



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 19114

Motion of:

☐ Applicant

☐ Petitioner

☐ Appellant

☐ Party

☒ Intervenor

☐ Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

Dismiss Appeal

Points and Authorities:

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

This appeal was filed well beyond the 60-day jurisdictional requirement of 11 DCMR Section 3112.2(a). See attached memorandum of points and authorities.

CERTIFICATE OF SERVICE

I hereby certify that on this

1

0

day of

November

,

2

0

1

5

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via:

☒ Mailed letter

☐ Hand delivery

☒ E-Mail

☐ Other _____

Signature:

Print Name:

Philip T. Evans

Address:

c/o Holland & Knight, LLP, NW, Ste. 1100, Washington, DC 20006

Phone No.:

202-457-7043

E-Mail:

philip.evans@hklaw.com

Board of Zoning Adjustment
District of Columbia
CASE NO.19114
EXHIBIT NO.23

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal of ANC 2B, Rima Calderon
and William Sawicki, et al

Appeal No. 19114

OWNER'S MOTION TO DISMISS APPEAL

I. INTRODUCTION

CS Bond St C Properties LLC ("Owner"), the owner of the property at 1731 New Hampshire Avenue, NW, respectfully requests that the Board dismiss this appeal as untimely filed under 11 DCMR §3112.2(a).

This appeal challenges a zoning decision made in 2013 concerning work on a rooftop deck at a hotel located in an R-5-D district. Without any support, Appellants claim in this appeal that "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." *See* Statement in Support of Appeal, p. 2. This is wholly inconsistent with the factual record set forth below. In fact, Appellants not only knew about (and were very engaged regarding) the Zoning Administrator's decision permitting the rooftop deck by the fall of 2013, at the latest, but they also received specific clarification as to the activities which would be allowed on the rooftop deck in March 2014. Yet Appellants waited until a permit issued in June 2015 to file this appeal. This appeal is, therefore, untimely and should be dismissed.

II. STATEMENT OF FACTS

The Carlyle Hotel Dupont Circle (formerly known as the Carlyle Suites Hotel) is a nationally recognized hotel operated by Kimpton Hotels located in Dupont Circle. Several years ago, Owner began the process of designing and constructing improvements to the hotel to better serve its customers. As part of those improvements, the Owner sought approval from the Zoning

Administrator to modernize the roof by creating passive recreation areas with elevator access and renovating the roof's existing penthouses to include restrooms, storage, and a second exit stair. The roof deck would be used for sitting, standing, and lounging, and as an accessory use to the hotel, beverages and prepared food items would be available for purchase and consumption. All of the work on the roof would be accomplished within the existing envelope of the building: There would be no increase in the gross floor area of the hotel. Plans for this renovation were the subject of exhaustive discussions between the Owner and Appellants, particularly the rooftop renovation's design aspects, which were subject to numerous public meetings and hearings, including those organized by Appellant ANC 2B and the District of Columbia Historic Preservation Review Board.

By letter dated July 24, 2013, Zoning Administrator LeGrant advised Owner that, based on his review of submitted drawings, the proposed roof deck complied with the Zoning Regulations, including Section 350.4(e) and the requirements of the Dupont Circle Overly District.¹

Appellants had multiple communications with Owner and the Zoning Administrator about this decision in the months after it was announced.² Throughout the fall of 2013, these parties discussed the planned renovations in detail:

¹ This decision received publicity shortly after it was announced. For example, news articles detailing the proposals for the rooftop were published just weeks after the Zoning Administrator issued his decision. *See, e.g.* Renovations coming to Carlyle, Savoy Suites?, *Washington Business Journal* (Aug. 5, 2013) (linking to zoning determination letters and detailing plans to expand restaurant and kitchen and to reconfigure rooftop space); Carlyle, Savoy Suites request permission for makeovers, *Washington Business Journal* (Aug. 9, 2013) (detailing proposals for a "passive recreation area" and expansion of the two rooftop penthouses).

² Appellants are ANC 2B, Philip Palmer & Heather Shaner, Martin Toews, Charles Ellis, Francesca Castellani, Janet Philips, Melissa Zelikoff, Karen Sheive Salter, Joan Rogliano, Katharine Gresham, Bruce Cohen, Marilyn Hoskins, Richard Stirba, David Fiore, Jerrold Mallory, Stacie & Bruce Goffin, Jack Cohen, Julie Davidson, Rima Calderon, Doug Heydon, Paul Hansen, Demetrious Papathanasiou, Sharon Lynett, Nishi Rawat, Rupert Scofield, Sally Murray, Amy Garrick, Ulysses & Heidi Sofia, Robert Spiegel, Richard Wetzell & Larry Joseph, Andrew Abrams, Steven Reichert & William Sawicki. With the exception of ANC 2B, Appellants are all individuals who own property or reside within 200 feet of the Hotel. Appellants have designated Rima Calderon and William Sawicki as their representatives in this appeal. It is plain that the Appellants are sophisticated parties, well-aware of zoning processes and procedures. William Sawicki has almost 30 years' experience in real-estate development in the District of Columbia, including matters before the D.C. Office of Zoning and the Zoning Commission. Katherine Gresham is an

- Appellant ANC 2B held community forums concerning the proposed renovation at the Hotel in October and November 2013. During these community forums, the architect and hotel management team discussed the proposed renovations. The rooftop was open during these meetings, so interested parties could see the scope of the proposed renovations. To Owner's knowledge, these community forums were attended by individual Appellants Richard Stirba, Jack Cohen, and Stacie Goffin. It is likely that other Appellants also attended at least one of these forums. See Exhibit A.
- On November 25, 2013, Appellant ANC 2B sent a letter to Zoning Administrator LeGrant expressing concern about the roof deck proposal. This letter specifically detailed the planned uses for the roof deck:

"...[D]uring the public outreach meetings the applicant described a variety of likely uses for the space, including yoga classes (currently held in the basement), Sunday brunch (currently offered in their restaurant), private meetings/luncheons, and weddings and/or wedding receptions, in addition to its use by hotel guests in a less structured and more casual, passive manner."

See Exhibit B.

- In follow-up emails about the ANC's letter, on January 23, 2014, the Zoning Administrator was instructed to include lead individual Appellant William Sawicki in any response. See Exhibit C. Mr. Sawicki was also copied on emails from the ANC concerning the renovation and the Zoning Administrator's decision. See Exhibit D.
- On March 12, 2014, the Zoning Administrator provided a substantive response to ANC 2B's letter, copying Mr. Sawicki. The Zoning Administrator's response made clear that his office was not changing the determination that the proposed project complied with the Zoning Regulations. This letter stated:

You asked about a clarification of the definition of "passive recreation area" in my July 24, 2013 determination regarding the Carlyle Suites hotel [attached]. Although that term is not defined in the zoning regulations, I have taken it to mean as outdoor areas used for sitting, standing, and lounging, as opposed to an 'active recreation area' that would be designed for organized recreational activities such as football or soccer. In this circumstance, the rooftop area referred to is an outdoor deck in which patrons and guests of the hotel will sit, read, sunbathe, and socialize. As I understand the

attorney with a background in city planning. Other Appellants have been active with ANC 2B and some—perhaps all—attended informational and public meetings about the renovation of the Hotel.

hotel's plans, they will also be able to, as an accessory use to the hotel, purchase and consume beverages and prepared food items.

Although this may be a new use of the subject hotel's rooftop, I have found this to be a common feature of other hotels in the District. As long as the rooftop area is not covered by a permanent roof structure, it would not be treated as an expansion of the hotel's floor area.

See Exhibit E.

This record is very clear—Appellants were on notice of the Zoning Administrator's decision in November 2013, at the very latest, though the Owner was very open with various Appellants concerning the Zoning Administrator's decision earlier in 2013. *See Exhibit F* (September 2013 email from architect to neighbors, including ANC Single Member District Commissioner Maltz). Indeed, when Appellant ANC 2B recently passed a resolution authorizing the appeal of the Zoning Administrator's 2013 decision, its recitations set forth this same history. *See Exhibit G* (acknowledging correspondence regarding the planned renovations in November 2013 and that it received notice "from the Zoning Administrator in March 2014 stating that 'passive recreation area' includes purchasing and consuming beverages and prepared food items"). It is indisputable that by November 13, 2013—when ANC 2B held its public meeting to discuss the proposed renovation of the Hotel project—Appellants (and the rest of the community) knew about the Zoning Administrator's decision and the plans to renovate the roof deck.

Yet, in their Statement in Support of their Appeal, Appellants claim that "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." *See Statement in Support of Appeal, Exhibit 3, p. 2.* There is no factual support for this statement.

In fact, Appellants had notice that the Zoning Administrator's approval for the rooftop deck contemplated that the roof would be used to offer food, beverage, entertainment, and special events

services in March 2014, at the absolute latest. *See* Exhibit E. While the Owner at various informational and public meetings described the potential uses of the rooftop space, the Appellants also obtained this information through direct communication with the Zoning Administrator, who offered specific clarification as to why he was approving the roof deck, and what sort of activity would be permitted. Appellants had actual knowledge of the proposed renovation of the roof deck, and the scope of use, by March 2014 at the absolute latest. They had a 60-day window under Section 3112.2(a) to bring their issues before this Board. They did not do so. Even if there was some question as to the Zoning Administrator's original ruling in light of the inquiries by the ANC, any uncertainty was conclusively resolved by the Zoning Administrator's letter of March 12, 2014, and that 60-day window would have closed in May 2014, long before this appeal was filed.

The issues raised on appeal are limited and are focused on the underlying determination made by the Zoning Administrator more than two years earlier and nearly a year and a half after the latest possible date that the Appellants could claim they learned about the determination.

III. ARGUMENT

A. THE DISTRICT'S ZONING REGULATIONS ESTABLISH A FIRM DEADLINE FOR FILING AN APPEAL.

An administrative appeal is subject to dismissal for late filing. *See Gatewood v. District of Columbia Water and Sewer Auth.*, 82 A.3d 41, 46-48 (D.C. 2013). Appellants filed this appeal more than 21 months after they indisputably knew about the Zoning Administrator's decision concerning the planned renovations at the Property. This appeal is therefore untimely and must be dismissed.

The District's Zoning Regulations provide that an appeal of a zoning decision must be filed "within 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." 11 DCMR § 3112.2 (a). *See also* Order No. 02-01 at p. 1-2 (noting that this regulation codified the principle that all appeals to the Board must be filed within 60 days of the appellant's actual or constructive knowledge of the decision complained of); *Waste Mgmt. of Md., Inc. v. DC Board of Zoning Adjustment*, 775 A.2d 1117, 1121-22 (D.C. 2001). The 60-day appeal period begins when an appellant has actual or constructive notice or knowledge that a decision. Once an individual has actual or constructive notice or knowledge of a zoning decision, he or she is obligated to undertake due diligence to determine the nature of the decision in order to timely appeal. *See Diamond v. Davis*, 680 A.2d 364, 372 (D.C. 1996) (the period for filing a claim is triggered by inquiry notice, which is the knowledge which "a plaintiff would have possessed after due investigation").

The Board is required to determine when Appellants knew or should have known of the decision which gives rise to the instant appeal. *See BZA Appeal No. 17468 of ANC 6A* at p. 4 (February 16, 2007) (when an appellant asserts a certain date as the basis of its zoning appeal, "the regulations require that the Board determine if there is an earlier date when the Appellant reasonably should have known of the authorization provided by the building permit.") On the undisputed record, the Board can only conclude that the Appellants knew about the underlying determination and the Zoning Administrator's decision more than a year before they filed this appeal.

B. THIS APPEAL WAS UNTIMELY FILED AND MUST BE DISMISSED.

Appellants had actual knowledge of the Zoning Administrator's decision shortly after it was made on July 24, 2013. They were directly involved in communications with the Zoning Administrator about his ruling in the months that followed, and received specific clarification as to the roof deck in March 2014. Specifically, as set forth above, Appellants organized, held, and

attended community forums and meetings concerning the Zoning Administrator's decision more than a year and a half before they filed this appeal. The scope of the proposed renovation of the roof deck was made clear in exhaustive discussions during that time period.

Indeed, at the June 30, 2015 Board of Zoning Adjustment hearing on the appeal of a different building permit for the Hotel, two of the Appellants argued that the prior appeal was timely because discussions with the Zoning Administrator in 2013 and 2014 "only concerned the roof deck." See Appeal No. 19027, Transcript of June 30, 2015 hearing, p. 16-17.

Even indulging every inference favorable to Appellants, they indisputably knew about the Zoning Administrator's decision no later than November 25, 2013, making this appeal untimely. See *Georgetown Residents Alliance v. D.C. Bd. of Zoning Adjustment*, 816 A.2d 41, 49-50 (D.C. 2003) (upholding Board's decision that appeal was untimely where record was clear that ANC had knowledge of the issuance of the permit, the community generally was aware of it, and the developer of the project had engaged with the ANC and community concerning the permit).

The issuance of the building permit by DCRA on June 18, 2015 was a reaffirmation of the Zoning Administrator's July 24, 2013 decision. It was not a new zoning decision. The Zoning Administrator's ruling was never changed by the Zoning Administrator. The issuance of the building permit for the roof deck, therefore, does not start a new period in which to appeal the Zoning Administrator's decision.

Indeed, under very similar circumstances, this Board recognized that the appeal period runs from the date a party has notice (or should have notice) of the decision complained of, not simply from the date a building permit was issued. See *BZA Appeal No. 18300 of Lawrence M. and Kathleen Ausubel* (November 8, 2011).

In *Ausubel*, a property owner had filed a building permit application with DCRA to construct an addition on his home. Neighbors of the property owner, who opposed the

construction, had multiple discussions with the property owner and Zoning Administrator about their opposition to the proposed construction. Notwithstanding the neighbors' objections, the Zoning Administrator ultimately determined that the project complied with applicable zoning regulations. The neighbors received an email from the Zoning Administrator notifying them of his decision on June 14, 2011. The building permit for the proposed project was then issued on July 15, 2011, and the neighbors filed their appeal on September 9, 2011. The Board concluded that because the appeal was filed 86 days after the Zoning Administrator emailed his decision to the neighbors, it was untimely.

Similarly, in *BZA Appeal No. 18469 of Susan Lynch*, Lynch challenged the construction of two new residences on properties that adjoined hers. DCRA issued two building permits, and separate retaining-wall permits for a retaining wall that impacted both new residences. Lynch's counsel had direct communications with the Zoning Administrator about the proposed permits. The Zoning Administrator informed Lynch's counsel that he was going to approve the retaining-wall permits and, in an email with her counsel, Lynch acknowledged that she was aware that the Zoning Administrator had approved the permits. The permits themselves were issued several weeks later but Lynch did not file an appeal with the Board until 60 days after issuance.

The BZA dismissed Lynch's appeal of the retaining-wall permits as untimely. Specifically, the Board concluded that her 60-day appeal period ran from the time her counsel knew of the Zoning Administrator's decision or possibly on the day that the email proved that she had direct knowledge of the Zoning Administrator's decision. *See id.* *See also Basken v. District of Columbia Bd. of Zoning Adjustment*, 946 A.2d 356 (D.C. 2008) (appeal period ran from date of DCRA letter, and not subsequently issued certificate of occupancy); *BZA Appeal No. 16849 of Robert Lehrman* (May 8, 2003) (appeal period ran from final determination letter, rather than issuance of building permit and other re-affirmations of that determination).

Like the appellants in *Ausubel* and *Lynch*, Appellants in this proceeding were well aware of the Zoning Administrator's decision shortly after it was decided and long before the permit was issued implementing the decision. Appellants organized, hosted, and attended community meetings about the proposed rooftop renovations, corresponded with the Zoning Administrator about the project, and received email from the Zoning Administrator confirming that he was not going to change his decision. Given that March 12, 2014 email from the Zoning Administrator (Exhibit E), no reasonable person could have any doubt or uncertainty as to the Zoning Administrator's position. Consistent with *Ausubel* and *Lynch*, this appeal should be dismissed as untimely.

C. THERE IS NO BASIS FOR AN EXTENSION OF THE 60-DAY TIME PERIOD FOR FILING THIS APPEAL.

Because this appeal is untimely, the D.C. Zoning Regulations allow this Board to hear the appeal only if both (1) there are exceptional circumstances outside the Appellants' control, which could not have been reasonably anticipated, and that substantially impaired the Appellants' ability to file this appeal to the Board; and (2) the extension of time will not prejudice the Owner. 11 DCMR 3112.2 (d). Even assuming that this inquiry is justified, this appeal could be heard only if Appellants satisfied both tests. They cannot satisfy either one; therefore, this appeal must be dismissed.

1. There Are No Exceptional Circumstances Outside of Appellants' Control That Substantially Impaired Their Ability To File A Timely Appeal.

As set forth above, Appellants knew of the Zoning Administrator's decision approving the renovation at the Property with sufficient time to file a timely appeal. At the absolute latest, Appellants had actual notice or knowledge of the Zoning Administrator's decision by November 25, 2013, when the ANC 2B sent a letter of concern about the renovation at the Property to the Zoning Administrator. Appellants continued to communicate with the Zoning Administrator about

his ruling for months. Even though the Zoning Administrator confirmed to Appellant ANC 2B and one of the lead individual Appellants in March, 2014 that he would not alter or change his ruling, Appellants failed to notice an appeal.

It is clear that "the Board need not countenance delay in taking an appeal when it is merely convenient for an appellant to defer in making that decision." *BZA Appeal No. 17411 of Basken*, at p. 6. Moreover, the Board has concluded in a number of cases that an Appellant who engages in discussions, emails, and other activity to attempt to resolve a dispute does not by that action extend its time for filing an appeal to this Board. See *BZA Appeal No. 17915 of Jonathon Boduc* (December 17, 2009); *BZA Appeal No. 17391 of de Brito and Gottlieb* (October 2, 2006). Moreover, sophisticated Appellants such as these knew that timeliness was important and that delayed challenges to administrative decisions are disfavored.

2. Allowing This Appeal to Proceed Will Prejudice The Owner.

Allowing this appeal to proceed will cause substantial prejudice to the Owner. The Owner received approval by the Zoning Administrator in July 2013 that its proposed renovation complied with the Zoning Regulations. Owner has spent a great deal of time and money working with ANC 2B and neighbors discussing the proposed renovation and concerns about Hotel operations that could arise when the project—as approved by the Zoning Administrator for compliance—was built.

By the time Appellants filed this appeal, the Owner had expended significant time and money completing the renovation designs; entering into contracts with contractors and suppliers; scheduling construction activities around the needs of the Hotel and Hotel guests; and preparing for renovations of the rooftop space.

Appellants should not be rewarded by "lying in wait" to bring this appeal beyond the 11th hour, especially since the appeal is premised upon objections to a decision made by the Zoning Administrator more than two years ago.

D. THIS APPEAL IS BARRED UNDER THE DOCTRINE OF EQUITABLE ESTOPPEL.

The doctrine of equitable estoppel bars Appellants' challenge of the building permit for the roof deck. Where a party shows that "(1) acting in good faith, (2) on affirmative acts of [the zoning authority], (3) he made expensive and permanent improvements in reliance thereon, and (4) the equities strongly favor him," the doctrine of equitable estoppel may be used to defend against untimely challenges. *W. End Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, 112 A.3d 900, 904 (D.C. 2015). The equities favor the party claiming estoppel where "any injury to the public that would flow from the non-enforcement of the zoning laws must be minimal and outweighed by the injury estoppel would avoid." *Id.* at 904.

In *West End Citizens Association*, the D.C. Court of Appeals upheld the BZA's finding of equitable estoppel under circumstances similar to those presented here. There, the Appellant attempted to challenge a Certificate of Occupancy that would allow a grocery store that had been operating in a residential neighborhood to be renovated and expanded. The BZA found that the Certificate of Occupancy permitted the entire building to be used for operation of a grocery; the Owner proceeded reasonably and in good faith, having no reason to believe that the Certificate of Occupancy impermissibly expanded the nonconforming grocery use; the Owner expended considerable sums to purchase the grocery business, lease the building, enter into contracts, renovate the building and incur other business expenses; and the equities favored the Owner who reasonably relied on the CO and there was no evidence that the neighborhood would be harmed by the continued operation of a grocery store that has been in the neighborhood for 60 years. Thus,

when West End Citizens Association filed an appeal more than a year after the Certificate of Occupancy was issued, the BZA concluded that it would be unfair to penalize the Owner who relied on approvals granted by District officials. The Court of Appeals affirmed the BZA's application of equitable estoppel. *See W. End Citizens Ass'n*, 112 A. 2d at 906.

Likewise, here, the Zoning Administrator determined that the planned renovation of the roof deck complied with the Zoning Regulations; the Owner proceeded reasonably and in good faith, having no reason to believe that the Zoning Administrator's determination was incorrect. The Owner expended considerable sums of money to prepare for renovations to the roof, which would include improvements to the Property's elevator system, and made further expensive and permanent improvements to the Hotel. As a result of these efforts, the hotel has sacrificed square footage that could have otherwise been used for hotel guest rooms. Accordingly, like in *West End Citizens Association*, the doctrine of equitable estoppel bars this challenge to the roof deck improvements.

V. CONCLUSION

Based upon the clear language of the Zoning Regulations and upon prior rulings by this Board and by the D.C. Court of Appeals, this appeal is untimely, and there is no basis for extending the 60-day appeal period. Accordingly the Board is without jurisdiction to hear this appeal and it must be dismissed.

Respectfully submitted,
HOLLAND & KNIGHT LLP

By: /s/ Philip T. Evans
Norman M. Glasgow, Jr.
Philip T. Evans
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
(202) 955-3000
philip.evans@hklaw.com
Counsel for CS Bond St C Properties LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Owner's Motion to Dismiss Appeal was filed electronically with the Board of Zoning Adjustment and was sent by first class mail and electronic mail, this 10th day of November 2015, to the following:

Matthew LeGrant
Zoning Administrator
Department of Consumer and Regulatory Affairs
1100 4th Street, SW
3rd Floor
Washington, DC 20024
Matthew.LeGrant@dc.gov

Maximilian Tondro, Esq.
Associate General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, SW
Room E-500
Washington, DC 20024
maximilian.tondro@dc.gov

Rima Calderon
1751 New Hampshire Avenue NW, #G
Washington, DC 20009
rima.calderon@ghco.com

William Sawicki
3110 Magazine Street #325
New Orleans, LA 70115
sawicki.bill@gmail.com

I hereby certify that a copy of the foregoing Owner's Motion to Dismiss Appeal was sent by electronic mail, this 10th day of November 2015, to the following:

ANC2B
email@dupontcircleanc.net
commissioners@dupontcircleanc.net

/s/ Philip T. Evans
Philip T. Evans

Exhibit A

From: Stephanie Maltz <Stephanie.Maltz@dupontcircleanc.net>
Date: Mon, Oct 21, 2013 at 11:05 PM
Subject: Carlyle Suites Hotel - Upcoming Community & ANC Meetings
To: Stephanie Maltz <stephanie.maltz@dupontcircleanc.net>
Cc: "commissioners@dupontcircleanc.net"
<commissioners@dupontcircleanc.net>, Michael Lee Beidler <michael@troutdesign.com>, Matt Wexler
<mw@foxhallpartners.com>, Scott Dawson <sdawson@communehotels.com>, Scott Dawson
<sdawson@jdvhotels.com>

Hi everyone -

There are two more opportunities to meet with the architect and hotel management team to learn more about the proposed renovations for the Carlyle Suites Hotel located at 1731 New Hampshire Avenue NW.

(1) Thursday, October 24 from 6 PM - 7 PM

(2) Sunday, November 3 from 5 PM - 6 PM

Both meetings will be held at the hotel. For those who are interested, there will be an opportunity for roof top viewing as well.

The ANC's Zoning, Preservation and Development Committee will be reviewing the Carlyle Suite hotel application on Tuesday, November 5.

This meeting starts at 7 PM and will be held at the Dupont Resource Center located at 9 Dupont Circle NW. (The small red brick building at the corner of Mass & 20th NW.)

This application will also be reviewed by the Dupont Circle Conservancy on Tuesday, November 12 - the night before the ANC meeting.

The Dupont Circle ANC will have the opportunity to consider the Carlyle Suite application at our meeting on Wednesday, November 13.

The ANC meeting starts at 7 PM and will be held at the Brookings Institution - 1775 Mass Ave NW.

Please let me know if you have any questions or need additional information at this time.

Thank you,

Stephanie

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262
stephanie.maltz@dupontcircleanc.net

Exhibit B



November 25, 2013

Matthew Le Grant
Zoning Administrator
Department of Consumer and Regulatory Affairs

Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Dear Mr. Le Grant:

On behalf of ANC2B, we are writing regarding a proposal you recently reviewed for improvements to the referenced property. In your letter dated July 24, 2013, to Messrs. Glasgow and Sher, you conclude that their client's proposal "complies with the Zoning Regulations."

After learning about the project in September, we began an outreach to our constituents to inform them of the application. We have also contacted the applicant directly to learn more about their proposal, and, at our request, they have hosted a number of public meetings in October to disseminate information about the project to the immediate neighborhood and respond to questions from area residents. A significant number of our constituents who live in nearby properties have raised questions about the outdoor event space proposed for the roof. The applicant has cited your letter as definitive as to their ability to construct and use the space. Following review by the Zoning, Preservation and Development Committee of the ANC, the committee asked that the ANC ask for certain clarifications from you.

You note in your letter that the proposed outdoor event space on the roof will be created as a "passive recreation area." While we do not know what Messrs. Glasgow and Sher told you about the project, in the public outreach meetings the applicant has described a variety of uses for the space, including yoga classes (currently held in the basement), Sunday brunch (currently offered in their restaurant), private meetings/luncheons, and weddings and/or wedding receptions, in addition to its use by hotel guests in a less

structured and more casual, passive manner. The applicant has included two bathrooms and storage areas that would support its use for all of these purposes and has repeatedly stated their intent to pursue the use of the space for these purposes, among others.

Given the property's location in an R5-D residential zone surrounded by several R5-B residential zones, the ANC and its constituents would like to better understand how the non-residential, non-passive uses listed above are consistent with zoning approval of the space as a "passive recreation area." We understand that in Zoning Commission Order 314, the applicant's property was "grandfathered" permission to continue to operate as a hotel, "so long as the gross floor area of the hotel may not be increased, and the total area ... devoted to function rooms...and commercial adjuncts may not be increased."

Therefore we would like to better understand what limitations may be suggested for the use of the roof deck by virtue of its location in a residential zone, and your approval of the project based upon your understanding of it as a "passive recreation area."

We understand that area residents have other concerns about the applicant's proposal that may touch on zoning matters, and we have advised them to bring them to you or other city officials if they so desire. Our concern at this point is focused on how the space could be used and what regulatory framework will control its use that we will need to consider should the applicant choose to proceed with the project as currently designed and issues concerning its use come before us. We thank you for your consideration of our request and look forward to hearing from you.

Please respond to Commissioners Stephanie Maltz

(stephanie.maltz@dupontcircleanc.net), Will Stephens

(will.stephens@dupontcircleanc.net), Leo Dwyer (leo.dwyer@dupontcircleanc.net), and

Mike Feldstein (mike.feldstein@dupontcircleanc.net).

Thank you very much

A handwritten signature in black ink that reads "William F. Stephens". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Will Stephens
Chairman

Exhibit C

Sent: Wednesday, March 12, 2014 8:50 AM

To: LeGrant, Matt (DCRA); Bill Sawicki; Kimbel, Sherri (COUNCIL)

Cc: Stephanie Maltz; email@dupontcircleanc.net; Will Stephens; mike.feldstein@dupontcircleanc.net; Majett, Nicholas (DCRA); leo.dwyer@dupontcircleanc.net

Subject: Request for Response: Follow Up Re: Carlyle Suites Hotel,
1731 New Hampshire Avenue NW, Square 154, Lot 829

Matt,

On January 27, 2014, you informed ANC2B that you would have a response to us about our request of clarification on the Carlyle Suites by January 31. While I have reached out to follow up since then, ANC2B has yet to receive information.

I have included Bill Sawicki, a concerned resident and Sherri Kimbel, Director of Constituent Services, on this email.

Please make sure to include them in any response you send to the ANC.

Thank you,

Stephanie

On Mon, Jan 27, 2014 at 4:53 PM, LeGrant, Matt (DCRA) <matthew.legrant@dc.gov> wrote:

Stephanie Maltz, et al:

My apologies for the delay in responding on this matter. I will be providing the ANC with additional information about this project and my letter of July 24, 2013 by cob January 31st.

Please let me know if there will be a single point of contact, or if each interested party will want to be cc'ed on my response.

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100

Washington, DC 20024

Phone: 202 442-4652

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/service/zoning-dcra>

Look out for the homeless this winter. When the actual or forecasted temperature or wind chill is 32 degrees F or below, the District issues a Hypothermia Alert. To request support for persons who are homeless and on the street now, contact the Shelter Hotline at 1-800-535-7252 or 311 or email uposh@upo.org.

From: stephaniemaltzanc2b03@gmail.com

[<mailto:stephaniemaltzanc2b03@gmail.com>] On Behalf Of Stephanie Maltz

Sent: Thursday, January 23, 2014 8:50 PM

To: LeGrant, Matt (DCRA)

Subject: Follow Up Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Mr. LeGrant - I have had several constituents contact me recently about your response to ANC2B's November request for clarification on the definition of "passive recreation area" for your July 2013 decision regarding the Carlyle Suites hotel.

Please let me know if you are planning to provide the ANC with additional information so that we can better understand the intention of usage. Should I encourage my constituents to reach out to you directly?

Thank you,

Stephanie

----- Forwarded message -----

From: email@dupontcircleanc.net <jameskconway.dupontcircleanc2b@gmail.com>

Date: Mon, Nov 25, 2013 at 4:01 PM

Subject: Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

To: matthew.legrant@dc.gov

Cc: Will Stephens

<willstephensanc2b08@gmail.com>,mike.feldstein@dupontcircleanc.net,

Stephanie Maltz <stephanie.maltz@dupontcircleanc.net>

Attached is the PDF:

RE: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Sincerely,

James Conway

Executive Director

Dupont Circle ANC 2B

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

Exhibit D

From: stephaniemaltzanc2b03@gmail.com
[mailto:stephaniemaltzanc2b03@gmail.com] On Behalf Of Stephanie Maltz

Sent: Wednesday, March 12, 2014 8:50 AM
To: LeGrant, Matt (DCRA); Bill Sawicki; Kimbel, Sherri (COUNCIL)
Cc: Stephanie Maltz; email@dupontcircleanc.net; Will Stephens; mike.feldstein@dupontcircleanc.net; Majett, Nicholas (DCRA); leo.dwyer@dupontcircleanc.net
Subject: Request for Response: Follow Up Re: Carlyle Suites Hotel,
1731 New Hampshire Avenue NW, Square 154, Lot 829

Matt,

On January 27, 2014, you informed ANC2B that you would have a response to us about our request of clarification on the Carlyle Suites by January 31. While I have reached out to follow up since then, ANC2B has yet to receive information.

I have included Bill Sawicki, a concerned resident and Sherri Kimbel, Director of Constituent Services, on this email.

Please make sure to include them in any response you send to the ANC.

Thank you,

Stephanie

On Mon, Jan 27, 2014 at 4:53 PM, LeGrant, Matt (DCRA) <matthew.legant@dc.gov> wrote:

Stephanie Maltz, et al:

My apologies for the delay in responding on this matter. I will be providing the ANC with additional information about this project and my letter of July 24, 2013 by cob January 31st.

Please let me know if there will be a single point of contact, or if each interested party will want to be cc'ed on my response.

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100

Washington, DC 20024

Phone: 202 442-4652

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/service/zoning-dcra>

Look out for the homeless this winter. When the actual or forecasted temperature or wind chill is 32 degrees F or below, the District issues a Hypothermia Alert. To request support for persons who are homeless and on the street now, contact the Shelter Hotline at 1-800-535-7252 or 311 or email uposh@upo.org.

From: stephaniemaltzanc2b03@gmail.com
[mailto:stephaniemaltzanc2b03@gmail.com] On Behalf Of Stephanie Maltz
Sent: Thursday, January 23, 2014 8:50 PM
To: LeGrant, Matt (DCRA)
Subject: Follow Up Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Mr. LeGrant - I have had several constituents contact me recently about your response to ANC2B's November request for clarification on the definition of "passive recreation area" for your July 2013 decision regarding the Carlyle Suites hotel.

Please let me know if you are planning to provide the ANC with additional information so that we can better understand the intention of usage. Should I encourage my constituents to reach out to you directly?

Thank you,

Stephanie

----- Forwarded message -----

From: email@dupontcircleanc.net <jameskconway.dupontcircleanc2b@gmail.com>
Date: Mon, Nov 25, 2013 at 4:01 PM
Subject: Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829
To: matthew.legrant@dc.gov
Cc: Will Stephens
<willstephensanc2b08@gmail.com>, mike.feldstein@dupontcircleanc.net,
Stephanie Maltz <stephanie.maltz@dupontcircleanc.net>

Attached is the PDF:

RE: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Sincerely,

James Conway

Executive Director

Dupont Circle ANC 2B

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

Exhibit E

From: LeGrant, Matt (DCRA) <matthew.leggrant@dc.gov>
Date: Wed, Mar 12, 2014 at 4:10 PM
Subject: RE: Request for Response: Follow Up Re: Carlyle Suites Hotel,
1731 New Hampshire Avenue NW, Square 154, Lot 829
To: Stephanie Maltz <Stephanie.Maltz@dupontcircleanc.net>, Bill Sawicki <sawicki.bill@gmail.com>, "Kimbel, Sherri (COUNCIL)" <SKimbel@dccouncil.us>
Cc: "email@dupontcircleanc.net" <jameskconway.dupontcircleanc2b@gmail.com>, Will Stephens <willstephensanc2b08@gmail.com>, "mike.feldstein@dupontcircleanc.net" <mike.feldstein@dupontcircleanc.net>, "Majett, Nicholas (DCRA)" <nicholas.majett@dc.gov>, "leo.dwyer@dupontcircleanc.net" <leo.dwyer@dupontcircleanc.net>, "Orlins, Matt (DCRA)" <matt.orlins@dc.gov>

Stephanie Maltz-

My profound apologies for a lack of timely response on this matter.
This did fall off my radar, but I have no excuse for failing to follow up.

You asked about a clarification of the definition of "passive recreation area" in my July 24, 2013 determination letter regarding the Carlyle Suites hotel [attached]. Although that term is not defined in the zoning regulations, I have taken it to mean as outdoor areas used for sitting, standing, and lounging as opposed to an 'active recreation area' that would be designed for organized recreational activities such as football or soccer. In this circumstance, the rooftop area referred to is an outdoor deck in which patrons and guests of the hotel will sit, read, sunbathe, and socialize. As I understand the hotel's plans, they will also be able to, as an accessory use to the hotel, purchase and consume beverages and prepared food items.

Although this may be a new use of the subject hotel's rooftop, I have found this to be a common feature of other hotels in the District. As long as the rooftop area is not covered by a permanent roof structure, it would not be treated as an expansion of the hotel's floor area.

I did receive another inquiry from, and met with an adjacent neighbor about this proposed roof top deck. I also understand that the matter was reviewed separately by the Historic Preservation Review Board in November 2013, and received concept approval by that body with conditions.

I hope this answers your question and if you have further questions on this matter please email me, of which I will prioritize a response.

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100

Washington, DC 20024

Phone: 202 442-4652

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/service/zoning-dcra>

From: stephaniemaltzanc2b03@gmail.com
[mailto:stephaniemaltzanc2b03@gmail.com] On Behalf Of Stephanie Maltz

Sent: Wednesday, March 12, 2014 8:50 AM
To: LeGrant, Matt (DCRA); Bill Sawicki; Kimbel, Sherri (COUNCIL)
Cc: Stephanie Maltz; email@dupontcircleanc.net; Will Stephens; mike.feldstein@dupontcircleanc.net; Majett, Nicholas (DCRA); leo.dwyer@dupontcircleanc.net
Subject: Request for Response: Follow Up Re: Carlyle Suites Hotel,
1731 New Hampshire Avenue NW, Square 154, Lot 829

Matt,

On January 27, 2014, you informed ANC2B that you would have a response to us about our request of clarification on the Carlyle Suites by January 31. While I have reached out to follow up since then, ANC2B has yet to receive information.

I have included Bill Sawicki, a concerned resident and Sherri Kimbel, Director of Constituent Services, on this email.

Please make sure to include them in any response you send to the ANC.

Thank you,

Stephanie

On Mon, Jan 27, 2014 at 4:53 PM, LeGrant, Matt (DCRA) <matthew.legrant@dc.gov> wrote:

Stephanie Maltz, et al:

My apologies for the delay in responding on this matter. I will be providing the ANC with additional information about this project and my letter of July 24, 2013 by cob January 31st.

Please let me know if there will be a single point of contact, or if each interested party will want to be cc'ed on my response.

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100

Washington, DC 20024

Phone: 202 442-4652

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/service/zoning-dcra>

Look out for the homeless this winter. When the actual or forecasted temperature or wind chill is 32 degrees F or below, the District issues a Hypothermia Alert. To request support for persons who are homeless and on the street now, contact the Shelter Hotline at 1-800-535-7252 or 311 or email uposh@upo.org.

From: stephaniemaltzanc2b03@gmail.com
[mailto:stephaniemaltzanc2b03@gmail.com] On Behalf Of Stephanie Maltz
Sent: Thursday, January 23, 2014 8:50 PM
To: LeGrant, Matt (DCRA)
Subject: Follow Up Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Mr. LeGrant - I have had several constituents contact me recently about your response to ANC2B's November request for clarification on the definition of "passive recreation area" for your July 2013 decision regarding the Carlyle Suites hotel.

Please let me know if you are planning to provide the ANC with additional information so that we can better understand the intention of usage. Should I encourage my constituents to reach out to you directly?

Thank you,

Stephanie

----- Forwarded message -----

From: email@dupontcircleanc.net <jameskconway.dupontcircleanc2b@gmail.com>
Date: Mon, Nov 25, 2013 at 4:01 PM
Subject: Re: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829
To: matthew.legrant@dc.gov
Cc: Will Stephens

<willstephensanc2b08@gmail.com>,mike.feldstein@dupontcircleanc.net,
Stephanie Maltz <stephanie.maltz@dupontcircleanc.net>

Attached is the PDF:

RE: Carlyle Suites Hotel, 1731 New Hampshire Avenue NW, Square 154, Lot 829

Sincerely,

James Conway

Executive Director

Dupont Circle ANC 2B

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission

Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

--

Stephanie Maltz

Dupont Circle Advisory Neighborhood Commission Commissioner, Single Member District 2B03

202-630-7262

stephanie.maltz@dupontcircleanc.net

Exhibit F

From: Michael Lee Beidler <michael@troutdesign.com>

Date: Thu, Sep 26, 2013 at 2:39 PM

Subject: New work on Carlyle hotel

To: Ralston Cox <rcoxdc@gmail.com>

Cc: Scott Dawson <sdawson@jdvhotels.com>, Stephanie Maltz <smaltz@gmail.com>

Ralston;

I hope this finds you well and that you are enjoying this amazing fall weather.

We were recently hired to work on a small project at the Hotel next door to you, the Carlyle, and I wanted to take the opportunity to discuss and walk you and anyone else in your building interested in the project through the proposed roof top project there with you.

We have been working with Stephanie Maltz, the ANC, SMDC and Steve Callcott @ HPO on the proposed project and I think we have a plan that is going to really enhance the hotel's possible contribution to the neighborhood and context, with minimal impact on you -all or the surrounding neighbors.

Do you have any time in the next few days to look at things and discuss them with me? Happy to meet you at the building or we can simply look at this via computer link if that is easier for you. I prefer to meet you in the context but let me know what works best for you.

Let me know if you would like to see it before the ANC PZD committee meeting next Tuesday or the Dupont Conservancy on the 8th.

I look forward to hearing from you.

Michael Lee Beidler

TROUT DESIGN STUDIO * 2112 Ward Court, NW Washington, DC 20037 * ph: 202 659 0600 fax: 202 659 1091 c: 202.841.6418

michael@troutdesign.com

Please visit our website at www.troutdesign.com

This communication may contain information which is privileged and/or confidential under applicable law. Any dissemination, copy or disclosure, other than by the intended recipient, is strictly prohibited. If you have received this communication in error, immediately notify us via return e-mail to michael@troutdesign.com and delete this communication without making any copies or forwarding any part to any other party. Thank you for your cooperation.

Exhibit G



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

August 14, 2015

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210S
Washington, DC 20001

Re: Appeal of Building Permit B1404913 - Rooftop Structure at 1731 New Hampshire Ave NW

Dear Chairperson Jordan:

At its regular meeting on August 12, 2015, the Dupont Circle Advisory Neighborhood Commission ("ANC 2B" or "Commission") considered the above-referenced matter. With 7 of 8 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of 7-0-0:

Whereas the Carlyle Hotel at 1731 New Hampshire Ave is in a R-5 residential zone;

Whereas in 2013 the hotel applied for a permit to build a roof structure, which came before ANC 2B for historic preservation review that year;

Whereas ANC 2B supported the historic review because no structure would be visible from the street and hotel owners testified that the space would be used for "passive" activities for hotel guests, such as sun bathing or yoga.

Whereas the Zoning Administrator issued a letter on July 24, 2013 indicating that "passive recreational" use of the rooftop would not constitute additional commercial activities and would thus be allowable under current zoning regulations for hotels in residential zones;

Whereas ANC 2B sent a letter to the Zoning Administrator in November 2013 asking for clarification on the term of art "passive recreational area";

Whereas ANC 2B received a response from the Zoning Administrator in March 2014 stating that "passive recreational area" includes purchasing and consuming beverages and prepared food items;

Whereas on June 18, 2015 the Department of Consumer and Regulatory Affairs issued building permit B1404913 for construction on the roof, including a bar and seating for 97 with a total capacity of 237 people;

Whereas the plans as approved do not constitute "passive recreational" activities and there are concerns by neighbors on the impacts of over 200 people congregating on the rooftop in close proximity to residential buildings;

Whereas ANC 2B believes that the Zoning Administrator erred in approving building permit B1404913 as a "matter of right" under the current zoning regulations and believes that a special exception to the regulations is required for the proposed construction;

Whereas ANC 2B promotes a community that is hospitable, vibrant, safe and allows for the peaceful enjoyment of residents and business alike; and

Whereas ANC 2B believes that open and honest dialogue between neighbors and the hotel can lead to a formal agreement on the most appropriate use of rooftop space.

Therefore, BE IT RESOLVED that ANC 2B does hereby APPEAL the issuance of building permit B1404913 on the grounds that the Zoning Administrator incorrectly applied the zoning regulations.

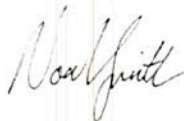
BE IT FURTHER RESOLVED that ANC 2B appropriates up to \$3,000 from its savings to expend on the costs of this appeal, including any attorney's fees, but that costs above \$3,000 will be the responsibility of the neighbors and/or other community groups.

BE IT FURTHER RESOLVED that Commissioners Stephanie Maltz and Noah Smith are designated as the Commission's representatives for this appeal and may delegate informal responsibilities to residents to assist with communications, meeting planning, and document formulation.

BE IT FURTHER RESOLVED that ANC 2B intends to quickly engage the hotel owners and neighbors in structured dialogue that may lead to formal agreements on the use of rooftop space by the hotel in a manner that is negligibly intrusive to the peaceful enjoyment of property by nearby residents and that such an agreement could support the withdrawal of this appeal.

If you have any questions, please do not hesitate to contact me at Noah.Smith@anc.dc.gov or 202-688-5416.

Sincerely,



Noah Smith
Chair

CC: bzasubmissions@dc.gov, richard.nero@dc.gov, sara.bardin@dc.gov,
Jack.Evans@dccouncil.us, commissioners@dupontcircleanc.net