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September 28, 2009

BY HAND

Marc D. Loud, Chairman
Board of Zoning Adjustment
441 Fourth Street NW, Suite 210 South
Washington DC 20001

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Reference Number
029598.00001

Re: BZA Case No. 17337, Application of N Street Follies, Ltd.
Party Opponent Tabard Inn's Statement in Opposition to Amended Application

Dear Chairman Loud and Members of the Board:

At the last public hearing on the above-referenced application (the "Application"), the Board approved the request of the applicant, N Street Follies, Ltd. ("Follies") to amend the Application, and ordered that the amended Application accurately setting forth the relief now requested be filed with the Board no later than July 31, 2009. The Board provided additional time for Party Opponents Tabard Inn and Science Service, Inc. (on behalf of the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America; the National League of American Pen Women; and the Middle East Institute), as well as the Advisory Neighborhood Commission ("ANC") to submit a response to the amended Application in writing, on or before September 28, 2009. As such, we hereby submit, on behalf of our client, Party Opponent Tabard Corporation ("Tabard" or "Tabard Inn") the following Statement in Opposition to the Amended Application, and request that this Board deny the relief sought.

A. The Application cannot be granted in accordance with the general special exception provisions of 11 DCMR § 3104 and the specific standards for the special exception requested set forth in 11 DCMR § 512.

We respectfully submit that the Subject Property is not an appropriate location for a hotel use and that the proposed design of the hotel does not meet the standards under which a hotel use can be granted in this zone.

Recognizing the adverse impacts that hotels have on residential areas, particularly in terms of the traffic they generate, the Zoning Commission amended the Zoning Regulations in 1980, in Case No. 79-1, to require a special exception for hotel uses in the SP zones. *See* Zoning Commission Order No. 314, Case No. 79-1, May 8, 1980, attached as Exhibit A. At all times from 1958 through mid-1978, a hotel or motel was a use permitted as a matter of right in the SP zones in fact adjustment district in which it was permitted at all. *Id.*, at p.3. Additionally, in all

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District of Columbia

GENBUS/696553.2

CASE NO. 17337

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CASE NO. 17337
EXHIBIT NO. 85A1

cases a hotel was permitted to achieve the maximum floor area ratio permitted in that zone. *Id.* The Zoning Commission undertook a comprehensive review of the regulations regarding hotels in all zones in Case No. 79-1, and proposed revisions to the regulations as approved in Order No. 314. The Goals of the revision were, *inter alia*, to:

1. Protect existing residential areas from further hotel development;
2. Prevent further loss of existing housing stock in residential zones;
3. Ensure compatibility of hotels in SP areas; and to
4. Reduce neighborhood impacts from parking and loading activities.

See Zoning Commission Order No. 314 at pp. 12-14.

The Zoning Commission determined that hotels should remain subject to special exception approval in the SP Zones, but provided standards by which the BZA reviews each case to require the Board to “consider the mixed use nature of the SP District and to provide more explicit judgment on parking, loading, and traffic issues.” *Id.*, at p. 15. Additionally, the Commission determined that in all SP Districts, hotel uses should be apportioned based on the hybrid nature of the use. “Guest room and service areas are to be charged against the permitted residential density, and all other areas, including function rooms, exhibit space, and commercial adjuncts, are to be charged against the commercial FAR.” *Id.*

The Board is empowered to grant special exceptions where such special exceptions will be “in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.” 11 DCMR § 3104.1. Additionally, an applicant for special exception must demonstrate that the proposed development for which a special exception is sought meets the specific special exception standards enumerated in the Zoning Regulations for those uses. *Id.*

1. Purposes and Intent of the Zoning Regulations and Zoning Maps

a. *Preservation of Mix of Uses and Independent Businesses*

The proposed use of the Subject Property is not in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is classified within the SP-1 Zone District and located within the Dupont Circle Overlay District. The SP-1 Zone District is designed to act as a buffer between commercial and residential areas, and to “ensure that new

development is compatible in use, scale, and design with the transitional function of this zone district.” 11 DCMR § 500.2. Moreover, the SP Zone is designed to “*preserve and protect* areas...that contain a mix of row houses, apartments, offices, and institutions...including buildings of historic and architectural merit.” 11 DCMR § 500.3 (emphasis added).

The Dupont Circle Overlay states that the “area is a unique resource to the District of Columbia that must be preserved and enhanced. Strong protections are needed to retain its *low scale, predominantly residential character, independent small retail businesses*, human scale streetscapes, and *historic character*, given the high-density development pressures caused by the proximity of the Central Employment Area and Dupont Circle Metrorail Station.” 11 DCMR § 1501.1 (emphasis added). The Overlay was further enacted to “enhance the residential character of the area by *maintaining existing residential uses* and controlling the scale, location, and density of commercial and residential development.” 11 DCMR § 1501.4(c). The proposed development seeks to convert the last remaining residential buildings in this block of N Street from residential uses (which were last permitted on the Subject Property) to a hotel, upsetting the balance of uses on the block and threatening other independent hotel operators which exist on the block.

The Comprehensive Plan reinforces the goals and objectives of the Dupont Circle Overlay. The Near Northwest Element of the Plan observes:

NNW-1 General Policies

NNW-1.1 Guiding Growth and Neighborhood Conservation 2108

The following general policies and actions should guide growth and neighborhood conservation decisions in Near Northwest. These policies and actions should be considered in tandem with those in the citywide elements of the Comprehensive Plan. 2108.1

Policy NNW-1.1.1: Residential Neighborhoods

Maintain and enhance the historic, architecturally distinctive mixed density character of Near Northwest residential neighborhoods, including . . . Dupont Circle, Logan Circle . . . and Shaw. **Ensure that infill development within these areas is architecturally compatible with its surroundings and positively contributes to the identity and quality of each neighborhood.** 2108.2

Policy NNW-1.1.7: Loss of Housing

Strongly discourage the demolition of viable housing or the conversion of occupied housing units to non-residential uses such as medical offices, hotels,

and institutions. **Maintain zoning regulations that limit the encroachment of non-residential uses into Near Northwest neighborhoods**

Specifically, the policies established in the Plan include:

Policy NNW-2.2.2: Dupont Circle Area Policies

Use the following standards in evaluating new buildings and alterations in the Dupont Circle area:

Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk;

Ensure a general compatibility in the scale of new buildings with older low-scale buildings by restricting the maximum permitted height and floor area ratio of the new buildings to that of the underlying zone;

Preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;

Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development; and

Ensure compatibility of development with the Comprehensive Plan. 2112.4

The Comprehensive Plan also addresses these issues related to conversion of residential uses to hotel and other commercial uses, The Land Use Element, it specifically indicates:

Policy LU-2.3.10: Conversion of Housing to Guest Houses and Other Transient Uses

Control the conversion of residences to guest houses, bed and breakfast establishments, clinics, and other non-residential or transient uses. Zoning regulations should continue to allow larger bed and breakfasts and small inns within residential zones through the Special Exception process, with care taken to avoid the proliferation of such uses in any one neighborhood. 311.12

b. *Preservation of Historic Resources*

Further, the Dupont Circle Overlay seeks to protect the integrity of Contributing Buildings (pursuant to the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001))(the “Historic Preservation Act”) by requiring that new development be compatible with the Historic Preservation Act and “to preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area.” 11 DCMR § 1501.4(b). The Application proposes substantial demolition of interior walls and partitions which is inconsistent with the Dupont Circle Historic District, and in fact, a violation of the Historic Preservation Act. The proposed development has not been reviewed by the Historic Preservation Review Board (“HPRB”) nor the staff of the Historic Preservation Officer (“HPO”), which are charged with interpreting the Historic Preservation Act; however, the concept has not changed substantially since it was denied by the HPRB in February of 2006. In that review, HPO Staff noted that the conceptual design “will result in demolition in significant part of 1749, 1745, and 1743 N Street....As such, the project is not consistent with the purposes of the [Historic Preservation Act]...While some interior modification of the buildings may be necessary to allow for modern use, with the amount of new construction proposed, the HPO is skeptical than an alternative plan couldn’t be developed that either shifts elements that are driving the demolition (such as new stairs, elevators, and the lobby and reception areas) into the new construction, or that these elements simply be more sensitively incorporated into the existing structures as h as been accomplished in other buildings on this block and throughout the Dupont Circle Historic District.” *HPRB Staff Report and Recommendation, 1743-55 N Street, NW, H.P.A. 05-331, February 23, 2006, attached as Exhibit B.*

The Application continues to propose substantial demolition of interior walls and structural elements. Additionally, the proposed development closes in the gap between the buildings at 1745 and 1751 and appropriates space within that gap between N Street and the alley to the rear, which has been visible to (and in fact used by) the public since the buildings were constructed. The Applicant has, in presentations to the Dupont Circle Conservancy and the Advisory Neighborhood Commission, consistently referred to the retention of this “passage” and the private gardens in the rear of the Subject Property, but in fact the passage and the private gardens, which are historically significant, will be walled off and visible only to those standing in the middle of the proposed building. The passage and the rear garden will no longer be visible to the public from either N Street or the public alley and will significantly reduce the light and air available to adjoining properties. The elimination of these spaces is contrary to the purposes of the Dupont Circle Overlay Zone, one of which is to “preserve areas planned as open gardens and backyards, and protect the light, air and privacy that they provide.” 11 DCMR § 1501.4(e). In addition, the Comprehensive Plan notes, in its section on “Planning and Development Priorities” in the Near Northwest Element:

Much of the attraction of Near Northwest lies in the beauty of its tree-lined streets, its urbane and historic architecture, and the proportions of its buildings and public spaces. Maintaining the quality and scale of development continues to be a top priority for the community. Residents expressed the opinion that new infill development should avoid creating monotonous or repetitive building designs, and strive for a mix of building types and scales. View obstruction, insensitive design, and street and alley closings were all raised as issues. . .

c. *Compatibility with Comprehensive Plan*

Another purpose of the Dupont Circle Overlay is to ensure that new developments are compatible with the Comprehensive Plan. 11 DCMR § 1501.4(d). The Plan specifically calls out the threat from infill development, and specifically recognizes the role of the Dupont Circle zoning overlay in controlling development in the area:

NNW-2.2 Dupont Circle 2112

The general pattern of land use in Dupont Circle is well established. Future development in the area is limited by the area's designation as an historic district and the application of the Dupont Circle zoning overlay. The area is an attractive residential neighborhood due to its proximity to Downtown, restaurants and shopping, pedestrian-friendly streets, historic architecture, and diverse housing stock. Commercial and residential infill development and renovation are anticipated to continue, creating continued concerns about the displacement of local services by national chains and region serving retail uses, as well as the impacts of commercial uses on parking, public safety, noise, and quality of life.
2112.1

The Plan addresses how important it is that "special exceptions" be in harmony with the neighborhood in the Dupont Circle area:

The process of creating, administering, and enforcing zoning regulations, including the granting of variances and zoning changes, needs to be refined and consistently applied. Several meeting participants singled out the granting of large numbers of "Special Exceptions" as an objectionable practice. . .

Specifically with respect to the impact of the proposed special exception, in terms of permitting bulk and density that would otherwise not be permitted, the plan notes the importance of open space in the area:

Near Northwest is underserved by recreational facilities and open space. Despite proximity to Rock Creek Park, the ratio of park acres per resident is among the lowest in the city. . . . Given the shortage of parkland, it is not surprising that many participants in Comp Plan workshops also expressed concerns about the loss of private open space. Particular concerns included the construction of additions and new buildings on lawns, patios, and parking lots, leading one workshop participant to the conclusion that “every inch of the area was being paved over.” Creating new parks will be difficult given the built out character of the area. Looking forward, it will be imperative to retain and enhance existing parks, make better use of street rights-of-way as open space, provide better connections to the area’s large parks, and set aside ample open space within new development.

The Land Use Element of the Plan, points out the importance of keeping the scale of buildings and uses compatible with their surrounding neighborhood, within transitional areas such as SP-1 zones:

Policy LU-2.3.4: Transitional and Buffer Zone Districts

Maintain mixed use zone districts which serve as transitional or buffer areas between residential and commercial districts, and which also may contain institutional, non-profit, embassy/chancery, and office-type uses. **Zoning regulations for these areas (which currently include the SP-1 and SP-2 zones) should ensure that development is harmonious with its surroundings, achieves appropriate height and density transitions, and protects neighborhood character.** 311.6

The Land Use Element also calls out the importance of design sensitivity in infill development:

LU-1.4 Neighborhood Infill Development 307

In both residential and commercial settings, infill development must be sensitive to neighborhood context. High quality design standards should be required, the privacy of neighboring structures should be respected, and density and scale should reflect the desired character of the surrounding area. 307.3

The Housing Element, after setting forth the importance of developing new housing and preserving housing, explicitly discourages the conversion of residential buildings to nonresidential uses such as hotels:

Policy H-2.2.1: Housing Conversion

Discourage the conversion of viable, quality housing units to nonresidential uses such as offices and hotels. Ensure that zoning regulations provide sufficient protection to avoid the loss of housing in this manner. 510.3

d. *Transportation*

Finally, one of the most significant purposes of the Dupont Circle Overlay is to “encourage greater use of public transportation and the *free circulation of vehicles through public streets and alleys*.” 11 DCMR § 1501.4(g) (emphasis added). The proposed development includes a 98 vehicle parking garage accessed only via the public alley in the center of Square 158, which is less than ten (10) feet wide at its entrance. The Applicant’s traffic analysis indicates that the proposed use will generate 42 morning and 44 evening peak hour trips, but this is misleading, given the proposed operation of the parking garage as valet-only. Rather, each vehicle arriving and parking at the hotel will generate two (2) vehicle trips in the surrounding road network: one when the patron drops the car off, and one when the valet takes the car back onto the road network to deliver it to the garage. The effective trip generation rate is therefore twice what the Applicant has posited in its traffic analysis and will have an unacceptable, adverse impact on the free circulation of vehicles through public streets and alleys. Moreover, the Applicant’s traffic impact analysis does not sufficiently analyze the net impact of the use due to the additional trips associated with the proposed hotel as it applies to the alley and its intersection with 17th Street, where the alley is just one lane. *See* Statement of Tabard’s Traffic Expert, attached as Exhibit C.

The Subject Property is exempt from the requirement to provide parking as a result of a change in use or for any increase in gross floor area or intensity of use, except where the gross floor area of the property is being increased by 50% or more, and the parking requirement attributable to the increase in gross floor area is at least four (4) spaces. 11 DCMR § 2120.3. The proposed addition to the gross floor area existing on the Subject Property is just under 50%. The Applicant is under no obligation to provide parking, yet a 98 space garage, equivalent to one parking space per room, is proposed. The Tabard, the ANC, and other neighbors have continually objected to the amount of parking proposed. The District of Columbia Department of Transportation (“DDOT”) has concurred, recommending that “due to the potential conflicts between entering and existing vehicles in the narrowest section of the alley,” only 31 parking

spaces should be allowed. See Memorandum from Ken Laden, Associate Director, DDOT to Board of Zoning Adjustment dated February 28, 2006, attached as Exhibit D.

2. The Application will adversely impact the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

Section 3104.1 directs the Board of Zoning Adjustment to approve a special exception where the Applicant has sufficiently satisfied its burden of proof and demonstrated that the relief, if granted, will “be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zone Maps.” Tabard submits that this application cannot be granted without adversely impacting surrounding properties and without violating the general purposes and intent of the Zoning Regulations.

Section 101.1 of the Zoning Regulations states:

In their interpretation and application, the provisions of this title shall be held to the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare to:

- (a) Provide adequate light and air;*
- (b) Prevent undue concentration of population and the overcrowding of land; and*
- (c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.*

(emphasis added).

Tabard contends that the approval of the special exception relief requested will block light and air into its hotel rooms and on the famed outdoor patio of the Tabard Inn’s restaurant. The proposed development will loom over and will degrade the privacy of diners and hotel guests alike. This deprivation of light and air will have significant and tangible impacts on both the use of the hotel rooms, dining room, and outdoor patio at the Tabard, but also on the financial health and the operations of the hotel.

Tabard is committed to operating in the most efficient and environmentally responsible fashion possible. To that end, it has contracted (but has not yet installed, pending the outcome of this case) to add photovoltaic solar panels to its roof which will provide a sustainable energy source for the hotel. Tabard has also installed a series of green roofs to improve the energy efficiency of its building. The proposed development will block a significant amount of light available, likely damaging the green roofs which have been installed at the Tabard, and eliminating the possibility of using solar panels to provide sustainable, alternative energy to the Inn.

Additionally, the 98-space parking garage associated with the proposed development will limit access to the rear of the Tabard Inn through the alley for deliveries and for Tabard Inn guest and staff parking. Finally, the proposed development poses a real threat to the economic stability of the Tabard by introducing a third hotel on the block, which is unprecedented in the District of Columbia and contrary to the requirement for hotels in the SP Zone that there be a balance of uses in the vicinity.

Accordingly, Tabard submits that the proposed development will adversely impact its ability to use its property in accordance with the Zoning Regulations and Zoning Maps, and approval of a special exception for the proposed development would violate the general requirements for special exceptions pursuant to 11 DCMR § 3104.1.

2. The Application cannot satisfy the specific requirements for special exceptions for hotels in the SP-1 District.

Not only has the Applicant failed to meet its burden relative to the general requirements for granting a special exception, the Application clearly does not meet the specific requirements relative to special exceptions for hotel use in the SP-1 District, as follows:

a. Height, Bulk, and Design

Pursuant to 11 DCMR § 512.3, the height, bulk, and design of the hotel must be in harmony with existing uses and structures on neighboring properties. While there are other office and hotel uses and structures in the immediate area of the Subject Property, many of those buildings were constructed prior to the SP-1 Zoning and the application of the Dupont Circle Overlay and are thus non-conforming. The height and bulk of the proposed development is substantially greater than that of the Tabard Inn, and will result in the blockage of light and air to surrounding properties, particularly in the alley to the rear of the Subject Property. The massing of the proposed addition poses a significant threat, as discussed above, to the continued operation of the Tabard's outdoor dining facility, and to the privacy and enjoyment of Tabard Inn guests.

b. *Balance of Uses in the SP-1 District*

11 DCMR § 512.5 states that “the approval of the hotel shall result in a *balance* of residential, office, and hotel/inn uses in the SP District in the vicinity of the hotel or inn” (emphasis added). Tabard submits that the Board should analyze the uses in the immediate vicinity of the Subject Property which share the same SP-1 zoning classification. In so doing, the Board will find that approval of the requested special exception will result in the elimination of the last remaining residential uses on this block of N Street and in the SP-1 Zoned area surrounding the Subject Property. It also will turn the north side of the 1700 block of N Street into a virtual hotel district. This hardly equates to maintaining a balance of uses in the vicinity of the proposed hotel, as required by 11 DCMR § 512.5.

c. *Off-street Parking*

The Board is authorized to require either an increase or a reduction in the number of off-street parking spaces required by Chapters 21 and 22 of the Zoning Regulations to “avoid unduly impacting parking or traffic on surrounding streets.” 11 DCMR § 512.9. Additionally, the specific special exception requirements for hotel uses in the SP-1 Zone District require that “the location and design of driveways, access roads, and other circulation elements shall...avoid dangerous or other objectionable conditions.” The requested special exception proposes three times the amount of parking required for the proposed use under the Zoning Regulations, all of which is to be accessed by valets only through a complicated network of one-way streets and ultimately through a 9.8 foot-wide opening in the public alley which operates as a two-way entrance and exit, but can only accommodate one car at a time. Tabard submits that no parking is required for the proposed use, but that in any case no more than 30 parking spaces should be approved, consistent with the Tabard’s Traffic Analysis and the recommendation of DDOT in Exhibit D.

d. *Special Treatment*

The Board is empowered to require special treatment in the way of design, building setbacks, screening, landscaping, sign controls, and other features to protect neighboring property. 11 DCMR § 512.4. The massing of the proposed development, with significant bulk and height along the eastern wall of the development, will directly impact Tabard Inn’s facilities. Moreover, construction to the rear property line results in building over a historic garden at 1745 N Street. We urge the Board, if it decides to approve the special exception, to include conditions requiring reduction of construction to preserve the historic garden, and that setbacks along the eastern portion of the Subject Property be required to protect the light and air available to the Tabard Inn’s property. We also urge the Board to require a reduction in parking spaces to

eliminate potential adverse impacts on the public alley, which is used by all property owners in Square 158.

Tabard contends that the approval of the special exception relief requested will result in the elimination of residential uses on the Subject Property which provide a balance of uses in the surrounding area, will result in the degradation of property within a historic district and the character of that historic district, will endanger historic fabric of adjoining property, will block access to the public alley in Square 158 and create dangerous conditions for vehicles and pedestrians alike in the vicinity of the alley entrance/exit along N street, and finally, will block light and air to the Tabard Inn. In sum, the proposed special exception does not comply with either the general or specific special exception provisions in the Zoning Regulations, and accordingly, should be denied.

B. The Self-Certified Application does not correctly state the relief requested.

It is unclear from the Self-Certified Application and accompanying documents whether the Applicant will require additional relief in the form of a variance from 11 DCMR § 512.6 for floor area devoted to non-guest room uses, such as lounge, restaurant, spa, and meeting spaces. Included in the plans submitted with the Application (as amended) are several lounges on each floor, a large breakfast/bar/dining area on the first floor, and a spa on the first floor, all of which are unrelated to guest rooms or service areas. Although the Application states that the gross floor area devoted to function rooms and exhibit space will be just 3.9% of the gross floor area of the hotel, nowhere in the Application documents is a calculation for the gross floor area or FAR devoted to these non-guest room uses. Tabard respectfully submits that additional relief may be required in the form of a variance from Section 531.1 of the Zoning Regulations, which restricts the non-residential FAR on the Subject Property to 2.5.

11 DCMR § 531.4 states that guest room areas and service areas shall be charged against the floor area ratio for residential use as specified in 11 DCMR § 531.1; however, “function rooms, exhibit space, and *commercial adjuncts* shall be charged against the floor area ratio for ‘other permitted use,’ as specified in § 531.1.” (emphasis added). Tabard raised this question in its Request for Party Status and Statement in Opposition filed in October of 2005. Throughout the various incarnations of the Application documents, the Applicant has consistently failed to provide a breakdown of the non-residential versus residential FAR and to demonstrate that the Application meets the FAR restrictions of 11 DCMR § 531.1. Tabard submits that a cursory review of the plans indicates that there is a *significant* amount of floor area throughout the proposed building which is not devoted to service areas or guest rooms, and which must be charged to non-residential uses. This area appears to constitute more than 2.5 FAR, and as such, a variance is required, and that relief is in the nature of a use variance.

To the extent a use variance is required, and Tabard submits that it is, the Applicant is not entitled to such relief because it has failed to demonstrate that there is any extraordinary or unique condition affecting the Subject Property nor an undue burden in complying with the strict application of the Zoning Regulations.

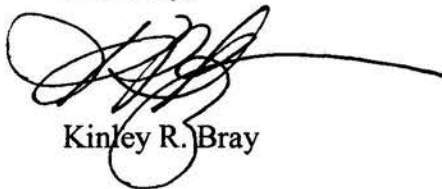
C. Conclusion.

Tabard is uniquely affected by the proposed development as an adjoining property owner sharing a party wall, common historic fabric, and common use. Based on the information contained in the Application, as amended, Tabard submits that the Applicant has not met its burden of proof for approval of a special exception, and that approval of such relief would result in significant and tangible adverse impacts on the Tabard Inn. Accordingly, for the foregoing reasons, Tabard urges this Board to deny the relief requested.

Tabard reserves the right to provide additional documentary evidence and testimony at the public hearing on this matter, and requests that the Board accept the following qualified individuals as experts in their respective fields:

Ellen McCarthy	Planning & Zoning	Exhibit E
Robert Schwartz	Architecture & Planning	Exhibit F
Emily Eig	Architectural History and Historic Preservation	Exhibit G
David Nelson, P.E., P.T.O.E.	Traffic Planning and Engineering	Exhibit H
Jeremiah Cohen	Hotel Operations	

Sincerely,



Kinley R. Bray

Cc: Advisory Neighborhood Commission 2B
George Keys, Counsel for the Applicant
Arlova Jackson, Office of Planning
Jennifer Steingasser, Office of Planning

Joel Lawson, Office of Planning
Jeffrey Jennings, DDOT
Gabriela Vega, DDOT
Karina Ricks, DDOT
Science Service, Inc.
Jeremiah Cohen
Emily Eig
Robert Schwartz
David A. Nelson, P.E., P.T.O.E.
Ellen McCarthy

CERTIFICATE OF SERVICE

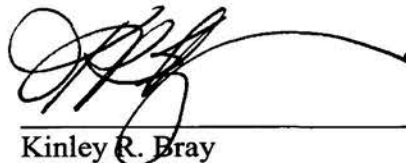
I HEREBY CERTIFY that a copy of the foregoing was mailed, first-class, postage pre-paid, on this 28th day of September 2009, to the following:

Advisory Neighborhood Commission 2B
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Attorney for Applicant N Street Follies



Kinley R. Bray

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Government of the District of Columbia
ZONING COMMISSION



STATEMENT OF REASONS

ORDER NO. 314
ZONING COMMISSION CASE NO. 79-1
TREATMENT OF HOTELS
May 8, 1980

BACKGROUND

The Zoning Regulations which presently control land use in the District of Columbia were originally adopted by the Zoning Commission and became effective on May 12, 1958. These regulations have been amended many times since they were first adopted. A large number of technical amendments were made in the first few years after the original adoption. Other changes were considered and adopted on a case-by-case basis as the need arose. The first comprehensive review of the 1958 Regulations was begun in the late 1960's, and led to major revisions in the Regulations prior to the adoption of the Home Rule Act. Such changes included the modifications to the R-5-A District in 1970, the creation and mapping of the Waterfront and Mixed Use (CR) Districts in 1974 and the adoption of a sectional development plan process, also in 1974. All these changes were made to fill gaps in the Regulations caused by changing conditions in the District of Columbia since the original adoption of the regulations in 1958.

In 1977, after the composition of the Commission had been changed by the Home Rule Act, and after the newly constituted Commission had considered several major zoning issues and cases, the Commission determined to embark upon another series of revisions to the regulations. Because the Commission had identified a series of regulatory changes running across a number of diverse geographical areas of the city, the Commission set out to review all of the commercial and mixed use districts then in the Regulations. As part of that process, the Commission also took under review the planned unit development process, and at the urging of a number of citizen groups, the question of the

treatment of hotels in all districts.

One major issue addressed by citizens and community groups at the hearings held in 1978 was the adverse impacts that hotels have on residential areas, particularly in terms of the traffic they generate. Testimony was also received that hotels by their nature are commercial uses, and thus should not be permitted in residential areas. After considering those issues, and other testimony related thereto, the Zoning Commission enacted several changes regarding hotels, particularly in the SP, CR and C Districts.

ORIGINS OF THIS CASE

The present case began with the receipt of a letter from Advisory Neighborhood Commission 2-A, representing the Foggy Bottom and West End areas. In its letter of January 7, 1979, the ANC noted that a number of existing apartment houses located in residential districts in its area had been converted into apartment hotels. The ANC was concerned that the Zoning Regulations, as they then existed, would continue to allow the conversion of apartments to hotel units and that such conversion would detract from the city's already tight housing supply. The ANC also cited provisions of various city laws and regulations which allowed apartments to be converted to hotels and thus for rents to be raised beyond the levels which would otherwise be mandated under the rent control statute. The ANC further requested the Zoning Commission to enact its proposals on an emergency basis so that the status quo would be maintained while the Commission considered permanent amendments following the required public notice and hearings.

The Commission considered the request of ANC 2-A at meetings held on January 11, February 8, and February 15, 1979. The Commission also heard from various other individuals and organizations, both in support of and in opposition to the proposed emergency action. At the meeting held on February 15, 1979, the Commission determined that the ANC and its supporters had not presented a sufficient case to convince the Commission that emergency action was warranted. The Commission therefore denied the request. The Commission did, however, determine that hearings should be held on an expedited basis to consider the general requirements for hotels in all districts, and the specific proposals of ANC 2-A as well.

PREVIOUS REGULATIONS OF HOTELS

In the Zoning Regulations adopted on May 12, 1958, a hotel was permitted as a matter-of-right in an R-5-B, R-5-C, R-5-D, SP or any commercial district. A motel was permitted as a

matter-of-right in an R-5-B, R-5-C, R-5-D, SP or any commercial district. A motel was permitted as a matter-of-right in a C-3-A, C-3-B, C-4, C-M or M District. For the purposes of determining the permitted floor area ratio, a hotel was permitted to achieve the maximum of 5.5 FAR in the SP District. In commercial districts, a hotel was permitted to achieve the same floor area ratio as a commercial use, which in 1958 was greater in all cases than the FAR for residential uses.

In 1959, the Regulations as to the SP District were amended to allow a greater FAR of 6.0 for an apartment house than for any other use. In April of 1961, the Regulations were amended again to allow hotels to also achieve the maximum floor area ratio of 6.0 in the SP District. Hotels were thus allowed to achieve the maximum FAR permitted in any zone district in which they were located.

When the Regulations were amended in 1967 to split the C-2 District into the C-2-A and C-2-B Districts, hotels continued to be able to achieve the maximum FAR in the new C-2-B District, because the upper floors of buildings in the C-2-B District could be used for any use permitted in the R-5 District. When the Regulations were amended in 1974 to create the new Waterfront and Mixed Use CR District, hotels and motels were permitted as a matter-of-right, and in both cases were able to achieve the maximum permitted floor area ratio, which is higher for residential uses than for commercial uses. When the C-5 PAD District was created in June of 1978, a hotel was permitted as a matter-of-right.

At all times from 1958 through mid - 1978, a hotel or motel was a use permitted as a matter-of-right in any zone district in which it was permitted at all, and in all cases, a hotel or motel was permitted to achieve the maximum floor area ratio permitted in that zone. It is also evident that in the various decisions concerning hotels, the Commission considered a hotel to be neither a totally residential nor a totally commercial use. The use was permitted as a matter-of-right in the R-5-B, R-5-C, and R-5-D Districts, and was permitted to achieve the equivalent FAR for residential uses in the SP, W and CR mixed use districts. The use was also permitted an FAR equivalent to that allowed for commercial uses in all commercial districts.

In the total revision to the commercial and mixed use districts which the Commission undertook in 1978, the Commission made a number of changes related to hotels. The SP District was divided into the SP-1 and SP-2 Districts. The Commission revised the Regulations to require that a hotel use in either SP-1 or SP-2 be approved by the Board of Zoning Adjustment as a special exception. The Commission further reduced the permitted floor

floor area ratio for non-residential uses in SP-2 from 5.5 to 3.5, and set the FAR for non-residential uses in SP-1 at 2.5, while residential uses were allowed a 4.0 FAR. In both zones, a hotel was limited to the FAR for non-residential uses. At that time, in its Statement of Reasons, the Commission noted that BZA review of non-residential uses had been "extended to a few additional uses, including hotels and colleges and universities, because of the Commission's perception that such uses could potentially affect residential uses needing protection, because such uses could occupy large areas which should be devoted to residential use and because such uses tend to generate larger amounts of traffic."

In regard to the commercial districts, the Commission restructured the permitted floor area ratio in all of such districts. In the C-1, C-3-B, C-4 and C-5 PAD Districts, the FAR permitted for residential uses was raised to the same level as that permitted for commercial uses. In the C-2-A, C-2-B, C-2-C and C-3-A Districts, the FAR permitted for residential uses was raised to a level above that permitted for commercial uses. Since no change was made in the provision that permitted hotels to achieve the commercial FAR, hotels could no longer achieve the maximum FAR in the C-2-A or C-3-A Districts. In addition, the C-2-B and C-2-C Districts were totally revised to eliminate the vertical segregation of uses, and hotels were also limited to the lower FAR for commercial uses. Further, in revisions to the CR mixed use district adopted at the same time, the Commission determined to charge hotels against the commercial FAR, rather than the higher FAR permitted for residential uses.

PROPOSALS FOR TREATMENT OF HOTELS

Following its determination on February 15, 1979 to expedite the holding of hearings on the issue of hotels, the Zoning Commission advertised a public hearing to be held on April 2, 1979. The hearing was begun on that day, and was continued also on May 7 and June 11, 1979. Notice of the hearing was advertised in the Washington Star and Washington Post on March 1, 1979 and in the D. C. Register on March 2, 1979.

The hearings were specifically designed to consider all aspects of the regulation of hotels and motels. The notice for the hearing specifically stated at the beginning:

The Zoning Commission is holding this public hearing to consider generally the issues regarding hotels and motels in the District of Columbia. In that regard, the Commission hereby gives notice that it will consider all zoning-related aspects of hotels and motels, including definitions of hotels

and motels (involving potential amendments to the present definitions and possible new definitions), those districts where hotels and motels should be permitted (including all residential, special purpose, waterfront, mixed use commercial and industrial districts), the manner in which hotels and motels should be permitted (including the standards applicable to hotels and motels, whether hotels and motels should be permitted as a matter-of-right or require BZA approval, and whether hotels and motels should be considered residential or commercial uses for purposes of floor area ratio calculations) and the relationship of Zoning Regulations for hotels and motels to other municipal codes and ordinances.

The Commission therefore proposed that all subjects relevant to hotels and motels could come up for discussion.

The notice also included the specific proposals advocated by ANC 2-A. Those proposals would have modified the definitions of hotel, apartment, bachelor apartment and apartment house and added new definitions for apartment hotel and convention hotel. The thrust of the proposed changes was to clearly distinguish between a hotel accommodating transient guests and apartments accommodating longer term tenants. The proposal as advertised also prohibited hotels in any residential and in the SP and C-1 Districts. It permitted hotels and apartment hotels as special exceptions in C-2-A and C-2-B, and as a matter-of-right in C-2-C and less restrictive commercial zones. Convention hotels were to be permitted only as a matter-of-right in C-3-B, C-4 and C-5 PAD Districts. The proposal also limited hotels and motels to the non-residential FAR in Waterfront Districts.

MAJOR ISSUES

At the three public hearings, testimony was given by more than thirty witnesses and representatives of eight different government agencies consuming more than fourteen hours of hearing. In the consideration of the testimony and of all the other evidence submitted for the record, the Commission identified the following major issues:

1. Definitions - Should there be a definition of an apartment hotel? How are a hotel, an apartment house and an apartment hotel distinguished? How are these definitions related to other codes and ordinances? Should the definition of hotel and motel be consolidated?

2. Nature of Hotels - Is a hotel primarily a residential or commercial use?
3. Conversions - Should the Zoning Commission prevent the conversion of an existing apartment house to hotel use? Should conversion to any other use be permitted?
4. Protection of Residential Areas - How can the existing housing stock, particularly the supply of rental housing, be protected? How can the external impacts of hotels in residential areas be reduced? Should new or expanded hotels in residential zones, which would occupy land that might otherwise be devoted to housing, be permitted?
5. Permitted Density - Should a hotel be charged against the permitted residential or commercial floor area ratio in a district in which there are different densities permitted for different kinds of uses?
6. Benefits of Hotels - How can the city encourage hotel development, in order to provide needed employment, increase the tax base, assist in revitalization of commercial areas and accomplish other city goals?
7. Convention Center Spinoff - How can the city encourage hotels as necessary corollaries to the convention center? Can incentives for hotel development be provided in the downtown area? Generally, which areas are most appropriate for hotel development?

EMERGENCY ACTIONS

Following the close of the record, the Commission considered the case at its regular meeting held on August 9, 1979. After discussion, the Commission directed the staff to prepare additional text language carrying out the directions established by the Commission. At that time the Commission was also made aware that the Washington Hilton was negotiating to acquire three apartment buildings in the R-5-C District adjacent to the existing hotel for the purpose of expanding the hotel. The Commission determined that it was necessary to take immediate action to preserve the status quo and to prohibit any new or expanded hotels from displacing existing residential structures in residential districts until after the Commission had reached a decision in the case. The Commission therefore adopted Order No. 291, which amended the regulations on an emergency basis to permit a hotel in R-5-B, R-5-C and R-5-D Districts only if no existing residential

structure is razed or converted for that purpose. Under the terms of the Administrative Procedures Act, that emergency amendment could be in effect for no longer than 120 days, or until December 7, 1979.

The Commission received a further report from the Office of Planning and Development staff at its meeting held on September 13, 1979. That report summarized the discussions of the Commissions held on August 9, 1979, as follows:

1. Prohibit new hotel use, either by new construction or conversion, in R-5-B and R-5-C Districts.
2. Permit the conversion of an apartment house to a hotel in an R-5-D District only with BZA approval.
3. Define a residential hotel, to have a limited quantity of commercial adjuncts and meeting space, and permit such a hotel in R-5-D, SP, W, CR and all C zones. The R-5-D zone would require BZA approval.
4. Define a full service hotel with substantial meeting space, and permit such a hotel in C-3, C-4 and C-5 PAD Districts.
5. Define apartment house and hotel to be mutually exclusive. Amend the definition of apartment house to place a limit on the maximum number of units to be occupied by transient guests.
6. Merge the definitions of hotel and motel.

The Commission further directed the staff to further digest and summarize the issues presented at the hearing, to provide the Commission with additional assistance in evaluating the large amount of material contained in the record. The OPD advised that it would need at least sixty days to prepare that information, and would report again to the Commission at its November, 1979 meeting.

At the November 8, 1979, meeting, the OPD reported that it was still completing its review and digest, and that it would file its report with the Zoning Commission by December 1, 1979, so the Commission could take the matter up at its December, 1979 meeting. The OPD further noted that the emergency amendment contained in Order No. 291 would expire on December 7, 1979. The OPD outlined a timetable for further consideration by the Zoning Commission, if the Commission were to complete action on the

case before the expiration of a second emergency order.

The Zoning Commission considered the question of whether to find that an emergency continued to exist as a preliminary matter at a hearing held on December 3, 1980. The Commission cited the additional staff work necessary, the requirements of the rule-making process and the necessary referral to National Capital Planning Commission as reasons why final action could not be accomplished before the expiration of the first emergency order. The Commission further found that the same conditions existed then to threaten the public welfare which existed when that first emergency order was adopted. The Commission therefore adopted Order No. 302, which continued in effect the same regulations as had been established by Order No. 291 for a period of 120 days to end on April 1, 1980.

ADDITIONAL PUBLIC HEARINGS

On December 3, 1979, when it adopted the second emergency order, the Commission determined to conduct a second round of public hearings to start on January 17, 1980. The Commission determined that it would narrow the focus of the earlier general proposals and consider a specific set of proposed text amendments to be presented by the Office of Planning and Development. By report dated December 4, 1979, the OPD presented its recommendations and, at its meeting held on December 13, 1979, the Commission authorized the publication of those proposals for the public hearing. The public hearing was held on January 17, 1980. Notice of the public hearing was given in the Washington Star and the Washington Post on December 17, 1979 and in the D.C. Register on December 21, 1979. At the public meeting held on December 13, 1979, the Commission, for good cause, waived Section 2.43 of the Rules of Practice and Procedures to allow publication in the D.C. Register only twenty-seven days in advance of the hearing, instead of the required thirty days.

In summary, the regulations as advertised proposed to:

1. Amend the present definition of "hotel" to include "motel" and define various areas within hotels.
2. Eliminate the present definition of "motel".
3. Define a "transient guest".

4. Amend the present definition of "apartment house" to limit it to no more than ten per cent transient guests.
5. In residential districts, prohibit new hotel construction and allow the continuation of existing hotels without expansion.
6. In SP Districts, allow a hotel as a matter-of-right if it does not involve conversion of an existing apartment house and if function rooms and exhibit halls are less than fifteen per cent of the gross floor area.
7. In SP Districts, allow the conversion of an apartment house to a hotel or a new hotel with more than fifteen per cent of the gross floor area devoted to function rooms or exhibit space only as a special exception with approval from the BZA.
8. In SP Districts, charge the "guest room areas" to the permitted residential floor area ratio, and all other areas to non-residential FAR.
9. Allow "hotel as a matter-of-right in W and CR Districts, and charge the "guest room areas" to the permitted residential FAR and all other areas to non-residential FAR.
10. Allow a hotel as a matter-of-right in C-1, C-2-A, C-3, C-4, and C-5 PAD Districts.
11. In C-2-B and C-2-C Districts, permit a hotel as a matter-of-right only if it does not involve conversion of an apartment house, and require BZA approval as a special exception if conversion is required.
12. In all commercial districts, charge "guest room areas" to the permitted residential FAR and all other areas to non-residential FAR.
13. Allow a hotel as a matter-of-right in C-M and M Districts.
14. Require off-street parking spaces and loading berths for hotels in all districts. Require parking and loading to be provided for function rooms as well as guest rooms.

DECISION PROCESS

The Commission heard extensive testimony at these two hearings, and also received a large amount of material into the record of the case. The Commission gave great and lengthy consideration to all of the materials which were received in the record of the case. Meetings were held on February 14, March 20 and April 10, 1980 at which the Commission discussed and deliberated upon the issues raised by the case, and the proposed text amendments.

In deciding this case, and in weighing the issues and positions of the various interests, the Commission has concluded that it cannot accept, in their entirety, the views of any one group or interest. The desires, needs and requirements of the city's hotel industry are important to the best interest of the city as a whole. Likewise, the strong expressions of the necessity for protecting the city's residential neighborhoods and existing housing stock cannot be ignored or dismissed lightly. In this case, as in most other major contested zoning cases, the Commission believes that it must strike a balance between the often competing interests at issue. In establishing that balance, which must be the most beneficial for the District of Columbia as a whole, the Commission will satisfy some of the concerns of the participants in this case, and not satisfy others. The Commission strongly believes that hearing the views of all affected interests, and then attempting to accommodate the concerns of all in the best interest of the city, achieving a balanced or compromised result, is an integral part of the zoning process.

The Commission further notes that some of the issues presented to it in the course of this case are not within the reach of the Commission's authority. Unlike the large majority of municipalities across the United States, in the District of Columbia the local legislative body is not also the zoning authority. By authority of the Zoning Act, as reinforced by the Home Rule Act, both acts of the Congress of the United States, the Zoning Commission has the responsibility for zoning in the District of Columbia. The Zoning Commission does not have general legislative authority in other areas. That authority is vested in either the City Council or the Congress. The Zoning Commission cannot and will not legislate in areas that are outside its authority.

In the course of striking the balance, the Commission met three times before it reached the point of voting on proposed action. At the second meeting, held on March 20, 1980, the Commission determined that it could not take final action on the proposed amendments before the expiration of the emergency amendment adopted on December 3, 1979 by Order No. 302. The Commission

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determined that an emergency still existed and that emergency action was needed to continue to prevent hotels from displacing existing residential structures. The Commission therefore adopted Order No. 306, which continued in effect regulations which permit hotels in R-5-B, R-5-C or R-5-D Districts only if there is no razing or conversion of a residential structure to permit the hotel.

GOALS OF THE REVISED REGULATIONS

The Zoning Regulations, as amended by the Zoning Commission in this case, are designed to achieve the following major goals:

1. Protect existing residential areas from further hotel development. As reviewed in this statement, this case originated out of an express desire for protection of residential areas from the potential adverse impacts of hotels. As noted elsewhere in this statement, a hotel is not purely a residential use, nor is it purely a commercial use. A hotel is a hybrid type of use. The rooms themselves resemble in both nature and effect rooms in a rooming house or apartments in an apartment house. The function rooms, exhibit space and commercial adjuncts in both nature and impact are clearly more similar to commercial uses. The Commission therefore believes that those zones within the District of Columbia which are reserved for exclusively residential use should not also permit hotels, because of the commercial aspects of such a use.
2. Prevent further loss of existing housing stock in residential zones. Because of a variety of reasons, the District has experienced an increasing number of conversions of existing apartment houses to hotel use. While there have also been conversions in the opposite direction from hotel to apartment use, the Commission believes that economic, market and regulatory forces are enhancing the likelihood that more apartment houses will be converted or demolished to accommodate hotel use. The Commission believes that in residentially zoned areas, existing residential uses should be encouraged to continue. The Commission recognizes that it is not able to mandate the continued existence of apartment houses if the owner wishes to demolish the building or convert it to some other permitted use. The Commission does believe that it is desirable to remove one present incentive for the loss of existing housing stock in residential areas.

3. Reserve residential zones for residential development. While hotels have been permitted as a matter-of-right in R-5-B, R-5-C, R-5-D Districts since 1958, the Commission believes that all residential zones should be reserved for development which is primarily residential in character. To that extent, the Commission believes that future hotel development in residential zones, even on existing vacant sites, should not be permitted, so that there is a greater incentive for construction of new permanent housing in the city.
4. Provide incentives for hotel development in mixed use, commercial and residential areas. The Commission recognizes that hotels are of vital importance to the District of Columbia, in terms of employment, tax base and other factors. As a corollary to the prohibition of further hotel development in residential zones, the Commission believes that hotels must be permitted and encouraged in all mixed use, commercial and industrial areas of the city, with the exception of the SP District discussed below. As noted elsewhere, hotels are a Hybrid type use, blending both commercial and residential type components. It is thus perfectly appropriate to locate them in all zones where commercial uses are permitted. The Commission notes that all mixed use and commercial districts permit as a matter-of-right uses which are far more intensive and may have far greater impacts than a hotel. The Commission also believes that it is neither necessary nor desirable to prohibit hotels from the lower density commercial districts. The needs serviced by hotels are located throughout the District of Columbia, and while certain kinds of hotels can and should be encouraged to locate within the downtown area of the city, the Commission believes that hotels should be allowed to locate in all mixed use, commercial or industrial areas.
5. Insure compability of hotels in SP areas. The SP District is a unique kind of zone in the District of Columbia. While it is a mixed use district, no retail uses are permitted, and most non-residential uses are permitted only as special exceptions with the approval of the Board of Zoning Adjustment. While the Commission believes that many SP zoned areas may be appropriate for hotel development, there are some situations in the SP District where hotels should not be permitted. The Commission therefore believes that special controls on hotel uses are appropriate in the SP District, to insure that any new or expanded hotels are compatible with their surroundings, and to help foster a mix of uses in the SP District.

6. Reduce Neighborhood Impacts from Parking and Loading Activities. One of the major complaints of persons residing in the neighborhood of hotels is the impact of vehicles parked in the neighborhood because such vehicles could not be accommodated in the parking and loading facilities of the hotel itself. The Zoning Regulations cannot be made to apply retroactively. However, the Commission believes that all new or expanded hotels must provide adequate parking and loading facilities to accommodate the basic demands generated by the hotel.

The Commission further wishes to note that it believes the Zoning Regulations should be amended further to provide greater incentive for hotel development in the downtown area, particularly in the area surrounding the new Convention Center. Such a proposal was not included in the notice for the hearing held in January, 1980, and the Commission must give appropriate notice as required by law. The Commission has therefore requested the Office of Planning and Development to prepare a proposal for a new hotel incentive district. The Commission intends to go forward to advertise and consider such a proposal in the near future.

SPECIFIC REGULATIONS ADOPTED

In order to achieve the basic goals outlined above, the Commission has adopted specific regulations for hotels, as follows:

1. Definitions of hotel. The previous definition of a hotel was amended in several respects. The Commission further explained its use of the term "transient guests" to mean persons who rent the rooms or suites in a hotel on a daily basis. The Commission deleted the phrase "communicating with" describing the relationship of the required dining room with the lobby, and replaced it with the term "internally accessible from". Both of these changes were intended to clarify how the definition of hotel should be applied by the Zoning Administrator. In addition, the Commission determined that any facility previously defined as a "motel" would now be considered as a "hotel". The Commission determined to retain the definition of "motel" for reference purposes only, since new motels as a separate category are no longer permitted. The Commission also defined five sub-categories of areas within a hotel, including "guest room areas", "function rooms", "exhibit space", "commercial adjuncts" and "service areas." These sub-categories were basically defined to enable the Commission to allocate the various areas of a hotel for the purpose of calculating and apportioning the gross floor area against the FAR limits.

2. Definition of inn. The Commission included a definition of an inn, which is essentially a hotel without central dining facilities and housing no commercial adjuncts, function rooms or exhibit space. An inn is essentially a residential type facility which would meet the definition of a hotel if it had the central dining facility.
3. Prohibition of hotels in residential zones. The Commission determined that no new or expanded hotel would be permitted in any residential zone. An existing hotel would be allowed to continue, recognizing the substantial investment in place already committed for existing hotels. Consistent with the existing provisions of Sub-section 8103.5, an existing hotel was specified to include one for which a valid application for a building permit existed prior to the effective date of these regulations. Alterations to existing hotels is permitted, but there can be no expansion of the total gross floor area of the hotel and no increase in the size of the function rooms, exhibit space and commercial adjuncts. Accessory commercial adjuncts may be adjusted, including new ones added in place of existing adjuncts as long as the total area devoted to such uses is not increased.
4. Hotels in SP Districts. The Commission determined that hotels should continue to be considered as special exceptions in SP Districts, to allow for appropriate review of each case. The standards by which the BZA evaluates a hotel application were amended, to require the Board to consider the mixed use nature of the SP District and to provide more explicit judgement on parking, loading and traffic issues.
5. Apportionment of FAR. In all SP, W, CR and C Districts, the Commission determined to apportion the area of a hotel based on the hybrid nature of the use. Guest room and service areas are to be charged against the permitted residential density, and all other areas, including function rooms, exhibit space and commercial adjuncts, are to be charged against the commercial FAR.

6. Hotels in W, CR and C Districts. The Commission determined to continue to permit hotels as a matter-of-right in all those mixed use and commercial districts where they are presently permitted as a matter-of-right. This would allow and encourage hotels to locate in areas where commercial uses of all kinds are also permitted as a matter-of-right, should help to alleviate pressure on fringe residential uses where hotels now desire to locate and would be compatible with the intent and purpose of the various districts at issue.
7. Elimination of motels. The Commission determined that the hotel/motel industry has sufficiently changed since 1958 that the previous distinctions between hotel and motel are no longer valid. Establishments are called "hotels," "motels," "motor inns," "motor hotels", "motor lodges," "inns", "houses" and other names. There is no significant difference between the Harambee House which is a motel and the Howard Johnson Motor Lodge, which is a hotel. The Commission therefore eliminated a motel as a new permitted use, and consolidated the definition of motel within the hotel definition.
8. Hotels in C-M and M Districts. As a companion to the consolidation of the hotel and motel definition, the Commission determined to permit hotels in industrial districts. Motels were formerly permitted as a matter-of-right in industrial districts.
9. Treatment of inns. In the course of the case, the Commission determined that there are a number of existing facilities in the city which are residential type hotels. Such facilities are generally not obtrusive in their neighborhoods because they have no function rooms, exhibit space or commercial adjuncts. Such facilities also do not meet the literal definition of a hotel because they have no central dining facility. The Commission therefore determined to permit such uses and to allow them in the same zones and in the same manner that hotels are permitted. Such facilities could presently exist in any of those zones as either a rooming house, apartment house or similar residential use.

10. Parking and loading standards. The Commission determined to add a requirement for parking and loading spaces to be provided to serve the function room spaces of hotels. Previously, such spaces were required only for the guest rooms or suites. The new regulations require both parking and loading space calculations to include the floor area in the largest function room. In addition, the Commission increased the required number of parking spaces in W and CR Districts, consistent with the recommendations of the Department of Transportation. The Commission also accepted DOT's recommendation to increase the size of loading berth facilities associated with hotels.

THE TRANSIENT ISSUE

One of the issues raised in this case related to whether and how the Zoning Commission would define a "transient guest" for the purposes of the Zoning Regulations, and how and in what zones accommodations for a "transient guest" would be permitted. The original proposal of ANC-2A did not propose to define a "transient guest." The ANC did propose to define and establish a use called an "apartment hotel." The ANC further proposed to make an "apartment hotel" and an "apartment house" mutually exclusive. The standards by which to evaluate that difference related primarily to establishing the apartment hotel as a transient accommodation.

There was considerable discussion in the record of a desire on the part of many individuals and citizens groups to exclude transient guests from apartment houses. The specific proposed text proposed by the OPD and advertised for the January, 1980, hearings included a definition of a transient guests to be "a person visiting the District of Columbia for a specific temporary purpose and whose occupancy of a habitable room or suite does not exceed 90 consecutive days..." This definition was based on the hotel sales tax definition, which is also similar to the hotel occupancy tax provisions. In addition, the OPD text proposed to limit the number of units in an apartment house available for transient guests to a maximum of ten per cent of the total number of units.

After considerable review and discussion, the Commission has determined that it will not separately define a "transient guest," nor will it prohibit the accommodation of transient guests in an apartment house.

The Commission has determined that it is not appropriate to limit the length of stay of persons in an apartment unit. The physical facility remains the same regardless of the length of stay. Furthermore, the Commission is not convinced that there is a material difference in the nature or impact of an apartment house occupied on a short term basis as differentiated from one occupied on a long term basis. The Commission is engaged in the regulation of land use. There is no land-use or zoning basis to prohibit the occupancy of an apartment house on a short term basis. The Commission further notes that many apartments in the District of Columbia are rented on a month to month basis, which under some of the proposed definitions would be considered a transient occupancy. The Commission believes there is a definite role for short term occupancy apartment houses, and finds no basis to exclude them from the regulations.

The Commission notes that one of the underlying reasons for the proposal to define and prohibit transient guests in apartments was to override a provision in the current legislation governing rent control. That provision allows a building to become exempt from rent control if sixty per cent or more of the units are devoted to transient occupancy. As stated previously, the Zoning Commission is emphatic about protecting its jurisdiction from other bodies and not intruding into the legislative jurisdiction of other bodies. In this situation, if the rent control laws need to be amended, such changes should be addressed to the District of Columbia Council, which does have the authority to consider and adopt such an amendment, and not to the Zoning Commission.

THE CONVERSION ISSUE

Another major issue raised in this case was whether the Zoning Commission should restrict the conversion of existing apartments to hotels. The conversion or threat of conversion of a number of buildings in the Foggy Bottom area led ANC-2A to initiate these proceedings before the Zoning Commission. To the extent that conversions of apartment units in residential zones were a problem, the Zoning Commission has resolved that problem by prohibiting the conversion of an apartment to a hotel in a residential district, as well as the construction of a new hotel on a vacant lot. The Commission determined as an appropriate land use matter that new or expanded hotels should not be permitted under any circumstances in residential districts. Likewise, in the SP District, the Commission required all new or expanded hotels, whether by conversion or new construction, to receive approval from the BZA.

The Commission believes that there has been no land use basis presented in this case to evaluate hotels differently if they are arrived at by different means. Whether a hotel is a product of conversion of some existing structure or the construction of a new building, the zoning and land-use implications are the same. If the proposed use can meet all the other requirements of the regulations, it is permitted. The Commission further believes that it would be an arbitrary exercise of its authority to prohibit the owner of an existing apartment building from converting it to a hotel, while at the same time allowing the building to be converted to any other permitted use. The Commission further notes its belief that once regulations are established and uses are instituted under those regulations, it would be inappropriate to establish one of those uses, an apartment building, as having more status than any other use, to the point that that apartment house use could not be terminated. The Commission believes that a person who exercises a right to institute one particular permitted use should not be permanently compelled to continue that use when the regulations permit other uses in that district as a matter-of-right.

ANC ISSUES AND CONCERNS

After the publication of the notice for the hearings in January, 1980 to consider specific proposed amendments regarding hotels, and before the close of the record on January 31, 1980, the Zoning Commission received written communications from Advisory Neighborhood Commissions 2A (resolution dated January 8, 1980, and letter dated January 19, 1980), 2B (statement received January 21, 1980), 1C (letters dated May 7, 1979 and January 29, 1980) 3F (resolution received January 25, 1980), 3E (letter dated January 24, 1980), 3C (letter dated January 28, 1980) and 3A (letter dated January 30, 1980). The basic issues and concerns raised by the ANC's were as follows:

1. Hotels should be considered entirely as commercial uses.
2. There should be a ban on new hotel construction or expansion in residential districts.
3. No existing apartment houses should be able to be converted or demolished for hotel use.
4. Hotels should be charged entirely against the commercial density in all mixed commercial-residential zones.
5. Hotels should be given an incentive to locate in the downtown commercial zones, particularly near the convention center.

The Zoning Commission has already addressed each of these issues in this statement.

NATIONAL CAPITAL PLANNING COMMISSION REVIEW

The proposed action was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed amendments to the text of the Zoning Regulations relating to the definition, location and standards for hotels "will not have an adverse impact on the Federal Establishment or other Federal interests in the National Capital." The NCPC also commended the Zoning Commission for prohibiting the construction or expansion of new or existing hotels in residence districts. The NCPC noted, however, that testimony which it had received while considering the matter, raised the question as to whether the proposed definitions of "hotel" and "inn", when read with the existing definitions of "apartment" and "apartment house", accomplished this prohibition.

The Commission notes that the hotel case was one of the most comprehensive text amendments considered by the Zoning Commission in the last several years. The Commission believes that technical modifications or amendments to the regulations adopted at this time may be required in the future. The Commission believes that it has addressed all the major substantive issues raised in this case. The Commission further notes that if experience with the operation of the new regulations suggests that further amendments are required, the Commission will consider such amendments as are appropriate.

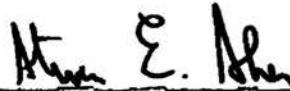
CASE NO. 79-1
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CONCLUSIONS

The Zoning Commission believes that it has achieved a proper balance in evaluating the issues before it in this case. The Commission notes that it cannot solve all of the problems raised in the context of this case, but believes that it has appropriately addressed the legitimate zoning issues presented. The Commission believes that the regulations as set forth in Order No. 314 are in the best interest of the District of Columbia as a whole and are consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. For the reasons stated herein, the Zoning Commission therefore adopted Order No. 314.



THEODORE F. MARIANI
Chairman



STEVEN E. SHER
Executive Director

This Statement of Reasons was ADOPTED by the Zoning Commission at its public meeting held on May 8, 1980 by a vote of 5-0 (Walter B. Lewis, George M. White, Theodore F. Mariani, Ruby B. McZier and John G. Parsons to ADOPT).

B

**HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION**

Property Address:	1743-55 N Street, NW	X	Agenda
Landmark/District:	Dupont Circle Historic District		Consent Calendar
		X	Concept Review
Meeting Date:	February 23, 2006	X	Alteration
H.P.A. Number:	05-331	X	New Construction
Staff Reviewer:	Steve Callcott	X	Demolition
		X	Subdivision

The applicant, architect Richard Rosen for owner Morton Bender, seeks conceptual design review for alterations and new construction affecting five townhouses in the Dupont Circle Historic District. The proposal, which requires a special exception and several zoning variances, calls for the site to be used as a hotel.

Property Description

The 1700 block of N Street is one of the most varied and architecturally significant in Dupont Circle, reflecting some of the finest late 19th and early 20th century architect-designed residences in the district. With the exception of a single 1960s building on the north side of the street, the block remains essentially as it did at the turn of the century, dominated by Queen Anne and Richardsonian Romanesque Revival houses. Once anchored by one of the finest Romanesque churches in the country -- the National Presbyterian Church at 18th and N (since demolished) -- the block has served as home to many socially and culturally prominent Washington residents for which Dupont was once famous, including Presidents Theodore and Franklin Roosevelt. For the past forty or so years, the block has been a quiet and charming oasis in the midst of downtown, its' historic buildings sensitively rehabilitated and reused for associations, philanthropic institutions, professional offices, inns and restaurants.

The three five-story townhouses at 1751-55 N Street were built as a symmetrical block in 1889. Unified by their composition and dark palette of materials, they exhibit a blend of the Queen Anne and Romanesque styles; their architect is unknown. The four-story structure attached and recessed from the façade of 1751 (also known as 1749) was constructed as an addition to that house in 1908. The four-story residence at 1745 N Street was built in 1902, designed by architect Waddy Wood in the Georgian Revival style. The four-story building at 1743 N Street was constructed in 1896, also designed by Waddy Wood. Its first two floors have been extensively altered, and originally had a rusticated sandstone base, raised entrance, two-story projecting bay, and tile roof.

Proposal

The proposal calls for the historic houses to be incorporated into a new hotel building. All exterior walls and structural systems of 1751-55 would be retained; the facades and portions of exterior walls of 1749, 1745 and 1743 would be retained, but as shown on

pages C-1, C-2, C-3 of the submission, significant portions of these structures would be demolished. The hotel would rise five stories behind and partially on top of some of the historic buildings, organized around a central open atrium. 1749 would receive an additional floor, set flush with its façade, replicating the design of the dormered roofs on 1751-55. 1743 would receive a fifth floor set back about 20 feet from its façade. The four story projection on the west side of 1745 would be demolished and apparently replicated to fill in the gap between it and 1749; the gap would serve as the primary entrance into the hotel.

Evaluation

The conceptual design raises several preservation and design concerns. Most importantly, it will result in demolition in significant part of 1749, 1745 and 1743 N Street. As defined by the Board's regulations (DCMR Title 10-A, Section 305.1), demolition under the preservation act includes the removal or destruction of all or a substantial portion of the structural components of a building, such as structural walls, floor assemblies, and roofs (305.1.b), or the removal or destruction of all or a substantial portion of the roof along with all or substantially all of one or more exterior walls (305.1.c). As such, the project is not consistent with the purposes of the preservation act unless so determined after review by the Mayor's Agent. The applicants have indicated that they will be pursuing a case of "consistent with the act" before the Mayor's Agent and that the extent of demolition is necessary for the buildings to be reused as part of the hotel. While some interior modification of the buildings may be necessary to allow for modern use, with the amount of new construction proposed, the HPO is skeptical that an alternative plan couldn't be developed that either shifts elements that are driving the demolition (such as new stairs, elevators, and the lobby and reception areas) into the new construction, or that these elements simply be more sensitively incorporated into the existing structures as has been accomplished in the other buildings on this block and throughout the Dupont Circle Historic District.

Other preservation concerns are raised by the additions and new construction. The addition of a floor atop 1749, resulting in the relocation of its cornice and new dormer window will alter both the appearance of this wing and its relationship to the row of houses to the west. In replicating the roof form of 1751-1755 on 1749, it confuses the original relationship between the structures, suggesting that this row of three was originally a row of four. The HPO recommends that the top (fifth) floor on 1749 simply be eliminated altogether so that it continues to read as a subordinate and secondary addition to 1751. The 20 foot set back for the new fifth floor atop 1743 will result in this floor being visible immediately behind the historic structure's low hipped roof. In order for it to not be visible and not interrupt the building's original roof line, it should be set back at least an additional 10 feet and possibly more; the set back should be studied in perspective to determine the appropriate amount. The applicants should also evaluate restoring the original tile roof as part of the scope of this building's rehabilitation.

The HPO would encourage an alternative architectural treatment for the gap between 1745 and 1751 that retains the existing side oriel bay and fills in the remaining space with

a more transparent and less historicist element. A similar approach was successfully used as the entrance element at the nearby project at 1717 Rhode Island Avenue (the St. Matthew's project), where a sense of the space between the buildings is maintained. Lowering or eliminating the fifth floor atop the gap would also help retain the lower roof line of this secondary element.

While reduced and pulled back from earlier iterations, the penthouse continues to loom large over the project. In order for it to be more fully evaluated for its visual impact as seen from the street, the HPO recommends that a simple massing model be prepared and all efforts made to further reduce its height and size.

Finally, some effort should be made to relate the rear elevation of the new construction to its context. While certainly greater latitude is in order for a rear elevation, the present monumental design doesn't have any relationship whatsoever with the scale, rhythm or architectural character of the townhouse elevations that define this block.

The HPO recommends that the Review Board deny the conceptual proposal as incompatible with the preservation law as it will result in substantial demolition of contributing historic buildings. The applicants should investigate how more of the buildings' structure can be retained and incorporated into the project, while also pursuing the design modifications outlined above. The project should return to the HPRB for further review when appropriate.

Jaime Cairn, ISA Architects

70% of exterior walls retained

KANE: Need better drawings that are accurate and complete

TEARST: Calculate sq ft of demo for each bldg.

ARMY: ADA issues. Why entrance through gap rather than through existing doors?
1749 is at grade. - will study entrance change.

Detailed model needed necessary.

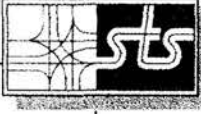
ARMY: Show removal of floors as well as walls. Reception area lowered meaning floors removed also. Missing point of "bustle" hotel - looking out at scale, same more of bldg. Gap most unusual place for entrance. Info on 1743 alterations - may help to restore.

Sight lines from across street.

ARMY: Side plan showing project in plan + elevation in context of surrounding properties.

000231

C



Street Traffic Studies, Ltd.

**Testimony of David A. Nelson, P.E., P.T.O.E.
and Stephen G. Petersen, P.E.
Traffic Planning and Engineering Consultant
Before the District of Columbia Board of Zoning Adjustment
In Regard to the Application of N Street Follies, LP
BZA Application No. 17337**

This application proposed the development of a 98 room "boutique" hotel on property located between 1743 and 1755 N Street, N.W. The property is situated on the north side of N Street, a one-way eastbound street, running from 18th to 17th Street, N.W. An integral part of the proposed development is a 98 space parking garage on the north side of the building. Access to this garage will be via an existing alley that extends westward from 17th Street, N.W.

In a prior application for a Planned Unit Development on the same site as the current application, the applicant's previous traffic consultant did an analysis of the traffic impact of a larger development that would have had access directly from N Street. He concluded that this was an appropriate way to service the proposed facility and would have no impact on the substandard alley at the rear of the property. In describing the alley he indicated 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"*. He then describes the 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) Street, with hazards to both pedestrians and vehicles on N (sic) Street. The N Street access to the property would obviate these problems"*.

Despite these conclusions relative to the prior proposal, the applicant has brought before you an application that is totally dependent upon the alley as the means to service the transportation needs of the site and its clientele. Albeit this new application is for a smaller facility, the proposed operation through use of valets poses additional issues.

O R George and Associates, the applicants traffic consultant, has prepared a number of traffic impact assessments associated with the current application beginning with their December 30, 2005 report. This report was supplemented by a February 20, 2006 report, developed in response to comments received during the January 24, 2006 District of Columbia Board of Zoning Adjustment public hearing. A third report, dated July 30, 2009 was prepared to address the increase in the number of hotel rooms from the original 77 rooms to the current plan for 98 rooms. Proposed parking was also increased from 96 spaces to 99 spaces, all internal to the building and accessed from the alley.

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In each case, the studies conclude that the Applicant's proposal does satisfy the requirements of the Zoning Regulation, specifically, that the development proposal "is not likely to have an adverse and objectionable impacts due to traffic and parking conditions".

The following discussion summarizes the results of our review of the traffic studies and supporting documentation submitted in support of the subject application. While we have conducted a number of field visits to the site to observe traffic conditions and development activity, we have not conducted an independent traffic analysis including counts, delay studies or travel time studies.

Key elements of any traffic study for a development proposal are the establishment of a sound base traffic condition, proper estimation and assignment of expected peak hour traffic associated with the proposed development, and the analysis of the impacts associated with that additional traffic on the neighboring network.

Due to the relatively low volume of traffic expected to be generated by to the proposed hotel, the traffic study identified the intersections of N Street with 18th Street, NW and 17th Street, NW as the key study points. Traffic counts conducted to establish the current base condition were initially obtained in 2005 and 2006. New counts were taken in July 2009 (summer counts) but were found to be lower than the 2005 / 2006 data so the applicant continued to use the earlier data, growing volumes by a factor of 2.0 percent per year. They note in their July 30, 2009 report that new counts will be conducted after Labor Day and any necessary adjustments will be documented in a follow up memorandum. We are not aware if the follow up counts were conducted or if there were any required changes due to the new data.

The base data as provided was analyzed using the appropriate DDOT procedures and the results detailed appear to be consistent with the traffic conditions observed.

Through the studies prepared by the applicant, there were a number of iterations considered to determine the expected trips the proposed site would generate. We would concur with the procedures contained in the latest report, with trips based on the 8th Edition of the Institute of Transportation Engineers Trip generation Manual. While the proposed boutique hotel may generate less traffic than the Business Hotel rate used, the 25% adjustment factor is a reasonable procedure to account for those differences.

We would note however that due to the proposed operation of the hotel parking facility(entirely valet parking), and the traffic controls on the surrounding street network, that the effective trip generation rate for the site is actually twice of that projected. Guests would travel through the network to arrive at the hotel and then their cars would in essence travel through it again while the valets park the cars, doubling the impact on the adjoining intersections. This is most evident during the morning peak

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period when 17 Street flows southbound only. Therefore, instead of the site generating 42 morning and 44 evening peak hour trips, the effective rate would be in the order of 84 morning and 88 evening peak hour trips.

While the increase in trips as noted would not be expected to cause the intersections studied to operate at unacceptable standards (although the new Fall 2009 counts have not been provided), the volume may be such to require additional intersections to be added to the analysis, with results unknown at this point in time.

The key issue related to traffic and the ultimate finding of adverse and objectionable impact for the case is the guest and delivery loading requirements at the front door to the proposed hotel and the safety and efficiency of the alley as it provides access to not only all the parking planned to serve to the proposed hotel parking but also the existing people and businesses that rely on the alley and parking today.

While the traffic studies discuss the overall parameters of the proposed parking plan, there is no analysis provided that details the specifics to ensure that the plan will indeed work. As noted, the transportation services for the guests of the hotel with vehicles will be totally dependent upon valet service to remove and deliver their vehicles from and to the front door of the facility. Nowhere in the report is there an analysis of what this entails in terms of time and manpower.

For example, for a guest driving his own vehicle who arrives in the morning before 9:30 a.m., this is the route that the valet must take to deliver his vehicle to the garage located in the alley.

After the guest has removed all his personal items (since he will not have access to the vehicle while it is in the garage), the valet will proceed east on N Street to 17th Street, make a right turn, proceed to Rhode Island Avenue, make a right turn, proceed to Connecticut Avenue, make a right turn, proceed to 18th Street, bear right, proceed to Massachusetts Avenue, make a right turn, proceed to 17th Street, make a right turn proceed to the Alley, attempt a right turn and hope that another valet is not trying to exit as he starts to deliver a guest vehicle to the hotel's front door. Travel times we conducted in the non peak period found that the morning valet route from the hotel to the entrance to the alley exceeded 5 minutes.

Then, once at the garage, the valet will need to call the elevator, move the car onto it, deliver it to the proper floor, move it to a parking space and then return to the front door to repeat the process. If a valet can perform this operation four times in an hour he will be fortunate (and probably exhausted).

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With 25 arrivals in the peak hour there will need to be five - six valets to service the arrivals. With 17 departures in the same hour, it is likely there will need to be another three to four valets to service these guests for a total valet staff of up to 10 valets during the peak hours.

As the consultant noted in his report, vehicles stopping in the travel lane on N Street can cause temporary blockages to the flow of traffic. To offset this condition, the applicant is proposing a 30 foot long lay-by that guests can use to get out of the travel lane. This lay-by can accommodate one vehicle, which raises a question as to what happens if there is a glitch in the valet operation and there is more than one vehicle that needs to be parked temporarily until the valets can sort out the situation. How long may a "temporary blockage" of N Street last as vehicles queue in the travel lane waiting for valets to move them?

In their July 2009 traffic study, the applicant has included the results of their parking analysis of N Street between 17th and 18th Streets. The data confirms that the parking demand is heavy throughout the day, often with no spaces available, particularly between 3:00 and 5:00 PM. The elimination of available parking spaces across the site frontage to provide for the planned lay-by would further limit parking supply to current users and confirm the likely hood that there would not be any available parking along N Street space to accommodate guests to the hotel should the layby be in use either by another guest or being used for loading purposes.

The access to the alley from 17th Street was the primary subject of the February 20, 2006 addendum and the July 30, 2009 Traffic Impact Assessment update. The ability of the alleyway to safely accommodate all the traffic parked in their garage is essential to the proposed operation of the hotel as well as the existing users of the alley. As detailed in their drawings as contained in the applicants report, the throat of the alley is only 10 feet wide, in contrast to the City's standard alley width of 20 feet.

Their studies have included the results of a number of counts taken to detail the inbound and outbound flows currently using the alley access their parking. Additional counts were conducted to detail the break down between passenger cars and trucks. Finally, studies were conducted of the pedestrian movements along 17th Street to detail the potential for conflicts between vehicles entering and exiting alley.

Throughout 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 a 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

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that the alley exists and functions today does not make it acceptable nor capable of accepting additional loadings.

The applicants study does note that vehicular traffic flow on the alleyway is heavily directional, predominantly inbound in the morning and outbound during the evening. The condition is most likely one of the reasons the alley does “work” today, assuming it does. The addition of the traffic associated with the hotel however 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.

The applicant includes sight distance studies for vehicles exiting the alley to detail their ability to adequately see pedestrians. The graphic shows parking spaces to the left as the vehicles approach 17th Street. The review should include an observation of how the sight distance is affected when car and or trucks are parked in those spaces as was observed during our field visits and as shown in their own photographs.

Operationally, sight distances studies should have also been developed to detail the ability of drivers to see into the alley as they approach from 17th Street. Because of the length of the throat of the alley as it travels past 17th Street, a driver has to reach a position out in 17th Street practically at the alley itself before they can tell if the alley is clear. If it is not, they must stay out in the middle of 17th Street until the alley is clear. This condition is more problematic for vehicles traveling south on 17th Street at all hours of the day because the approaching vehicle needs to be in the second lane from the right to clear the entrance obstructions, causing them to block southbound traffic flow but also obstruct the sight distance of the exiting vehicle.

As noted in our introduction, the applicant proposes to provide 98 parking spaces in an automated parking structure to serve the 98 rooms planned for the hotel. DDOT in their previous review, summarized in their February 28, 2006 memorandum, notes that the zoning requirement for the proposed number of units is only 31 spaces. In light of their concern for the operational constraints of the alley access, their recommendation at that time was limit the number of spaces provided to the 31 spaces as required by code.

Parking requirements for a boutique hotel fall into the same category and have the same issues as defining expected trip generation. In one of the previous studies conducted by the applicant, February 20, 2006, there was a discussion of the trip characteristics of the Topaz Hotel, located on the same block as the subject site. The study detailed the results of the trip generation findings associated with the Topaz garage oriented vehicles (served by valets) throughout the day. The resulting vehicular trip rates were found to be fairly low in comparison to standard ITE Rates.

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While not indicated specifically in the report, it is important to note that the Topaz Hotel, with 99 rooms itself, has only 30 parking spaces available. As expected, while typically not a direct relationship, there is a correlation between peak hour trips for a use and the parking supply provided. While the N Street Parking study conducted by the applicant can be viewed to confirm the demand for parking exists, it does not necessarily associate that demand to the operation of the proposed hotel. To the contrary, the existence and operation of the Topaz Hotel in close proximity to the subject site justifies the recommendation of the Zoning Code and supports the recommendation of staff.

In our professional opinion, the lack of a clear description and analysis of 1) how the valet operation is to work to ensure that N Street traffic flows will be maintained and 2) a discussion / analysis of the operation of the alley, are fatal flaws to the viability of the transportation proposal to support the development of a boutique hotel on the subject site. Without a full discussion and analysis of these aspects of the application there is no basis to support a conclusion that the proposed hotel operation as described will *"have no significant impact on the operational efficiency and safety of the study area roadways"*. Or, as stated in reference to the alley that *"additional traffic utilizing the alleyway will have a very minor impact on the existing operations of the alleyway or those properties whose rear access it services"*.

D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION



Transportation Policy and Planning Administration

Memorandum

To: Sherry Schellin, Acting Secretary, Zoning Commission
From: Ken Laden, Associate Director, DDOT *KS Laden*
Subject: N Street Follies BZA Case No. 17337
Date: February 28, 2006
CC: Travis Parker, OP

The applicant proposes construction of a 96 room hotel behind the façade of three existing historic buildings on the north side of the 1700 block of N Street NW. Zoning requires 31 parking spaces for a hotel of this size, the applicant proposes 96 parking spaces. All parking will be accessed via an alley entrance on 17th Street NW between N Street and Massachusetts Avenue. The historic nature of the buildings precludes the possibility of access to the rear parking via N Street. The alley in question varies in width from just under 10 feet at 17th Street to as wide as 43 feet behind the applicant's properties. Vehicles exiting and entering the alley must yield to oncoming traffic to exit or enter the alley. Beyond the first 60 feet, the narrow right of way is somewhat mitigated by private parking pads on either side that allow vehicles to slowly pass each other. However, because these parking pads are private space, this is not an acceptable traffic management strategy.

The alley usage diagram (table 1-Supplimentary Data Presentation) provided by the applicant shows the potential for conflict between entering and exiting vehicles in the weekday PM peak under existing conditions (Wednesday Feb 8 from 5:00 to 6:00-28 vehicles entered the alley, 60 exited). The addition of 96 parking spaces to this alley would further exacerbate the existing unsafe condition in this alley.

Due to the potential conflicts between entering and exiting vehicles in the narrowest section of the alley, the District of Columbia Department of Transportation recommends that the application be approved with only the 31 parking spaces required under the zoning code. If you have any additional questions, please contact Ramona Burns, of my staff, at 202/671-2234.

BOARD OF ZONING ADJUSTMENTS 14th Street, NW, Washington, DC 20009 (202) 671-2730
District of Columbia

AGEND.

17429

EXHIBIT NO.

Mr. Morton Bender
N Street Follies, Inc
February 20, 2006 Page 3 of 12

TABLE 1
SQUARE 158 ALLEYWAY USAGE SURVEY
N STREET FOLLIES - BZA APPLICATION

TIME	SAT. (Jan. 21, 2006)				MON. (Jan. 23, 2006)				WED. (Feb. 8, 2006)			
	Inbound		Outbound		Inbound		Outbound		Inbound		Outbound	
	Pass. Car	Truck	Pass. Car	Truck	Pass. Car	Truck	Pass. Car	Truck	Pass. Car	Truck	Pass. Car	Truck
7:00 - 8:00 AM							2	2			3	2
8:00 - 9:00 AM							6	2			7	2
9:00 - 10:00 AM											5	3
10:00 - 11:00 AM											10	0
11:00 - 12:00 PM			11	0								
12:00 - 1:00 PM			9	0			16	0				
1:00 - 2:00 PM			9	1			9	0				
2:00 - 3:00 PM			9	0								
3:00 - 4:00 PM			9	0							23	0
4:00 - 5:00 PM			9	0			28	1			22	4
5:00 - 6:00 PM							55	0			60	0
6:00 - 7:00 PM							58	0			61	1
TOTAL			56	1			174	5			191	12

 - Inbound Vehicles.

 - Outbound Vehicles.