BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application of The Tudor Place
Foundation for a Special Exception
under Section 217 to operate a museum
in an R–B-1 District at 1644 31st Street, N.W.

BZA No. 16974
Hearing Date: September 16, 2003
ANC 2E

RESPONSE OF DON W. CROCKETT TO THE TESTIMONY OF LESLIE BUHLER CONCERNING THE PROPOSED USE OF 1670 31ST STREET AND OSBORNE GEORGE CONCERNING THE VEHICLE MANAGEMENT PLAN

I. Dower House Should Be Used Only As A Single Family Residence.

The foundation's application and initial testimony in this case gave no indication that the foundation intended to use Dower House as a facility to serve lunch and dinner for groups of tourists and/or prospective donors to the foundation. Moreover, residents were wholly unaware that the foundation had been using Dower House as its own private club which prepares and serves food to "prospective donors." This activity came to light for the first time only on cross examination. (TR 4/15 p. 109).

At its public decision meeting on June 3, 2003, the Board decided to restrict the use of Dower House to office space for the staff, as home and studio for the "artist in residence," and for Board of Director's and other community group meetings. (TR 6/3 PP. 79-82) That decision prompted a motion by the foundation to reopen the case. In that motion, the Executive Director asserted that because Dower House had the only air conditioned space with a working kitchen "where a seated indoor lunch or dinner can feasibly (sic) take place which is an important feature of our private tours," the Board's decision "would have a devastating effect on the ability of Tudor Place to carry on its core educational functions and maintain financial viability."

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Board of Zoning Adjustment
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EXHIBIT NO. 131

Now that the Board has acceded to the foundation's request and reopened the record, we learn that the whole thing was a tempest in a teapot: (1) Only 35 functions were held at Dower House in 2002, each of those were attended by from 15 to 25 people, and these events "are not financially motivated." (2) Dower House was rented six times generating only $2,500. (3) Tudor Place does not want to serve lunch or dinner to tour groups, as it originally claimed, but only to allow them to eat their own box lunches there when weather does not permit eating outside.[1] (4) Tudor Place does, however, want to serve lunch and dinner to "prospective donors" at Dower House.[2] Everyone, of course, can be a "prospective donor." Therefore, there would be no limits on lunches and dinners served at Dower House. Moreover, the foundation does not explain why such lunches and dinners could not be held in nearby establishments properly set up and licensed for food service such as the historic Georgetown Club, the historic City Tavern on M Street, or the numerous hotels in Georgetown. All of these establishments have wonderful private rooms for hosting intimate fund-raising functions.

Accordingly, the foundation's inability to conduct these proposed activities at the separate single family home at 1670 31st Street, would not "have a devastating effect" on Tudor Place's ability to "maintain financial viability" as the foundation now claims.

The Board correctly assessed Dower House in light of its past and potential adverse effects on the neighborhood and decided to restrict its use to office space, Board of Directors and community

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[1]The foundation has not explained why tour groups even bring box lunches, much less why they couldn't be consumed at Tudor Place itself in bad weather.

[2]In essence, this is the function of a private club which is prohibited in the R-1 zone. We are painfully cognizant of how seemingly minor exceptions to residential zoning for a private club can ultimately wreck a neighborhood. Witness the so-called "mansion" in the 2000 block of O Street, N.W.

group meetings, and as home and studio for the artist in residence.[3] It wisely did not authorize the requested rentals, the unlimited "functions" with food service for "prospective donors," and the unlimited "educational events" which would clearly create adverse impacts on the surrounding neighbors. The foundation has presented nothing that should change the Board's decision in this regard.

II. The Vehicle Management Plan Will Not Eliminate The Adverse Impacts Of Evening And Weekend Events At Tudor Place And 1670 31st Street.

Mr. George has submitted a further statement in which he attempts to correct several errors in his proposed vehicle management plan. His corrections, however, fail to either address or solve the the admitted adverse parking and traffic impacts from events in the evening and on weekends.

A. The July 2003 George Parking Study Contains So Many Defects And Errors That It Does Not Constitute Valid Evidence Of Parking Availability.

In an attempt to show that there is adequate parking availability near Tudor Place to accommodate evening and weekend events, Mr. George conducted a parking survey in the second week in July, 2003. As we pointed out earlier, that survey had numerous critical defects. While Mr. George sought to correct two of those defects in his August 26, 2003 testimony, the following major defects still remain:

1. The survey was not representative of normal parking conditions because July and August are heavy vacation months for Georgetown residents. Mr. George does not attempt to justify using July as a representative month for determining parking availability in Georgetown. Therefore, the Board should consider that issue to be conceded.

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[3]We still believe that the Board erred as a matter of law in concluding that the Zoning Regulations permit Dower House to be included in the special exception for Tudor Place.

2. The survey was not representative of parking conditions on weekday evenings because it was taken between 6:00 and 7:00 PM rather than between 7:00 and 8:00 PM after most residents have returned home. Again, Mr. George does not even attempt to justify taking a survey at 6:00 PM to determine the availability of parking on weekday evenings. As we pointed out, this is long before many residents arrive home and before the two-hour parking restrictions on non resident parking are lifted at 7:00 PM

3. The 1999 survey area was inexplicably moved 500 feet to the West which had the effect of removing the closest and most heavily parked streets from the study area. Mr. George attempted to justify this change in his study area boundaries in his July 29, 2003, supplemental statement (p. 2) as follows:

> The area considered was specified by DDOT (at approximately 2,000 St. from the Tudor Place Entrance). This approximated a 10-minute walk from the Museum entrance. Given the configuration of the roadway network, and considering what would be effective "barriers" or "separations" to pedestrian movements and access, the area was defined and agreed upon with DDOT staff as represented in the exhibits. [See Exhibit 3, page 5 which is attached for ease of reference.]

There are two fundamental problems with the above statement. First, the area outlined on Exhibit 3 is much larger than 2,000 ft walking distance from the entrance of Tudor Place. The actual boundaries of a 2,000 ft. walking distance are plotted on the scaled map attached hereto as Crockett Exhibit E. The Board will note that actual 2000 foot walking distance is bounded on the North by S Street, on the South by Dumbarton, on the East by 28th Street and on the West (across Wisconsin Avenue) by 34th Street.[4]

[4]Walking distances for each block on the scaled map are shown. The walking distances to the Tudor Place entrance can be determined from any location simply by adding the distances for each block on the route to the entrance.

Second, the new study area selected by Mr. George bears no relationship to the alleged 2000 foot "walking distance" specification. To the contrary, the Northwestern corner of the new study area is 1800 feet from the Tudor Place entrance while the Northeastern corner is a mere 900 feet. Likewise, the Southwestern corner is 1700 feet from the entrance while the Southeaster corner is only1500 feet. Indeed, the new study area actually takes up less than half of the area within a 2000 foot walking distance. See Crockett Exhibit E.

Thus, the basic question still remains: Why did Mr. George move the boundaries of his own 1999 study area approximately one block to the West? The only apparent answer is to exclude the closest and most densely parked streets between 30th Street and Avon Place, thereby raising the average number of available parking spaces in the new study area. As we all know, however, motorists will always choose the closest space they can find. If they have a choice of parking on 30th Street with a 1,000 ft. walk to the Tudor Place entrance, or on R and Wisconsin with a 1800 foot walk, they will always choose the former. Therefore, the new study area is clearly not representative of actual parking conditions near Tudor Place.

4. Unlike the 1999 George survey, the actual number of available and occupied parking spaces on each street were not shown on the 2003 George survey. In 1999, Mr. George charted the area that most motorists, including nearby residents, would consider to be within a reasonable walking distance of the Tudor Place entrance. The study itself, however, did not include four of the closest streets to the Tudor Place entrance which motorists would most likely search for empty parking spaces, i.e., Avon Place, Dent Place, Cambridge Place, and upper 30th Street. See, Tables 1 and 2 of BZA Exhibit 70. This, of course, had the effect of increasing the overall percentage of parking availability in the study 1999 study area.

In that 1999 study, Mr. George presented a street-by-street count of legal parking spaces on the streets he then considered relevant which totaled 338. He also showed his counts of empty spaces on each street during the week and on Saturday. See BZA Exhibit 70. (Mr. George was not asked to survey parking availability on weekday evenings in 1999 because the foundation had proposed no such evening tours or events).

Rather than using the same study area for his new 2003 survey, Mr. George moved the boundaries about 500 feet to the West, again excluding both Dent and Cambridge Place, but this time also excluding large portions of Q , P, and 30th Street – streets which are usually 100 percent occupied in the evenings and weekends. Mr. George also omitted the street-by-street counts of legal parking and vacant spaces in his new study. Instead, he merely informed us that his new study area contained 400 legal spaces and asked us to take his word for both the boundaries of the area and the percentage of unoccupied spaces at various times of day.

After reading our objections to his incredibly high estimates of vacant parking spaces in the new study area, Mr. George has now admitted that his original description of his 400 space study area was incorrect. His "amended Exhibit B" now sets forth his street-by-street count of the legal parking spaces which comprise his alleged 400 space study area. This new exhibit, however, once again fails to constitute valid evidence of actual parking conditions and availability near Tudor Place.

In the first place, Mr. George has not given us the street-by-street counts of vacant spaces for each survey time but again asks the Board and residents to take those undocumented counts on faith. Moreover, the revised Exhibit B includes 18 non-existent parking spaces on the North side of P Street between 31st and 32nd Street.[5] Thus, Mr. George's study area actually contains only 382 legal

[5]No parking is permitted on the North side of P Street from 29th to Wisconsin Avenue except for church parking on Sundays.

spaces. This error alone would raise his alleged percentage of occupied space at 6:00 PM from 75% to 80%. Add this to the unrepresentative month of the survey, the unrepresentative time in the evening, the undocumented counts of vacant parking spaces, the exclusion of close-in streets that are always fully parked; and you have a study that is of no evidentiary value

Therefore, the Board should give no credence whatsoever to the new George parking study but should base its decision solely on the 1986 Georgetown Parking Study (BZA Exhibit 92(e)); the 1998-99 survey by DPW parking enforcement officers (Crockett Exhibit A-C); and Mr. George's own 1999 study for Saturday parking (BZA Exhibit 70).

B. Valet Parking Will Not Lessen, Much Less Eliminate, The Adverse Parking And Traffic Impacts On The Surrounding Residential Neighborhood.

In his original submission, Mr. George asserted that the rear service driveway of Tudor Place could be used to either park or "stack" about 25 vehicles. I then pointed out that because 32nd Street is one-way South, valets would have to make a circuitous route down Q, over to Wisconsin, up to Reservoir Road and then back down to the 32nd Street to the driveway's entrance at Q. As a result of that criticism, Mr. George has apparently abandoned that idea and now suggests that the valets could "stack" 20 vehicles at the Chevy Chase Bank parking lot. This proposition is meaningless. The valets would always fill-up the closest lot first before driving half a mile to the only other available lot at S and Wisconsin (Jelleff's Boys and Girls Club). Once the bank lot was full, there would be no point in unnecessarily moving those vehicles to another lot.

I also pointed out that the proposed vehicle management plan did not apply to events for up to100 people and was otherwise unenforceable because 150 people could show up for an event scheduled for 100. Similarly, 300 people could show up for an event scheduled for 200. Because Mr. George suggests no means whatsoever for insuring that all of the elements of his plan are actually carried out, the vehicle management plan is unenforceable.

The solution to the conundrum presented by the foundation's application is simple. Evening and weekend events will inevitably create intractable parking and traffic problems because this is a densely populated residential neighborhood that will never be amenable to such commercial-type activities. Because § 217.2 expressly forbids any nonprofit use that will have any adverse impact on the surrounding neighborhood, all tours and activities at Tudor Place should be restricted to the normal weekday hours – times that will not generally create adverse impacts. [6] This result would be consistent with past BZA policy in similar cases. *See French v. BZA*, 658 A.2d 1023, 1028 (D.C. 1996)(evening conferences and meetings to be held elsewhere).

I declare under penalty of perjury that the factual statements contained in the above Response are true and correct to the best of my knowledge and belief.

Signed this 10th day of September, 2003.

Don W. Crockett

Don W. Crockett
3070 Q Street, NW
Party In Opposition

Certificate of Service

I certify that the foregoing opposition was served upon the applicant by mail and the other parties herein by E-mail, this 10th day of September, 2003.

Don W. Crockett

[6]The residents do not object to the two traditional Spring and Fall Tudor Place fund raising events because they are infrequent and because many people in Georgetown walk rather than drive their cars to these events.

1644 31st St Nw, Washington, DC, 20007-2924, US

CROCKETT Exhibit E

Map a New Location

