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BEFORE THE BOARD
OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

APPLICATION OF
DITTO RESIDENTIAL, LLC

BZA APPLICATION NO. 18785
HEARING DATE: JUNE 24, 2014
ANC 5D06

**REQUEST FOR WAIVER OF RULES FOR
SUBMISSION OF ADDITIONAL DOCUMENTATION
AND REVIEW OF ADDITIONAL VARIANCE RELIEF**

The Applicant respectfully requests a waiver from the Board under Section 3100.5 of the Zoning Regulations for the following

- 1 Acceptance of additional information by the Applicant regarding additional variance relief, and
- 2 Review and consideration of this variance request by the Board at the public hearing on June 24, 2014

A. BACKGROUND

After this Application was filed, and during review by the Office of Planning, a question was raised whether Section 2117.8(a) would limit the garage ramp to a maximum grade of 12%. That Section states as follows

"A driveway that provides access to required parking spaces shall meet the following standards (a) it shall have a maximum grade of not more than 12% with a vertical transition at the property line "

As soon as this issue was raised, the Applicant's representatives requested a meeting with the Zoning Administrator to review this issue. That meeting was held on June 3, 2014. By memorandum dated June 4, 2014, the Applicant provided the Zoning Administrator with

citations, rulings and other precedent to support the position that Sec 2117 8(a) does not apply to the garage ramp in this case See Exhibit A On June 12, 2014, the Zoning Administrator determined that the ramps of underground parking garages are not subject to Section 2117 8(a) when they are covered by a roof, and that the proposed garage ramp (which is not covered by a roof) more closely resembles a driveway, and is therefore limited to a maximum grade of 12% over its entire length

Therefore, in order to address this issue, the Applicant respectfully requests that the Board waive the rules per Sec 3100 5 in order to accept this document into the record, and to consider this request for a variance at the public hearing on June 24 The waiver will not prejudice the right of any party, and is not otherwise prohibited by law The Board has previously granted similar waivers to allow review and approval of amendments to other Applications after the applicable filing dates

The details of the garage ramp, including the grade percentage, are shown on the architectural plans and elevations submitted with the Application (BZA Exhibit No 12) These plans have been part of the public record since April 16, 2014, and were part of the Applicant's presentations at the community meetings

This issue will have no impact on the public The garage, and therefore the garage ramp, will not be available for use by the public, but instead will be accessible only to those residents of the building who will have a parking space in the garage

B. THE APPLICANT MEETS THE BURDEN OF PROOF FOR SUPPLEMENTAL VARIANCE RELIEF

The Statement of the Applicant (BZA Exhibit No 55) is hereby incorporated by reference That document describes the standards for granting area variances, as well as the exceptional situations and conditions affecting the property In summary, the site is a small,

narrow, corner lot that abuts an active firehouse. These factors in turn dictate the location of the building footprint and the garage ramp location and configuration.

The strict application of a requirement for a maximum grade of 12% for the entire length of the garage ramp would result in a practical difficulty. The ramp is approximately 124 feet in length, and is accessed from the public alley to the north of the property. As shown on BZA Exhibit No. 12, the ramp has a maximum grade of 8% with a vertical transition at the property line along the alley. The ramp grade then increases to 16%, and then tapers back down to 8% as it approaches the parking garage entrance.

If a maximum grade of 12% was required for the entire length of the ramp, the bottom of the ramp would not be able to reach the garage level. The residential units on the lower level of the building would need to be eliminated. Alternatively, raising the floor level of the parking garage to meet the bottom of a 12% grade ramp would require all floors of the building to be correspondingly raised. This would in turn increase building height, and increase the FAR of the building from 3.0 FAR to 3.75 FAR, because the ceiling of the lowest level of residential units would thus become more than 4 feet above the adjacent finished grade.

Relief can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose or integrity of the zone plan. The public good will not be affected by the inclusion of the garage ramp as proposed by the Applicant. The garage will not be open and available to the public. Rather, the garage will be available only to those residents of the building who have a parking space in the garage.

The garage ramp was designed in accordance with the American Institute of Architects, Architectural Graphic Standards, 8th Addition (See Exhibit B). That document shows that for a ramp of greater than 65 feet in length, a vertical transition of 8% at the property line for the

"blend" portion, with a ramp grade of 16%, is recommended. The garage ramp in this Application was designed to meet these published industry design standards.

Section 2117.8(a) of the Zoning Regulations does NOT require a maximum grade of 12% for the entire length of a garage ramp, or a driveway. That section states that "a driveway shall have a maximum grade of not more than 12% *with a vertical transition at the property line*." The 12% maximum driveway grade has historically been applied at the property line, and not for the entire length of either a ramp or a driveway. If Section 2117.8(a) was intended to require a 12% maximum grade for the entire length of a ramp (or a driveway) the italicized words at the end of the above quote would not have been necessary.¹ The modifying phrase in Section 2117.8(a) makes clear that the 12% limitation applies at the property line, and not for the entire length of the ramp or driveway.

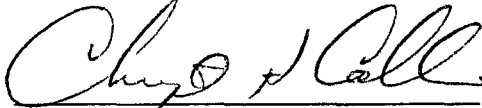
Further, as more fully discussed in the memorandum to the Zoning Administrator at Exhibit A, the Zoning Administrator and the Zoning Commission have previously recognized the distinctions between a driveway and a garage ramp, and have also recognized that a garage ramp does not need to be covered by a roof in order to be classified as a ramp. See, e.g., Section 2117.10 - "All open parking spaces, including driveways, and ramp areas", Z.C. Order Nos. 05-38 and 949, and BZA Order Nos. 14002 and 17063, all of which included exterior "ramps".

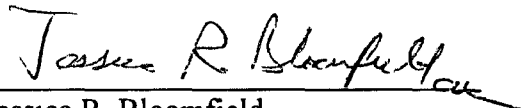
¹ Compare the language of the DDOT Design and Engineering Manual at Section 31.2.3.1 - "The grade of any driveway within public space shall not exceed 12%."

For all of the above reasons, the approval of the project with a garage ramp with a grade as shown on the plans will not result in a substantial detriment to the public good or a substantial impairment of the intent, purpose or integrity of the zone plan

Respectfully submitted,

HOLLAND & KNIGHT LLP

By 
Christopher H Collins

By 
Jessica R Bloomfield

cc Steve Cochran, Office of Planning, by email
Jamié Henson, DDOT, by email
Tina Laskaris, ANC 5D06, by email

Collins, Christopher H (WAS - X77841)

From: Collins, Christopher H (WAS - X77841)
Sent: Wednesday, June 04, 2014 12 50 PM
To: 'LeGrant, Matt (DCRA)'
Cc: Chuong Cao, 'Dan Roth', 'Martin Ditto'
Subject: 1326 Florida Avenue, NE--Garage Ramp--Inapplicability of Section 2117 8(a)

Dear Matt--This memo is a follow up to our discussion of June 3, 2014 regarding the question whether the limitation on driveways in Section 2117 8(a) also applies to the garage ramp that connects the alley to the parking garage in this project. Section 2117 8(a) states that "A driveway that provides access to required parking spaces shall meet the following standards: (a) It shall have a maximum grade of not more than twelve percent (12%) with a vertical transition at the property line." Section 2117 8(a) of the Zoning Regulations, which restricts driveways to a slope of no more than 12% with a vertical transition at the property line, does not apply to garage ramps, for the reasons set forth below.

1. The Zoning Regulations make a distinction between driveways and ramps. For example, section 2115.7 of the Regulations provides that "[a]ll entrances, exits, access aisles, ramps, and driveways providing access to parking spaces shall also have the minimum vertical clearances as prescribed in §§ 2115.5 and 2155.6, respectively." (emphasis added). Similar distinctions are also made in sections 2115.1, 2115.3 and 2117.10. Section 2117 8(a) regarding a maximum grade of "12% with a vertical transition at the property line" applies *only* to driveways; it does not address garage ramps, aisles, parking spaces or other features of a garage. This interpretation is consistent with the rules of statutory construction and the maxim *expressio unius est exclusio alterius* – "the mention of one thing implies the exclusion of another." That is, when a regulation provides that a restriction applies to a certain situation, it implies that it cannot be applied to other circumstances, "because there is an inference that all omissions should be understood as exclusions." *McCray v. McGee*, 504 A.2d 1128, 1130 (D.C. 1986), *quoting* 2A Sutherland, *Statutes and Statutory Construction* § 47.23 (4th ed. 1984), *see also* 73 Am. Jur. 2d *Statutes* §211 (1974) and *Botany Worsted Mills v. United States*, 278 U.S. 282, 289 (1929). Thus, if Section 2117 8(a) was intended to apply to garage ramps in addition to driveways, as the various references in the earlier Section 2115 were, Section 2117 8 would have been written that way. However, Section 2117 8 only makes reference to driveways. As the District of Columbia Court of Appeals noted, "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *School Street Associates Limited Partnership v. District of Columbia*, 764 A.2d 798, 808 (D.C. 2001), *quoting* *Gozlon-Peretz v. United States*, 498 U.S. 395, 404 (1991) and *Russello v. United States* 464 U.S. 16, 23 (1983). Thus, garage ramps, unlike driveways, are not limited to a maximum grade of 12%.

2. The Zoning Commission and Board of Zoning Adjustment have consistently recognized the distinction between driveways and garage ramps. For instance:

a) BZA Order No. 17425--"In light of concerns raised in the Office of Planning's report, the Board considered whether relief might be required from the slope requirements of Section 2117 8(a). The Board determined that no relief was required because that provision does not apply to an underground drive ramp, which is to be distinguished from a driveway."

b) BZA Order No. 15156 (Modification Order, November 24, 1993)--"The modification of plans seeks to eliminate a driveway between the residential and office components of the project and to substitute instead a ramp to the parking levels below. Automobiles will continue to use the area previously planned as the driveway from Highland Terrace, albeit as a ramp to the underground parking garage."

c) Zoning Commission Order No. 906--"During the Zoning Commission's public meeting on January 11, 1999, the applicant was asked to restudy certain aspects of the design of the project including the extent of the setback along 16th Street. The Applicant requested and was granted the opportunity to present the revised plans at a

further hearing on March 25, 1999. At that hearing, the architect testified that the applicant's central focus in the redesign effort was to reduce further the visual impact of the building on 16th Street, both at the top and the bottom. As redesigned, the additional floors were minimally visible from strategically sensitive points along 16th Street and completely out of view from most points. Further, the **garage entrance** was modified to minimize its visual impact through a reduction in the original proposed door height of ten feet, four inches to eight feet, the replacement of the single garage entrance with two smaller openings, the use of finish materials in the inside of the garage which are similar in color to the exterior to minimize the contrast when the doors are open and the use of glass at the rear of the building to allow natural light to fill the **garage ramp** and entry area. Further, the **garage driveway** will be paved with unit pavers accented with granite blocks and the entry will be marked by wall sconces " (Emphasis added)

d) BZA Order No. 15463--"DPW recommends that the applicant retain the one-way eastbound nature of this driveway and that final coordination of the driveway and garage ramp design be done with the DPW Bureau of Traffic Services "

3. There is no basis for a distinction that a sloping vehicular access to a garage is a driveway, if located outside of the building, and a ramp, if located inside the building. See, for example

a) BZA Order No. 14002--This case involved the construction of a new mixed-use SP office and residential building at 450 H Street, NW, adjacent to property owned and occupied by the GSA as the General Accounting Office's headquarters. Access to the garage in the proposed building was planned via an exterior garage ramp on the GAO property. "The opposition, as a preliminary matter at the public hearing, requested that the hearing on the subject application be continued. Thirdly, [they alleged that] there was no evidence that the General Accounting Office (GAO) had given permission to the applicant to use its ramp" (id. at p. 1). "To the east of the site is the General Accounting Office, a 110 foot high structure with a garage ramp entrance abutting the site to the east " (Finding No. 4). "Eight parking spaces are proposed to be located in the first sub-grade level with access from the GAO Building garage ramp " (Finding No. 10). "The office windows along approximately forty-four feet of the ground floor and approximately twenty-nine feet of floors two through six, on the east side of the proposed structure, face on windows of the GAO Building twenty-six feet away across its parking ramp " (Finding No. 14).

b) BZA Order No. 17063--This case involved the same property as that in Order No. 14002, discussed above. "The [parking] level is accessed only from a ramp located on the adjacent GAO property" (Finding No. 8).

c) Zoning Commission Order No. 05-38--Marina View PUD--This is a multi-building project involving the renovation of several existing buildings and the addition of several others. "Each set of buildings will also contain an underground parking facility. The point of entry on 6th Street will be a ramp leading down to an underground "auto court" rotary to allow traffic to circulate for both self-parking and valet parking. (Exhibit 26, p. 6) " Exhibit 26, Sheets 10 and 14, show that these ramps are exterior ramps, open to the sky.

d) Zoning Commission Order No. 949--American University Campus Plan and Further Processing--Project D of this plan was a 100,000 sq. ft. building, to be located east of Bender Library, on a then-existing parking lot. "The Neighborhood Associations urged further that Project D should be set back further than Hurst Hall, that there should be no gates or other entry procedures that have the effect of slowing cars from entering the parking garage under the building, and that ramps leading into the garage from Nebraska Avenue should be as long as possible to reduce queuing on Nebraska Avenue " (Finding No. 84). "The Applicant shall design ramps to the parking garage under each building to minimize their impact on Nebraska Avenue traffic from turning movements" (Condition No. 10(d)(v)).

e) Zoning Regulations, Section No. 2117.10--"All open parking spaces, including access aisles, driveways, and ramp areas shall be surfaced with an all-weather impervious surface " (Emphasis added). If ramps were

considered only to be located within a building, then the use of the term "ramps" in this section would not have been necessary

4 See also the attached prior email exchange with Former Zoning Administrator Bill Crews, in which he concurred with the distinction between a driveway and a ramp in his ruling involving 777 6th Street, NW

For all of the above reasons, we respectfully request your determination that the driveway limitation of a 12% slope with a vertical transition at the property line does not apply to the garage ramp in this project



FW: Garage Ramp
Slopes Greater

Thank you

Christopher H. Collins, LEED AP | Holland & Knight
Partner
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chris.collins@hklaw.com | www.hklaw.com

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Collins, Christopher H (WAS - X77841)

From: Brown, M Carolyn (WAS - X75990)
Sent: Friday, January 27, 2006 2 07 PM
To: 'Crews, Bill (DCRA)'
Cc: 'Kim Kepley', 'Dave Wilson', Glasgow, Norman M Jr (WAS - X72460), 'Elba Morales'
Subject: Garage Ramp -- 777 6th St NW

Dear Bill,

Thanks for taking the time to meet with Kim Kepley and Dave Wilson of Trammell Crow and me on Wednesday to review the garage ramp issue for the new building at 777 6th Street, N W. As discussed, we believe the provisions of section 2117 8(a) of the Zoning Regulations that restrict driveways to a slope of no more than 12% do not apply to garage ramps, for the reasons set forth below. We therefore request that you approve the building permit application for zoning compliance as expeditiously as possible.

First, the Zoning Regulations make a distinction between driveways and ramps – they are not the same thing. For example, section 2115 7 of the regulations provides that "[a]ll entrances, exits, access aisles, ramps, and driveways providing access to parking spaces shall also have the minimum vertical clearances as prescribed in §§ 2115 5 and 2155 6, respectively." Similar distinctions are also made in sections 2115 1, 2115 3 and 2117 10. Section 2117 8(a) regarding a maximum grade of 12% applies *only* to driveways, it does not address aisles, ramps, parking spaces or other features of a garage. This interpretation is consistent with the rules of statutory construction and the maxim *expressio unius est exclusio alterius* – "the mention of one thing implies the exclusion of another." That is, when a regulation provides that a restriction applies to a certain situation, it implies that it cannot be applied to other circumstances, "because there is an inference that all omissions should be understood as exclusions." *McCray v McGee*, 504 A 2d 1128,1130 (D C 1986), *quoting* 2A Sutherland, *Statutes and Statutory Construction* § 47 23 (4th ed 1984), *see also* 73 Am Jur 2d *Statutes* §211 (1974) and *Botany Worsted Mills v United States*, 278 U S 282, 289 (1929). Thus, if the section 2117 8 were intended to apply to garage ramps in addition to driveways, the regulations could have been drafted that way. However, that section only makes reference to driveways. As the District of Columbia Court of Appeals noted, "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *School Street Associates Limited Partnership v District of Columbia*, 764 A 2d 798, 808 (D C 2001), *quoting* *Gozlon-Peretz v United States*, 498 U S 395, 404 (1991) and *Russello v United States* 464 U S 16, 23 (1983). Thus, garage ramps, unlike driveways, may exceed a maximum grade of 12%.

Second, the Zoning Commission and Board of Zoning Adjustment recognize the distinction between driveways and garage ramps. In its order approving the Solar Building PUD at 16th and K Street, N W, the Zoning Commission describes the various elements of the parking garage in the building and distinguishes among the entrance, ramp and driveway areas.

During the Zoning Commission's public meeting on January 11, 1999, the applicant was asked to restudy certain aspects of the design of the project including the extent of the setback along 16th Street. The Applicant requested and was granted the opportunity to present the revised plans at a further hearing on March 25, 1999. At that hearing, the architect testified that the applicant's central focus in the redesign effort was to reduce further the visual impact of the building on 16th Street, both at the top and the bottom. As redesigned, the additional floors were minimally visible from strategically sensitive points along 16th Street and completely out of view from most points. Further, the **garage entrance** was modified to minimize its visual impact through a reduction in the original proposed door height of ten feet, four inches to eight feet, the replacement of the single garage entrance with two smaller openings, the use of finish materials in the inside of the garage which are similar in color to the exterior to minimize the contrast when the doors are open and the use of glass.

at the rear of the building to allow natural light to fill the *garage ramp* and entry area. Further, the *garage driveway* will be paved with unit pavers accented with granite blocks and the entry will be marked by wall scones.

Z C Order No. 906 (Solar Building), November 24, 2000, ¶ 4, at 2 (emphasis added)

The Board of Zoning Adjustment made similar distinctions between driveways and ramps in Paragraph 22 of BZA Order No. 15463 (Hospital for Sick Children). "DPW recommends that the applicant retain the one-way eastbound nature of this driveway and that final coordination of the driveway and garage ramp design be done with the DPW Bureau of Traffic Services." Thus, the restrictions on driveways should not apply to garage ramps because both the Zoning Commission and BZA recognize that they are not the same.

Finally, it has also been the long-standing interpretation of the Zoning Review Branch to allow garage ramps – as opposed to driveways – to exceed a maximum grade of 12%, as evidenced by virtually hundreds of buildings throughout the city that have been approved and constructed with ramps with more than 12% grades. As shown in the attached document prepared by Hickok Cole Architects, some representative examples include 11 Dupont Circle, N.W., 717 6th Street, N.W.; Georgetown Park Mall, Hilton Embassy Row, Ritz Carlton Georgetown, and 10 G Street, N.E. Statutory construction also dictates that such long-standing interpretation should not be overturned, particularly when a party has relied on that interpretation to its detriment. See *Reichley v. District of Columbia Department of Employment Services*, 531 A.2d 244 (D.C. 1987) ("if an agency's adjudication is a clear break with the past and a party reasonably relied to its detriment on the previous rule, then the new rule should be applied prospectively.") Here, the applicant has relied on this long-standing interpretation and expended hundreds of thousands of dollars on construction drawings and is pouring concrete now for the project.

Therefore, based on the information presented above, we request that you approve the plans for 777 6th Street, N.W., with the garage ramp as shown on the drawings as expeditiously as possible. As mentioned above and as discussed during our meeting, the concrete is being poured now for the below-grade work under the foundation-to-grade permit, and the owners will be ready to start the above-grade work within a matter of weeks. However, they risk extraordinary construction delay costs and potential loss of workers at the job site if the building permit is not issued as soon as possible. Additionally, the permit application must still undergo structural review, which cannot proceed until zoning approval has been granted. Consequently, it is critical that the plans be approved as soon as possible.

Thank you for your time and attention to this matter. Feel free to call me with any questions at (202) 862-5990.

Best regards,

Carolyn Brown



2006-01-26-ramps
-low_res.pdf

Holland & Knight

Mary Carolyn Brown
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006

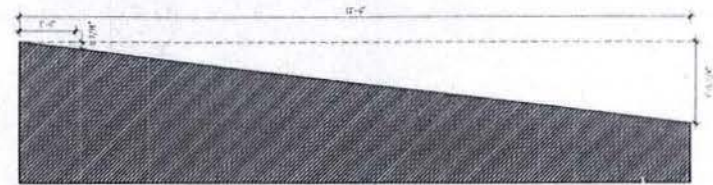
Main: 202.955.3000
Direct: 202.862.5990

VISUAL DOCUMENTATION
GARAGE RAMPS IN D.C.

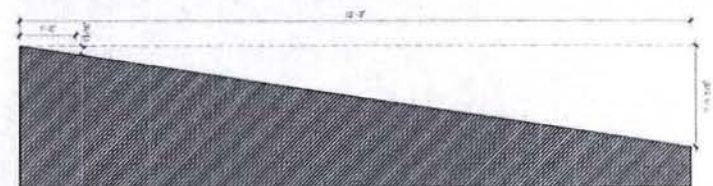
Hickok Cole



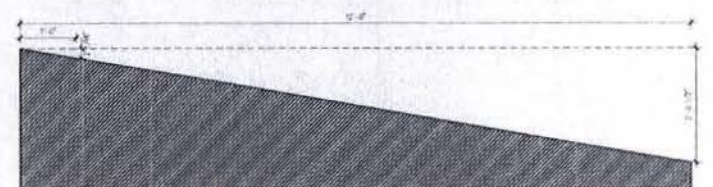
12 % slope



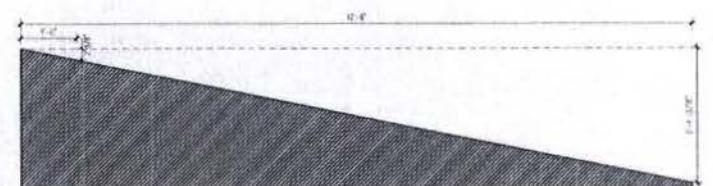
15% slope



17% slope



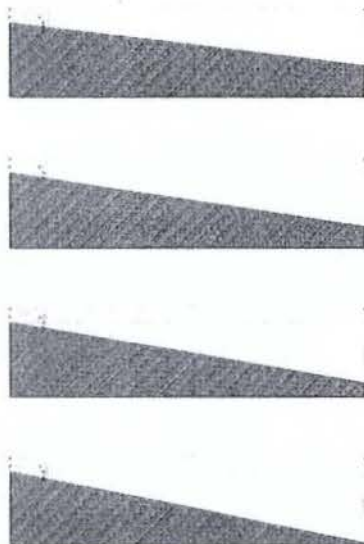
20% slope



15% slope

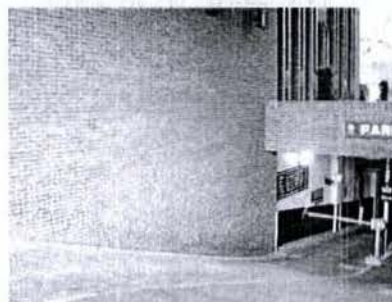
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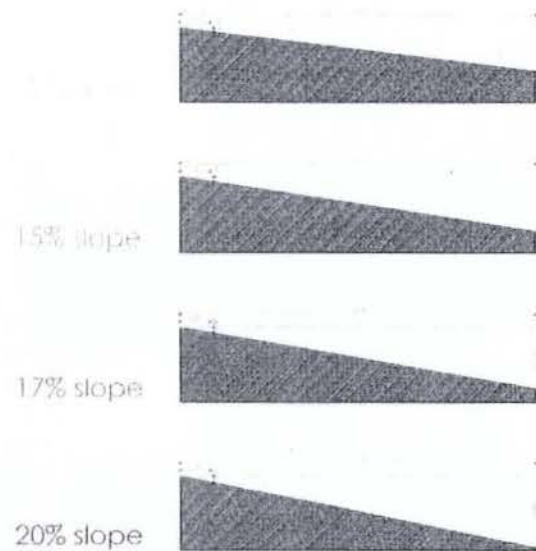
20% slope



KEY FOR COMPARISON

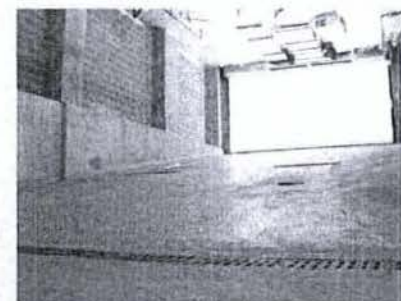
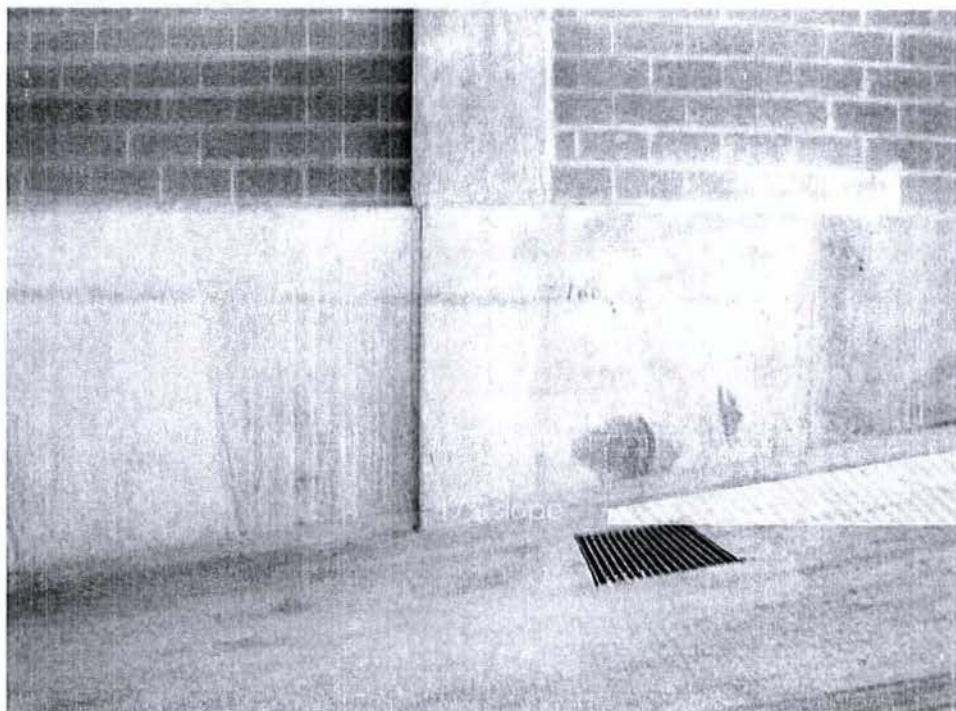
11 DUPONT CIRCLE, NW





KEY FOR COMPARISON

717 SIXTH STREET NW
The Cospolitan



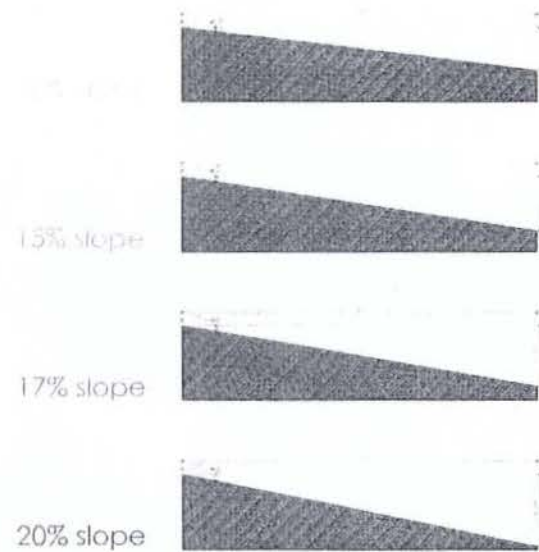
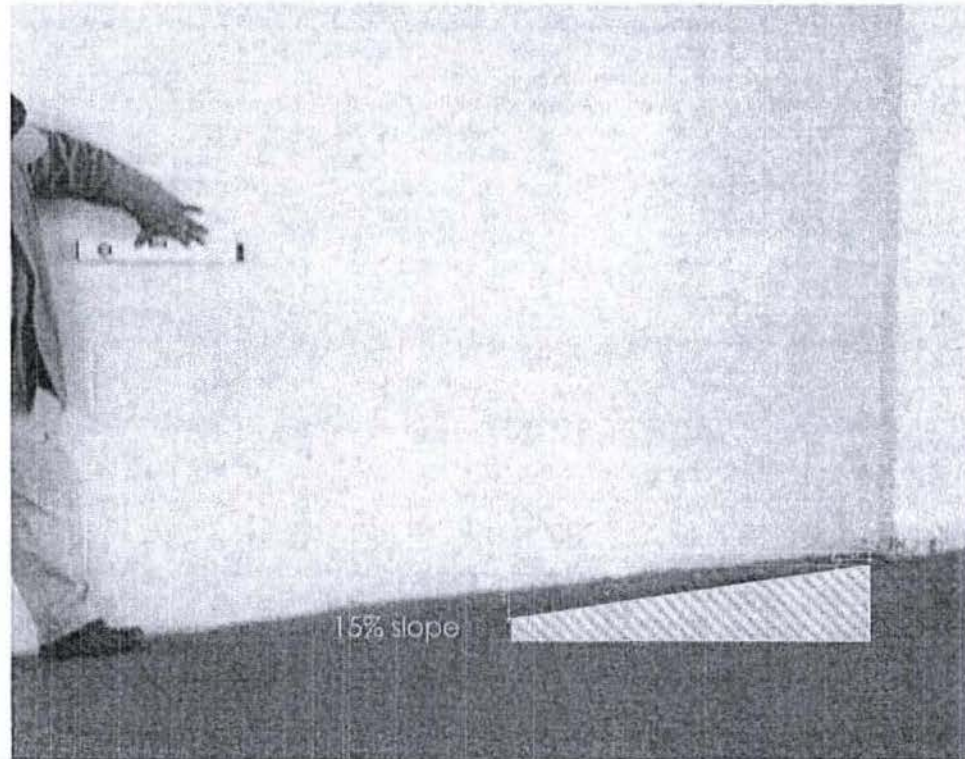
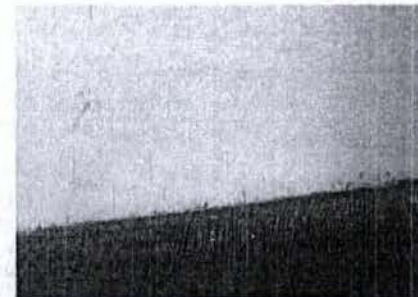
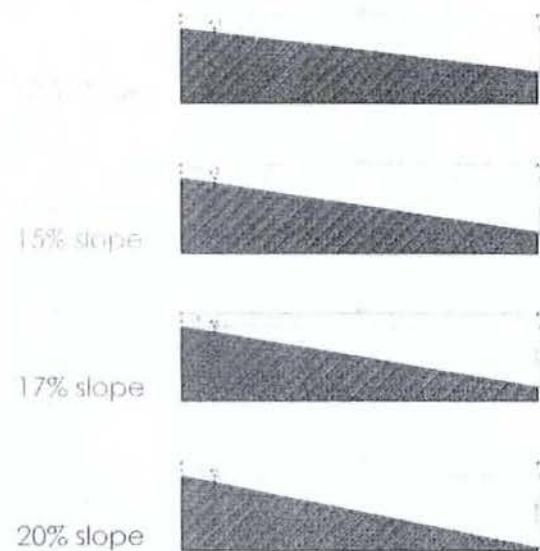


FIGURE COMPARISON



GEORGETOWN MALL
Wisconsin, between M & K Streets

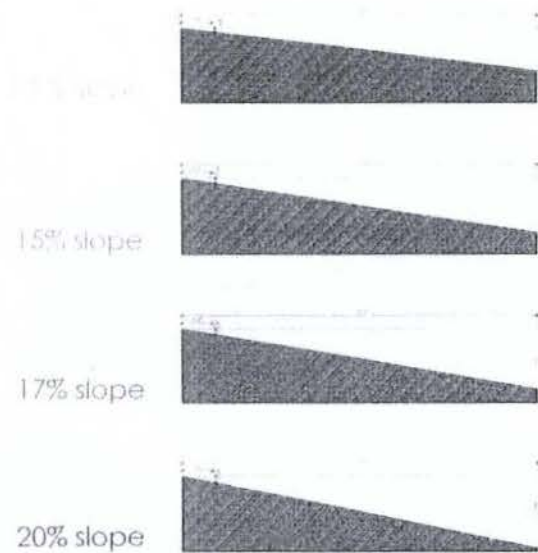




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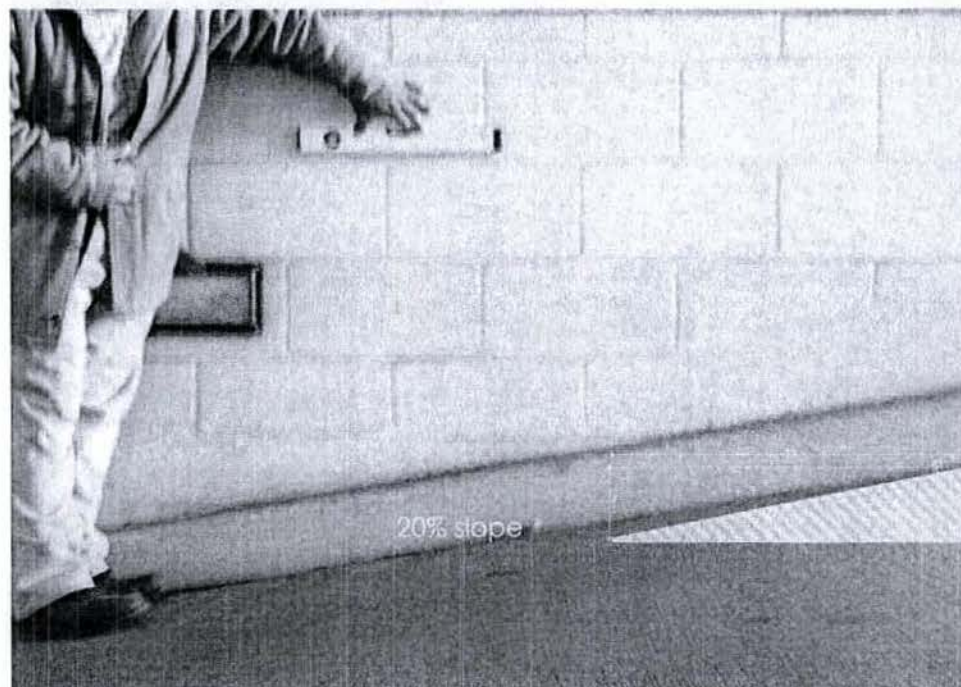


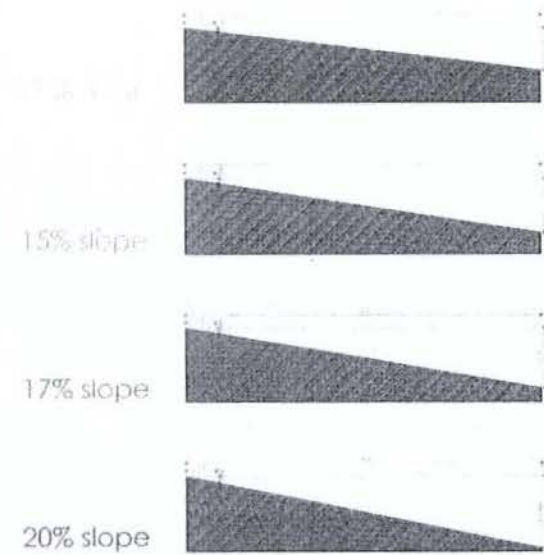
HILTON EMBASSY ROW
2015 Massachusetts Ave. NW



KEY FOR COMPARISON

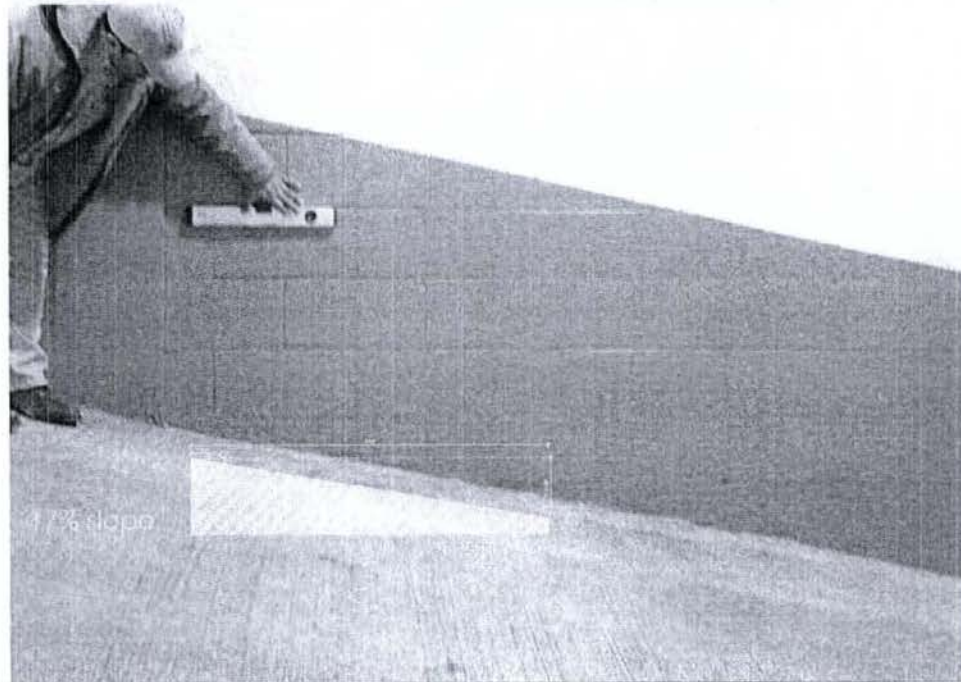
RITZ CARLTON HOTEL
3100 South Street NW





KEY FOR COMPARISON

10 G STREET NE



Collins, Christopher H (WAS - X77841)

From: Crews, Bill (DCRA) [Bill.Crews@dc.gov]
Sent: Thursday, February 23, 2006 10:50 AM
To: Brown, M Carolyn (WAS - X75990)
Subject: RE: Garage Ramp -- 777 6th St NW

Carolyn,

Zoning has signed off on 777 6th St

It looks like Erosion control, DC Fire Dept (fire prevention plan review section), and of course, structural (always last) have yet to review

We'll move it along

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia
Department of Consumer and Regulatory Affairs
941 N Capitol St NE Suite 2000
Washington, DC 20002
202 442 4576 Office
202 442 4871 Fax
bill.crews@dc.gov

The Office of the Zoning Administrator is looking for additional zoning review technicians. If you or someone you know might be interested, please review the job description posting reference #2709 on the District Office of Personnel website www.dcop.dc.gov and contact the Zoning Administrator

From: carolyn.brown@hklaw.com [mailto:carolyn.brown@hklaw.com]
Sent: Wednesday, February 22, 2006 6:36 PM
To: Bill.Crews@dc.gov
Subject: RE: Garage Ramp -- 777 6th St NW

Thanks so much I appreciate your quick response

From: Crews, Bill (DCRA) [mailto:Bill.Crews@dc.gov]
Sent: Wednesday, February 22, 2006 6:35 PM
To: carolyn.brown@hklaw.com, Crews, Bill (DCRA)
Cc: Ogunneye, Faye (DCRA); Mac, Xoan (DCRA), Shittu, Ademola (DCRA), DWilson@trammellcrow.com; KKepley@trammellcrow.com
Subject: RE: Garage Ramp -- 777 6th St NW

Carolyn,

Sorry for the delay I'll double check, but I think we reviewed the plans this past week-end I see what the status is and get back to you

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia
Department of Consumer and Regulatory Affairs
941 N Capitol St NE Suite 2000
Washington, DC 20002
202 442 4576 Office
202 442 4871 Fax
bill crews@dc gov

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From: carolyn.brown@hklaw.com [mailto:carolyn.brown@hklaw.com]
Sent: Wednesday, February 22, 2006 5:32 PM
To: Bill.Crews@dc.gov
Cc: Faye.Ogunneye@dc.gov, Xoan.Mac@dc.gov; Ademola.Shittu@dc.gov, carolyn.brown@hklaw.com; DWilson@trammellcrow.com, KKepley@trammellcrow.com
Subject: RE Garage Ramp -- 777 6th St NW

Bill,

We understand from the permit expediter that we're still waiting on zoning sign-off, and that Faye has forwarded the permit to you for clearance Could you please release the paperwork as soon as possible? -- we still need to get to structural review and we simply can't wait any longer I realize you are very short-handed, but anything you can do would be greatly appreciated Thanks

Carolyn

From: Crews, Bill (DCRA) [mailto:Bill.Crews@dc.gov]
Sent: Thursday, February 02, 2006 9:28 PM
To: carolyn.brown@hklaw.com
Cc: Ogunneye, Faye (DCRA), Mac, Xoan (DCRA), Shittu, Ademola (DCRA)
Subject: RE Garage Ramp -- 777 6th St NW

Cool pictures, thanks

Faye et al, looks like any change of interpretation would be a major one Let's consider driveways and garage ramps different

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia
Department of Consumer and Regulatory Affairs
941 N Capitol St NE Suite 2000
Washington, DC 20002
202 442 4576 Office
202 442 4871 Fax
bill crews@dc gov

The Office of the Zoning Administrator remains critically short of zoning review technicians If you or someone you know might be interested, please review the job description posting reference #2709 on the District Office of Personnel website www.dcop.dc.gov

-----Original Message-----

From carolyn brown@hklaw.com [mailto:carolyn brown@hklaw.com]
Sent Thursday, February 02, 2006 1 53 PM
To Bill Crews@dc.gov
Subject FW: Garage Ramp -- 777 6th St NW

Bill,

Just wanted to check in and see if you've had a chance to review our memo and approve the drawings Thanks

Carolyn

>

> From Brown, M Carolyn (WAS - X75990)
> Sent Friday, January 27, 2006 2 07 PM
> To 'Crews, Bill (DCRA)'
> Cc Kim Kepley, Dave Wilson, Glasgow, Jr , Norman M (WAS - X72460), 'Elba Morales'
> Subject Garage Ramp -- 777 6th St NW

>

> Dear Bill,

>

> Thanks for taking the time to meet with Kim Kepley and Dave Wilson of Trammell Crow and me on Wednesday to review the garage ramp issue for the new building at 777 6th Street, N W As discussed, we believe the provisions of section 2117 8(a) of the Zoning Regulations that restrict driveways to a slope of no more than 12% do not apply to garage ramps, for the reasons set forth below We therefore request that you approve the building permit application for zoning compliance as expeditiously as possible

>

> First, the Zoning Regulations make a distinction between driveways and ramps > -> they are not the same thing For example, section 2115.7 of the regulations provides that "[a]ll entrances, exits, access aisles, ramps, and driveways providing access to parking spaces shall also have the minimum vertical clearances as prescribed in §§ 2115.5 and 2155.6, respectively " Similar distinctions are also made in sections 2115.1, 2115.3 and 2117.10 Section 2117.8(a) regarding a maximum grade of 12% applies only to driveways, it does not address aisles, ramps, parking spaces or other features of a garage This interpretation is consistent with the rules of statutory construction and the maxim *expressio unius est exclusio alterius* > -> "the mention of one thing implies the exclusion of another " That is, when a regulation provides that a restriction applies to a certain situation, it implies that it cannot be applied to other circumstances, "because there is an inference that all omissions should be understood as exclusions " *McCray v McGee*, 504 A.2d 1128, 1130 (D.C. 1986), quoting 2A Sutherland, *Statutes and Statutory Construction* § 47.23 (4th ed. 1984); see also 73 Am. Jur. 2d *Statutes* §211 (1974) and *Botany Worsted Mills v. United States*, 278 U.S. 282, 289 (1929) Thus, if the section 2117.8 were intended to apply to garage ramps in addition to driveways, the regulations could have been drafted that way However, that section only makes reference to driveways As the District of Columbia Court of Appeals noted, "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *School Street Associates Limited Partnership v. District of Columbia*, 764 A.2d 798, 808 (D.C. 2001), quoting *Gozlon-Peretz v. United States*, 498 U.S. 395, 404 (1991) and *Russello v. United States* 464 U.S. 16, 23 (1983) Thus, garage ramps, unlike driveways, may exceed a maximum grade of 12%

>

> Second, the Zoning Commission and Board of Zoning Adjustment recognize the distinction between driveways and garage ramps In its order approving the Solar Building PUD at 16th and K Street, N.W., the Zoning Commission describes the various elements of the parking garage in the building and distinguishes among the entrance, ramp and driveway areas

>

> During the Zoning Commission's public meeting on January 11, 1999, the applicant was asked to restudy certain aspects of the design of the project including the extent of the setback along 16th Street The Applicant requested and was granted the opportunity to present the revised plans at a further hearing on March 25, 1999 At that hearing, the architect testified that the applicant's central focus in the redesign effort was to reduce further the visual impact of the building on 16th Street, both at the top and the bottom As redesigned, the additional floors were minimally visible from strategically sensitive points along 16th Street and completely out of view from most points Further, the > garage entrance was modified to minimize its visual impact through a reduction in the original proposed door height of ten feet, four inches to eight feet, the replacement of the single garage entrance with two smaller openings, the use of finish materials in the inside of the garage which are similar in color to the exterior to minimize the contrast when the doors are open and the use of glass at the rear of the building to allow natural light to fill the garage ramp and entry area Further, the garage driveway will be paved with unit pavers accented with granite blocks and the entry will be marked by wall scones

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> Z.C. Order No. 906 (Solar Building), November 24, 2000, ¶ 4, at 2 (emphasis added)

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> The Board of Zoning Adjustment made similar distinctions between driveways and ramps in Paragraph 22 of BZA Order No 15463 (Hospital for Sick Children) "DPW recommends that the applicant retain the one-way eastbound nature of this driveway and that final coordination of the driveway and garage ramp design be done with the DPW Bureau of Traffic Services " Thus, the restrictions on driveways should not apply to garage ramps because both the Zoning Commission and BZA recognize that they are not the same

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> Finally, it has also been the long-standing interpretation of the Zoning Review Branch to allow garage ramps > -> as opposed to driveways > -> to exceed a maximum grade of 12%, as evidenced by virtually hundreds of buildings throughout the city that have been approved and constructed with ramps with more than 12% grades As show in the attached document prepared by Hickok Cole Architects, some representative examples include 11 Dupont Circle, N W , 717 6th Street, N W , Georgetown Park Mall, Hilton Embassy Row, Ritz Carlton Georgetown, and 10 G Street, N E Statutory construction also dictates that such long-standing interpretation should not be overturned, particularly when a party has relied on that interpretation to its detriment See Reichley v District of Columbia Department of Employment Services, 531 A 2d 244 (D C 1987) ("if an agency's adjudication is a clear break with the past and a party reasonably relied to its detriment on the previous rule, then the new rule should be applied prospectively> > ") Here, the applicant has relied on this long-standing interpretation and expended hundreds of thousands of dollars on construction drawings and is pouring concrete now for the project

>

> Therefore, based on the information presented above, we request that you approve the plans for 777 6th Street, N W , with the garage ramp as shown on the drawings as expeditiously as possible As mentioned above and as discussed during our meeting, the concrete is being poured now for the below-grade work under the foundation-to-grade permit, and the owners will be ready to start the above-grade work within a matter of weeks However, they risk extraordinary construction delay costs and potential loss of workers at the job site if the building permit is not issued as soon as possible Additionally, the permit application must still undergo structural review, which cannot proceed until zoning approval has been granted Consequently, it is critical that the plans be approved as soon as possible

>

> Thank you for your time and attention to this matter Feel free to call me with any questions at (202) 862-5990

>

> Best regards,

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> Carolyn Brown

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> <<2006-01-26-ramps-low_res pdf>>

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> Holland + Knight

>

> Mary Carolyn Brown

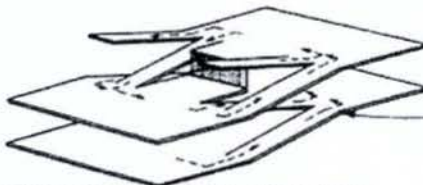
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STAGGERED FLOORS-ONE-WAY CIRCULATION

AMPLE RAMP WIDTH AND TURNING CLEARANCE IS RECOMMENDED



STAGGERED FLOORS-TWO-WAY CENTER RAMP



FLAT FLOORS-STRAIGHT, ONE-WAY RAMP

LIMITED TO 2 OR 3 STORY STRUCTURES

VERY ECONOMICAL 90° PARKING RECOMMENDED



SLOPING FLOORS-TWO-WAY CIRCULATION

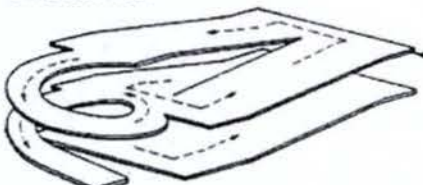


SLOPING FLOORS-ONE-WAY CIRCULATION

ECONOMICAL AND SUITED TO LONG SITES



SLOPING FLOORS-CROSS CONNECTION ONE-WAY CIRCULATION



SLOPING FLOOR WITH EXPRESS HELICAL DOWN RAMP

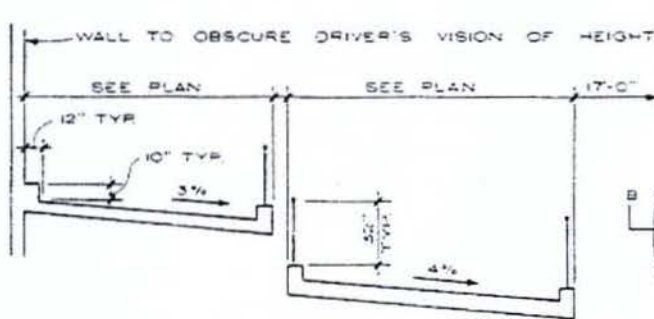
ANGLE PARKING AND EXPRESS EXIT RECOMMENDED FOR SHORT TERM PARKING USE

AUTOMATIC CONTROLS RECOMMENDED TO GUIDE PARKERS TO CORRECT LEVEL

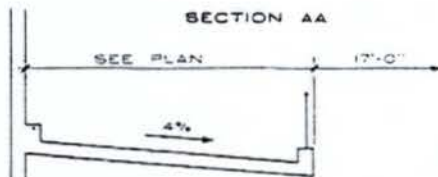


CONCENTRIC OPPOSED PLANE HELICAL RAMP

TYPICAL RAMP SYSTEMS



SECTION AA

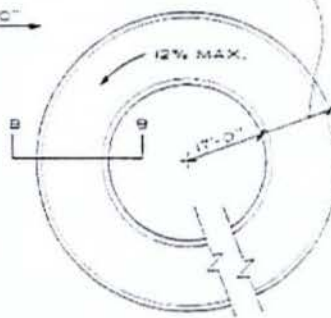


SECTION BB

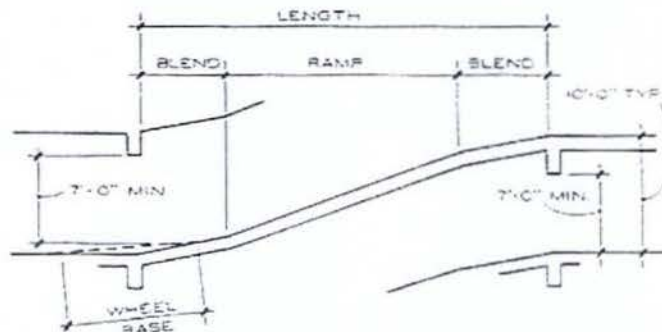
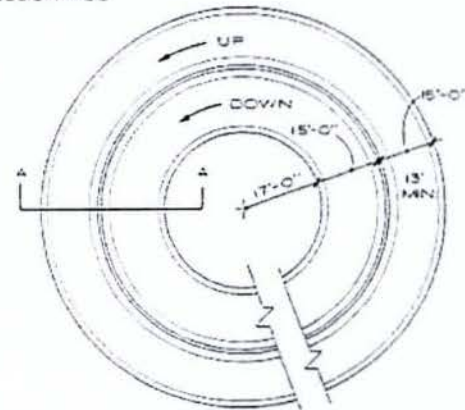


TYPICAL STRAIGHT RAMP

15'-0" WIDE FOR COUNTERCLOCKWISE TRAVEL 20'-0" WIDE FOR CLOCKWISE TRAVEL



SINGLE AND DOUBLE HELICAL RAMP



STRAIGHT RAMP

Length	<65'-0"	>65'-0"
Blend length	10'-0"	8'-0"
Blend slope	8%	6%
Ramp slope	16%	12%

NOTES

1. Provide good visibility at entrances and exits for both pedestrians and traffic. Consider impact of parking garage traffic on street traffic. Check local codes for lighting, ventilation, and screening requirements.
2. Parking garages often are included in mixed use structures.
3. Ramp lengths relate to vertical rise between levels. Maintain 7 ft. 0 in. minimum clearance for cars.

TYPICAL RAMP DETAILS