

March 25, 2014

D.C. Board of Zoning Adjustment
Office of Zoning
441 4th Street NW, Suite 210
Washington, DC 20001

Re: Appeal No. 18735 & 18737: Appeal re: 2121 M Street NW ("Property")
Report from Intervenor's Expert Witness

Dear Members of the Board:

On behalf of Renaissance Centro LLC, the owner of the Property and Intervenor in the above-referenced appeal, we hereby file the attached report from Armando Lourenco, a well-regarded expert on District of Columbia zoning and construction code compliance, opposing the Appeal. Mr. Lourenco has been retained by the Intervenor as an expert witness in this matter. His resume is attached to his report.

We look forward to defending the issuance of the Permit on April 1, 2014.

Sincerely,



David Avitabile

Attachment

cc: ANC 2A
Pat Brown, Greenstein, Delorme & Luchs
Cynthia Giordano, Saul Ewing
John Postulka, DCRA

I, David Avitabile, hereby certify that a copy of this document and attachment was served by electronic mail on the above cc:s on March 25, 2014



David Avitabile

Board of Zoning Adjustment

District of Columbia

Washington, DC 20001

www.goulstonstorrs.com

Armando Lourenco
3055 Harrison Street, NW
Washington, DC 20015

March 25, 2014

VIA ELECTRONIC SUBMISSION

Chairman Lloyd Jordan
D.C. Board of Zoning Adjustment
441 4th Street NW, Suite 210S
Washington, DC 20001

Re: **BZA Appeals Nos. 18735 & 18737 – Letter in Opposition to Appeals**

Dear Chairman Jordan and Members of the Board:

On behalf of the owner of the property that is the subject of this appeal (i.e. the Intervenor), I am writing to urge the Board to deny the appeals and to affirm Building Permit No. B1310607 (the “Permit”). Based on my professional experience, I believe that the proposed addition complies with the Zoning Regulations and that the Permit was correctly issued.

Between June 1998 and August 2000 I served as the Administrator of Building and Land Regulation Administration of DCRA. In 1998 I co-chaired, with then Zoning Commission Chair Jerrily Kress, the Working Group tasked with preparing measures to implement a series of orders issued by the District of Columbia Financial Responsibility and Management Assistance Authority to, inter alia, streamline the enforcement of the Zoning Regulations. During 1998-1999, I served as Acting Zoning Administrator for approximately one year. In that capacity, I was directly responsible for the day-to-day enforcement of the Zoning Regulations, oversaw the activity of the Zoning Review staff and rendered interpretations and decisions on Zoning matters before the Office of the Zoning Administrator. After leaving DCRA in August 2000, I remained involved in Zoning consulting, having appeared before this Board as an expert witness. My resume is attached as Exhibit A.

1. Single Building / Building Connection

I concur that the Zoning Administrator correctly determined that the connections between the existing Marriott Hotel structure and the planned Hyatt Place addition authorized by the Permit provide sufficient communication between them that satisfies the standard for one building under Section 199 of the Zoning Regulations. The definition of “building” specifies only that a communication below the main floor is not sufficient for two or more otherwise separate portions of a structure to constitute one building. The definition does not require a “substantial” connection for multiple structures to be considered one building. In my experience both as Acting Zoning Administrator and in reviewing many different cases of interpretations by the Zoning Administrators who served over the last four decades, from James Fahey through the current Administrator, the definition of “building” with respect to connections between otherwise separated structures has been consistently interpreted to mean that a meaningful above-grade communication satisfies the requirements of the Zoning Regulations for a single building. The

Board of Zoning Adjustment has heard cases in the past where this interpretation has been challenged and the Board reaffirmed the Zoning Administrator's decisions (e.g., BZA Case No. 16646).

Following this interpretation, many simple types of above-grade connections have been deemed to be "meaningful" and consistent with the definition of "building" in the Zoning Regulations, such as doors or enclosed connections between shared common spaces; lobbies, service corridors, and loading areas; and outdoor connections covered by a roof or trellis between separate portions of a structure.

Based on precedent and my thorough understanding of the Zoning Regulations, I believe that the proposed connections provide meaningful communication between the Marriott and Hyatt Place, and they allow for the Marriott and Hyatt Place to be considered one building. First, the two doors that provide access from the retail tenant spaces within the Marriott structure into a shared service corridor on the Hyatt Place's property satisfy the intent of the Zoning Regulations. This shared service corridor is at the main floor level; is open and available for access on a continuous basis; and has a joint Marriott-Hyatt Place function by permitting access to the retail tenants' loading and trash facilities. I also note that two doors provide egress from Hyatt Place's lobby and function room space into this shared service corridor that doubles as a means of egress from spaces in both hotels, discharging to the alley. Also, the third connection, which is an above-grade door from the Marriott's south egress stair that empties into a vestibule on Hyatt Place's property, is consistent with the requirement of a connection at or above the main floor level of the Zoning Regulations. It is above grade, covered, and open and available to both hotels at all times. (I note that another door within this vestibule provides access to Hyatt Place's fire control room.) Thus, the Zoning Administrator was correct in determining that the proposed Hyatt Place is an addition to the Marriott and that the existing Marriott and the proposed Hyatt Place addition constitute a single building.

2. Parking Requirement

I agree with the Zoning Administrator that the proposed hotel is an addition to an existing building, so the parking requirement should be determined based on one expanded building. Therefore, sufficient parking in adequate dimensions is provided for the expanded building.

First, the existing Marriott provides 140 parking spaces, which is 108 more than required.¹ The Hyatt Place addition triggers a requirement for 48 additional parking spaces², bringing the required parking spaces for the expanded building to a total of 80 spaces. The excess spaces within the Marriott garage could be used to satisfy the addition's requirement since the parking requirement is based on the expanded building. In my experience, it has always

¹ When the Marriott was first constructed in 1978, no parking was required. The 1988 addition of 71 rooms triggered a requirement for 18 parking spaces, and the 2006 addition of 56 hotel rooms triggered a requirement for 14 additional parking spaces. Therefore, the Marriott has a parking requirement of 32 parking spaces.

² The addition requires 1 space for every four hotel rooms (168 rooms = 42 spaces) plus one space for every 300 s.f. of the largest function room space (1,750 s.f. = 6 spaces).

been the practice that excess existing spaces may be used to satisfy the parking requirement of an addition.

Alternatively, the Hyatt Place addition includes 48 valet spaces that also, by themselves, satisfy the parking requirement. Under sections 2115.9 – 2115.18 of the Zoning Regulations, valet parking shall be permitted for a commercial building in the CR zone with a parking requirement of 75 or more spaces, such that the normal dimensional, size, design, and striping requirements do not apply. The proposed 48 valet spaces otherwise conform to the requirements of the Zoning Regulations for valet parking, and they therefore may be used to satisfy the parking requirement for the combined building. Therefore, the parking requirement for the Hyatt Place addition is satisfied within the addition.

3. Loading Requirement

I concur with the Zoning Administrator that the loading requirement should be determined based on one expanded building, as discussed previously. Therefore, I agree with the Zoning Administrator that adequate loading is provided for the expanded building. Loading is not required for the Hyatt Place addition because the additional hotel rooms do not, themselves, require more loading facilities.

The Zoning Regulations required a tiered increase in the amount of loading for a hotel based on the number of guest rooms. A certain amount of loading is required for hotels with 30 to 200 rooms, and additional loading is required for hotels with more than 200 rooms. When the Marriott was constructed, it contained over 350 rooms and required 2 loading berths and 6 service/delivery spaces, and these spaces were provided. The subsequent additions of 127 rooms to the Marriott in 1988 and 2006 did not require additional loading, because the building already contained over 200 rooms. Similarly, the addition of 168 rooms with Hyatt Place also does not require additional loading, because the combined building for zoning purposes already contains over 200 rooms.

Notwithstanding the fact that additional loading is not required for the Hyatt Place addition, the project will include an additional 30-foot deep loading berth and 20-foot deep delivery spaces. These loading spaces are located at the rear of the property, on a former public alley. Section 2203.1 only restricts the location of *required* loading spaces. Because the spaces proposed here are not required loading spaces, they may be located anywhere on the property. Further, as a practical matter, a private alley is clearly an appropriate location for loading berths. Thus, the expanded building provides loading facilities in conformance with the Zoning Regulations.

4. Roof Structure Setback

In my professional opinion, the Zoning Administrator was correct in determining that the roof structure is adequately set back from all of the exterior walls of the combined building. Based on the Zoning Regulations, precedent and my experience, exterior walls are those that face streets, alleys, yards, and open courts. Walls that face closed courts and the interior of a building

are interior walls, so no setback is required from those walls. Also, no setback is required from lot line walls, provided adjacent property is also able to achieve the same height. Accordingly, the proposed roof structure on the Hyatt Place addition is adequately set back from all exterior walls of the combined building. The west wall of the addition is an interior wall that faces a closed court, so no setback is required for the roof structure on the addition.

5. Public Space Requirement

The Zoning Administrator was correct in his determination that the addition does not necessitate additional ground floor public space pursuant to section 633 of the Zoning Regulations. Based on precedent and my experience, the open space requirement is based on the total record lot area, which does not increase with additional building floor area. Therefore, the Hyatt Place addition does not trigger a requirement for additional public space.

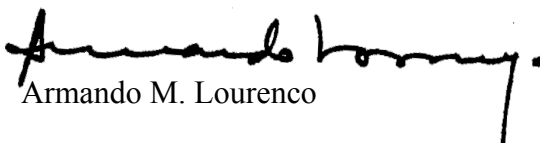
The open space requirement for the record lot must have been satisfied in 1978 when the Marriott was constructed. The portion of the lot where the Hyatt Place addition will be located could not have been counted toward the public space requirement at the time because it was 100% occupied by another 2-story brick structure. Therefore, it was determined that sufficient ground floor public space on the record lot was provided with the construction of the Marriott because it received a certificate of occupancy.

I am unaware how that determination was made, but multiple certificates of occupancy ("COs") were subsequently provided to the Marriott: for an addition in 1988 and for a new Walgreens store on the ground floor of the Marriott in 2006. None of this construction changed the size of the record lot. Thus, these COs repeatedly affirm compliance with the public space requirement. This is also confirmed by the Zoning Computation Sheet No. ZA-88-97 for the 1988 addition that indicates the structure is a conforming structure. In my experience, it is practice to treat a long-standing affirmation of compliance as evidence of compliance. The proposed addition, again, will not change the size of the record lot, so the already-complying public space will continue to satisfy the public space requirement for the lot.

Conclusion

In conclusion, based on my experience and understanding of the Zoning Regulations and precedent, the Zoning Administrator was correct in his determination that the proposed addition complies with the Zoning Regulations. The appeals should be denied and the Permit affirmed.

Respectfully submitted,


Armando M. Lourenco

Armando M. Lourenco, P.E., MCP
Lourenco Consultants, Inc.
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Washington, DC 20016
(202) 966-0042 – Fax (202) 966-1534

- CURRICULUM VITAE -

August 2000 - Present

President

Lourenco Consultants, Inc.
Washington, DC

Founder of Lourenco Consultants Inc. (LCI), the premier provider of code compliance services to the building industry in Washington, DC. Manages operations of consulting firm in fire and life safety, regulatory compliance, code consulting and related services, in support of the development industry and providing management support to municipal regulatory agencies. Directs firm's third-party code compliance activities, encompassing plans certification and code compliance inspections. Major projects of the firm include the code compliance inspections of the Washington Nationals Ballpark, the Walter E. Washington Convention Center, the life safety upgrades of the Children's National Medical Center, the Southwest Quadrangle expansion of the Georgetown University, the Securities and Exchange Commission Headquarters at Station Place, the new Arena Stage performing arts complex, and the United States Institute of Peace headquarters, in Washington, DC.

June 1998 - August 2000

Administrator

Building and Land Regulation Administration
Washington, DC

Oversaw operations of an Administration encompassing six Divisions, with a staff of 95, including 42 inspectors and 19 professional staff (engineers, architects and historians) with plans review and field inspection responsibility in the disciplines of zoning regulations, historic preservation law, official surveying records, construction, plumbing, mechanical, electrical, fire protection, boiler and elevator codes in the nation's capital. From 1998 to 1999 served as Acting Zoning Administrator for the District of Columbia.

Dec 1996 - May 1998

Project Director, Schirmer Engineering Corporation

Washington Regional Office, Arlington, Virginia
Miami Regional Office, North Miami Beach, Florida

Provided technical direction to the engineering staff of the Washington regional office. Assisted the regional manager in the day-to-day operations and in business development and managed major nationwide projects within the purview of the office. Started-up new regional office of leading nationwide code consulting and fire protection engineering corporation. Directed office operations and business development and managed projects in South Florida, including the Fire and Life Safety Master Plan for the \$4.5B expansion of the Miami International Airport.

Aug 1995 - Dec 1996

Senior Engineer, Schirmer Engineering Corporation

Eastern Regional Office, Falls Church, Virginia

Responsibilities included oversight of consultation and design engineering services in the eastern regional office, and management of major projects within the purview of the office, including high-rise projects in the U.S. and Fire Protection Systems for electrical substations of Interconexion Electrica, Colombia, South America.

Feb 1994 - Aug 1995

Deputy Director, Code Enforcement Bureau

Fire Department, City of Alexandria, Virginia

Technical oversight of the daily operations of the Bureau, with a staff of 43. Duties included oversight responsibility of engineering plans review and new construction inspections.

June 1990 - Feb 1994

Program Manager, Permit Processing Division

Building and Land Regulation Administration
Washington, DC

Managed the Division and headed the Permit Center, with a staff of 40, including 15 engineers. Had oversight responsibility for the enforcement of the D.C. Construction Codes in plans review.

Jan 1988 - Jun 1990

Chief, Mechanical Engineering Section

Building and Land Regulation Administration
Washington D.C.

Occupied positions of progressively higher responsibility in BLRA, since 1986 and through 1990. For over a year was Acting Chief of the Technical Review Branch (engineering plans review), with a staff of 15 engineers.

EDUCATION

1979 - 1980

MS Nuclear Engineering

National Institute of Nuclear Sciences and Technology, Saclay, France
Major: Structural Mechanics

1966 - 1972

BS Mechanical Engineering

Lisbon University of Technology, Lisbon, Portugal
Major: Production Management & Mechanical Structures

PROFESSIONAL REGISTRATION

1989

Licensed Professional Engineer (P.E.) - Registered in District of Columbia.

2011

Master Code Professional (MCP) – Certified by International Code Council

APPOINTMENTS AND MEMBERSHIPS

- 2012- Present Member of the Construction Codes Coordination Board (CCCB). District of Columbia
- 2012- Present Chair of the Mechanical Technical Advisory Group of the Construction Codes Coordination Board (CCCB). District of Columbia
- 2006 - 2008 Chair of the Construction Subcommittee of the Mayor's Building Code Advisory Committee (BCAC). District of Columbia
- 1996 - 2006 Chair of the Issues and Policy Subcommittee of the Mayor's Building Code Advisory Committee (BCAC). District of Columbia
- 1997 - 2001 Member of the Construction Codes and Standards Liaison Task Group of the Society of Fire Protection Engineers (SFPE).
- 1998 - 1999 Member of the International Mechanical Code Development Committee International Code Council (ICC)
- 1998 Co-Chair of the Zoning and Construction Working Group of the DC Government to streamline enforcement of the Zoning Regulations and Construction Codes. District of Columbia
- 1996 - 1998 Member of BCAC representing the Chesapeake Chapter of SFPE. District of Columbia
- 1996 - 1998 Active in several BCAC's technical subcommittee (Fire and Life Safety - Existing Structures). District of Columbia
- 1997 - 1998 Member of NFPA Technical Committee on Fire Protection of Nuclear Facilities Alternate - NFPA 801-805
- 1997 - 1998 Member of NFPA Technical Committee on Air Conditioning Alternate - NFPA 90
- 1994 - 1996 Member of the BOCA Code Interpretations Committee Building Officials and Code Administrators International (BOCA)
- 1992 - 1994 Member of the Mayor's Building Code Advisory Committee (BCAC) District of Columbia
- 1990 - 1995 Member of the BOCA Mechanical Code Changes Committee Building Officials and Code Administrators International (BOCA)
- 1988 - 1994 Active in several of BCAC's technical subcommittees (Fire and Life Safety - Existing Structures - Mechanical - Plumbing - Accessibility)
- 2003- Present Member of International Code Council
2003 - Present, Professional member
- 1987 - 2003 Member of Building Officials and Code Administrators (BOCA) International

INTERNATIONAL CODE COUNCIL PROFESSIONAL CERTIFICATIONS

Accessibility Inspector/Plans Examiner
Building Inspector
Building Plans Examiner
Certified Building Official
Certified Building Code Official
Certified Electrical Code Official
Certified Fire Code Official
Certified Mechanical Code Official
Certified Plumbing Code Official
Combination Inspector
Combination Plans Examiner
Commercial Building Inspector
Commercial Combination Inspector
Commercial Electrical Inspector
Commercial Energy Inspector
Commercial Energy Plans Examiner
Commercial Mechanical Inspector
Commercial Plumbing Inspector
Electrical Inspector
Electrical Plans Examiner
Fire Inspector I
Fire Inspector II
Fire Plans Examiner
Master Code Professional
Mechanical Inspector
Mechanical Plans Examiner
Plumbing Inspector
Plumbing Plans Examiner
Residential Building Inspector
Residential Combination Inspector
Residential Electrical Inspector
Residential Energy Inspector / Plans Examiner
Residential Fire Sprinkler Inspector / Plans Examiner
Residential Mechanical Inspector
Residential Plans Examiner
Residential Plumbing Inspector

PROFESSIONAL AFFILIATIONS

National Society of Professional Engineers (NSPE)
Society of Fire Protection Engineers (SFPE)
American Society of Mechanical Engineers (ASME)
International Code Council (ICC)
National Fire Protection Association (NFPA)
Automatic Fire Alarm Association (AFAA)