July 26, 2007

Zoning Commission of the District of Columbia
Attn: Carol J. Mitten
One Judiciary Square
441 4th Street NW
Washington DC 2001

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RE: BZA Decision on AppleTree Charter School Appeal #17532

Dear Chairperson Mitten:

On behalf of Northeast Neighbors for Responsible Growth (NNRG), I am writing to strongly urge that the Zoning Commission overturn a Board of Zoning Adjustment (BZA) decision in appeal No. 17532 issued on July 26, 2007 regarding the location of a public charter school on 12th Street, N.E.

The NNRG is non-profit organization based on Capitol Hill that represents dozens of individuals and families concerned about the development of large-scale commercial projects in our historic residential neighborhood. The NNRG is also a party to the BZA proceedings in #17532. We have grave concerns about the impact that the Board of Zoning Adjustment's expected ruling in BZA#17532 would have on our community.

If this BZA ruling is allowed to stand, it would allow the AppleTree Institute, a Boston-based corporation, to locate a large charter school in the middle of a block of residential row houses in Capitol Hill's historic district. In essence, AppleTree's plan is to shoehorn an over-sized commercial development onto a lot which fails to meet the standards of this commission's previous ruling. The lot size and frontage of the proposed school fails to meet the standards set forth in the Zoning Commission's emergency ruling which amended Zoning Regulation 206.1. Yet, the project would proceed in contradiction to those standards only because the BZA resorted to a tortured and illogical reading of the zoning code by invoking 401.1 which deals exclusively with nonconforming lots and does not address nonconforming uses.

In fact, the BZA's decision was so contrary to the plain meaning and clear intent of the standards promulgated by this Commission, that you expressly set down the case 07-03 for public hearing on February 12, 2007 approximately one month after the BZA ruling and final adoption occurred on May 14, 2007 to ensure that the charter school rules originally adopted in case 06-06 would apply in all future instances involving charter schools seeking to locate in R-4 Districts. The balanced and well-reasoned standards in the ruling are designed to ensure that residents in R-4 Districts were protected from oversized charter school projects that would have a negative impact on the character and safety of residential neighborhoods in the District of Columbia.

BOARD OF ZONING ADJUSTMENT
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Board of Zoning Adjustment
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However, because the Commission's action of January 9, 2007 may not apply to the AppleTree case, the issuance of the written order in BZA#17532 creates an anomalous situation where the very case and applicant that prompted this Commission to issue emergency regulations would be free to build an expansive charter school complex without considering the impact on its surrounding neighbors. This result would essentially leave the DCRA with no standards by which to judge the appropriateness of the AppleTree project with respect to its impact on the surrounding neighborhood.

Therefore, we respectfully request the Zoning Commission exercise its *sua sponte* authority in this case and immediately overturn the BZA ruling at issue. We believe there are two clear grounds for acting *sua sponte* in this case to overturn the upcoming written order of the BZA. First, the Zoning Commission should not allow the BZA's overly narrow reading of 401.1 to trump the manifest intent of the Commission in adopting emergency regulations in this area. Second, Applicant AppleTree clearly has failed to provide evidence that there would be parking spaces at the property adequate for its intended use. AppleTree's plans to enlarge the existing property by over 50 percent which will eliminate any possibility of providing parking as contemplated in case #06-06 which requires two spaces for every three teachers and staff.

Finally, we note that our representatives on the local level strongly support our position as well. The ANC 6A, which encompasses the 12th Street location of the proposed AppleTree site, voted unanimously earlier this year to formally request that the Commission exercise its authority under Title 11 Chapter 3128 of the District of Columbia's zoning code and overturn this egregious BZA decision.

Thank you for your prompt attention to this matter.

Sincerely,

Herb Faling
President

cc: Vice-Chair Anthony Hood
Commissioner Gregory N. Jeffries
Commissioner Michael G. Turnbull, FAIA
Commissioner John Parsons