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August 26, 2003

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D.C. BOARD OF ZONING
2003 AUG 26 PM 4:52

Hand Delivery

Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: BZA Application No. 17047
33 PST LLC

Dear Members of the Board:

This letter is submitted on behalf of 30/60 M Street Limited Partnership ("30/60 M Street"), owner of property with premises address of 30-60 M Street, NE (Square 672, Lots 240 and 241). Said property is located immediately east and abutting 33 Patterson Street, NE, the property which is the subject of the above-referenced application. Pursuant to §3106 of the Zoning Regulations, 30/60 M Street herewith submits its request for party status in Application No. 17047. In support of its request for party status, 30/60 M Street submits the following information, consistent with the requirements of §3106.2 of the Zoning Regulations:

3106.2(a) ***Name and address:***
30/60 M Street Limited Partnership
c/o Stephen A. Goldberg Company
Suite 850
1615 M Street, NW
Washington, DC 20036

3106.2(b) ***Request to appear and participated as a party:***
This letter serves as 30/60 M Street's formal request to the Board to appear and participate as a party.

3106.2(c) ***Appearance as proponent or opponent of application:***
30/60 M Street will appear as a party in opposition to the application.

BZA
Case No. 17047
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO. 17047
EXHIBIT NO. 40

3106.2(d) ***Appearance through legal counsel:***

30/60 M Street will appear through the undersigned legal counsel:

Holland & Knight LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006.

3106.2(e) ***Statement of Justification for Party Status:***

As set forth above, 30/60 M Street is the owner of property abutting and located immediately east of the 33 Patterson Street property that is the subject of Application No. 17047 to the Board. Given the nature of the application, namely, for a significant variance from the off-street parking requirements of the Zoning Regulations, 30/60 M Street, whose property is the only privately-held property abutting the applicant's property, is uniquely concerned over the potential impacts of this variance request upon its property, and upon traffic, public safety and public parking in the immediate vicinity. Furthermore, according to the drawings provided to the Board by the Applicant, the main access to the proposed nightclub, along with the parking and loading access for the club, are all located in very close proximity to the 30/60 M Street property, providing 30/60 M Street even greater concern regarding traffic, congestion and public safety issues. Owing to the exceptional proximity of the 30/60 M Street property to the applicant's property, 30/60 M Street submits that its interests with respect to the application before the Board are impacted to an even greater extent than other surrounding property owners and, as such, 30/60 M Street qualifies for party status in Application No. 17047.

The applicant is requesting variance relief to excuse the provision of approximately 100 parking spaces on its property. 30/60 M Street submits to the Board that the provision of only six parking spaces for such a traffic-intensive use as a nightclub is woefully insufficient. 30/60 M Street has reviewed the Applicant's pre-hearing filings to the Board, including the report of its traffic expert, and takes particular issue to the reference that ample parking can be accommodated through on-street parking within a short walking distance of the proposed club. Setting aside for a moment the fact that the Zoning Regulations require that parking be provided off-street, 30/60 M Street takes strong exception with the suggestion raised by the applicant that the currently ample amount of <u>on-street</u> parking in the neighborhood can more than satisfy its parking requirements. While such short-term on-street parking is lawfully utilized throughout the District (in addition to provided off-street parking) by patrons of retail and other commercial establishments, it would not at all be fair to properties neighboring the applicant's property for the applicant to be allowed to provide for its parking requirement via on-street parking, as this would effectively preclude these neighboring owners from enjoying the public parking abutting and in proximity of their own properties. Given its exceptional proximity to the applicant's property, the 30/60 M Street property would be exceedingly hard hit by this allowance, were it approved by the Board, as the

street parking which surrounds the 30/60 M Street property on three sides would surely be the first and most prized parking for the club's patrons and valets.

In the same vein, 30/60 M Street takes issue with the representations made by the Applicant as to the willingness and abilities of club patrons to walk upwards of a mile from off-street parking options that the applicant may contract to provide. 30/60 M Street submits that for any meaningful off-site parking arrangements to be made for patrons of the nightclub, such arrangements must be located within a comparatively small radius in order to protect the privileges of other neighboring property owners to off-street parking in the area. To that end, 30/60 M Street submits that a 200-foot radius, as provided in Section 214 of the Zoning Regulations, is a reasonable requirement to be placed on any off-street parking provided by the applicant.

The applicant's property, like the 30/60 M Street property, is zoned C-3, which carries with it an off-street parking requirement. The Zoning Regulations require off-street parking to be provided, whether the use be nightclub, office or residential. The applicant's argument that nightclub use in the C-4 District does not require parking is irrelevant. Should the applicant wish to take advantage of C-4 zoning provisions, it should apply to the Zoning Commission for a zoning map amendment.

30/60 M Street also notes for the Board that the applicant's property is not within sufficient proximity of the proposed New York Avenue Metrorail Station to take advantage of any parking requirement reduction provided in the Zoning Regulations. At the same time, 30/60 M Street concurs that traffic to and from the nightclub could occur through the new Metrorail station. This pedestrian traffic would necessarily cross or pass in front of and along the 30/60 M Street property in order to access the club. However, there is currently no consistent sidewalk provided along Patterson Street for such a potentially heavy traffic load, thus creating a possible hazard for pedestrians and auto traffic alike.

Furthermore, with respect to pedestrian and auto traffic, 30/60 M Street notes its particular concerns given the proximity of the club's entrance and the parking and loading access to the 30/60 M Street property. With particular reference to the club entrance, casual observation of similar nightclub uses in other parts of the District reveals the reality that such club entrances constantly remain jammed with a mix of parked and standing vehicles, valet services and patrons entering and exiting the club. This is likely to be exacerbated in the current situation, with no off-street parking and the likelihood that valets will be needed to accommodate actual patron demand. Given this dynamic and the very narrow depth of Patterson Street, 30/60 M Street is exceedingly concerned as to the impacts the traffic caused by the lack of parking may have to its future development plans for the 30/60 M Street property.

While the 30/60 M Street property is currently unimproved, like other of the properties in the immediate area of the proposed club which are unimproved and underdeveloped, plans are in the development stages for multi-story commercial and mixed use development. 30/60 M Street is therefore understandably vigilant that the use of the abutting property at 33 Patterson Street be undertaken in a manner consistent with applicable law and which does not work a detriment to abutting property owners and the general public both

now and in the future, particularly in terms of traffic and public safety. Particularly, 30/60 M Street requests opportunity to participate as a party in order to present to the Board its long-term concerns related to the possible approval of this sizeable variance request and to ensure that the harm to itself and other neighboring property owners is minimized in the process.

For all these reasons, 30/60 M Street requests the Board's approval to participate as a party in opposition to Application No. 17047, scheduled for public hearing September 9, 2003.

Sincerely,

Norman M. Glasgow, Jr.

cc: Office of Planning

WAS1 #1207405 v2



Feature Key

Zoning Boundaries

Square Index

Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. 17047

DC Office of Planning
July 28, 2003

Scale 1:1264

N

25 0 25 50 75 100 Feet

Attachment 1