23 Feb. 2004

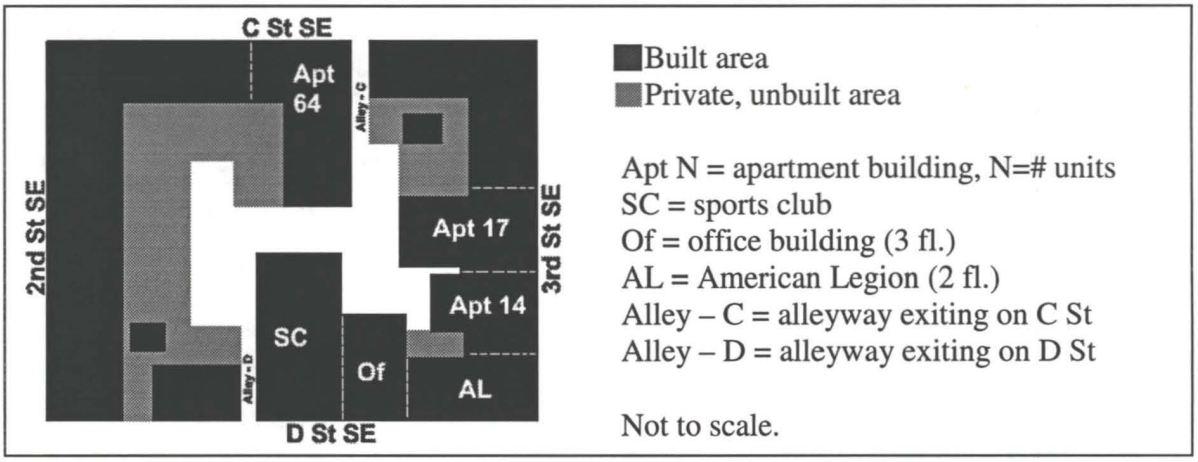
Subject: BZA appeal 17108

Summary: The variance application *fails* in that no positive finding has been made for public safety by District accredited professionals in the following areas: 1) traffic, pedestrian, and public alleyway construction, 2) storm water management and other grade issues, 3) soil testing due to PEPCO substation activities, in my opinion. Also variance applicant's construction activity seems to have track record of lack of due diligence for public good.

The ANC 6B discussions failed to show appreciation of many of our deep public safety concerns, while making absolutely no finding for public safety.

Folger Park North LLC application for Variance fails on the grounds that it has already been, and will likely continue to be detrimental to public safety, in my opinion. (The "block" below refers to the city block bounded by the C and D Sts. with 200 numbers and 2nd and 3rd Sts. with 300 numbers, all Southeast.)

The following map corrects Applicant's map as to building type and height.



Note additional office space and other apartment buildings not shown in Office of Planning maps.

A) Effects of Project Construction on adjoining Public Space (Rights of Way)
Folger Park North, its contractor, and its architectural and engineering contractors have during excavation and construction seem to have failed to show due diligence in regard to public safety as follows:

BZA
Case No. 17108
Exhibit No. 45

Board of Zoning Adjustment
District of Columbia
CASE NO. 17108
EXHIBIT NO. 45

1) **Damage to District and other adjoining property.** All adjoining alleys, sidewalks and easements have suffered undermining, subsidence or other damage. Half of the sidewalk has been closed due to actual displacement and loss of paving. Examination of walls within a range of 3-7 feet their excavation show new subsidence of up to about 1 inch.



Alleyway to D St showing undermining prior to being obscured by foundation construction.

Recent examination continues to show progressive undermining and substandard fill in exposed region toward front.

2) **Failure to Shore.** Their architect failed to provide shoring plan contrary to DCMR. It is exactly this lack of professional and construction due diligence which has lead to above damage.
3) **Detriment and danger to block-wide traffic.** Closure of the alley entrance without public hearing on D St has led to significant traffic safety issue at the alley entrance to the block adjacent to 215 C St. This includes daily near accidents, and at least one accident involving a vehicle backing out of the alley into oncoming traffic on C St. in mid-December that required ambulance service for each of the two drivers, and towing of both vehicles. Additionally the increased truck traffic, particularly garbage trucks, has lead to damage to surrounding property, including parked vehicles, WASA meters, garbage and recycling containers, as well has the sidewalks, roadway paving, and curbing.
4) **Substandard repair to public alley.** The remaining exposed excavation in the public alley shows evidence of haphazard unconsolidated fill consisting of arbitrary construction debris. This type of road reconstruction is substandard compared to existing alley, and is certainly not weatherproof. More recently foundation structures of (undocumented in available drawings) extend up to 18 inches into the alleyway.
5) **Ineffective site closure.** The 2-3 yard vertical drop in elevation (via retaining walls) from the grade of the public sidewalk and public alley (DC ROWs) down to the property basement level is protected only by chain-link fence segments supported by small masonry units. These are easily moved by one person, which in fact has happened repeatedly, and constitutes an ineffective safety measure.
6) **Arbitrary use of other public and private space for construction use.** The contractor and its employees routinely park as many as 6 or 7 vehicles within the interior driving area of the block hindering access by private and business parking and back entrance delivery and pick up for residents and businesses to the interior of the block. In particular the manager of the apartment building at 215 C St. that

needed resurfacing of their private drive and parking area has had to be cancelled until the reopening of the D St alleyway due to insufficient turning radius.

7) **Reduction of public safety services.** Police patrols through the interior of the block have been drastically curtailed if not halted. A fire truck has made it into the interior of the block from the D St alleyway, but only after 2 firefighters directed the driver through a rather lengthy procedure.
8) **Effective traffic lane closures.** The placement of the dumpster on D St. nearly always precludes 2 vehicles from passing each other during the busiest times. This means that traffic has also been backed up into 2nd St. and into the 100 block of D St.

B) Permanent Detriment to Public Safety

This leads to concerns for continuing detriments to public safety, which the applicant and its architectural and engineering staff have failed to address in any direct systematic fashion.

1) **Increased risk of public alleyway collapse.** Should the public alleyway reconstruction remain as designed and constructed by Folger Park North the unconsolidated and arbitrary nature of the fill can allow significant water penetration and erosion leading to future undermining and subsidence. The fairly heavy truck traffic for loading/delivery, garbage pick-up makes collapse, potentially catastrophic, likely in this case.
2) **Continued block-wide traffic impedance.** Construction to the property line in the alley (without any requirement for a side yard) significantly narrows it from its previous effective width. No turning radius studies or site distance studies were provided in the application(s) to demonstrate the provision of an adequate level of safety for pedestrians and vehicles within the public ROWs adjoining the project site. The outcome will be force larger vehicles and truck traffic through the C St alley, with consequences as noted in A3 above.
3) **No margin of safety for vehicle penetration into the front moat.** The design of Folger Park North currently features a pit running the entire street frontage of the property, 48 ft, excavated up to (or under) the public alleyway, defined by retaining walls approximately 7 feet in height. The design provides no clear detail of any barriers to prevent vehicles, in particular trucks, from driving off the alley and into the finished pit. The numerous bent bollards, car paint smears on neighboring buildings, and damaged trees testify to the many times drivers fail to stay safely within the bounds of various alleyways. Unless an adequate barrier is constructed on their site, it seems to me, it is only a matter of time before at least one wheel of some truck ends up dangling over the precipice at their property line. Examination of current construction fails to reveal adequate margin for such a barrier. Restoration of this pit to grade would largely obviate the public detriment outlined in this paragraph.
4) **Insufficient wall structure adjoining the public alleyway.** Plans for the east basement wall abutting the alleyway (as well as the applicant's treatment of the public alley, itself) do not indicate structural design sufficient to serve as adequate supporting structure absorbing stress/degradation from vehicle live loads and turning movements active in the alleyway. Must we assume that the District of

Columbia will be encumbered (at taxpayer expense, of course) with reconstruction of the alleyway (and the property's retaining walls) with an adequate retention structure.

5) **Reduced storm water abatement.** The grass yard that previously existed on the site served to effectively absorb significant excess storm water flow, reducing standing water on the interior of the block as well as reducing flow in the public alleyway. It is indeed greatly alarming that no storm-water management plan was filed with any of the three applications (perhaps because of the "single home only-no adjacent development" stated erroneously).

6) **Added storm water flow around site.** It appears that the intent of the proposed design is to re-direct flow from the public alleyway partially into alleyway and into D Street, or more significantly, a sizeable quantity via westward sheet flow across the proposed rear parking spaces, into the newly-created lowest effective elevation point: directly behind 320 2nd Street SE. Hence, the necessity for the hydrostatic pressure relief pipe installed in the private easement adjoining the east side of the project site.

7) The design intent (or design flaw) is apparent from the observation that the newly constructed basement of Folger Park North currently functions as a storm water storage facility (quantity control) to the current public benefit (imagine that!), and seems to have required up to 72 hrs continuous pumping for the moderate run off generated by the past couple storms. An adequate onsite replacement for this storm water facility would greatly reduce this impact of the finished design intent -- dumping the water on the neighbors easement.
   Additionally the construction in place appears to indicate that the Folger Park North grading will effectively raise the elevation point up to 3 ft higher that neighboring easement, increasing the water flow to the neighboring property for much of the storm water generated on their site ---water that should be absorbed or redirected to the public sewer properly.. The topography contours fail to indicate any elevations within the private easement area, --this lack obscures the fact that the easement grades rise signification from north to south, that is from the new parking area to D Street, SE, as the photograph on page 18 of their BZA application demonstrates.

8) **Fall hazard without EMS access next to sidewalk.** The fact that "the moat,"located almost entirely with the public ROW, adjoins the public sidewalk for full length of the properties (48 feet) along the public sidewalk creates an unsafe condition where a passing pedestrian faces an increase exposure to falling over the edge of the railing, for example, a child on a skateboard, a cyclist.. From the top of a guardrail at the top edge of the moat would be a 10 ft drop increasing probability of significant injury --- all within the public right of way that is property of the District of Columbia.. The current construction and the plans show no egress from this pit to the street, and this would slow and deter emergence services to such a victim of poor design. Again, bringing this area to grade would remove this public detriment.

9) **Lack of margin of safety with moat setback.** In fact, for all examples in the immediate neighborhood, every front-yard light well and stair entrance 3 ft or lower than grade, respects the same building line setback from the sidewalk:as tht provided for front bay windows: 9 ft measured. *In the 200 block of D St this set back is 12 ft.* This D-Street standard actually provides a margin of safety for the public, and since there are often service vehicles pulled onto the sidewalk along D St (especially in front of the sports club), this 12 ft set back is even more important.in this immediate that anywhere else on the block. Any exceptions in the Historical District are non-existent, or virtually so, and this structure would present a very poor precedent and safety hazard to the public.

C) Permanent Negative Effects on Surrounding Existing Uses

This block contains 3 multi-family apartment buildings containing about 95 residential units (most of these tenants own cars), a sports club with extended evening and night hours of operation, an adjoining office building, and a civic organization/institution operating with numerous day and evening events; all of these require garbage truck service a couple times a week. Virtually all loading and delivery and service calls are accommodated within the rear alley travel ways and the surrounding pavement. Additionally the sports club parking area serves as the distribution point for a local tabloid (*Hill Rag*). The interior of the block also contains 40 private or business parking spots, and is frequently used for loading access to virtually every structure with rear access. In short, this is a "residential" block with an unusually high level of vehicular activity, both automobile and trucks, a significantly higher level of residents occupying the 95 apartments than the typical "Hill" block, and an unusual mix of uses in the sports club, American Legion, and offices.

I regret that agency approval, especially if based on defective documents, cannot be construed as a certification of safety. Also, it is regrettable the regulatory approval cannot guarantee the financial ability permittees to provide adequate, safe, or appropriate facilities. Of course the District cannot be held responsible for the financial wellbeing of its permittees, as any driver will realize

Note that the Applicant's BZA application fails to contain any drawings or amended details that describe or reflect the existing building and grading as constructed---from observation and careful examination of their application and its photos. One might have expected the Applicant to have mitigated their alleged hardships by providing the BZA with most up to date documentation. It seems to me a finding for safety will require at least an adequate storm-water management plan as well a traffic analysis for the block.

Roger Oba
221 C St SE
Washington DC 20003