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October 10, 2000

Sheila Cross Reid, Chair
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001

DISTRICT OF COLUMBIA
OFFICE OF ZONING
'00 OCT 10 P4:07

Re: BZA Case No. 16618, The Phillips Collection, 1600 21st Street, N.W. Square 66, Lots 74, 819, and 827

Dear Ms. Reid:

This is to request that the Board of Zoning Adjustment deny the application of the Phillips Collection for three variances under Subsections 402.4, 403.2, 400.7 and 2001.3 of the Zoning Regulations. Applicants seek a variance from the maximum allowable FAR and lot occupancy, and from prohibitions against the enlargement of nonconforming structures. We also oppose granting of special exceptions under Subsection 411.11 for location of roof structures and under Subsection 2516.1 for two or more principal structures on a single lot. These variances and special exceptions are intended to permit expansion of the Museum in the D/DC/R-5-B and DC/SP-1 Districts at premises 1600 21st Street, N.W. and 1618 21st Street, N.W. (Square 66, Lots 74, 819 and 827).

Applicant fails special exception test

The applicant has not met his burden of showing that the development will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. The proposal is to increase the FAR substantially. The increased FAR does not count a considerable part of the new usable space which will be below ground and not counted in the FAR calculations but will enable a vast increase in the useage of the buildings.

The BZA, in looking at the effect of the total project on the neighborhood, can see this as a major assault on the ambiance and liveability of the neighborhood. Bus and car

BZA
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traffic, pedestrian traffic and an increase in street parking during the day and evening all will contribute to the demise of this neighborhood. The applicant cannot meet its burden of showing that the new development will not be deleterious to the neighborhood. Much of the increase in usage of the site will come from the new auditorium, cafeteria, and offices which will be housed in the expansion space. However, there will also be a substantial increase in exhibit space, since non-exhibit functions will be moved from the current buildings to the expansion space.

The restaurant, which we understand will seat 250 people, will see an increase of 800 per cent over the current 30 seat restaurant, is likely to change the usage of the facility dramatically. The Phillips has asserted that visitors to the Gallery cannot now be accommodated and a new facility is needed. There has not been a promise that only Gallery visitors with tickets will be permitted to use the restaurant. However, even if they were to make that stipulation, the increase in restaurant seats will cause a dramatic change on the usage of the Gallery. Tour companies, which operate or coordinate hundreds of buses in the course of a week, are always concerned with feeding passengers. The existence of a large restaurant adjacent to a tourist attraction will be a big draw to the tour companies who will now be able to combine a visit to the Phillips with lunch or dinner. The potential impact on 21st St., and even Massachusetts Ave, is unimaginable.

Applicant fails the legal test for a variance.

There is inadequate evidence on the record that the Phillips Collection has encountered "peculiar and exceptional practical difficulties" in its ownership of the property, or that residential use of the building at 1618 21st St. cannot be maintained profitably. (11 DCMR §3103.2)

The Phillips Collection has been operating in its current space for many years. The apartment house at 1618 21st Street has been a mixed income residential building since it was built. There is no suggestion that 1618 cannot be operated in the same manner in the future and must be incorporated into a larger museum complex to survive. To be sure, the Phillips Collection would like to expand but that is not a sufficient justification for a peculiar and exceptional practical difficulty. Indeed, it is precisely because the Phillips is so successful in its present size and configuration that it has the desire to expand.

Detrimental Affect on the Neighborhood

There is no showing that relief can be granted without substantial detriment to the public good. This is a prerequisite for variance and special exception relief.

1. Traffic will increase on 21st Street. 21st Street is a frequent southbound connector to Massachusetts Ave. With parking on both sides, this one-way street tends to be overused. The proposed increased use of the museum will tend to exacerbate an already bad situation.

2. Catering trucks are likely to revert to using 21st Street for evening parties, thus impeding the traffic flow. The applicant must present credible evidence that the alley in the rear can effectively be used for the catering trucks and that there will be no need to use the front of the building for unloading.
3. Currently, buses stop on 21st St. to unload and load museum visitors. They tend to tarry and block traffic. That situation is likely to persist and worsen.
4. Representatives of the Phillips Collection have acknowledged that they are powerless to prevent museum visitors who arrive in private cars from parking on the neighboring streets.
5. There is no evidence that DPW will allow buses to use Mass. Ave to drop off or take on passengers. Q street is a well-used street and hordes of buses are likely to block the west to east traffic on Q Street. There must be a convincing showing that bus passengers will be satisfied to alight on Massachusetts Ave considering that they will have to cross Q Street in order to access the museum. Many of these passengers will be elderly folks who have difficulty negotiating the traffic. In addition, given that the entrance is in the Goh Annex, half a block from the corner, elderly and other passengers leaving the bus on Mass. Ave will have nearly a block to walk to the entrance. There will be a tendency, especially during cold or inclement weather to use 21st St.
6. Access to and use of the alley will be seriously affected. The alley is only partially public. Several commercial and residential buildings depend on the alley for access.
7. Building a new 36-42 vehicle parking garage will mean (a) more traffic will be entering from 21st Street and exiting on to 22nd Street if the alley is made one-way. If it remains two-way it will often be impassible since parts of it are too narrow for two cars to pass; (b) valet parking is offered by the Cosmos Club in the alley. With catering trucks using up much of the available space on the very nights that the Cosmos Club receives high use, cars and catering trucks will be forced to use the already over-burdened streets.
8. Increasing the height of the Phillips will further hinder the light from reaching 21st St. and the homes on the East side. The views of the sky from the Suismans and the Schussheims will be affected, if not eliminated.
9. The Dupont Circle Area can ill-afford to lose mixed-income housing, the effect of permitting a fifteen (15) unit multi-family building to be converted to commercial use.

The proposed development is inconsistent with the Comprehensive Plan and with the Zoning Regulations and Maps

There is no showing that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (11 DCMR §3103.2) The Comprehensive Plan for the District of Columbia does not call for expansion of cultural institutions in Ward 2 while it does encourage such actions in other Wards. This is a recognition that Ward 2 has the lion's share of such institutions and expansion should be encouraged elsewhere, such as Ward 1. See Comprehensive Plan Amendment Act of 1998, §1336.1, (46 DCR p. 1763). The Comprehensive Plan calls for Moderate Density Residential on the property occupied by the Phillips Collection and the expansion site. The Plan calls for protecting residential neighborhoods from disruptive uses and for preventing concentrations of non-residential uses in residential neighborhoods. 1102.1(e) and (f)

In support of the residential neighborhood objectives, §1104.1 of the Comprehensive Plan calls on the city;

> (b) to conserve and maintain the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights.
>
> (g) Encourage the retention and expansion of residential uses in mixed use neighborhoods to help maintain the residential character of these areas…;
>
> (k) Control the external negative impact of new non-residential uses that are permitted in residential areas to provide sufficient parking, loading area, pick-up and drop-off access consistent with the activity level of the non-residential uses…this policy is designed to reduce the possible adverse impact of the non-residential uses…;
>
> (n) Encourage the residential reuse of abandoned housing; and
>
> (o) Support the retention of established residential neighborhoods adjacent to the Central Employment Area.

Comprehensive Plan policies applicable to the Dupont Circle Special Treatment Area are relevant to the question of impact on the neighborhood, as well as consistency with the Zoning Regulations and Map: Section 1131.2 of the Comprehensive Plan calls on the zoning agencies to

> (c) Preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area"; and

(d) Enhance the residential character by maintaining existing residential use and controlling the scale, location , and density of commercial and residential development..." Comprehensive Plan Amendment Act of 1998 §1131.2.

Finally, maintenance of rental housing is a goal of the Ward 2 portion of the Comprehensive Plan Amendment Act of 1998, §1305.1(i) and (j). See above for discussion of the detrimental affect on the neighborhood.

Accordingly, the Comprehensive Plan does not favor the expansion of a museum in a residential neighborhood under the prevailing conditions.

Witnesses

The following neighbors of the Phillips Collection would like to testify in opposition to the proposed development:

Solange MacArthur-Muller, 1628 21st St.
Richard and Ingrid Suisman, 1611 21st St.
Morton and Hanna Schussheim, 1619 21st St.
Norman Ristin, 2027 Hillyer Place
Michelle White, 2014 Hillyer Place
Dorsey and Susan Dunn, 2030 Hillyer Place
Carol Ridker, 1713 22nd St.,
Vincent Hurteau, 1705 21st St., and
Donna Hays, 2234 Q Street

Thank you for your assistance.

Yours very truly,

Stephen N. Gell