Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

September 18, 2003

D.C. OFFICE OF ZONING
RECEIVED
2003 SEP 22 AM 9:07

Mr. Geoffrey H. Griffis, Chair
Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 2001

Re: BZA Case No. 17021, 7-eleven, Inc., Represented by Estelle Goldman, for a Special Exception Request for Expanded Operations to 24-hours

Dear Chairperson Griffis:

Advisory Neighborhood Commission 2A, at its regular monthly public meeting on September 17, 2003, properly noticed and with a quorum present, unanimously approved Resolution 03-9D opposing the above titled application.

The Commission voted 5-0 to have Mr. Geoffrey Tyler represent the ANC at the September 23, 2003 BZA public hearing, in the event Mrs. Maria Tyler, Commissioner for ANC-2A03, is unable to be present for medical reasons.

The Home Rule Charter for the District gave ANC's the power to represent local residents in expressing community concerns before District Agencies, and decreed that the concerns expressed by the ANC be given "great weight" and a that written rationale be given should the agency take a position different from that of the ANC.

Respectfully submitted,

Dorothy Miller

Dorothy Miller, Chair
ANC-2A

Enclosure (1) Resolution with attachments

cc: John Patrick Brown, Jr.,
% Greenstein DeLorme & Luchs, P.C.
Harold Talisiman, Party
Benjamin, Klotz, Party

BZA
Case No. 17021
Exhibit No. 45

Board of Zoning Adjustment
District of Columbia
CASE NO. 17021
EXHIBIT NO. 45

THE FOGGY BOTTOM AND WEST END ADVISORY NEIGHBORHOOD COMMISSION (ANC-2A)
Passed the following Resolution #03/9D

Resolution by ANC-2A strongly opposing 2 requests included in the Application No. 17021 by Estelle Goldman for a special exception on behalf of the 7-Eleven Inc. to continue the use of a nonconforming retail grocery/deli in the FBOD/R-3 District at premises 912 New Hampshire Avenue, namely (1) that the hours of operation be expanded to 24 hours and (2) the granting of approval be for 10 years.

1. WHEREAS, Estelle Goldman applied on behalf of the 7-Eleven Inc. for a special exception to continue the use of a nonconforming retail grocery/deli in the FBOD/R-3 District at premises 912 New Hampshire Avenue, N.W. first floor and basement (Square 28, Lot 122), last authorized by BZA Order No. 16261, dated November 12, 1997; and

2. WHEREAS, the Application also includes a request for approval for an expansion of the hours of operation from 7AM to 11 PM (a specific condition of approval in all previous BZA Orders governing these premises) to overnight (i.e. 24 hours); and

3. WHEREAS, the Applicant repeats the request that the period of approval be extended to ten (10) years. This request for a 10 year approval in previous Applications was always denied and the approval limited to three (3) years, both in the first BZA Order No. 13596, March 22, 1982 and the most recent BZA Order No. 16261; October 1, 1997 and

4. WHEREAS, the relatively short periods of approval of the special exceptions have served as a safeguard for the residential character of the neighborhood when experience and changing circumstances require changes in conditions of operations. Approval for a period of 10 years which the applicant has been refused in earlier Orders, would not provide these safeguards and would not provide the necessary incentive for the 7-Eleven to operate within the conditions that are not disruptive to the community; and

5. WHEREAS, the present Application was preceded by 4 BZA Orders over a 21 year period; and

6. WHEREAS, all of the BZA Orders were granted only after extended input by ANC-2A regarding deleterious effects that could have resulted, or in fact had been occurring, from proposed operations in the Applications; thus, beginning with the very first BZA Order No. 13596 regarding the operation of these premises the approvals were granted only subject to a number of specific conditions; and

7. WHEREAS, on the occasion of the first Application by the store in 1981 (BZA Order No. 13596) there were detailed discussions, including especially by the Office of Planning(OP), about adverse effects the operation of a 7-Eleven would have on the character of the neighborhood, including in particular those resulting from inappropriate hours of operation; and

8. WHEREAS, the reasons advanced by the Office of Planning (OP) as to why the proposed night-time and all-night operation would bring severe problems, (all of which are even more valid now than they were in 1982 because of the very great expansion of GWU, its hospital, and its undergraduate student body) and be highly objectionable in terms of disruptive noise, serving as a magnet to pedestrians with their frequently loud conversations, and to cars arriving and departing in a dense and constrained residential area ; and

9. WHEREAS, the BZA decided that the 7-Eleven operation should be limited from 7 A.M to 11 PM-a condition retained in all the subsequent BZA Orders regarding these premises; and

10. WHEREAS, since 1982 the City government took several important actions to protect and enhance the residential neighborhood surrounding the location of the 7-Eleven; and

11. WHEREAS, this neighborhood was designated by the City as a Historic District in 1986 and included in the National Register of Historic Places in 1987 (see Att. I); and

12. WHEREAS, in 1992, the Zoning Commission, recognizing that "the Foggy Bottom Historic District is a unique resource to the city" created the Foggy Bottom Overlay District , (11DCMR, Chapter 1521), its boundaries being identical to those of the Foggy Bottom Historic District (see Att. II); and

13. WHEREAS, with the specific objective, *inter alia*, to enhance the Overlay District's residential character, the Zoning Commission changed the zoning of this area from the then existing R-5-B to R-5-D to the much more restrictive R-3. This recognized the small scale purely residential character of the Overlay District ; and

14. WHEREAS, the 100 year townhouse in which the 7-Eleven store operates, previously zoned at the highest R-5 category, (then R-5-D), was rezoned to R-3; and

15. WHEREAS, the record of the 7-Eleven store is not as good as the Applicant claims: deliveries are made to the store on weekends before 7 AM, plastic basket containers are regularly stored outside the front of the store in a stack 4 to 5 feet in height, and the landscaping has not always been kept in good condition. More recently, of course, with the present application in mind, the store has taken special care with the appearance of the landscaping and the store generally (see Att. III June 7, 2003 letter Milton O. Maeda; and 1995 and 1996 letters by Maria Tyler); and

16. WHEREAS, the fact that the 7-Eleven , over the years, has gradually and only partially abided by the conditions imposed by the BZA Orders -- albeit with a most time consuming input by ANC-2A is not a benefit provided to residents out of the goodness of the Applicant's heart, but is an obligation imposed on the 7-Eleven store as a condition for the special privileges given by the BZA's granting of the special exception; and

17. WHEREAS, operating as the conditions incorporated in the BZA Orders require is no basis for now going in the opposite direction and giving the Applicant added commercial privileges adverse to the neighborhood, especially in the light of the provisions of the Overlay District of the Zoning Regulations; and

18. WHEREAS, the provisions of and the intent of Chapter 1521 of the Zoning Regulations are quite clear. The non-conforming use as a 7-Eleven store can move only in one direction, which is less not more commercial use. It would not be permitted merely because it is more profitable to the owner or because some users would find it convenient; and

19. WHEREAS, ANC-2A did not negotiate a new Management Agreement with the Applicant and the operator of the 7-Eleven because the requested major changes in the hours of operation and the duration of the approval of 10 years were completely unacceptable to ANC-2A, a fact that, on the basis of discussions on earlier requests for special exception, should have been well known to the Applicant.

BE IT RESOLVED THEREFORE that, for all the reasons described above, ANC-2A strongly opposes any extension of the hours of operation of the 7-Eleven store and strongly urges the BZA not to increase the existing permitted hours of operation (7 AM to 11 PM); and

BE IT FURTHER RESOLVED that ANC-2A strongly urges the BZA, as in the case of the previous BZA Order, to grant the special exception for a period of only 3 years; and

BE IT FURTHER RESOLVED that ANC-2A strongly urges the BZA to include in its Order provisions and conditions similar to those included in the "Management Agreement between ANC-2A, the Southland Corporation, and the Franchisee", dated October 1997.

DATE: September 17, 2003

ANC-2A SMD	AYE	NAY	ABSENT	MOVE	SECOND
01 LEHRMAN	X				
02 PRICE	X				
03 TYLER	X			X	
04 LEWIS	X				
05 MILLER	X				X
06 VACANT					

Dorothy Miller

Chairperson/~~Secretary~~

ATTACHMENT I

AH I

United States Department of the Interior
National Park Service

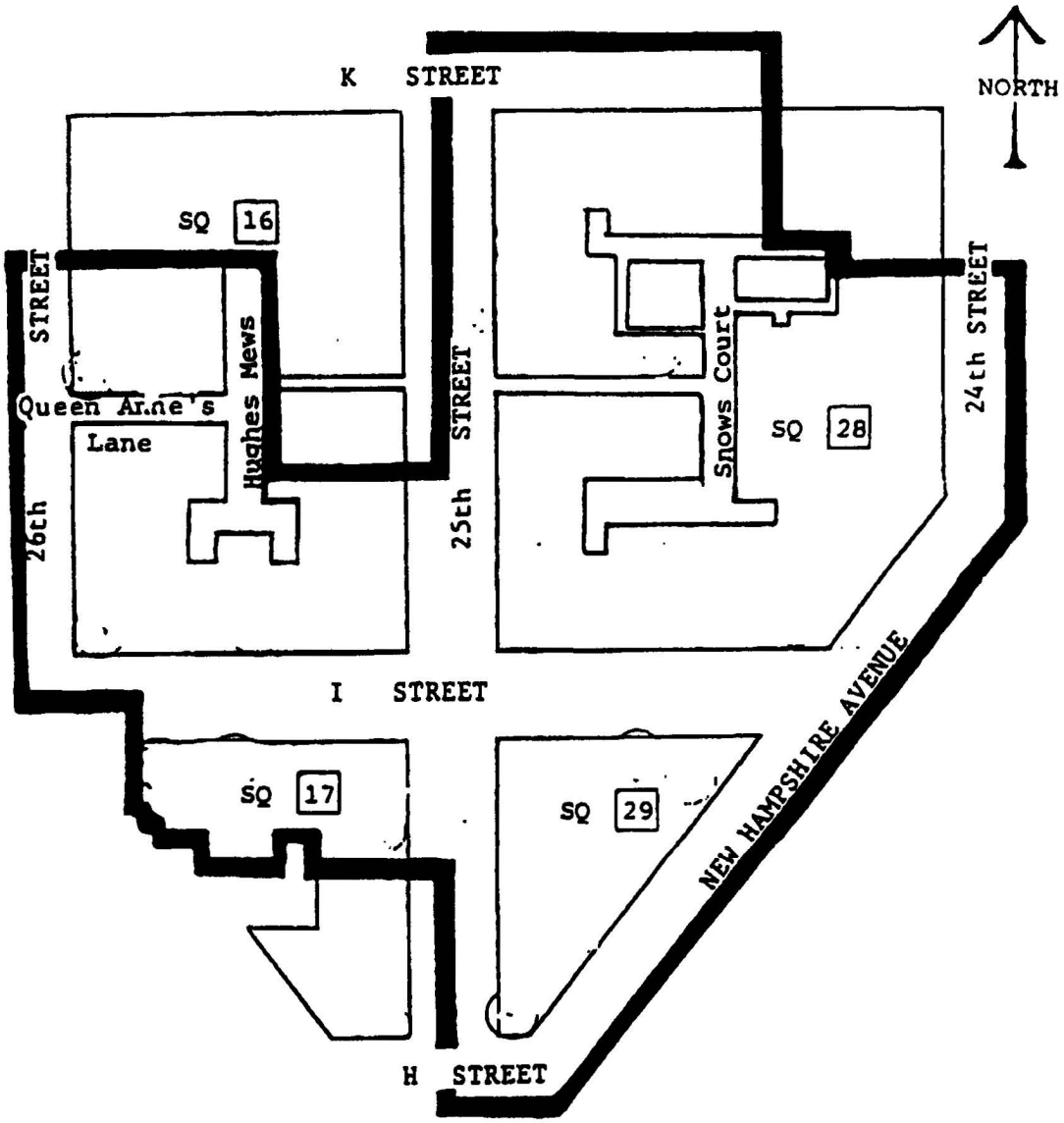
National Register of Historic Places Continuation Sheet

Foggy Bottom Historic District, Washington, D.C.

Section number MAPS Page 1

17021

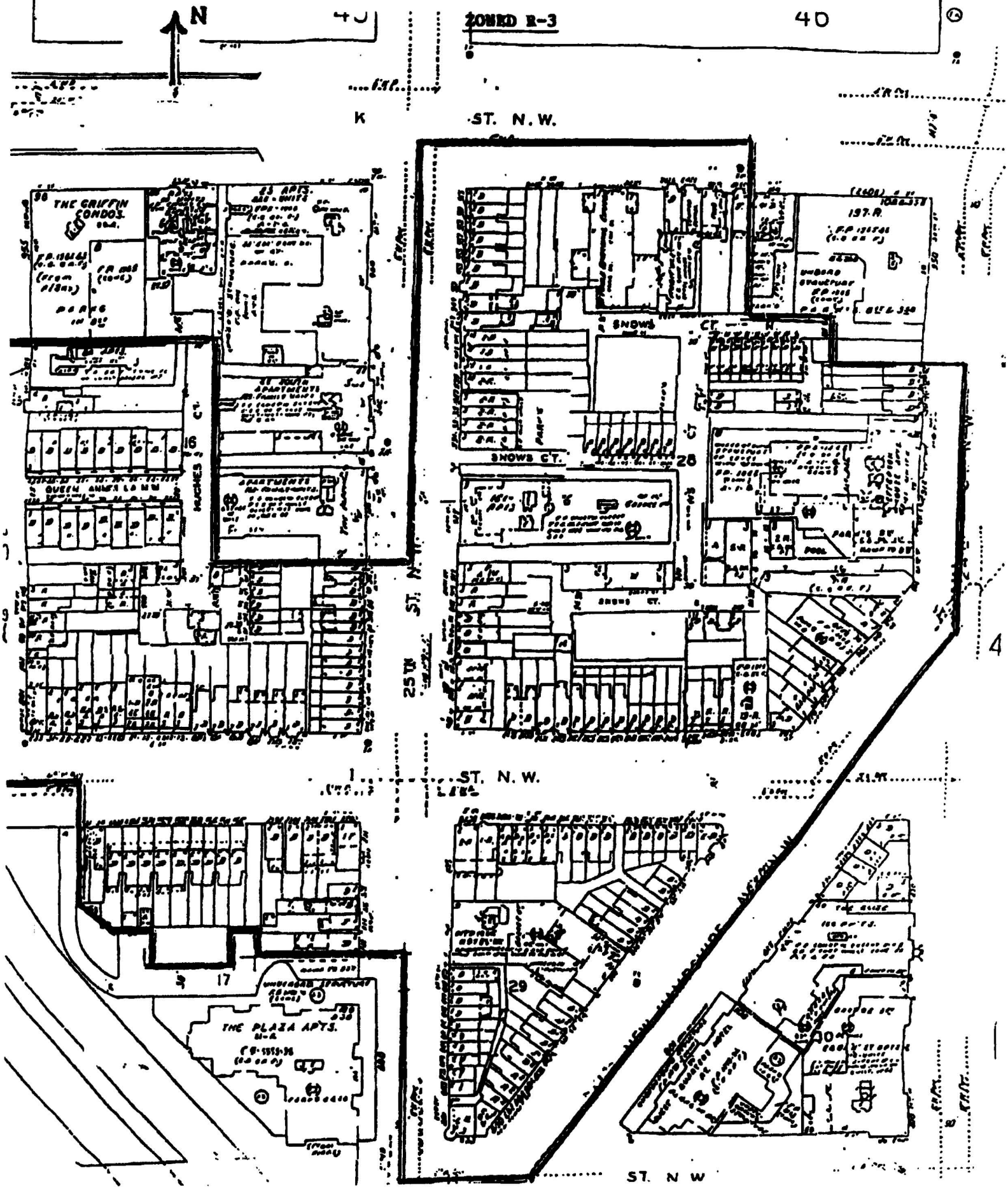
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D.C. OFFICE OF PLANNING



ATTACHMENT II

BOUNDARIES OF FOGGY BOTTOM HISTORIC DISTRICT

AH II



ATTACHMENT III

Att III

June 7, 2003

Board of Zoning Adjustment
District of Columbia
Suite 210-S
441 4th St., NW
Washington, D.C. 20001

REF: Application Number 17021 (Application of Estelle Goldman)

Dear Board Members:

I would like to register my objection to Ms. Estelle Goldman's request for the Board's approval to allow her retail and grocery/deli operation (7-11 Store) at 912 New Hampshire Ave., NW, to expand its hours of operation to 24 hours daily.

That retail business operates in a "residential" neighborhood. Although I have little objection to its continued operation within the timeframe of 7:00 a.m. and 11:00 p.m. daily, that business is already a cause of concern for the protected Historic Foggy Bottom neighborhood.

Trash containers are provided on the front of the premises; however, they are often overloaded and the general appearance of the property is "trashy." (It is interesting to observe that while Ms. Goldman's request is pending, the property is being maintained in a very neat manner.) Also, there is no customer parking available on the business' property which is located near a major intersection. Customers who drive to the store (including the police) routinely park illegally in front of it. That adds to serious traffic congestion at that site, and increases the risk of accidents.

More serious is the disturbance to sleeping residents that later hours of operation will cause. Foggy Bottom residents continue to struggle with student disturbances in and destruction of their community. Boisterous students are a common sight at the 7-11 Store in the evenings, much of them under the influence of alcohol or drugs. It does not take a rocket scientist to realize that later hours of operation will cause the location to become more of a gathering place for late night student partiers, and the disturbances will become unbearable for residents there. If you are not familiar with the amount of traffic and types of clientele a late night operating convenience store draws, please investigate before you make your decision.

Ms. Goldman's business is allowed to operate at its location under "nonconforming" circumstances for the zoning of the area. To approve expansion of the hours of operation, you would approve "conflicting" circumstances of advantage only to the business and an unhealthy situation for this protected neighborhood.

I respectfully request that, in the interest of the greater community, you deny Ms. Goldman's request for expanded hours of operation.

Sincerely yours,

Milton O. (Mel) Maeda
2531 "I" St., NW
Washington, DC 20037-2211
Tel. (202) 342-2244
Email melmaeda@prodigy.net

AH 111

FOGGY BOTTOM AND WEST END
ADVISORY NEIGHBORHOOD COMMISSION (ANC-2A)

MARIA TYLER ▫ COMISSIONER ▫ SMD-2A03

949-25TH Street, N.W. • Washington, D.C., 20037 • (202) 337-7896

September 5, 1995

Ms. Nancy Wade
Marketing Manager
Southland Corporation
6311 Allentown Road
Temple Hills, MD 20748

RE: 7-11 at 912 New Hampshire Avenue N.W., Washington DC 20037

Dear Ms. ~~Wade~~ Nancy:

This is to confirm our telephone conversation of today during which you promised to remove the advertisement signs which are placed on the windows of the townhouse in which the 7-11 at the above cited address is presently operating under special exception by the Board of Zoning Adjustment. As you are aware, this century old townhouse is situated in the Foggy Bottom Historic District, in a purely residential area, zoned R-3, and is, of course, subject to the conditions applying to properties in this particular historic district. You also said that you would brief Mr. Mehdi, the new person of Southland Corporation assigned to look after this 7-11 establishment, about the very special circumstances of our particular location, so that we will be spared the necessity to train your new people, when they come on board, about the prevailing laws and regulations. A thorough knowledge of the contents of the voluminous correspondence in the most recent case of the installation of a handicapped ramp at these premises should help Mr. Mehdi to comprehend some of the special considerations that apply.

Following our conversastion I had occasion to visit the 7-11 establishment. I must regrettably report that I was subjected to most unsightly premises, which are in violation of the BZA Order. For about a week now, pieces of equipment which have been removed from the 7-11, have been dumped in front of this historic house, presenting a veritable eyesore to the entire block. Moreover, the plantings around the handicapped rail are not in compliance with the agreement reached with the 7-11 as a pre-condition to the granting of the approval by the Historic Preservation Review Board and the permit issued by the D.C. Department of Consumer and Regulatory Affairs. First, the shrubs around the railing do not conceal it, as specified in the undertaking. Second, the plantings are left unwatered and are in a deplorable condition. About five of the shrubs have perished and have not been replaced as required under the agreement. I mentioned to you briefly during our telephone conversation that it seemed to me (without having visited the premises close-by) that the planters had not been watered, and you stated that you were aware of it and would take care of the problem. However, the condition of the planters is much worse than I had believed and is clearly in direct violation of the Historic Preservation Review Board decision. A copy of Mr. Peddicord's official communication to me summarizing the undertaking as agreed with the Historic Preservation Review Board is attached for your convenience.

Please be assured that I have always appreciated your responsive attitude to our concerns. However, you must agree that the problems caused by the 7-11 establishment in our neighborhood have been very numerous, and frequent. They have been disruptive and have taken up an inordinate amount of time of publicly elected officials, such as Advisory Neighborhood Commissioners. I trust that you will give special attention to this establishment in the future to ensure that your operation respects the historic residential district in which it is located and also that the conditions of operation agreed with our Advisory Neighborhood Commission and the D.C. authorities are met.

With kind regards I remain,

Yours sincerely,

Maria Tyler

Maria Tyler
Commissioner, ANC-2A03

Attachment

A-1 TT

FOGGY BOTTOM AND WEST END
ADVISORY NEIGHBORHOOD COMMISSION (ANC-2A)

MARIA TYLER ▫ COMISSIONER ▫ SMD-2A03

949-25TH Street, N.W. • Washington, D.C., 20037 • (202) 337-7896

April 1, 1996

Ms. Nancy Wade
Marketing Manager
Southland Corporation
6311 Allentown Road
Temple Hills, MD 20748

RE: 7-11 at 912 New Hampshire Avenue, N.W., Washington, DC 20037

Dear Ms. ~~Wade~~ Nancy:

I spoke to you last week about the continued unsatisfactory condition of the shrubs planted around the handicapped railing in front of the above premises. The shrubs are considerably below the height which was specified as one of the pre-conditions which formed the basis for granting the authorization by the Historic Preservation Review Board (HPRB) to construct the handicapped ramp and railing. The height of the shrubs was specifically incorporated in the permit. I drew your attention to this fact in my letter of September 5, 1995 (copy attached), but following that letter the shrubs were cut down even further. When I telephoned you in the fall of 1995 to inform you about this, you said that you were sorry that this happened and that you would write me a letter saying so. I never received such a letter.

Last week you said that you would visit the premises and that the shrubs may have to be replaced. You said that you would get back in touch with me about this. However, thus far I have not heard from you. I attach a photograph of the site taken in October 1995; the height of the shrubs has not changed since then.

This situation compounds the non-compliance with conditions regarding delivery trucks at the premises. As you recall, the Board of Zoning Adjustment's special exception for a period of 5 years was given to the 7-11 on the condition that there would be only one delivery truck at a time parked for the duration needed to unload the goods. The D.C. Department of Public Works made special accommodations to allow such a vehicle to be parked in front of the premises. Unfortunately, not infrequently two trucks are parked there, or there is double parking, resulting in the violation of the BZA condition, to say nothing of the dangerous situation which is created for pedestrians and motor vehicles in that difficult location where 24th Street, I Street, and New Hampshire Avenue converge.

4/1/96

The conditions incorporated in the permit to construct the handicapped ramp and railings as well as those related to the BZA Order No. 15526, dated September 2, 1992 are, of course, legally binding requirements on the operation of the 7-11.

I would like to make it clear that this letter is not written in an antagonistic spirit. But those of us who have not only continued to live in D.C., but as publicly elected non-salaried officials work for the betterment of our neighborhoods, can only achieve this if the regulations and laws which are designed to protect us, are enforced. The non-enforcement of regulations governing properties in our City invariably leads to the worsening of both the property and its surroundings, which has a ripple effect on the area and chips away at the quality of the neighborhood. You will agree that this is not in the interest of your establishment and is certainly to the detriment of our neighborhood and the City.

I trust that you will ensure that the schedule for the delivery of goods to the 7-11 conforms to the agreement that only one truck at a time be parked at the premises. Moreover, I look forward to hearing from you as to when the replacement of the shrubs to the minimum height specified in the permit will be undertaken. The operators of the 7-11 should then be instructed not to tamper with the height of the shrubs, to allow them to always completely cover the railing and, for aesthetic effect, to allow them to grow taller.

With kind regards, I remain,

Yours sincerely,

Maria Tyler
Maria Tyler
Commissioner, ANC-2A03

Attachments

cc. Ms. Laura Richards, Chairperson
Board of Zoning Adjustment

Mr. Vincent Ford
Chief, Building Inspection Division
D.C. Department of Consumer and Regulatory Affairs

Ms. Patricia Montgomery
Acting Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs

ANC-2A - DOCUMENTS REGARDING APPLICATION No. 17021
THE 7-11 AT 912 NEW HAPSHIRE EVE.

To: LINDA (FAX 727 6072)

From Maria Tyler FAX 337 7896
Phone 337 7896

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