Law Offices
STEPHEN N. GELL
A Professional Corporation

1101 30th St. N.W.
Fifth Floor
Washington, D.C. 20007
Telephone: (202) 625-8311
Facsimile: (703) 522-5503

November 21, 2000

GOVERNMENT OF D.C.
NOV 22 10 34 AM

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

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

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 will increase the FAR and the below ground usable space by some 70 per cent.

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 livability of the neighborhood. Bus and car traffic, pedestrian traffic and an increase in street parking during the day and evening all

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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 café, which will seat approximately 60 people, will not, by itself, add appreciably to the impact on the neighborhood so long as usage is limited to Phillips employees and visitors with tickets. However, the café is designed to open up to two galleries with a combined area of 3,415 square feet which can be used for parties, corporate conferences, wedding and other receptions seating 3-400 people. (See memorandum of October 23, 2000 from David Cox, AIA to Michael Cain with attachments, enclosed herein as **Exhibit A**). Not counted in the above is a 1,000 square foot sculpture garden courtyard adjacent to the café which can be tented for additional tables. Moreover, the auditorium which will have 255 seats, when combined with the large dining facilities, will enable the Phillips to use the museum as a conference center for corporations. The Phillips current usage and proposed usage is set out in a letter dated October 27, 2000 and incorporated herein as **Exhibit B**.

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 and its attempt to develop it as of right. (11 DCMR §3103.2) Quite the contrary. In its letter to the ANC the Phillips stated that it has an acceptable matter-of-right option which is less expensive. By asserting that it has an acceptable, if not desirable option, it has admitted that there is no practical difficulty in their carrying out an expansion without the requested variances. See November 8, 2000 letter from Mr. Cain to the ANC marked herein as **Exhibit C**.

Detrimental Affect on the Neighborhood

There is no showing that relief can be granted without substantial detriment to the public good.

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. It should be noted that we were not given a final copy of the Phillips traffic and parking study until today, November 21, too late to analyse it an make it a part of this letter.

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 deliveries 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. With increased usage of the museum, 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. The Phillips proposes to move the buses from 21st Street to Massachusetts Ave. There is no evidence that DPW will remove parking spaces to 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 also be a convincing showing that bus passengers will be willing 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, the entrance is in the Goh Annex, half a block from the corner. Elderly and disabled passengers leaving the buses on Mass. Ave will have to go at least a block to reach the entrance. There will be a tendency, especially during cold or inclement weather to use 21st St.

6. Several commercial and residential buildings depend on the alley behind the Phillips, known as Hillyer Court, for access. This will be seriously compromised by the valet parking, relocation of the catering trucks, location of the delivery trucks and visitors seeking entrance to the parking garage.

7. The proposed garage will not be as much of a benefit to the neighborhood as the Phillips suggests. The 29-36 spaces will be replacing some 22 spaces above ground. Moreover, more traffic will be exiting onto Florida Ave and 21st Street. It will exacerbate an already difficult situation for the Cosmos Club and will be a nightmare for residences which depend on the alley for access to their garages, such as the Missionaries of Africa, next door, and 1628 21st St. further north.

8. 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.

9. 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. The Missionaries of Africa, a retirement home for catholic priests, will see their small garden lose light, views and privacy. Finally, the McArthur-Mullers at 1628 21st St will also lose light from the increased height of the new facility.

10. The Dupont Circle Area can ill-afford to lose mixed-income housing. The Phillips plans to convert a fifteen (15) unit multi-family building to commercial use. The BZA should take no action to facilitate this conversion.

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

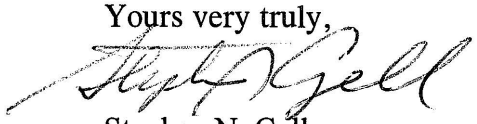
The following neighbors of the Phillips Collection would like to testify in opposition to the proposed development:

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
Joe McMahon, 2031 Q Street
Fr. John Lynch, Missionaries of Africa, 1624 21st St.
Fr. Richard Roy, Missionaries of Africa, 1624 21st St.

Expert testimony will be offered by Stephen Petersen, Traffic Engineer.

Thank you for your assistance.

Yours very truly,



Stephen N. Gell

cc: Richard Suisman