



ADVISORY NEIGHBORHOOD COMMISSION 3E

TENLEYTOWN AMERICAN UNIVERSITY PARK FRIENDSHIP HEIGHTS

c/o Lisner-Louise-Dickson-Hurt Home 5425 Western Avenue, NW Washington, DC 20015

www.anc3e.org

**Resolution Regarding Rescindment of ANC Support
for Curb Cut Application at 4201 River Road (DDOT Tracking #75879)**

WHEREAS on October 22nd, 2012 a curb cut application for 4201 River Road came before the ANC,

A resolution supporting said application was passed on February 19th, with a vote of 4 commissioners supporting and 1 opposed,

Support was conditional on the honoring of conditions contained within a Voluntary Agreement that was entered into between the applicant and his immediate neighbors,

The applicant has designed and built this structure right up to the limit of lot occupancy maximums (calculated by members of DCRA as being at least 39.6%, where only 40% is permitted without a variance),

The ANC has spent considerable time inquiring with DCRA as to the permissibility of the project as presently designed (which includes a large impervious driveway set atop more than six feet of fill, and requiring two retaining walls measuring over four feet and over six feet in height respectively),

DCRA has informed the ANC that on this site a retaining wall of over four feet in height, the fill, and the driveway above does not count toward lot occupancy and therefore the project complies with zoning requirements,

The applicant has in a series of emails between February and April, that have recently come to our attention, indicated intent not to comply with at least one of the conditions of the Voluntary Agreement,

Said condition was the transfer of a small strip of land to the immediate neighbor,

At the time, the applicant sought to lift a hold on the project given concern in the Office of the Zoning Administrator that if the referenced land was transferred, lot occupancy would exceed 40% and the project would fall out of compliance,

The applicant assured the Zoning Administrator that he did not intend to transfer the property and based on that assurance, the Zoning Administrator allowed work to proceed,

The Zoning Administrator may or may not have been aware that the transfer was part of an agreement reached to secure relief for a curb cut that was also a necessary part of the project,

The applicant subsequently told the neighbors that it was always his intention to transfer the property, but he

needed their help to overcome the City's resistance, exactly the opposite of what he had told the Zoning Administrator in order to move forward with construction,

At present, Zoning authorities and the Public Space Commission have been told different – opposite -- things by the applicant in order to secure relevant relief,

The one thing that is clear from this process is that the developer has assiduously maneuvered to avoid appropriate review for this project, and has told different things to different people to do so along the way.

It is essential that the parties have an opportunity to untangle the various representations and misrepresentations and address the issues surrounding the curb cut, voluntary agreement and come to a fair resolution of this project. Otherwise, the developer will be rewarded for his maneuvering and the credibility of the system of using zoning rules and regulations to protect neighbors from each other seriously undermined.

THEREFORE BE IT RESOLVED, we rescind our support of the curb cut, and ask PSC to either not approve the curb cut application if it has not already acted, or to rescind it due to the applicant's failure to comply with the conditions of the Voluntary Agreement.

BE IT FURTHER RESOLVED, we urge the Zoning Administrator to issue a "Stop Work" order for this project until he can determine what the applicant's real intentions are vis-à-vis the transfer of land.

ANC 3E approved this resolution at its meeting on May 9, 2013, which was properly noticed and at which a quorum was present. The resolution was approved unanimously by a vote of 5-0 Commissioners Jonathan Bender, Matthew Frumin, Elizabeth Haile, Tom Quinn and Sam Serebin were present.

ANC 3E
By Jonathan Bender, Chairperson