Law Office
STEPHEN N. GELL
A Professional Corporation

1101 30th St. N.W.
Fifth Floor
Washington, D.C. 20007
Telephone: (202) 625-8311
Facsimile: (703) 522-5503

October 3, 2003

Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001

Re: Findings of Fact and Conclusions for 33 Patterson Street, N.E.
BZA Case No., 17047

Dear Mr. Griffis:

At the time I was preparing findings and conclusions on behalf of Capitol Square Management, LLC, one of the parties in opposition, we were also seeking a compromise solution. Presently, we have a set of conditions that, I am happy to say, has been agreed to in principal by Capitol Square and Night and Day Management, LLC. We are incorporating them into an agreement which will enable my client to support the request for a parking variance. Accordingly, I am reluctant to submit my findings and conclusions at this time. Attached is a copy of the conditions agreed to in principal.

When the agreement is concluded, we would ask that the conditions contained therein be incorporated into the BZA Order. If an agreement is not concluded, we would ask that the attached be incorporated in the order.

Thank you for your indulgence.

Yours very truly,

Stephen N. Gell

Stephen N. Gell

BZA
Case No. 17047
Exhibit No. 74

Board of Zoning Adjustment
District of Columbia
CASE NO. 17047
EXHIBIT NO. 74

1. The bar will not open until 6:00 p.m. for public alcohol sales on weekdays and Saturdays.

2. Except for daytime events when applicant will provide paid parking to employees who drive, no more than 12 employees will be on premises between 9:00 A.M. and 6:00 P.M. weekdays. Applicant will employ stacked parking in its parking lot to accommodate up to 12 cars.

3. Applicant will offer valet parking whenever the night club is open to the general public.

4. The certificate of occupancy shall terminate when the applicant no longer has leases for 100 off-street parking spaces. On the first day of January, April, July, and October, Applicant shall provide Capital Square Management, LLC and 30/60 M Street Limited Partnership, and their successors, with a certification attesting to the fact that they have the 100 required spaces, identifying the location of the spaces and the names and phone numbers of responsible parties who can verify the existence of requisite leases. If the certification is not received on the due date, parties will give applicant notice and 10 days to cure the violation of this provision. Failure to send such notices will not act as a waiver or in any way alter Applicant's continuing obligation to provide the certifications.

5. Applicant will not conduct daytime events, (including, but not limited to receptions, corporate conferences, seminars, and fund-raisers) except on Sundays and national holidays. However, notwithstanding paragraph one, up to 15 times per year Applicant may gave group events during weekdays and on Saturdays if no parking is required.

6. Loading docks will be available at all times for deliveries.

7. Applicant will make good faith efforts to have the city ticket and tow illegally parked cars and will notify customers of the towing policy through appropriate signs on the premises.

8. Applicant will promote Metro and other public transportation, off-street parking and its valet service, in all electronic, cyber, and print advertising, including information on locations and costs of off-street parking. It will also put parking information on signs easily seen by customers approaching the premises.

9. Applicant will maintain no fewer than 5 security personnel during the facility's evening and nighttime operation.

10. Daytime community outreach program events and activities held Monday through Friday (except national holidays) shall be limited to the immediate neighborhood (defined as ANC 6C).