Government of the District Of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 6C
Commissioner Daniel M. Pernell, III (6C04)
1116 3rd., Street, N.E. Washington, D.C. 20002
Office# 202 547-5175 * Fax# 202 544-4874

2003 SEP 17 PM 7:53

September 17, 2003

Mr. Geoffrey Griffis, AIA, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 220 South
Washington, DC 20001

Re: 33 Patterson Street, NE BZA Application No. 17047

Dear Mr. Griffis and members of the Board of Zoning Adjustment:

This ANC has been on record multiple times in support of this project in general (liquor license, Enterprise Zone financing assistance ...), and this parking variance application in particular. As the designated representative of ANC 6C, and as the Single Member District Commissioner — one who has donated an incredible amount of time in service to the community and to the city over many years — I write to express ANC support for approval of this parking variance with the condition set forth below as an appropriate solution to the uniqueness and practical difficulty related to the adaptive re-use of an almost new, but vacant, warehouse building converting it into an entertainment and socialization venue.

"During all operating hours of the club, there shall be in force contractual arrangements between the club operator and owners/managers of off-street parking spaces for a minimum of 100 vehicles within 1,000 feet of the building."

I have reviewed the Parking Management Plan submitted by the Applicant on September 12, 2003 as per request of the BZA at the public hearing on September 9 and find it to be responsive, responsible and approve it wholeheartedly.

Please be reminded that this ANC has been so supportive for so many months (since December 2002) because it represents an amenity to the quality of life in the city — very much in keeping with the Mayor's major new effort to attract 100,000 new residents to DC "city living dc style". It is critical that the BZA appreciate the reasons for this ANC's support. This building is located close enough to our homes to be easily accessible, yet it is far enough from our homes so that the nighttime activity does not conflict with the need for peace and quiet in residential neighborhoods.

This would appear to be so obvious that I am troubled that I even have to make this argument. But frankly, the Office of Planning report missed the major issue, and made certain factual statements that are incorrect, and made policy suggestions that are just plain wrong and or unreasonable and illogical and impractical (these are enclosed as an exhibit in greater detail). As I expressed in my testimony at the hearing, I am particularly upset that the Office of Planning never sought this ANC's participation in their review, nor discussed the issues with us prior to writing their report. This is even more outrageous given my role as a member of the Mayor's task force to interface with and cooperate with the Office of Planning.

The ANC found that the Applicant had made a compelling case for this variance, addressing the uniqueness, practical difficulty and consistency with the Comprehensive Plan issues quite well. The Office of Planning report even agreed with the first two elements, and the key aspect of the third -- that an entertainment socialization venue bringing nighttime life and activity to an otherwise dead area -- is exactly what the Plan envisions.

BZA
Case No. 17047
Exhibit No. 66

Board of Zoning Adjustment
District of Columbia
CASE NO. 17047
EXHIBIT NO. 66

Ironically, the testimony of the Pa[redacted]s and Persons in opposition actually m[redacted]s the case for the BZA approving this application.

1. they confirmed the existence of the surface parking lots listed in the Applicant's survey;

2. they testified that they each plan to build large commercial office buildings which will have underground parking garages.

Given that this area is zoned C-3-C and is part of the North Capital Transfer Development Rights Receiving District, and that each of their lots is large enough to be eligible for PUD treatment if they so chose, there is no dispute that when this area is re-developed, it will look and be "C-4" in form and function. The majority of people in these to-be-built office buildings will go home at night and the streets will be lifeless. That is why the dimension of life and activity that the Applicant's use will add is exactly right, and why the parking requirement is a non-issue.

There are more that 2,000 parking spaces in the immediate proximity today, and when the millions of square feet of new office buildings the "opposition" testified that they are planning to build, are actually built, there will be 5,000 parking spaces in immediate proximity. If as few as 20% of these are accessible to the public, that is 10 times what is needed here!

The Applicant's requirement for 100 off-street parking spaces is statistically insignificant. This is precisely what DDOT found, too. And there will be no low density residential (not even high density residential) close enough to be impacted negatively at all.

Sincerely,

Daniel M. Pernell, III
ANC 6C04 Commissioner

Enclosures

ANALYSIS OF OP REPORT FOR BZA 17047

TOD (Transit Oriented Development) should be our philosophical guide.

On page 3 OP wrote *"A sidewalk is not provided for the entire length of either side of Patterson Street between North Capitol Street and First Street,"*

> We have enclosed a page with 5 photos showing that in fact, there is a sidewalk the entire distance, and it is lit with streetlights as well (although it is not the prettiest sidewalk -- it can be improved, and the Applicant has told us that he will assist in that)

On page 5 OP expresses concern that the applicant " *not overwhelm the supply of on-street parking available within the neighborhood."*

> We have enclosed a page with 4 photos showing that in fact this area is a ghost town after 6 pm.
>
> OP did not mention the detailed report done by O.R. George & Associates, and his finding that there are 340 on-street parking spaces within a 5 minute walk and that 302 of these were available at night.

On page 5 OP writes that *"The applicant has submitted to the Office of Planning a list of surrounding parking lots and letters from the owners and/or operators of many of those parking lots indicating a willingness to work out a deal with the applicant in the provision of 100 parking spaces."*

> But OP does not mention that these letters of cooperation constitute 1,752 spaces.

On page 5 OP expresses concern "*as it is assumed that many employees will arrive prior to the 4:00 opening to prepare.* "

> But OP makes no mention of the fact that the site is immediately proximate to North Capitol Street and New York Avenue bus routes as well as being walking distance to the new Metro station (although technically 900 feet is longer than 800 feet, the DC Council clearly concluded that 2,500 feet is close enough to warrant charging a property money to pay for the new Metro station
> ** see note below about public health).

On page 5 OP writes *"The site can only provide 6 off-street parking spaces."*

> But for employees, these can be managed in a controlled fashion ("valet" stacking if you will) which would enable 12 cars to park there, not just 6.

On Page 5 OP writes "*The cost of the parking should be included in the admission fee to the club*"

> This is an outrageous suggestion. It is a direct contradiction to City policy for the past twenty five years. It would penalize residents of this ANC that might walk to the club. It would also penalize persons using Metro, taxis, buses …

On page 5 OP writes that *"the subject property is approximately 400 feet from an R-4 Zoning District, less than the minimum 800 feet required by § 2104.1(a)."*

> We have enclosed a page with 2 photos showing North Capitol Street going underground at M Street, NE effectively acting as a moat separating Patterson Street from the R-5-D on the west side of North Capitol Street. This ANC has no clue as to how OP measures 400 feet to R-4.

Further, this ANC was surprised to see OP fail to mention the appropriateness of the entertainment and social uses of this adaptive re-use of a warehouse building as one of the priority uses called for both in the NoMa area in particular, and the DC Marketing Plan in general.

District Makes a Pitch For Hip New Residents

Ad Campaign Touts Style, Entertainment

By David Nakamura
Washington Post Staff Writer
Thursday, June 5, 2003; Page B01

The cornerstone of the District's new marketing campaign will be a simple slogan: "city living, dc style!"

Get used to it. The lowercase-letter design notwithstanding, D.C. officials plan to broadcast the message loudly and often across the capital region as part of a strategy aimed at drawing 100,000 new residents to the city.

"The time is right now," **Rich Bradley**, executive director of the D.C. Downtown Business Improvement District, said yesterday, citing the surge in housing and business development in recent years.

On page 5 OP wrote *"The subject property is not eligible for an exception to the schedule of parking requirements because the New York Avenue Metrorail Station is 900 feet away, more than the maximum 800 feet permitted by § 2104.1"*

> Per Dr. Richard Jackson, MD, MPH, Director, National Center for Environmental Health at the CDC (Center for Disease Control), the most serious public health problem in America is obesity and the single, simplest activity he recommended in his keynote lecture at the National Building Museum on June 19, 2003, at the annual conference of the Congress for New Urbanism, is walking more.
>
> OP should be much more knowledgeable about these issues -- go to www.cdc.gov/healthyplaces
>
> 800 feet to walk to Metro is less than 3 minutes walking. That is nothing. A 10 minute walk is 3,000 feet. The DC Council legislation charging neighboring properties for the new NY Avenue Metro station used 2,500 feet as a "beneficial" distance. **OP should feel morally bound to lead the revision of § 2104.1 and § 2105.1(a)**. Our region fails to meet the requirements of the Federal Clean Air Act and is in jeopardy of losing federal transportation dollars. This ANC is extremely concerned that OP is not leading the way towards a solution.

On page 6 OP wrote that "*Surrounding property owners have voiced opposition to the request."*

> Although it is true that Bill Gerrish of Capitol Square Management had submitted a statement of concerns on August 26, 2003 (very late in the process!), OP does not mention that closer property owners, including Hanger Orthopedic across the street at 40 Patterson Street and RLARC at 2 Patterson Street have written letters of support and have written letters of cooperation to provide off-street parking.
>
> These letters of support and cooperation were in the OZ file long before Mr. Gerrish's letter.
> * RLARC (181 parking spaces immediately across the street)
> * Hanger (40 parking spaces immediately across the street)
> * DHCD Employees' Association (125 parking spaces immediately contiguous to the building on the south and west side)
> * DCHA (117 parking spaces immediately contiguous south and east side across M street)

On page 6 OP writes *"The application fails to provide the address or addresses of where the 100 parking spaces will be provided and how the parking will be provided.*

Therefore, the Office of Planning cannot recommend approval of the request"

OP's recommendations regarding the method by which the Applicant should provide off-street parking is grossly out of touch with reality.

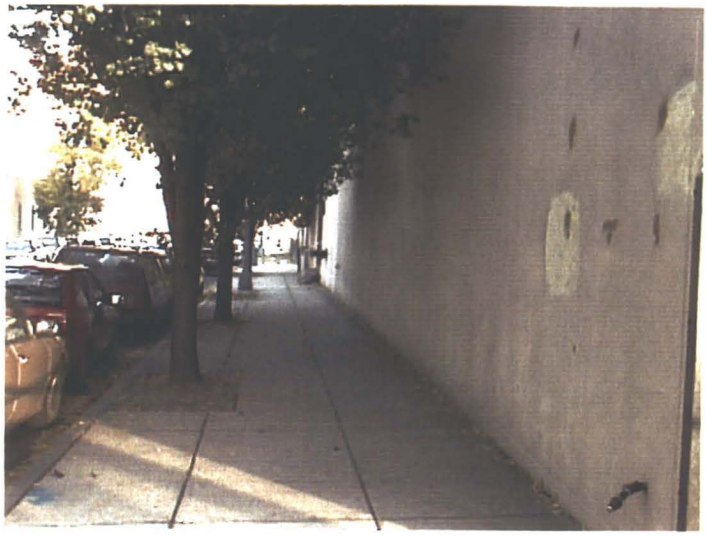
1) OP's request for a "lease" is **not** necessary
There is absolutely no doubt that the acres of vacant land now functioning as surface parking lots are temporary uses. At any point in time, any of these will be under construction and therefore not available for parking. However, there are so many parking spaces (>2,000), and there is effectively certainty that not every parking lot will be under construction at the same time, and that the new buildings that will replace these will have underground garages (most of which will be vacant at night and on weekends) -- that it is not just illogical and impractical but totally unnecessary and meaningless to ask for "leases". In truth, it is no more complicated than simply having a parking lot operator (or an owner if it is a private lot) indicate in writing that an agreement exists to make parking spaces available during the Club's operating hours (and this is incredibly easy to verify!)

   We have enclosed a page with 3 photos showing signs advertising Public Parking on several large lots in this vicinity. These lots close by 8 pm. The reason is simple. There is no market. The land owners that lease these lots to professional operators are seeking to make money. They make money by charging people to park their cars on these lots. This ANC finds that the Applicant's tenant -- Night and Day Management LLC -- will create a market opportunity for these companies that has not existed here before. This is economics 101. Because this Club's nighttime and weekend operation is the first (and only) activity in this neighborhood that would create any demand for parking in these hours there is uncertainty regarding how much demand there will be for off-street parking. The Club is willing to agree to guarantee a minimum revenue stream to parking lot operators (for a minimum of 100 spaces) which will pay their marginal costs (labor, utilities, insurance) and a reasonable profit for extending their hours of operation to certain nights and weekends.

2) Suggesting that the final BZA Order expire on the date *"that the lease expires"* is as fair and well thought out as OP's suggestion that the Club charge for valet parking be included in the admission fee

(thereby penalizing ANC residents who might have walked to the club, or taken a taxi or a bus). It is far more appropriate to simply have an affirmative obligation on the part of the Applicant to have available a minimum of 100 off-street parking spaces whenever the Club is open for business. The remedy should be the ability for government to close the Club on the spot until they comply. Remember, the Liquor License is renewed every other year, and the ANC is an important Party in those proceedings. If a neighboring property owner feels that there is a problem with the Club, they should attend the ANC meetings and participate.

3) OP's request for a Parking Management Plan has been accepted by the BZA, and the Applicant filed a plan on September 12, 2003 as requested. This ANC has reviewed that plan and finds it to be responsive and responsible. It is approved wholeheartedly.











OP is wrong:
There <u>are</u> sidewalks on and near 33 Patterson Street, NE

(there is no argument that they could be prettier — but isn't this the City's fault?)

BZA 17047

File: ANC photoExh1 sidewalks.doc









6:30 PM Thursday 11 Sept 2003

No cars on street on and near 33 Patterson Street, NE

BZA 17047

File: ANC photoExh2 NoCars630pm.doc

An equivalent of a "moat" separates the residential from the entry to the building.





OP report mis-states the proximity of residential to 33 Patterson Street, NE. (BZA 17047)

File : ANC photoExh3 Moat sepResid.doc







Public Parking is
"<u>public</u> parking"

The reason these lots close at 8 pm is there is no market demand.

What parking lot operator would not stay open to make a profit?

BZA 17047

File: ANC photoExh4 PublicParking.doc