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April 25, 2003

By Facsimile

Geoff Griffis
Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Washington, DC 20009

Re: BZA Appeal No. 16984 - Advisory Neighborhood Commission 2A - Appeal of the Decision of the Zoning Administrator Regarding the Issuance of Building Permit No. B447779 for 924 25th Street, N.W.

Dear Commissioner Griffis and Members of the BZA:

On behalf of the owner of The River Inn, Alamac, Inc., we respectfully request that the BZA dismiss Appeal No. 16984 because all of the alleged violations enumerated in the appeal are moot as a result of the fact that the owner of The River Inn did not undertake the construction activity that it was authorized to conduct pursuant to Building Permit No. B447779.

Background

The owners of The River Inn recently determined that it was necessary to renovate and upgrade The River Inn, which has been authorized to be operated as a hotel at 924 25th Street, N.W. since February 15, 1979, in accordance with §350.4(d) of the Zoning Regulations. During the preliminary design and development stages for the proposed renovations, the architects for The River Inn noted that it would be beneficial and architecturally appropriate to pull the existing windows at the entry level, which are recessed (as shown in the Appellants submission), out to the front of the building so that there would be one continuous building façade from the lower level of the hotel to the top floor.

In order to receive confirmation that these windows could be pulled out to the edge of the front of the building, representatives of The River Inn met with Michael Johnson (former Zoning Administrator) to determine that such action satisfied §§350.4(d) and 351.2 of the Zoning Regulations regarding permissible commercial adjuncts to a

BZA
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Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO. 16984
EXHIBIT NO. 36

hotel in the R-5 District. Attached to this document is a letter, dated October 9, 2001, in which Mr. Johnson noted:

> In connection with the proposed renovation, the owner plans to enclose an existing overhang along the front of the building. This area is immediately adjacent to the Inn's restaurant, lobby, and offices. Since the portion of the building that will be enclosed is already under roof, we concluded that it constituted part of the original gross floor area for the building when the building was constructed. **For that reason, the enclosure of this overhang area, which consists of approximately 425 square feet of area, presents no zoning issues since it was originally counted towards the gross floor area for the function areas in that portion of the building.** (Emphasis added.)

Thereafter, The River Inn applied for and obtained Building Permit No. B447779 which approved plans that relied on Michael Johnson's determination.

After ANC 2A filed the present appeal, the owners of The River Inn determined that, despite the prior ruling that it had received from the Zoning Administrator, it would not proceed with pulling the windows out to the front edge of the building. Thus, the renovations of The River Inn were completed based on revised permit drawings which maintained the existing recessed window line and front of the building, in accordance with Building Permit No. B450235. A copy of this building permit is also attached to this letter.

BZA Appeal No. 16984

ANC 2A's appeal alleges that Building Permit No. B447779 is invalid because:

1) It authorizes an increase in the total area within the hotel devoted to function rooms, exhibit space and commercial adjuncts;

2) There must be no direct entrance to the commercial adjuncts from outside the building;

3) No part of the commercial adjunct shall be visible from a sidewalk; and

4) No sign indicating the existence of commercial adjuncts shall be visible from a sidewalk.

Based on the decision of the owners of The River Inn to maintain the recessed window line at the entry level of the hotel, just as it existed when The River Inn was

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authorized to operate as a hotel on February 15, 1979, issues 1 – 3 listed above are moot. First, there has been no increase in the area of the restaurant space in The River Inn. Second, the restaurant space will not be accessible from outside the building. Third, while a portion of the restaurant may be visible from the very wide sidewalk in front of The River Inn, the windows to the restaurant are located in the same location that they have been since 1979 and they are thus a pre-existing condition and are not subject to the requirements of §351.2 which were adopted on May 16, 1980. In addition, §350.4(d) of the Zoning Regulations specifically authorizes the repair, renovation, remodeling and structural alteration of a hotel that had a valid Certificate of Occupancy prior to May 16, 1980. Finally, in regards to issue no. 4 listed above, the approved awning for the new entrance to The River Inn does not refer to the name of the restaurant that will be located in The River Inn.

As of the date of this letter, representatives of The River Inn are working with representatives of the Zoning Administrator's Office, the Department of Consumer and Regulatory Affairs ("DCRA") Building and Land Regulation Administration, and the General Counsel's Office of DCRA to receive confirmation from DCRA that the construction work authorized by Building Permit No. B450235 was completed in accordance with those approved plans and that the issues raised in BZA Appeal No. 16984 are therefore moot.

Conclusion

On behalf of the owners of The River Inn, we respectfully request that the BZA dismiss BZA Appeal No. 16984 as moot for the above-mentioned reasons.

Sincerely,

Paul A. Tummonds, Jr.

Enclosures

cc: ANC 2A (by fax)
Laurie Gilbert, Esq. (by fax)
Conrad Cafritz (by fax)

Document # 1320147 v 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

October 09, 2001

Allison C. Prince, Esq.
Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20037

Re. 924 25th Street, NW – The River Inn

Dear Ms. Prince:

The purpose of this letter is to confirm our discussion in our meeting on Tuesday, August 21, 2001 regarding the above referenced property. As we discussed at the meeting, the existing building was constructed in 1957 and was renovated in 1978. It operates as a 126-room inn pursuant to Certificate of Occupancy No. B108331 dated February 15, 1979. In connection with the 1978 renovation of the building, portions of the covered parking area were fully enclosed to allow use of the space for inn purposes.

In connection with the proposed renovation, the owner plans to enclose an existing overhang along the front of the building. This area is immediately adjacent to the Inn's restaurant, lobby and offices. Since the portion of the building that will be enclosed is already under roof, we concluded that it constituted part of the original gross floor area for the building when the building was constructed. For that reason, the enclosure of this overhang area, which consists of approximately 425 square feet of area,[1] presents no zoning issues since it was originally counted toward the gross floor area for the function areas in that front portion of the building. This determination is consistent with the determination that was made in 1978 which permitted the enclosure of the garage area without any zoning relief since that area had already been included within the building's FAR.

Please do not hesitate to contact me if you have any questions.

Michael D. Johnson
Zoning Administrator
District of Columbia

Cc: Toye Bello, Chief, Zoning Review

MDJ/mdj
924 25th St. (River Inn Enclosure)

941 North Capitol Street, N.E., Suite 2000 Washington, DC 20002 Phone: (202) 442-4549 Fax: (202) 442-4863

[1] This area constitutes .5% of the total gross floor area of the building.

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DATE: April 25, 2003

FROM: Paul Tummonds
PHONE NUMBER: 202-663-8873
E-MAIL ADDRESS: paul.tummonds@shawpittman.com
FAX NUMBER: 202-663-8007

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Maria Tyler	ANC 2A	202-337-7896	202-337-7896
Laurie Gilbert, Esq	DCRA, Office of the General Counsel	202-442-8199	202-442-9447

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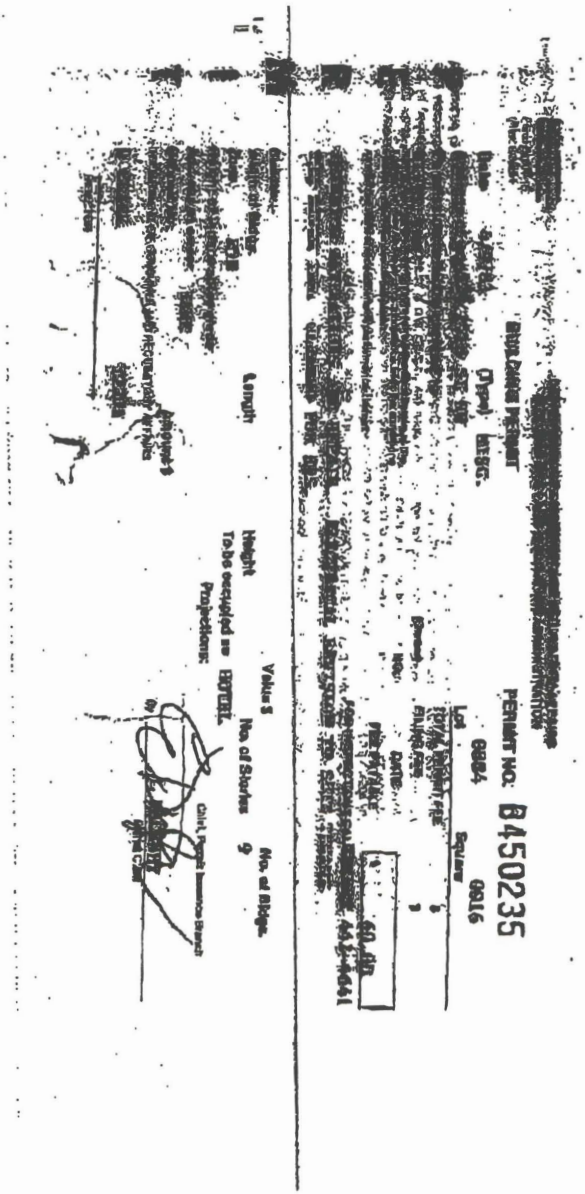
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PERMIT NO: B450235
Length
Height
No. of Stories 9
No. of Bldgs.
Value $
Projections:

#2

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