application No. 17309
Public Hearing: July 18, 2006
ANC 3D

SUPPLEMENTAL PRE-HEARING STATEMENT OF OPPONENT
CHAIN BRIDGE ROAD/UNIVERSITY TERRACE PRESERVATION COMMITTEE

The Chain Bridge Road/University Terrace Preservation Committee (the "Preservation Committee") has been granted party status in these proceedings before the Board of Zoning Adjustment (the "Board").

The Preservation Committee, by and through undersigned counsel, respectfully submits this Supplemental Pre-Hearing Statement in opposition to the Application of Dorchester Associates LLC (the "Applicant") involving: (i) a special exception pursuant to Sections 3104.1 and 2516 of the Zoning Regulations to allow the construction of a theoretical lot subdivision to include thirteen (13) detached single-family homes and (ii) a waiver of the requirement of a twenty-five foot roadway under Section 2516(b) as permitted by Section 2516.6(d).

I. THE ROLE OF THE PRESERVATION COMMITTEE.

The Preservation Committee is a neighborhood 501(c)(3) charitable organization dedicated to the protection and preservation of the unique and special arboreal, topographical and landscaping features in addition to the historic, residential and park-like character of the Chain Bridge Road/University Terrace neighborhood. The Preservation Committee was instrumental in the 1999 creation of the Chain Bridge Road/University Terrace Overlay District and remains dedicated to the enforcement of the overlay on behalf of the more than seventy (70) households it represents.

At every stage of this case, the Preservation Committee has been an active and well-informed participant. At great expense, the Preservation Committee has engaged land use counsel and other experts in the fields of tree preservation, engineering and stormwater management, traffic engineering, planning and architecture. As a result of this investment of time and resources, the Preservation Committee has not simply opposed this Application, but has presented the Board with a thorough and well documented analysis of this Application. In addition to this submission, the Preservation Committee has previously filed several well-documented Statements in Opposition, including detailed tree preservation and traffic engineering reports. The Preservation Committee expressly incorporates and references all of its earlier submissions.

II. MISSED OPPORTUNITY FOR RESPONSIBLE DEVELOPMENT.

Once again, the Applicant has missed the opportunity to engage the community in a cooperative process to establish a creative and responsible development plan that would be readily embraced by the Board. Successful and responsible development are not mutually exclusive, but readily achievable. Recent projects on nearby Foxhall Road are prime examples of the positive results that can be achieved. Just yesterday, the Board in approving the St. Patrick's project, was vocal in its praise for the efforts of the parties in creating a responsible and readily approvable development plan.

The Preservation Committee has engaged an Architect to develop conceptual development plans for the Property which would respect the uniqueness of the site and preserve the existing topography and trees. See "Case is Critical Test For Tree Protection," Northwest Current, June 28, 2006, attached as Exhibit A. The Preservation Committee has developed a matter-of-right conceptual plan for seven (7) lots. As shown in the site plan previously

submitted to the Board, the seven houses are shown in a limited "Build Zone" designed to preserve the trees and maintain the existing topography. A similar conceptual plan for eight (8) theoretical lots achieves the same objectives. In sharp contrast to the Applicant's thirteen (13) lot plan, both the Preservation Committee's 7 and 8 lot plans comply with the CBUT Overlay and save most, if not all, the trees destroyed by the Applicant.

Instead of responsible and thoughtful development, the Applicant has simply rearranged the deck chairs on the Titanic hoping that no one notices that the ship is sinking ever deeper.

The Applicant has submitted a "revised" Storm Water Management Plan. Careful scrutiny by the Preservation Committee's expert engineer demonstrates that this plan remains incomplete and unworkable, and will create substantial adverse impacts, including undermining the critical and required tree preservation efforts, and threatening direct damage to the adjacent properties from uncontrolled storm water. See Peer Review Report of Mary K. Sears, P.E. attached as Exhibit B. As demonstrated by the recent storms, storm water management at the Bender site is not a theoretical concern, but a direct and substantial assault on the welfare and well-being for the most immediate neighbors. Given the magnitude of this harm, the most immediate neighbors were compelled to demonstrate their specific opposition to the Application through the attached Petition to "Reject Bender Project," attached as Exhibit C.

III. THE APPLICANT HAS FAILED TO MEET THE BURDEN OF PROOF.

In seeking a special exception, the Applicant is required to carry the burden of proof to show that the Application is 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 in accordance with the Zoning Regulations and Zoning Maps. Specifically, the Applicant must meet the above stated standard for a special exception and also demonstrate

compliance with the requirements of Section 2516 for a theoretical lot development, as well as with the requirements and intentions of Section 1565 *et. seq.* which governs the development of property within the CBUT Overlay District.

Under the requirements for a theoretical lot development, Subsection 2516.9 requires that the proposed development not have an adverse effect on the present character or future development of the neighborhood. In addition, the proposed development must abide by the purposes of the CBUT Overlay District, which include the following: (i) the preservation of the natural topography and mature trees to the maximum extent feasible, (ii) the prevention of significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas, (iii) limitation of the amount of impervious ground cover of new and expanded buildings and other construction so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood, and (iv) the limitation of minimum lot size so as to prevent significant adverse impact on existing infrastructure (§1565.2). The impact of the development on the character and ecological makeup of the neighborhood, immediately adjacent historic landmark property and nearby parkland is an important factor in evaluating the Application. Applicant clearly bears the burden of showing that the development is unlikely to adversely affect these aspects of the community.

The Applicant has failed to meet these specific obligations and its voluminous submissions are most notable for the critical information which is not provided and/or cannot withstand scrutiny by the Preservation Committee's experts.

The Applicant has submitted a plan for thirteen very large houses on small lots which maximizes and greatly exceeds the reasonable development potential of the Property and is contrary to the character of the neighborhood and the preservation of its unique and special

environment. The houses will in many cases be over 12,000 square feet, be built into unstable sloping areas and on the perimeter of the Property directly overlooking abutting homes, the adjacent historic landmark and Battery Kemble Park and will greatly increase the impervious surface on the Property. In particular, the Applicant's proposed theoretical lot subdivision within the CBUT Overlay District will overload the Property's delicate topography and ecology, destroy the existing forestation, overburden the existing infrastructure, overbuild the protected landscape and have a substantial negative impact on the adjoining private, landmark and National Park Service properties. Specifically, this plan maximizes development in a manner that will violate the purposes and restrictions of the CBUT Overlay regulations and requirements of a theoretical lot development under Subsection 2516.9 (thereby also failing to meet the burdens for the requested special exceptions) by (a) endangering the survival of numerous protected trees, (b) failing to provide effective safeguards against storm water management and soil erosion which will result in damage to abutting properties, (c) creating serious traffic safety problems and (d) adversely impacting the use and enjoyment of Battery Kemble Park.

IV. CONCLUSION.

The Applicant has thus failed to meet his burden with respect to even a minimal showing that the Application will not tend to adversely affect the use of neighboring property or the present character of the neighborhood, in accordance with the Zoning Regulations and Zoning Maps.

V. WITNESSES.

1. Robert M. Sussman, Esq., Chairman, Preservation Committee and
Abutting Neighbor

2. Ms. Mary K. Sears, Civil Engineer, Greenhorne & O'Mara, Inc.
3. Mr. Ed Milhous, Certified Arborist, TreesPlease
4. Mr. Allen E. Neyman, NS Architects
5. Mr. Steven Peterson, Traffic Consultant
6. Mr. Rudy Djabbarzadeh, Immediate Neighbor

Respectfully submitted,

GREENSTEIN DELORME & LUGHS, P.C.

By:



John Patrick Brown, Jr.

By:

Stephanie A. Baldwin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Supplemental Pre-Hearing Statement of the Chain Bridge Road/University Terrace Preservation Committee was served by electronic mail and by first-class mail, postage prepaid, this 12th day of July 2006 upon:

Norman M. Glasgow, Jr., Esquire
Holland & Knight LLP
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Attorney for Applicant

Advisory Neighborhood Commission 3D
c/o Ms. Alma Gates, Chair
P.O. Box 40846 Palisades Station
Washington, D.C. 20016

Ms. Maxine Brown-Roberts
Office of Planning
801 North Capitol Street, N.E.
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Mr. Rudy Djabbarzadeh
2740 Chain Bridge Road, N.W.,
Washington, D.C. 20016

Mark Brodsky, Esquire
1746 N Street, N.W.
Washington, D.C. 20036
Attorney for Chain Bridge Road Citizens
for Responsible Growth

A handwritten signature in black ink, appearing to be 'SAB', written over a horizontal line.

Stephanie A. Baldwin

A

JUNE 28, 2006

THE CURRENT

Case is critical test for tree protection

VIEWPOINT

ANDREA MITCHELL, LUTHER CARTER
AND SPENCE SPENCER

Washington has been called "The City of Trees," and groups like the Casey Trees Endowment Fund have been established to build up our famous green spaces. The District government has passed legislation dedicated to saving our city's trees and approved zoning overlays that can protect existing tree cover.

Despite these good intentions, the city's forested areas remain under assault by developers who are taking advantage of the current real-estate bubble and shoehorning as many houses as possible into a property. A case in point is D.C. developer Morton Bender's plan to build 13 McMansions on a wooded 3.5-acre lot adjacent to Battery Kemble Park in the Palisades.

Battery Kemble Park is home to a former Civil War battlement that is well-known throughout the city to generations of dog lovers, sledders and nature buffs. The community that surrounds it, the Palisades, is a treasure of green spaces in the nation's capital. The Palisades is laced with winding parks — like Battery Kemble — where dappled light filters through canopies of old trees. The neighborhood's already-shrinking tree canopy provides shelter for both native and migratory birds. Chain Bridge Road, which borders the park, is a narrow and winding country lane that has been unchanged for over a century.

Eight years ago, the city agreed to a tree-and-slope protection zoning overlay to protect mature trees adjacent to Battery Kemble. The D.C. Board of Zoning Adjustment is considering Mr. Bender's application to build 13 mega-mansions. Some would tower over the park, and, while all would be far larger than homes on lower Chain Bridge Road, they would occupy lots that are only half the size of our average home site.

Development can be positive for the neighborhood if properly configured, and Mr. Bender certainly should be able to exercise his rights to develop his property. But in this case he is, in effect, asking the city to bless a plan for overdevelopment at the expense of protected trees and proper storm-water management.

There are options that would allow Mr. Bender a decent profit while preserving trees in conformity with the law. The option we favor would be to preserve a "greenway" around the property — a periphery

marked by steep grades and many large trees — with construction of a half-dozen or so homes on the site's two distinct and largely treeless plateau areas. The greenway could also serve to soften the view of the development both for its neighbors and for visitors to Battery Kemble Park.

But no greenway figures in Mr. Bender's plan. Our neighborhood, represented by the Chain Bridge Road/University Terrace Preservation Committee and the Palisades Citizens Association, has repeatedly urged Mr. Bender to compromise and amend his plan, but Mr. Bender has budged scarcely an inch.

The arborist retained by the community has concluded that most protected trees would die from incursions into their critical root zones by installation of storm-water management "dry wells," swales, conduits and the like, and from the grading and excavations associated with building such huge homes in limited space. The D.C. Urban Forestry Administration has also warned that many protected trees would be lost.

Not all development need be so contentious. St. Patrick's Episcopal Day School worked assiduously with the Foxhall Community Citizens Association and Colony Hill neighbors to develop a plan for the 1801 Foxhall Road property that includes an upper school and a residential development. St. Patrick's took the time to understand their neighbors' interests. They listened, adapted and built neighborhood good will while accomplishing their objectives, and all parties were able to endorse the final package. This approach can be a model for resolving the issues surrounding Mr. Bender's plan.

We implore the Board of Zoning Adjustment to reject the Bender project as now planned. Hanging in the balance is saving the canopy of mature, protected trees on the largest undeveloped site in the Palisades and preserving the special character of Battery Kemble. Other neighborhoods in the District, Chevy Chase and Arlington are grappling with their own problems of overdevelopment and loss of mature trees. The outcome of this test case for tree and slope protection will have repercussions far beyond the Palisades.

Andrea Mitchell is a 30-year resident of the neighborhood and is writing here as a founding member and supporter of the Chain Bridge Road/University Terrace Preservation Committee. Luther Carter is a resident and member of that committee. Spence Spencer is president of the Palisades Citizens Association.

B



GREENHORNE & O'MARA
CONSULTING ENGINEERS

July 11, 2006

District of Columbia Board of Zoning Adjustment
Judiciary Square
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Attention: Mr. Geoffrey Griffis (Chair)

Reference: BZA Application No. 17309
Chain Bridge Road Project
Public Hearing Date: July 18, 2006 (continued from 4/11/06)

Dear Mr. Griffis:

Greenhorne & O'Mara, Inc. was contracted by the Chain Bridge Road / University Terrace Preservation Committee to perform a peer review regarding stormwater management related issues of the BZA Application No. 17309 submitted by Dorchester Associates LLC (the "Applicant"), for a special exception under §2516 of the Zoning Regulations to allow the construction of a theoretical lot subdivision for thirteen (13) single family homes and a modification of the requirement of a twenty-five foot roadway under §2516.6(b) as permitted by §2516.6(d) in the CBUT/R-1-A Zone District on Chain Bridge Road, NW, Square 1425, Lot 827 and Parcels 12/63, 12/293 and 12/294.

A copy of the Applicant's initial application submitted for the January 10, 2006 BZA Hearing was received by Greenhorne & O'Mara, Inc. on January 4, 2006 for review. The January 10, 2006 BZA Hearing was postponed and rescheduled for April 11, 2006. A site visit was held on January 27, 2006. The current Revised Stormwater Conceptual Plan (dated June 22, 2006) appears to meet the stormwater management technical parameters required by the Watershed Protection Division (WPD) of the D.C. Dept. of Health (DOH) for water quality treatment of proposed developments which discharge into separate storm drainage systems. However, the plan has various conflicts and areas of concern with regards to grading, limits of disturbance, stormwater management device construction, maintenance, erosion and sediment control and design capacity. Greenhorne O'Mara, Inc. offers the following peer review comments:

Grading

- Limits of Disturbance have not been shown on either the Proposed Grading Plan or Stormwater Management Conceptual Plan.
- The Proposed Grading Plan appears to assume that the limits of grading for house construction do not extend beyond the house footprints. Additional grading will be required

for the overdig and excavation for basement and driveway retaining wall construction (i.e. Lot 4 driveway wall is 18' max height) as well as grading for proper building shelf and swales to direct drainage around the proposed houses that are built into the slopes. (i.e. trees #H1-H4, #I8-I10 between Lot I & Lot H conflict with the proposed grading for lot drainage between houses).

- The proposed storm drain pipe network and underground stormwater management devices can not be installed without substantial site disturbance for excavation and grading within many of the tree save root zone areas.
- Erosion and sediment control devices are mentioned in general text only but are not shown in conjunction with the proposed development specifically. A conceptual Erosion and Sediment Control Plan should be prepared to show:
 - a) Phasing & Sequence of Construction
 - b) Location of proposed sediment control devices (perimeter and interior)
 - c) Adequate space and limits of disturbance for all sediment control devices, grading, house construction, retaining wall construction, excavation for utilities and stormwater management devices.
 - d) Removal, storage and haul-off of excavated material for the house construction and site grading.

Stormwater Management

- The proposed stormwater management (SWM) plan consists of roadway storm drain inlets and pipe network that discharge to a Baysaver water quality device and underground detention storage device, driveway trench drains w/ underdrains, check dams, surface infiltration trench, and drywell ex-filtration devices for rooftop runoff.
- Existing topography not shown offsite on the SWM plan but the Existing Grading Plan shows that there will be offsite runoff from the existing school and tennis court on the northern adjacent Lot 814. The amount of offsite/uphill runoff flowing onto property needs to be confirmed to determine if additional storm drain inlets and/or grading will be needed to pickup runoff.
- The previous SWM Concept proposed surface vegetated swales and additional storm drain pipes to pickup and treat the entrance roadway impervious area. These have been removed but now that runoff is no longer contained onsite and treated by stormwater management measures.
- Regarding the infiltration devices DC WPD references that infiltration tests have been performed at the drywell locations and confirm infiltration feasibility even though a complete geotechnical report has not been provided. However, without a full geotechnical report, no information has been provided to verify the type of soils (i.e. fill material) or location of groundwater. To prevent seepage and slope failures, infiltration/exfiltration devices are not permitted to be within fill soils and typically are required to meet horizontal and vertical parameters with respect to steep slopes (>6%), building setbacks (15' min. for devices >3' deep) and groundwater (4' above). This would be difficult to achieve with the existing and proposed topography of the site while maintaining a maximum depth of trench (12' to top of trench in DC). Currently 7 infiltration devices do not meet the building setbacks on Lots 1, 3, C, D, E, G & H.

- DC WPD requires all runoff from proposed development be contained onsite. No capacity sizing calculations have been provided to verify the existing swale geometry or capacity along the southern boundary. Possible regrading of these swales may be required to ensure all onsite runoff for the design storm events are contained onsite. Possible additional trees impacted are #33, 34, 36, 37, D1, A1, A2
- The overflow from these devices has not been addressed with respect to offsite runoff. There aren't any proposed measures to ensure that the overflow surface runoff will be non-erosive from the steep slopes. The SWM baffle, French drain, and check dams are shown schematically but do not show details or computations for the storm event capacity.
- A preliminary Water & Sewer Plan has not been provided. The water and sewer will most likely be located within the proposed drive to serve all 13 houses. There does not appear to be enough horizontal space for proposed storm drain, water and sewer utilities to be located within the proposed residential road without impacts to trees beyond the pavement area. Where will these utilities be located and will they create additional impacts to tree save areas?
- The proposed access road shows proposed grate inlets in the roadway. However the roadway shown appears to be open section without curb & gutter or proposed grading. The existing topography uphill of the roadway results in sheet flow condition. The proposed inlets need to have concentrated low points to pickup runoff. To achieve this roadway and swale grading is required which will eliminate additional trees to be saved (i.e. trees #13, 15-17, 19, 48-53). Even if final swale grading is minimized and meanders around the trees the excavation for storm drainage structures and pipe construction will disturb the trees in this vicinity
- Trenching may be needed to install the proposed storm drain piping both within the road and in open space. Costly boring methods will be required to achieve accurate vertical pipe slopes of the proposed storm drain pipes.
- Assuming pipe boring methods are utilized, the limits of excavation for the many underdrain connections, bends, inlets and manhole structures will disturb additional land area and will further impact the tree root zone areas. Example area is at the proposed inlets and Baysaver structure within the road near Lots B, C & 4. The storm drain pipe will be 12' deep +/- due to Lot 4's driveway low point elevation. The excavation required to achieve this depth will require a minimum of 8' beyond the structure limits. This will impact additional root zones of the Beech trees shown as saved.
- The proposed water quantity device shown to manage the 15-year post-developed runoff back to 2-year pre-developed runoff condition is the rain storage tank device shown between Lots A, C & D. Based on the proposed storm drain system discharging into this device, it will serve 10 lots for water quantity control. Detailed calculations have not been provided to verify the required storage device dimensions. However, the size of this structure is shown approximately half the size of one dry well device which treats only the rooftop impervious area for 1 lot. When engineered during final design, this quantity control device will be much larger in footprint area and will not fit in this location along with the 3 dry well devices proposed. If any or all of these devices are relocated or shifted additional trees may be impacted due to construction excavation.
- Private maintenance agreements with homeowners will be required. Even if boring methods were utilized to avoid some existing trees during initial installation, space must be provided around all storm drain & stormwater management devices for future maintenance access.

This maintenance access requirement will likely conflict with additional tree save areas that need to be assumed as removed in an ultimate condition.

- Downstream capacity analysis has not been addressed to ensure the existing 18" terra-cotta pipe can accommodate the proposed storm drain design. The proposed swm system appears to be designed to reduce the 15-year post development runoff back to 2-year pre-development runoff rate. This is the standard swm requirement by DC. Due to the maximization of development it would be warranted to request that these typical requirements be exceeded to improve an existing downstream flooding problem.
- When stormwater runoff from a planned development will increase the downstream discharge into an area with flooding hazards the DC DOH/WRD may require analysis of the downstream peak discharge and overflow path for a 100-year frequency storm event (Q_t). This should be addressed since the adjacent property owners have experience multiple flooding problems in the past. If DC requires the 100-year storm to be accommodated by the proposed swm then the underground rain storage device will need to be bigger and may require an alternative location.
- A construction management plan was not provided to address construction inspection in order to ensure proper installation of underground devices to prevent clogging etc.

Sincerely,

GREENHORNE & O'MARA, INC.



Mary K. Sears, P.E.

Senior Project Manager

C

**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?

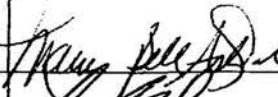
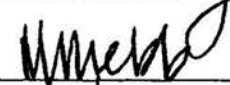
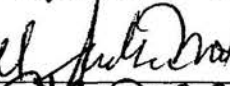
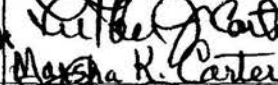
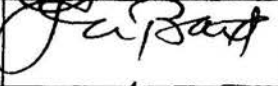
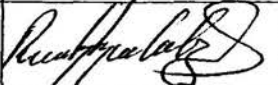
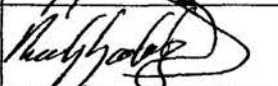
First, that you call on Mr. Bender to produce an easement or provide citations under District law and precedent supporting his purported right to discharge his runoff through the pipe onto neighboring properties without an easement.

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.

Petition for BZA to Reject Bender Project

Name (print)	Signature	Address	Phone	Email
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