

17337

LAW OFFICES
JANIS, SCHUELKE & WECHSLER
1728 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036

N. RICHARD JANIS
HENRY F. SCHUELKE, III
LAWRENCE H. WECHSLER
S. ROBERT SUTTON
DAVID B. DEITCH
JENNIFER A. SINCAVAGE

TELEPHONE
(202) 861-0600

TELECOPIER
(202) 223-7230

December 7, 2009

OF COUNSEL

WILLIAM B. SHIELDS

By Messenger

Board of Zoning Adjustment
Office of Zoning
441 4th Street, N.W.
Suite 200-S
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2009 DEC -7 PM 4:11

Re: N Street Follies Project

Ladies and Gentlemen:

We write to advise you of our strenuous opposition to the pending application of N Street Follies, Ltd. for special exceptions from the zoning regulations. As the record amply demonstrates, and as is borne out by our personal experience, the construction of a 98 room hotel with a 58 space parking garage at 1743-1755 N Street, N.W. would have a significant adverse impact upon the users of the alleyway that runs behind the referenced properties, and could endanger the safety of the pedestrians, bicyclists and operators of motor vehicles on 17th Street as well as the occupants of the buildings on the 1700 blocks of N Street and Massachusetts Avenue.

We occupy a townhouse on the other side of the alleyway from the referenced properties.¹ In the rear of our building, we have space to park six or seven cars. As this parking area is, of course, accessible only via the subject alleyway, we are very familiar with the alleyway and its difficulties.

Those difficulties stem, of course, from the narrowness of the alleyway including most particularly the extremely narrow entrance to the alleyway. Based upon our personal experience, we

¹We are providing this submission at this late date as we only very recently learned of the referenced application. While we are directly impacted by the application, we were not provided with notice as our property is evidently slightly more than 200 feet from the subject property.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17337
EXHIBIT NO. 105

can attest to the fact that the narrowness of the entrance constitutes an inconvenient and dangerous situation. The entrance is so narrow that only one car can enter or exit the alleyway at any time. In addition, the only way to negotiate the entrance to the alleyway from 17th Street southbound is to make the turn from the center lane of traffic. Accordingly, when one begins to negotiate the turn and discovers that a vehicle is exiting the alleyway, it is necessary to back out onto 17th Street to allow the exiting vehicle to proceed. The dangers inherent in backing out into a six lane street across a heavily utilized sidewalk are obvious. Moreover, the entrance is so narrow that delivery, trash and similar vehicles have to proceed very slowly and cautiously so as to navigate the space between the two “bollards”. This means that the “bottleneck” caused by the narrow entrance is often clogged for extended periods of time.

These difficulties, and the dangers that they present are well documented in the record. Indeed, it appears that everyone who has commented on the matter has agreed that the narrow entrance is problematic and dangerous, and that the problems and incumbent dangers would be greatly exacerbated by the granting of the application.

Mike Silverstein, Chair of ANC 2-B, Dupont Circle ANC, for example, advised the BZA that, “the bottleneck at the end of the alley that allows only one car to go in and out at one time and would force cars to back onto 17th Street ... would be[come] a very dangerous situation” with the addition of the additional parking spaces requested by the applicant. (Transcript of October 6, 2009 BZA hearing, at page 53.)

Similarly, Karina Ricks of the District Department of Transportation has opined that, if the application should be granted, “[t]he volume of vehicles entering and exiting the alley on 17th Street, NW will cause unsafe conditions for pedestrians, cyclists, and vehicle operators. . . . There is a lack of safety, for all users, at the point of access to the alley off 17th Street. This is the only vehicular access the Applicant proposes for the 98 parking spaces located in the rear of the hotel property. The safety concerns include the heavy traffic volumes on 17th Street, heavy pedestrian and bicycle traffic along the sidewalks, and the opportunity for vehicle conflicts in the narrow rear-alley to the Applicant’s parking. For these reasons, DDOT believes the Applicant will provide too many new vehicle trips on N Street, 17th Street, and through the alley.” (September 29, 2009 Memorandum of Karina Ricks, District Department of Transportation, at page 2.)

Additional safety concerns have been articulated by the D.C. Fire and EMS Department: “There is reason for concern regarding the alley entrance on 17th Street, NW. This alley entrance is the sole entrance to the rear of all the parcels that line this city block. This entrance is restricted to one opening of less than ten feet (10'). . . . As we continue to allow additional traffic through new construction and particularly service entrances from the rear, we eliminate access to the rear of the buildings for fire apparatus. As this occurs, fire department access is restricted to only one side of the building, the address side. Many fire department rescues have been made from the rear of buildings and homes using portable and aerial ladders. Serious consideration should be given to this

proposed zoning change and approval of this project.” (November 4, 2009 Memorandum of Bruce D. Faust, A/Deputy Fire Chief/D.C. Fire Marshall, D.C. Fire and EMS Department.)

In fact, even the applicant, in a prior application which proposed vehicular access to the property directly from N Street, characterized the alleyway as “substandard,” noting that “*its connection to 17th Street is through a 10-foot wide passageway that legally operates two-way, but which can only handle traffic in one direction*”. The applicant “then describe[d] a situation that would occur if the alley were to be used by the then-proposed development as follows: *‘There would be occasions, for example, when a vehicle would enter the alley only to confront another vehicle headed toward it; in these circumstances, one vehicle would have to back across the sidewalk into N (sic) [17th] Street, with hazards to both pedestrians and vehicles on N (sic) [17th] Street. The N Street access to the property would obviate these problems.*” (September 25, 2009 Report of Street Traffic Studies, Ltd. at page 1 (with references to, and quotations from the earlier application).)

According to the applicant’s most recent traffic analysis, the alleyway works as “well” as it does, notwithstanding the narrowness of the entrance, because the traffic flow in the alleyway tends to be “heavily directional”, *i.e.*, “predominantly inbound in the morning and outbound in the evening.” (September 25, 2009 Report of Street Traffic Studies, Ltd., at page 5.) While the applicant offers this information in support of the application, as the record demonstrates, and as logic dictates, the increased traffic from the proposed hotel would disrupt the tenuous balance that allows the alleyway to “work” to the extent that it presently does.

According to the Report of Street Traffic Studies, Ltd., “[t]he addition of the traffic associated with the hotel ... would triple the outbound flow during the morning peak adding significantly to the conflicts inbound traffic would experience while the evening inbound trips would nearly double the conflicts the predominant outbound flow would conflict with.” (September 25, 2009 Report of Street Traffic Studies, Ltd., at page 1.)

Expressing his opinion that, “the request for now 58 parking spaces, though certainly better than 98, far exceeds what the alley behind the property can handle because the entrance to that alley is that natural bottleneck that’s only wide enough for one car”, Mike Silverstein observed that, “just because it’s worked with a very small amount of usage doesn’t mean that the alley way is going to work as we increase the number of cars.” (Transcript of October 6, 2009 BZA Hearing, at page 223, Mike Silverstein, Chair of ANC 2-B, Dupont Circle ANC).

The Street Traffic Studies Report additionally observes that, “[t]hroughout the studies provided by the Applicant, they never specifically present an analysis of the net impact due to the additional trips associated with the proposed hotel, as it applies [to] the operation of the alley and its intersection with 17th Street. As they note in their latest report, there is no formal methodology developed for the analysis of a one-lane alley serving the fairly significant parking facility off a minor arterial. From a practical perspective, the reason a procedure is not available is that this

condition is extremely unique, unorthodox, and potentially unsafe for a variety of reasons. The fact that the alley exists and functions today does not make it acceptable or capable of accepting additional loadings.” (September 25, 2009 Report of Street Traffic Studies, Ltd., at pages 4-5.)

According to the applicant’s transportation expert, “[t]here are currently . . . approximately 150 parking spaces being served off this alley” (Transcript of October 6, 2009 BZA Hearing, at page 172, Osborne George.) Accordingly, the applicant’s recent request for 98 parking spaces would have increased the number of parking spaces served by the alleyway, which by all accounts barely “works” at its present usage levels, by an astounding 65%. Such a request can only be viewed as arrogant and selfish, and the present request for 58 spaces (a 39% increase over the present, barely manageable levels) is only slightly less outrageous.

In response, the applicant offers no justification for its request beyond a tacit admission that, for selfish reasons, it would like to have as many parking spaces as possible. (Transcript of October 6, 2009 BZA hearing, at pages 127-128, 155-156, Stan Andrulis, Architect, N Street Follies Project). Indeed, the applicant reduced its request from 98 parking spaces to 58 parking spaces not in response to the concerns expressed by the ANC, DDOT, and others, including the individuals with whom it would share the alleyway, but rather because the mechanical parking system previously contemplated proved not to be feasible, and 58 parking spaces is what will fit into the space that would have been utilized by the 98 space mechanical parking system. (Transcript of October 6, 2009 BZA Hearing, at page 52, George Keys, counsel for N Street Follies.)

While there had been some confusion in this regard, it now appears clear that, should the construction of the proposed hotel be approved, the applicable zoning regulations require the project to have 19 parking spaces. (Transcript of October 6, 2009 BZA hearing, at pages 88-89, Stan Andrulis, Architect, N Street Follies Project.) The 2006 DDOT report, which concluded that 31 spaces were required by the zoning regulations erroneously reflected the calculation for a new project, not a historic resource project. (Transcript of October 6, 2009 BZA Hearing, at pages 154, 157-158, Stan Andrulis, Architect, N Street Follies Project.)

In this regard, we note that the District of Columbia Office of Planning, “recommends limiting the amount of off-street parking to the number of spaces required by the zoning regulations,” *i.e.*, 19 spaces, should the hotel be allowed. (September 28, 2009 Memorandum of Jennifer Steingasser, Deputy Director, Development Review and Historic Preservation, District of Columbia Office of Planning, at page 5 and page 6.) We submit, however, that even a 19 space garage, which would represent a 13% increase in the number of parking spaces served off the alley, would upset the delicate balance that allows the alleyway to more or less “work” at its current usage levels.

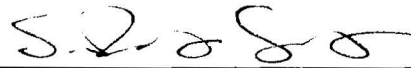
Finally, we believe that the BZA should consider the impact that a project of the magnitude proposed by the applicant would have on the alleyway during the construction phase, which reasonably could be expected to last for two years or longer. During that period, given the intention

to preserve the existing buildings, access to the site by construction vehicles would be exclusively through the alleyway. One can only imagine the level of disruption that this will cause in the alleyway. Construction vehicles can be expected to take a very long time to navigate the narrow space between the "bollards", during which time other vehicles wishing to enter the alley will be blocking through traffic on 17th Street, and no one will be able to enter or exit the alleyway. Moreover, once they navigate the entranceway the presence of construction vehicles in the narrow alleyway can be expected to cause considerable disruption, and the process of navigating through the "bollards" will have to be repeated as each vehicle exits the alleyway.

For all of these reasons, we submit that the application should be denied; and that, in any event, it should not be approved with any more than the 19 parking spaces required by the zoning regulations. We submit that it would be unreasonable, unsafe, and irresponsible for the BZA to rule otherwise.

Respectfully submitted,

JANIS, SCHUELKE & WECHSLER

A handwritten signature in dark ink, appearing to read "S. Robert Sutton", written over a horizontal line.

By: S. Robert Sutton

cc: Kinley Bray, Esquire
George Keys, Esquire
Mike Silverstein, Chair, Dupont Circle ANC-2B