

Statement in Support of Appeal of Issuance of Building Permit #B1404913 for 1731 New Hampshire Avenue NW

The Dupont Circle Advisory Neighborhood Commission (“ANC 2B”), Rima Calderon, and William Sawicki, et al (“Appellants”) submit this statement in support of their application for appeal of the issuance of Building Permit #B1404913 (“Permit”) to Cs Bond St. C Properties Llc (“Owner”) for construction work (the “Work”) at 1731 New Hampshire Avenue NW, currently doing business as the Carlyle Hotel (“Hotel”), on June 18, 2015. A list of Appellants and a description of their interests is appended as Attachment 1.

1731 New Hampshire Avenue NW (Square 0154, Lot 0829) is situated in an R-5-D zone, sits adjacent to residential properties situated in R-5-D and R-5-B zones, and is subject to the Dupont Circle Overlay District, all of which are defined by the Zoning Regulations of the District of Columbia (“Regulations”).

EXCEPTIONS TO THE ADMINISTRATIVE DECISION

Issuance of the Permit is arbitrary, capricious, and unlawful, because it mischaracterizes Owner’s intended use for the Work. The Description of Work included on the Permit (Attachment 2) states:

“Addition of a rooftop deck for passive recreation and its supporting areas toilet rooms and lobby, reroofing, the extension of a second stair to the roof level, an open hellis [sic], planter boxes, and glass railings...”

The final design for the Work (Attachment 3) and public statements made by the Owner confirm that the roof will be used to offer food, beverage, entertainment, and special events services, not “passive recreation” as is allowed on the Permit. The Work will expand the Hotel’s commercial offerings onto the roof, where no Hotel and/or commercial use existed previously.

Furthermore, by its issuance of the Permit, the Department of Consumer and Regulatory Affairs of the District of Columbia (“DCRA”) is allowing construction of Work that Appellants believe does not comply with the Regulations in the following manners:

1. The Work constitutes an increase in the gross floor area of the Hotel, which is forbidden by §350.4(e) of the Regulations;
2. The Work constitutes an expansion of the Hotel’s total area devoted to function rooms, exhibit space, and commercial adjuncts, which is forbidden by §§350.4(e) and 351.2(a) of the Regulations;
3. The Work provides new gross floor area for commercial adjunct space that will be visible from sidewalks, which is forbidden by §351.2(c) of the Regulations;
4. The Work includes new rooftop gross floor area for uses other than mechanical equipment, stairways, and elevator penthouses, which is forbidden by §411.1 of the Regulations;

5. The Work includes a rooftop recreation penthouse, which §411.1 of the Regulations allows only on apartment building roofs within this residential District;
6. The Work includes two separate penthouse enclosures on the Hotel's roof, which is forbidden by §411.3 of the Regulations;
7. The Work includes new roof structures that will adversely affect the light and air of adjacent properties, which is forbidden by §411.11 of the Regulations;
8. The Work will increase and intensify the Hotel's commercial uses, thereby detracting from and not enhancing the residential character of the area as required by the Dupont Circle Overlay District defined in §1501.4(c) of the Regulations; and
9. Furthermore, during the review process for the issuance of the Permit, the District of Columbia Historic Preservation Officer ("HPO") granted departmental approval in direct conflict with direction given by the District of Columbia Historic Preservation Review Board ("HPRB").

Accordingly, Appellants believe that DCRA and HPO erred in approving and issuing the Permit. The Hotel's Work should therefore not be allowed, and the Permit should be revoked.

METHODS OF PROOF

Appellants intend to prove the merits of this appeal by submission of documentary evidence (including but not limited to architectural studies, gross floor area analyses, and affidavits from interested parties) and legal argument. Should a hearing be required, Appellants shall offer additional testimony on the merits of the claims outlined herein.

THIS APPEAL IS TIMELY FILED

Pursuant to §2112.2(a) of the Regulations,

“An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.”

Owner's Permit was approved on June 18, 2015. It was only upon approval of the Permit – and the subsequent receipt and review of a copy of the drawings associated with the Permit – that Appellants could ascertain the complete and direct impact of the Work and whether the Regulations had been properly applied.

ANC 2B reviewed the Permit at its August 12, 2015, regularly scheduled meeting. At that meeting, being duly noticed and with a quorum of elected Commissioners present, and after hearing testimony from neighbors and representatives of the Hotel, ANC 2B voted unanimously to appeal the Permit for the reasons stated above and in the adopted resolution (included in Attachment 1).

This Appeal was filed on August 17, 2015, which is within the sixty (60) days required by the Regulations, and it is therefore filed in a timely manner.