

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

CASE NO. 08-06-9 (Comprehensive Zoning Regulations Rewrite: Sustainability)

May 21, 2009

Testimony of Alma Hardy Gates
Neighbors United Trust

Significant numbers attended the seven sessions on “sustainability;” and, so many were new faces eager to express ideas and explore ways to meet the goal of reducing greenhouse gas emissions and global warming pollution levels. Overall I support an effort to formalize environmental components in the zoning code, however, there is still a substantial amount of work to be done and time needed to get this right. Some recommendations appear in conflict with others – trees vs. solar panels. I did attend all seven sessions, the Task Force meeting and will focus this testimony on two of the recommendations.

Integrated Land Use and Mobility/Recommendation # 2: Accessory Dwelling Units (ADUs)

If the overall purpose of the zoning reengineering is to create regulations that permit an increase in matter of right density while not increasing environmental impacts, the recommendations put forth in this section meet that goal. Where currently there might be a “family” of two individuals, this recommendation would allow the family to increase to six individuals or three times the current number of occupants. It is fair to assume these new family members are already using resources but use would intensify as these family members are not children.

Here we are told, “Almost all jurisdictional ordinances provide that ADUs are not counted in maximum density or FAR calculations and that minimum lot area per unit restrictions do not apply.” Go figure – that’s not an accessory building unit you see in that rear yard and therefore there’s no increased density! Well, it looks like a duck and quacks like a duck and is a livable structure that occupies space in a rear yard.

When the integrated Land Use Recommendation is considered along side Recommendation 18, Green Area Ratio (GAR), questions immediately arise; and, in tandem these two recommendations promote greater density, replacement of traditional green space and would eliminate a significant number of trees in favor of green roofs, harvested rain water and pervious paving.¹

The work group noted a lack of protection for neighboring properties under this proposed matter of right recommendation. Title 11, § 223, New Accessory Structures, addresses ADUs and requires a special exception.

¹DDOE, RiverSmart Homes, “Clean Water Starts in Your Yard.” In one year, an acre of mature trees absorbs the amount of carbon dioxide produced when you drive your car 26,000 miles.

A special exception requirement should remain for accessory dwelling units to ensure protection of both the neighboring properties and the occupants of the units.

Water and Sensitive Resource Protection/Recommendation #12: Flood Plain Protection

The Flood Plain work group expanded the original intent of this recommendation to include a focus on neighborhoods that are prone to flooding due to the direction and types of development that have occurred over time. The work group discussion is not reflected in this recommendation and while DDOE is the agency with direct oversight for of this area it was noted there is little agency participation in the planning and approval process on zoning matters. As a result the agency is unaware of discussions that led to conditions in, or the outcomes of BZA or ZC Orders. Proper oversight and neighborhood protection is often lacking when DDOE is the responsible agency. That would not change.

The work group noted that knowledge of underground hydrology may be key to the impact of below grade construction and the builder should bear the burden of proof that below grade construction will not negatively impact neighboring properties. Such proof is critical in areas of the city where flooding is known to occur² and often results at the receiving end of a drainage area.

The work group cited a need for:

- 1) Readily available maps sanctioned by DDOE that identify the location of existing and potential flood plain, wetland and stream valley area, riparian streams, steep slopes and other fragile areas that require protection;
- 2) Information from DDOE stating what setbacks should be required to protect the referenced fragile areas;
- 3) Changes recommended by DDOE to the current Flood Hazard Rule provisions;
- 4) Review of regulations on transfer development rights for sites that extend into flood plain and/or other fragile area;
- 5) Regulations addressing the management of groundwater and below grade construction; and
- 6) Final status of new FEMA Flood Insurance Rate Maps.

²September 2008, Evaluation of Stormsewer System: Palisades Neighborhood, Figure 3-2, (attached).

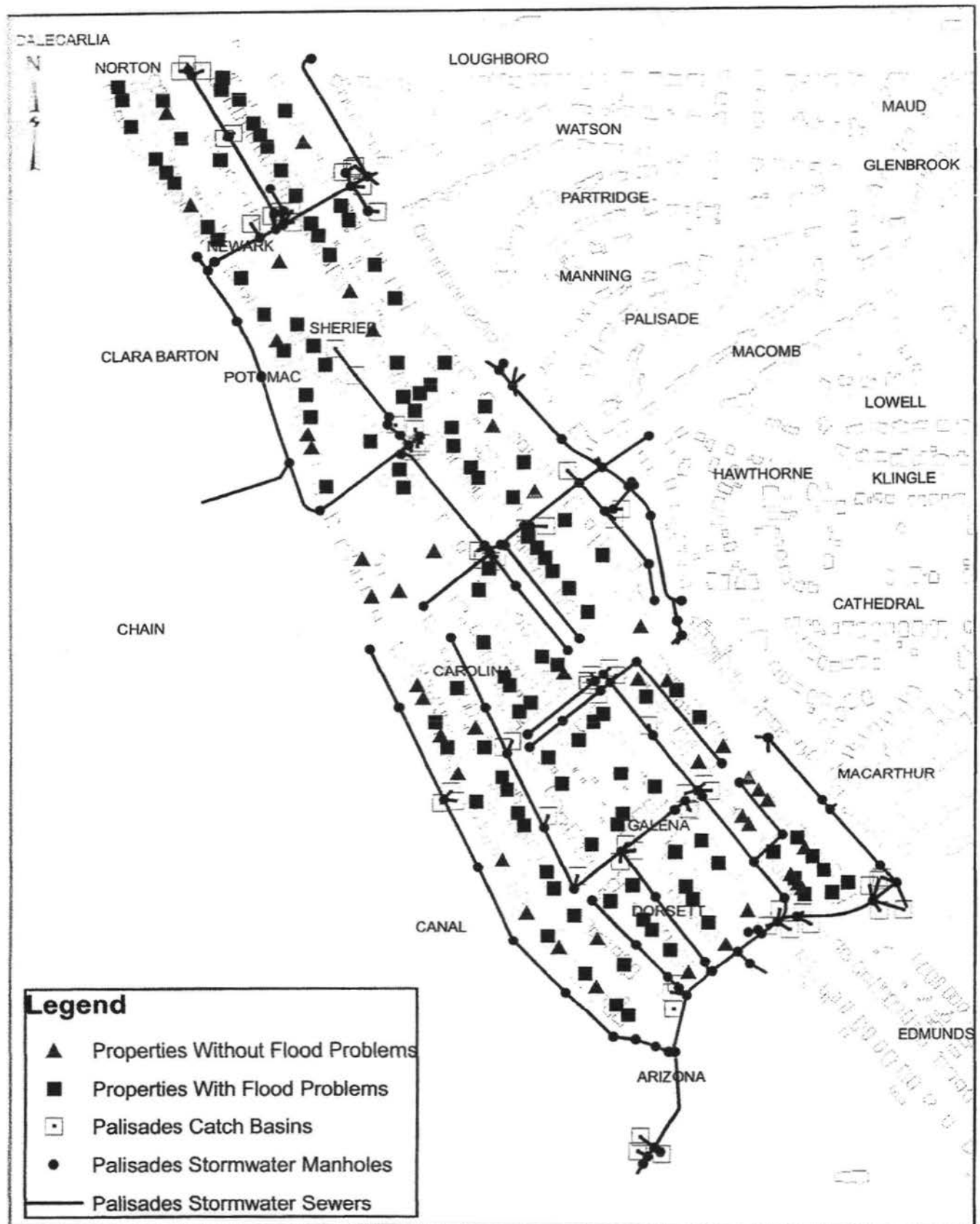


Figure 3-2: Location of Properties With & Without Flood Problems