

**HOA DOCUMENTS, ARCHITECTURAL GUIDELINES AND CCRS
FOR THE FOXHALL DEVELOPMENT PROJECT**

June 10, 2006

I. HOMEOWNERS ASSOCIATION:

A homeowners association (the "Association") for the Foxhall development will be established. This will be accomplished by (i) the filing Articles of Incorporation for the Association with the District of Columbia Department of Business and Consumer Affairs, (ii) the adoption of Bylaws by the Association, and (iii) the election of directors and officers for the Association.

The Association's organizational documents will set forth, among other things, (1) the procedures by which the Architectural Review Committee is established, (2) how this Committee will adopt the architectural guidelines, and (3) how this Committee will review proposals submitted to it by lot owners. (See discussion in II below.)

Additionally, all twenty-eight (28) lots in the Association will be encumbered by covenants, conditions and restrictions ("CCRs") set forth in a comprehensive Declaration which will be recorded with the District of Columbia Recorder of Deeds. In addition, the nine matter-of-right lots with frontage on Hoban Road will be made subject to unique restrictive guidelines establishing certain specific architectural standards (See discussion in III below.) These architectural standards will either be included in the BZA order or incorporated into a separate private agreement with Colony Hill. They will not be part of the recorded CCR's.

II. ARCHITECTURAL GUIDELINES:

The purpose of the architectural guidelines (the "Guidelines") is to help maintain an architectural quality and continuity between the proposed residential development and the already established, existing communities of Wesley Heights, Spring Valley and Colony Hill nearby. This encourages a sense of neighborhood, and aims to recognize, protect and enhance those built and natural features that make the combined neighborhood unique, and to enhance the community's overall value.

Furthermore, its purpose is to provide guidance to homeowners, architects and landscape architects working in the community through the common use of architectural scale, proportions, elements and materials. This is not intended to produce stylistic conformity but visual harmony.

These Guidelines shall be used by the Architectural Review Board of the Association to guide and judge the conformity of proposed improvements to the community. The Architectural Review Board shall have the exclusive right to assess and enforce these standards.

BOARD OF ZONING ADJUSTMENT
District of Columbia
Board of Zoning Adjustment
District of Columbia
CASE NO. 17429 CASE NO. 17429
EXHIBIT NO. 87
FILE NO. 87

The Guidelines are intended to guide the character of the initial development and subsequent changes over time. They address the siting of homes, the materials that may be used for the structures themselves, the landscaping, exterior lighting and all improvements.

They are intended to enhance, not replace the obligatory regulations that have bearing on the community, such as zoning or building restrictions.

A. COLONY HILL:

Colony Hill is a neighborhood currently consisting of 41 homes, bounded by Foxhall Road to the west, Reservoir Road to the south, Glover Archibald Park to the east and part of Hoban Road to the north. The development of the neighborhood was started in 1931 by Harry K. Boss of the builders Boss and Phelps. It is immediately adjacent and to the south of the Friends of St. Patrick's Residential Development.

According to the original brochure published by Boss and Phelps, the goal was to create "a smart village of early American and Georgian homes". The houses were to depict either the "puritanical stateliness of New England, or the breadth and cordiality of the South". The original architect was Horace W. Peaslee and landscape architect Rose Greely, both well-known and respected practitioners. The brochure predicted that the development would contain "about seventy homes of Early American and Georgian design."

B. THE EXISTING HOUSES IN COLONY HILL:

As stated in the brochure, the houses represent various interpretations of the "colonial and Georgian" styles. Most of the houses are designed so that the principal ridge line of the roof runs parallel to the street, however a few gables face the street. Most have a two-story, central mass. The rooflines although similar, vary in height and pitch. Most of these main masses comprise between three to five bays. Most front doors face the street, sheltered by a variety of small porticos or door surrounds. A few houses have side entries, with garden walks or courts. Garage doors are typically set back from the road. Roofs are mostly gabled, with the occasional hipped exception. Most houses have dormers bringing light into attic stories.

Most are faced in brick, predominately a burgundy red brick. Some have clapboard details, but a few frame houses exist. Most brick houses are left natural, but several are painted. Two notable exceptions to the general massing and materials found in the neighborhood are the neo-Grec houses at 1727 Hoban Road and 4407 Hadfield Lane, both have prominent gables facing the street and are of framed construction.

The older houses are mostly found on lower Hoban Road and Hadfield Lane. Most of the house have been expanded and added onto over the years, mostly in the rear. Much of this expansion has been in keeping with the original housing styles.

C. ARCHITECTURAL REVIEW COMMITTEE:

The Architectural Review Committee will review submissions of all proposed improvements for compliance with the Guidelines. It will issue detailed responses to these submissions and issue letters of disapproval and requirements for re-submittal and/or approval as appropriate. It will be empowered to enforce the requirements of the Guidelines.

D. ARCHITECTURAL GUIDELINES, OVERVIEW:

The proposed new community is designed to be comprise low-density single-family houses, organized around a flowing, looped block connected to the existing street grid at 45th Street and Hoban Road. The new streets follow the sloping contours of the site. The community is organized around this central loop road and has three integral, open green areas. The streets all have sidewalks on one side and crosswalks designed to foster pedestrian activity and neighborhood interaction.

The housing styles allowed are typical of those found in the nearby, established Washington DC garden suburbs. At their foundations are the traditional styles found throughout New England, and the south. These must be interpreted in a traditional manner, subject to the appropriate use of the elements, proportions and details of the original styles and these standards.

The Guidelines will cover a variety of elements, including:

Site Elements

- Setbacks
- Grading
- Facade alignment
- Fences
- Retaining walls
- Sidewalks
- Driveways
- Leadwalks and steps
- Landscaping
- Tree Preservation
- Mailboxes
- Site lighting
- Decks and patios
- Transformers and pedestals

Building Materials and Elements

- Exterior walls

Fenestration
Windows
Doors
Roofs
Chimneys
Stoops
Porches and porticos
House lighting
Garage doors

III. COVENANTS, CONDITIONS AND RESTRICTIONS:

A. GENERAL CCRs:

All twenty-eight (28) lots in the Foxhall development will be made subject to restrictive covenants typically found in a homeowners association. For example, the CCRs will establish that (i) the lots may only be used for residential purposes, (ii) no billboards or signs may displayed from any lot, (iii) no commercial or industrial vehicles may be parked on the Association's property, (iv) no livestock or poultry may be raised, bred or kept on the lots, (v) rubbish and trash must be regularly removed from the lots, and (v) no noxious or offensive activities may be carried on from any of the Lots. These general CCRs shall run with the lots – i.e., all subsequent lot owners will be bound to these CCRs. A lot owner who violates any of these CCRs will be subject to legal action.

B. HOBAN ROAD LOTS:

In additions to the general restrictive covenants discussed above, the nine (9) matter of right lots fronting on Hoban Road will be made subject to additional restrictions. Two additional types of restriction will apply to the 9 matter-of-right lots. They are:

a) A set of restrictions “Hoban Road Restrictions” (See Exhibit A-1) negotiated with the community in order to govern the new construction of the original residential development on the 9 lots. These Restrictions will be offered to the BZA as conditions for Special Exception approval in exchange for the unqualified support of the BZA application by the Colony Hill Neighborhood Association (CHNA). Or, should the BZA decline to accept the Restrictions, a substantially similar private written agreement will be offered to the CHNA in exchange for their support.

b) A simplified set of restrictions that will be included as architectural standards in the Homeowners Association Guidelines described above to guide future construction alterations to the Hoban Road matter-of-right lots (“HOA Hoban Restrictions”) by homeowners. This simplified set of restrictions can also either be included in the BZA order or incorporated into a separate private agreement with Colony Hill, should Colony

Hill decide to provide unqualified support for the BZA application. These simplified guidelines are:

- 1) Vehicular access to garages shall to be from the interior of the site and not Hoban Road.
- 2) The front elevation of houses (the "Front Elevations") will be sited a minimum of 25' from the front lot line (the "Voluntary Setback"), except that porches, porticos and stoops may extend into the Voluntary Setback up to a maximum of 6'.
- 3) A minimum of 30% of the Front Elevation shall be no greater than 30' from the front lot line. Exceptions to this requirement may be made by the Architectural Review Committee in order to save existing trees or for the curvature of Hoban Road. For purposes hereof, the Front Elevation shall not include any one story building elements.
- 4) Front doors, defined for these purposes as the main entrance doors, shall face Hoban Road, the extension of 45th Street or at an angle presenting itself to both Hoban Road and 45th Street.
- 5) Exterior walls shall consist primarily of brick or stone, and may also include precast, concrete, stone, or wood window features such as keystones, sills and/or surrounds. At least one, but not more than three, will be painted brick with the initial construction. Gables, dormers and side and rear elevations may also include wood siding, cementitious siding or panelized wood.
- 6) All major roof ridges will have pitches of 6:12 minimum. This minimum will not apply to roofs on porches, porticos, bay windows, dormers, gables or other similar structures. Houses shall be two story, exclusive of any attic or basement space. Maximum floor to ceiling heights are 10' on the first floor, 9' on the second floor and 8' for any attic space (all heights are $\pm 3''$). Floor to ceiling heights are measured to the primary ceiling; interior volume or architectural spaces (such as foyers and tray ceilings) are excluded from this requirement. The maximum overall height as measured from the first floor elevation to the peak of the roof shall be 37.5 feet. The maximum height restriction is permitted a 6" grace amount to account for differences between design drawings and actual measurements of completed Houses.
- 7) Primary roof materials will be natural or artificial slate. Metal or composition roofs are permitted on flat roofs and on minimal areas, such as porches, bay windows, crickets, dormers, ridge vents, etc.
- 8) A maximum of 30% of any façade facing Hoban Road may be fenestrated.
- 9) Individual windows on the Front Elevation shall have vertical and not horizontal proportions and be operable double hung, provided however, (a) any window component of a bay window may have horizontal proportions and may have fixed windows, (b) decorative windows such as Palladian windows, transoms, octagons,

half or full rounds and side light windows are also permitted, and (c) fixed windows may be used when windows are ganged together.

- 10) Individual window openings in the Front Elevation may not exceed 4' wide by 8' tall, unless they are part of a bay window or the individual windows or other glazing are ganged together so that there is a minimum width of 3" between the glazing of adjacent windows.
- 11) Windows, except bay windows, Palladian windows, transoms, octagons, half or full rounds, or other decorative windows in the Front Elevation shall be divided into openings no larger than 24" in height or width by muntins

HOBAN ROAD RESTRICTIONS

BOARD OF ZONING ADJUSTMENT CONDITIONS

APPLICATION 17429

Final 6-5-06

Colony Hill is an existing, established neighborhood of 41 homes designed in Colonial and Georgian styles. In order to promote compatibility between new Hoban Road construction planned as part of Application 17429 and the existing character of Colony Hill, the Colony Hill Neighborhood Association ("CHNA"), The Friends of St. Patrick's Episcopal Day School, LLC ("FOSP"), and "the Developers" (Elm Street Development, Michael Harris Development, and their replacements, successors and assigns) together have agreed that the following restrictions be imposed on the 9, matter-of-right lots on Hoban Road. These restrictions shall only apply to the initial construction on these lots by the Developers. These 22 restrictions are submitted to the BZA as proffered conditions to attach to an eventual BZA order relating to Application 17429.

- 1) All houses located on Hoban Road (the "Houses") shall have vehicular access to garages from the interior of the site and not Hoban Road.
- 2) The elevation of Houses facing Hoban Road (the "Front Elevations") will be sited a minimum of 25' from the front lot line (the "Voluntary Setback"). Porches, porticoes and stoops may extend into the Voluntary Setback up to a maximum of 6'. A Porch is defined as a one- or two-story covered structure that is attached and adjacent to a house structure and more than 18 feet in width. A Portico is a one-story, covered porch element that provides shelter at an exterior, entry door and is less than 18 feet in width. A Stoop is an open, unroofed, paved surface adjacent to an exterior entry door. For Houses sited between Foxhall Road and 45th Street, there shall be no porches; for Houses sited to the east of 45th Street, porches may be constructed on two (or fewer) houses. Porticoes may be constructed on any of the lots and shall not exceed one story (plus a roof thereto) and shall not be wider than 18 feet. Sideyard setbacks shall be a minimum of eight feet, subject to encroachments permitted under governing zoning ordinances (including, without limitation, fireplaces and areaways).
- 3) The Front Elevations shall have a maximum width of 51'. A minimum of 30% of the width of the Front Elevation shall be no greater than 30' from the front lot line. Exceptions to this requirement may be made in order to save existing trees or for the curvature of Hoban Road. For purposes hereof, the Front Elevation shall not include any one story building elements.

- 4) Front doors, defined for these purposes as main entrance doors, shall face Hoban Road or (in the case of a corner L-shaped house) either at angle presenting itself to both Hoban Road and any extension of 45th Street or directly toward 45th Street. Front doors shall not contain glass panels which cover more than 35% of the total area of the door, excluding any transom, sidelight and/or storm door.
- 5) Exterior walls of the primary portion of any House shall consist of brick or stone except that such houses may also include precast, concrete, stone or wood window features such as keystones, sills and/or surrounds. For brick houses, a stone water table is permitted. Tan, brown and white brick selections are prohibited. Only one brick selection shall be permitted on any House, provided however, any brick selection is permitted inherent variations in colors, such as flashing, burning and sand. Wood siding, cementitious siding or panelized wood are permitted on a one story building element, a gabled roof area, dormers and the secondary portion of homes (See Exhibit 1). At least one (1) House, but not more than three (3), shall be painted brick with the initial construction. Except for those Houses with painted brick, grout color shall neither be identical to the brick color nor white. No adjacent Houses shall have painted brick with the initial construction and no more than two (2) stone houses are permitted on Hoban Road, one (1) to the west of 45th Street and one (1) to the east of 45th Street.
- 6) All Houses shall be two (2) story homes (exclusive of any basement level, attic level, or any architectural feature such as a parapet). Except for Lots 5 and 6, a roof ridge parallel with the Front Elevation shall also be parallel with Hoban Road. Roof pitches facing Hoban Road shall be a minimum of 6:12 and a maximum of 8:12. These minimum and maximum roof pitches shall not apply to roofs on porches, porticoes, bay windows, dormers, gables, hip roofs or other similar structures.

All Houses shall be designed to have (a) a maximum height of 21.0 feet as measured from the first floor elevation to the primary flat ceiling of the second floor and shall be designed to have (b) a maximum height of 37.5 feet as measured from the first floor elevation to the peak of the roof. Four (4) of the nine (9) Hoban Road lots will be designed to have a maximum height of 36.5 feet, as measured from the first floor elevation to the peak of the roof. . All height restrictions are permitted a 6" grace amount between design drawings and actual measurements of completed Houses. The height of any gable on the front elevation shall not exceed 11 feet as measured from the eave or soffit to the peak of the gable, and overlapping gables will not be permitted.

- 7) For Lots 2-5 fronting on Hoban Road between Foxhall Road and 45th Street, the existing topography includes a ridge or berm. The elevation of each first floor will be independent of and not dictated by this existing ridge or berm. Instead, the elevation of each first floor will be determined by other factors, such as the existing topography at the front building wall, tree save, drainage considerations, alley grades, etc.

- 8) The primary roof materials for Houses shall be natural or artificial slate. Metal roofs are permitted on minimal areas, such as porches, bay windows, ridge vents, dormers, crickets, etc., and metal or composition roofs are permitted on flat roof areas.
- 9) A maximum of 30% of any Front Elevation may be fenestrated (the "Fenestration Percentage"). The Fenestration Percentage shall be equal to the quotient obtained by dividing (a) the area of all Front Elevation window openings (a "Window Opening") and door penetrations as measured from brick/precast/stone to brick/precast/stone (i.e. inclusive of wood framing and casing, mullions and other dividing elements and glazing, but excluding pilasters or other trim features attached over the face of the brick) by (b) the area of the Front Elevation equal to the product of (i) the width of the Front Elevation multiplied by (ii) the height of the Front Elevation as measured from the first floor elevation to the eave of the roof. Windows in dormers shall not be deemed a Window Opening and there shall be no limitation on fenestration of any one story building element. (See Exhibit 2.) A maximum of three (3) dormers may be permitted above the Front Elevation provided that no single dormer may be wider than 20% of the Front Elevation and that the sum of the width of all the dormers will not exceed 40% of the width of the Front Elevation of the house.
- 10) Individual windows on the Front Elevations (a "Window") shall have vertical and not horizontal proportions and be operable double hung, provided, however, (a) any window component of a bay window may have horizontal proportions and may have fixed windows (b) decorative Windows, such as Palladian windows, transoms, octagons, half or full rounds and side lights windows are permitted and c) fixed windows may be used when windows are ganged together. A maximum of five Window Openings shall be permitted across the second story, but a single Window Opening may have more than one window.
- 11) Any Window Opening shall not exceed 4 feet in width and 8 feet in height, unless the individual windows or other glazing are ganged together so that there is a minimum width of 3" between the glazing of adjacent windows.
- 12) Windows shall have a minimum "lite" configuration of 6 over 6 unless such Window is a fixed window component of a bay window, a decorative window such as a Palladian window, transom, octagon, half or full round, side light window or ganged window. Any individual "lite" opening of any Window shall not exceed 16.5" in height or width of glazing as measured from the inside edge of muntin to the inside edge of muntin.
- 13) No two or more Front Elevations shall be identical.
- 14) A majority of the Front Elevations of the Hoban frontage lots will incorporate some use of shutters, to include at least two (2) Front Elevations west of 45th Street and two (2) Front Elevations east of 45th Street.

- 15) A six-foot wide sidewalk shall be constructed in front of each Hoban Road lot, provided that such 6' sidewalk is permitted by DCDOT. The sidewalk shall conform to DCDOT requirements.
- 16) For each lot facing Hoban Road, at least one (1) new street tree shall be planted along the public right-of-way, and there shall be at least one (1) new tree, in addition to any saved trees, planted in the front yard of each such lot.
- 17) Initial foundation landscaping shall consist of a majority of evergreen materials.
- 18) No fences constructed as part of the initial construction shall be located closer to Hoban Road than the side corners of the Front Elevation. Handrails and other rail systems are permitted on leadwalks, stoops, porches and porticos.
- 19) There shall be no free-standing mailboxes in the front yards of the Houses, unless required by the Postal Service.
- 20) The Developers shall utilize "Washington Globe" or equivalent street lights along Hoban Road to the extent additional street lighting is required, and provided such light fixtures are permitted by any governing authority.
- 21) If permitted by the individual utility companies, new utility lines will be buried. This requirement shall not apply to transformers, junction boxes, pedestals, or other utility structures.
- 22) No permanent signage or monuments denoting the new development shall be erected on or within sight of Hoban Road. This restriction does not apply to a) retaining walls, fences, columns or similar structural or decorative features, and b) temporary signs erected during construction or to marketing signs for the lots.

COMPLIANCE AND ENFORCEMENT

Final 5-31-06

The following enforcement provisions are offered by the Friends of St. Patrick's, LLC ("FOSP") and by their contract purchasers, Elm Street Development, Michael Harris Development, and their successors assigns and replacements ("The Developers") as conditions to be included by the Board of Zoning Adjustment (BZA) in any order relating to Application No. 17429. These provisions are offered to the Colony Hill Neighborhood Association (CHNA) in exchange for the unqualified support of the CHNA of the referenced application.

These enforcement conditions set out a methodology whereby the Developers shall certify to the Colony Hill Neighborhood Association (CHNA) that the Houses on Hoban Road lots (each a "House" and together the "Houses") are designed and built in accordance with the Hoban Road Restrictions (the "Restrictions"). Enforcement procedures in the event of a dispute are also outlined, below. Should the BZA refuse to adopt these conditions, FOSP and the Developers will offer to the Colony Hill Neighborhood Association (CHNA) a contract or private agreement that offers substantially similar enforcement conditions reflecting the absence of the BZA as a jurisdictional body.

1. Certification of Designs

Simultaneously with filing any application for a building permit relating to any House, or as soon thereafter as possible and in no event more than two weeks after filing, the Developers shall provide CHNA written certification (the "Certification") of compliance with the Restrictions. This Certification shall be prepared by a licensed architect (the "Architect") and shall include a copy of the Front Elevation, House section (with building heights floor to floor and floor to highest roof ridge), House site plan (with side yard and front yard setback dimensions) and such other drawings and specifications as the Architect deems necessary to demonstrate compliance with the Restrictions.

Recognizing that design elements may change after delivery of a Certification, the Developers shall resubmit a Certification for any material change to a design element governed by the Restrictions. Any additional Certification and accompanying materials shall be governed by the same procedures as outlined for an initial Certification.

2. CHNA Review Period

The CHNA will have two (2) weeks from receipt of the Certification (the "Review Period") to submit in writing questions or comments for consideration by the Developers. Failure of CHNA to respond to any element of a Certification by the end of the Review Period shall be deemed as acceptance by the CHNA that such elements, as submitted, are in conformance with the Restrictions.

3. Developer Response Period

Within one (1) week of receipt of such questions or comments (the “Response Period”), the entity so addressed shall respond fully to CHNA in writing, in good faith and on the merits of such questions or comments.

4. Resolution Period

Given that both CHNA and the Developers (each a “Party” and together the “Parties”) wish to resolve any disputes privately, if the Parties are still in disagreement as to whether any specific design element conforms to the Restrictions, the Parties shall attempt to resolve such matter for a period of two (2) weeks commencing after the Response Period (the “Resolution Period”). Either Party, at its sole expense, may engage the help of design or architecture professionals.

5. Appeal Process

Upon the conclusion of the Resolution Period, should the Parties continue to be unable to agree on the conformance of any design element to the Restrictions, either Party may bring the issue to the DCRA Zoning Administrator for a ruling. CHNA shall have two (2) weeks from the end of the Resolution Process to lodge a complaint with DCRA.

After DCRA has ruled on the conformance of elements in the Certification, either Party may choose to appeal DCRA’s decision to the Board of Zoning Adjustment (BZA). The BZA decision shall be final and binding on the matter so presented, and both parties agree not to appeal to any court or other governmental authority.

6. Commencement of Disputed Construction

In the event CHNA provides notice during the Review Period that it believes any element of a building permit does not conform to restrictions found in Sections 1,2,3,4,6,9,10,11,13 and 14 of the Restrictions, the Developers shall not commence construction pursuant to such permit until either (a) the conclusion of the Resolution Period or (b) notice from CHNA that it withdraws such objection. After the conclusion of the Resolution Period, and in the event that unresolved issues remain, the Developer may begin construction with the knowledge of such unresolved issues.

7. Modification of Restrictions

While both Parties intend that the Houses shall be built in accordance with the Restrictions set forth above, there may be circumstances—unforeseen at the present time—in which modification of the Restrictions is desirable. In the event that the Developer seeks to modify any Restriction, the Developer shall submit such request (a “Modification Request”) to the Board of Zoning Adjustment (BZA), the body responsible for approving modifications to existing Special Exceptions. In addition to all legally mandated notifications, the Developers will send notice of the Modification Request to the CHNA within two (2) weeks of filing with the BZA. The CHNA shall have two (2) weeks in which to submit questions or comments in writing for consideration by the

Developers, and if such questions or comments are submitted, the Developers shall respond fully to the CHNA in writing, in good faith and on the merits of such questions or comments, within two (2) weeks of their receipt. Should the CHNA approve such Modification Request, the CHNA will forward a statement of their support, in writing, to the BZA and to the Developers. Should the CHNA oppose such Modification Request, the CHNA would register that opposition, in writing, with the BZA. Because a Modification Request *requires* that the Developer act as Applicant, CHNA approval or opposition to such a Modification will be as a supportive or opposed party, only.

8. Notice

For purposes of all matters related to the Restrictions for the Houses, the Developers will deliver all correspondence to the CHNA, care of the President of the CHNA, unless prior notice is given to the Developers of an individual substitute member of CHNA authorized to receive and give notices hereunder (the "CHNA Representative"). Any notices required hereunder from CHNA shall only be made by the CHNA Representative and shall be delivered to each Developer at their main business address or such other address as may be designated by each Developer. In the event of dissolution of the CHNA or vacancy of the position of CHNA Representative, any correspondence hereunder shall be deemed delivered to CHNA if delivered to the address of the last known CHNA Representative. All correspondence hereunder by either Party shall be in writing and deemed given when personally delivered, delivered by a national overnight delivery service or mailed by certified U.S. mail, return receipt requested.