

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF
NW DC OPERATING, LLC**

**1515 RHODE ISLAND AVE., N.W.
ANC 2B05**

PRE-HEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This pre-hearing statement is submitted on behalf of NW DC PROPERTY, LLC (the “Applicant”), the title owner of the existing Darcy Hotel property (the “Hotel”) located at 1515 Rhode Island Avenue N.W., Lot 149 in Square 195 (the “Property”) in support of its application for area variance relief from the requirements of Subtitle U § 401.1(d)(2), Subtitle F § 604.1, and Subtitle F § 605.1. The Applicant seeks to partially enclose the Hotel’s existing outdoor patio area in order to create new indoor function space. The Property is located in the RA-10 Zone District,¹ and the Hotel was existing as of May 16, 1980.²

II. EXECUTIVE SUMMARY

As a result of this Application, the existing outdoor courtyard area along the Hotel’s northern alleyway frontage will be partially enclosed to create a new one-story function room. The proposed enclosure will increase the gross square footage of the Hotel by approximately 2,563 square feet. Additionally, the proposed enclosure will increase the Hotel’s lot occupancy to 82% and will reduce the appurtenant rear yard setback to 18 feet. All proposed changes to the Hotel associated with this application will take place along the northern/alley building frontage; the other sections of the Hotel will not be impacted by this relief.

III. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the area variance relief pursuant to Subtitle X § 1000.1 and Subtitle Y § 100.3 of the 2016 Zoning Regulations (“Zoning Regulations”).

¹ The RA-10 Zone District was formerly known as the R-5-E in the Dupont Circle Overlay.

² As the Hotel was in existence as of May 16, 1980, the Hotel is a permitted use as a matter of right in the RA-10 District.

IV. BACKGROUND

A. Description of the Property

The Property, also known as Lot 149 in Square 195, contains approximately 23,853 square feet of land area and is located in northwest Washington, D.C. Square 195 is bounded by P Street N.W. to the north, 15th Street N.W. to the east, Rhode Island Avenue N.W. to the south, and 16th Street N.W. to the west. The Square is comprised of two distinct parts. The northern half of the Square is rectangular, and it is bounded by P Street N.W. to the north and O Street N.W. to the south. The southern half of the Square is irregularly shaped, and it is bounded by O Street N.W. to the north and Rhode Island Avenue N.W. to the south. *See*, Baist Atlas Map of Square at **Tab A**.

As shown on the Survey at **Tab B**, the Property is bounded to the south by Rhode Island Avenue, including a substantial public space/parking area that has been activated with two patios and a circular drop-off area, which are all existing conditions associated with the Hotel use. To the east, the Property is bounded by the ten-story, 212-room, Holiday Inn hotel. To the west, the Property is bounded by an 11-foot wide public alley and the General Scott Condominiums, a 181-unit residential building. To the north, the Property is bounded by a 25-foot public alley and a surface parking area that is also owned by the Hotel. Further north beyond that parking area, there is a 10-foot public alley and residential row dwellings and apartment houses fronting on O Street. The Property is not located within a historic district.

B. Description of the Hotel's Existing Conditions

The Hotel is eight stories in height, contains approximately 226 hotel rooms, and currently operates as the Darcy Hotel. A permitted hotel with commercial adjunct space has improved the Property since at least 1961. *See*, 1961 Certificate of Occupancy at **Tab C**, noting that part of the first floor was approved for a “Restaurant-Coffee Shop-Private Dining Rooms For Hotel As Hotel Adjunct.” The current Hotel features a fitness center, business center, several pre-function/functions rooms, a hotel restaurant and bar, and a café.

a. Existing Ground Floor Uses

As shown on Sheet 1 – Existing Overall Plan of the Architectural Plans (“Plans”) at **Tab D**, the Hotel has a large lobby in the center of the building, which is flanked by the 3,400 square foot restaurant and bar to the east and an approximately 1,750 square foot pre-function and function space to the north, which opens

onto a rear outdoor patio. To the west of the lobby is a 2,530 square foot ballroom and pre-function space/hallway and an approximately 1,200 square foot café space.³

b. Existing façade design and outdoor patio/courtyard areas

As shown in the images of the existing hotel, included here at **Tab E**, the southern façade of the Hotel is designed symmetrically with six windows and one door flanking both sides of the Hotel entrance area. Furthermore, beyond the Property's boundaries, located entirely in public space, is a circular driveway bordered by two patios that are used by the Hotel. The northern façade of the Hotel is designed with symmetrical hotel unit windows on the upper stories. On the ground floor, the façade includes a series of double doors which provide access to an outdoor courtyard area featuring a mix of hardscaping and landscaping (the "Courtyard"). The Courtyard is tiered, with an upper terrace accessible primarily through the eastern function space, and a lower terrace accessible primarily through the main lobby and western pre-function space. The Courtyard is screened from the adjacent alleys by an approximately 6 foot, 10 inch perimeter wall. The Courtyard is approximately 3,750 square feet and is open to air. The Courtyard is used as an informal gathering area and casual-use outdoor space as well as for private hotel functions and events.

C. Description of the Improvements in the Surrounding Area

Square 195 is a diverse square; it contains a mix of rowhomes, flats, multifamily residential buildings, hotels, chanceries and institutional buildings. Located in close proximity to Scott Circle and two blocks from Logan Circle, the Property is in a densely-traversed and populated mixed-use corridor within Dupont Circle. A mix of high-rise apartments, hotels, and institutional uses characterize the immediate vicinity. Row dwellings are located north of the Property, more than 60 feet from the Property's rear property line, and separated from the Property by two alleys and a surface parking lot. The Property is located near the embassies of Australia, El Salvador, and the Philippines. The Property is also proximately located to large nonprofit and educational institutions, such as the Johns Hopkins University Carey Business School and the Carnegie Institution for Science.

³ The Applicant does not propose any changes to the size or physical layout of the existing ground-floor conditions discussed above and shown in the Plans. Access to the new enclosed patio space will be provided through the existing pre-function and function space located north of the lobby, which will otherwise remain as-is.

D. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcar. The Property is located within a mile of all Metro rail lines. The Farragut North Metro Station is approximately 0.4 miles from the Property and provides access to the Red metro rail line. McPherson Square Metro Station is 0.5 miles from the Property and provides access to the Blue, Orange, and Silver Metro rail lines. U Street Metro Station is 0.7 miles from the Property and provides access to the Green and Yellow Metro lines. In addition to Metro rail, the Property is in close proximity to several bus lines. Bus lines S1, S2, S4, S9, 315 and 325 are all within 0.1 miles of the Property. Bus lines 52, 53, 54, 59, G2 and G9 are within 0.2 miles from the Property.

The Property is also close to a number of the District's bikesharing and carsharing programs. Ten Capital Bikeshare stations are located within 0.5 miles of the Property. The closest bikeshare station is approximately 0.1 miles away at P Street NW and 15th Street NW (3 docks). There are 16 carsharing options within 0.5 miles of the Property. There is one Zipcar site and one Maven Car Sharing site within 0.1 miles of the Property. The closest Zipcar is located on the west side of Scott Circle and has two vehicles. The closest Maven Car Sharing is located at 1512 O St NW, with varying vehicle availability. On walkscore.com, the Property received a walkscore of 97 out of 100 and is deemed a "Walker's Paradise;" a bike score of 93 out of 100 and is deemed a "Biker's Paradise;" and a transitscore of 90 out of 100 and is deemed to be a "Rider's Paradise."

E. Zoning

There are three zoning districts within the Square, the RA-8, RA-10 and MU-15. *See*, Zoning Map below and at **Tab F**. The Property is located in the RA-10 portion of Square 195, and it directly abuts the RA-8 zoned portion to the north and the MU-15 zoned portion to the west.



The RA-10 Zone District permits hotels existing as of May 16, 1980 as a matter of right pursuant to Subtitle U § 401.1(d)(2), provided that the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. Commercial adjuncts and function rooms for hotels with more than 100 rooms are also permitted as a matter-of-right accessory use pursuant to Subtitle U § 410.1(d), provided those uses are not expanded, accessible from outside the building, and/or visible from the sidewalk and that no signage associated with the commercial adjuncts is visible from the sidewalk.

As noted above, a hotel with commercial adjuncts and function rooms has operated at the Property since at least 1961; thus, the Hotel is a permitted use in the RA-10 District. However, as the Applicant proposes to create a new function room, an area variance from Subtitle U § 401.1(d)(2) is necessary. Additionally, area variance relief from Subtitle F § 604.1 and Subtitle F § 605.1 is necessary to accommodate the increase in lot occupancy and reduction in rear yard setback, respectively, resulting from implementation of the new function room.

F. Description of the Proposed Development

As shown in the Plans, the Applicant proposes to partially enclose the Courtyard to create a new function room (the “Function Room”). The Function Room will consist of approximately 2,563 square

feet, and it will be one story tall (17 feet, 5 inches measured to the top of the parapet). The Function Room will be accessed through an existing door from western pre-function space/hallway. The Function Room will include two new doors that provide direct access to the remaining areas of the Courtyard that will not be impacted by the proposed improvements. As referenced above, implementation of the Function Room will not impact or modify the existing ground floor layout of the Hotel.

The Function Room will serve hotel guests, nearby residents, and employees/students from the numerous embassies and institutions in the immediate vicinity. The Applicant envisions that the Function Room will accommodate approximately 246 seats (or fewer if tables and other furniture are used) and serve as a venue for small gatherings and events.

V. NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW

A. Variance Relief – Function Room Area.

The Applicant requests an area variance from Subtitle U § 401.1(d)(2) of the Zoning Regulations, which regulates matter-of-right hotel uses in the RA zoning districts. This subsection provides that hotel uses in existence prior to May 16, 1980 are considered matter-of-right uses. However, this subsection contains a limitation that “the gross floor area of the hotel may not be increased and the total area within the hotel devoted to functions rooms, exhibit space, and commercial adjuncts may not be increased.”

B. Variance Relief – Lot Occupancy.

The Applicant requests an area variance from Subtitle F § 604.1 of the Zoning Regulations. Subtitle F § 604.1 establishes a maximum lot occupancy of 75% for developments located in the RA-10 Zoning District. Under D.C. Code § 6-641.07(g)(2), 11 DCMR Subtitle X § 901.2, and 11 DCMR Subtitle F § 5201.1, the Board is authorized to grant a special exception from the lot occupancy requirement. However, under the special exception provisions at Subtitle F § 5201.1, *et seq.*, the BZA can approve modifications of lot occupancy only up to a maximum of 70%, which is less than the as of right standard in the RA-10 District as well as the existing condition for the Hotel. As such, an area variance will be required to modify the lot occupancy.⁴

⁴ Subtitle F § 5200.2 states that “Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance.”

C. Variance Relief – Rear Yard Setback.

The Applicant requests an area variance from Subtitle F § 605.1 of the Zoning Regulations. Subtitle F § 605.1 establishes a minimum rear yard of 12 feet or a distance equal to three inches per one foot of principal building height for developments located in the RA-10 Zoning District. Based on the Hotel's existing principal building height of approximately 87 feet, the required rear yard setback under this provision is 21.75 feet.

D. Variance Relief – BZA Standard of Review.

Under D.C. Code § 6-641.07(g)(3) and 11 DCMR Subtitle X §1000.1, the Board is authorized to grant an area variance from the provisions above where it finds that three conditions exist:

1. The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional situation or condition;
2. The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
3. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 941 (D.C. 1987).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972) (noting, “area variances have been allowed on proof of practical difficulty only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990).

As discussed below, and as will be further explained at the BZA public hearing, all three prongs of the area variance test are met in this Application. The purpose of Zoning Regulations from which the Applicant seeks relief is not to freeze all pre-1980 hotels in residential areas as they were or to otherwise prohibit changes or reallocations to their space. Instead, these regulations seek to protect existing residential neighborhoods by discouraging the conversion of residential buildings to hotel uses and by preventing the construction of major conference centers. Implementation of the Function Room will allow the Applicant to address practical challenges associated with the Hotel's existing event spaces, but this improvement is modest in scope and ultimately consistent with the intent of the zone plan for hotels in the RA-10 District.

VI. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Affected by an Exceptional Situation or Condition

The phrase "exceptional situation or condition" in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

The Property is unusual and affected by an exceptional situation due to the confluence of the following factors: 1) the change in hotel ownership; 2) the size and shape of the Property; 3) the Hotel's existing ground floor layout; and 4) the Property's location along a major thoroughfare in a diverse mixed-use corridor.

1. Change in hotel ownership

As stated above, the existing hotel changed ownership in December of 2018. As the new operations manager, the Applicant will undertake a series of interior programmatic and design improvements. For instance, the Applicant is attempting to re-lease the existing ground-floor restaurant and café spaces. Additionally, the Applicant will be making a variety of changes to the programming and design of the function spaces to better serve hotel patrons, nearby residents, and the larger community. Implementation of the new Function Room is a key component of the Applicant's proposed improvements to hotel operations and programming.

2. Property Size and Shape

The Property is small and irregularly shaped, with two sides abutting public alleys and one side abutting a public street. The western lot line of the Property is angled, creating an irregular side and rear yard condition along the western portion of the Property. This trapezoidal layout of the Property results in a configuration whereby the public street frontage (approximately 215 feet) significantly exceeds the depth of the Property (approximately 124 feet). These dimensions are reflective of a relatively narrow lot configuration. Together, the size and shape of the Property constitute an exceptional condition which impacts the siting of the Hotel and other improvements on the Property.

3. Existing Ground Floor Layout

A hotel has operated at the Property since at least 1961, before the restrictions of Subtitle U § 401.1(d)(2) were adopted. The overall size and configuration of the Hotel floorplate does not reflect modern standards for hotel design and use, such as the provision of large common areas. The existing ground floor layout features two separate, disconnected function rooms and related pre-function areas/hallways. Neither of the two function rooms has direct access to the lobby or to one another. Instead, indirect access to each function room is provided through the two pre-function areas/hallways located towards the rear of the lobby area. Both the pre-function areas and function rooms themselves are small and irregularly shaped by modern hotel standards. Finally, the eastern pre-function/function space is not easily accessible, as it is grade-separated from the rest of the Hotel lobby and can be accessed only by set of stairs or adjacent ramp. This combination of factors—small pre-function and function rooms, suboptimal access and internal circulation, and a small overall building floorplate—creates an exceptional condition which limits the ability of the Hotel to satisfy customer demand for usable function space.

3. Location along a Major Thoroughfare

The Property fronts on Rhode Island Avenue N.W., a major arterial in and out of the District and abuts to the west and south a mixed-use commercial zone. Most of the area surrounding along Rhode Island Avenue near the Hotel is commercial, high-density residential, or institutional in nature. There are hotels, embassies, educational institutions, and multi-story residential buildings all within the immediate vicinity.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

Strict application of the Zoning Regulations with respect to function room area, lot coverage, and rear yard setbacks in the RA Zone District (Subtitle U § 401.1(d)(2), Subtitle F § 604.1, and Subtitle F § 605.1) would result in a practical difficulty to the Applicant.

1. Function Room Area (Subtitle U § 401.1(d)(2))

In order to improve the overall functionality and capability of the Hotel's function spaces, the Applicant proposes to partially enclose the Courtyard to create the Function Room. Subtitle U § 401.1(d)(2) states that "the gross floor area of the hotel may not be increased and the total area within the hotel devoted to functions rooms, exhibit space, and commercial adjuncts may not be increased."

The proposed implementation of the Function Room will increase the gross floor area of the Hotel by approximately 2,563 square feet. The Function Room is modest in size and intended to serve guests of the hotel, nearby residents, and employees of the nearby institutions/embassies. The modern layout and amenities of the Function Room will facilitate a much larger variety of events and gatherings, as the Function Room does not suffer from the design and access flaws associated with the existing pre-function/function spaces. Additionally, compared to the existing condition, wherein events held in the Courtyard have the potential to impact nearby residents, the enclosed Function Room will help mitigate potential impacts associated with functions and events and thereby serve as a valuable community benefit. The proposed changes will significantly improve the operation of the Hotel in a manner that is contextual and harmonious with the neighboring properties.

Strict application of the limitations on expansion of commercial adjuncts would result in a practical difficulty to the Applicant, if the requested area variance is not granted. As noted previously, the outdated size and configuration of the Hotel's ground level constrains the Hotel's ability to meet the demands of guests and patrons for viable function space. This condition also puts the Hotel at a competitive disadvantage with newer, modern hotels located in nearby zoning districts. The Courtyard is the only feasible option for implementing new function space in the Hotel; given the existing ground floor layout, there are virtually no practical options for expanding or reconfiguring the existing pre-function/function

areas. Additionally, converting the existing café and/or restaurant and bar to a function use would be an undesirable option because it would eliminate the community benefits associated with these retail uses, which are vital to the activation of the outdoor patios at the front of the Hotel and the pedestrian environment along Rhode Island Avenue. Finally, without approval of the requested area variance, the Applicant will have fewer means of mitigating potential impacts on neighboring properties generated by use of the Courtyard. As discussed further in Section VI.C below, the neighboring property owners previously requested that the prior owner of the Property implement an enclosure to help mitigate the impacts of the Courtyard. As the new owner of the Property, the Applicant wishes to continue working the neighboring owners to facilitate this improvement.

2. Lot Occupancy

Subtitle F § 604.1 permits a maximum lot occupancy of 75% in the RA-10 Zoning District. The current lot occupancy of the Hotel is approximately 71.1%, and implementation of the proposed Function Room will increase the lot occupancy to approximately 82%. The Function Room represents a modest increase in the overall Hotel footprint and density. Furthermore, the portion of the Courtyard to be enclosed is already improved primarily with hardscaped surfaces, meaning that the Function Room will not result in any meaningful reduction in pervious surface area.

Strict application of the lot occupancy requirement would result in a practical difficulty to the Applicant, as it would (i) prevent implementation of improved function space and (ii) preclude any meaningful expansion of the Hotel (even though the Hotel is not built to the maximum matter-of-right density permitted in RA-10⁵). As noted above, the irregular size and configuration of the Property constrains the layout and siting of the Hotel building, and the existing ground floor layout is not conducive to internal renovation or reconfiguration. There is no opportunity to increase the density of the Hotel through construction of additional building stories, given that the Hotel is already built close to the maximum permissible height in RA-10 and given extreme constructability issues associated with adding new building

⁵ The existing density of the Hotel is approximately 5.03 FAR. The RA-10 District permits hotel density up to 6.0 FAR as a matter of right. As such, an additional 23,085 square feet (approximate) of hotel density could be implemented on the Property as a matter of right, subject to conformance with applicable Zoning Regulation development standards.

stories. As such, new function room space can only be implemented through enclosure of the Courtyard area. Strict application of the lot occupancy provisions would thus prevent implementation of new function space, and it would also place an artificial cap on the density achievable on the Property which is lower than the density permitted in RA-10.

3. Rear Yard Setback

Subtitle F § 605.1 requires a rear yard of 12 feet or a distance equal to 3 inches per 1 foot of principal building height. Given the existing Hotel building height of approximately 87 feet, the required rear yard setback for the Property is approximately 21.75 feet. Currently, the eastern half of the Hotel building does not meet this standard, as it is set back approximately 11 feet from the property line. By contrast, the western half of the Hotel (where the Courtyard is sited) does meet the rear yard requirement, as it is set back approximately 68.05 feet from the property line. This is a longstanding condition which dates to the original construction of the Hotel.

The Function Room will be set back from the property line by a distance of 18 feet, which is appropriate given the size and scale of the Function Room. Additionally, the Function Room will extend no further than the existing Courtyard perimeter wall, meaning that the functional, occupiable footprint of the Hotel property will not be modified. Lastly, the Function Room will extend no further than the eastern portion of the Hotel, meaning that there will be no intensification or worsening of the minimum setback distance at the rear of the Hotel.

Strict application of the rear yard requirement would result in a practical difficulty to the Applicant, as it would compromise the dimensions of the Function Room. As noted above, the irregular size and shape of the Property, and particularly its narrow lot depth, constrains the siting and layout of improvements on the Property. Strict application of the setback requirement would reduce the length of the Function Room and thereby reduce its functionality and capability to meet the needs of Hotel guests and patrons for gathering space. Additionally, such a reduction in the dimensions of the Function Room would result in a small, unusable outdoor space between the Function Room's northern façade and the perimeter wall. Finally, strict application of the rear yard calculation formula to the Function Room would frustrate the

intent of the Zoning Regulations, as it would apply a setback requirement appropriate for an 87-foot building to an expansion space which is a mere 17.5 feet in height.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning Plan

Approval of the requested relief will not cause a substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. The Applicant is the new owner of the Property, and the relief requested will permit modest changes to the Hotel associated with improvements to the function spaces and their programming. The proposed Function Room will simply allow the Hotel to provide a level of function space that is consistent with modern standards in a layout that improves access, functionality, and linkage to the Courtyard.

Additionally, the Function Room will be designed in a manner that lessens potential impacts on nearby properties. By enclosing a portion of the Courtyard, the Applicant will reduce the amount of outdoor space that might be used for outside events and functions, thereby reducing potential noise and other impacts. As evidenced by District of Columbia Alcoholic Beverage Control Board Order No. 2018-344, attached as **Tab G**, interested residents have previously requested enclosure of the Courtyard as a means to mitigate the Hotel's possible impacts and to provide a more harmonious transition to the adjacent uses, and have proffered their support for any variance application which may be needed to facilitate such an enclosure.

As noted by the BZA in the Decision and Order for variance case number 18648:

[Subtitle U § 401.1(d)(2)] does not freeze all pre-1980 hotels in residential areas as they were, and it does not entirely prohibit changes or reallocations to their space; rather [Subtitle U § 401.1(d)(2)] seeks to protect existing residential neighborhoods by excluding the conversion of residential buildings to hotel uses and by preventing the construction of major conference centers as part of hotel developments.

Similar to the hotel that was the subject of BZA case number 18648 and received area variance relief to increase its function space, approval of the relief requested in this Application will not have a negative impact on the surrounding community. The proposed Function Room is designed

to be a local amenity, with most patrons staying as guests in the Hotel or arriving on foot or using transit from nearby residential neighborhoods, the educational institutions, and/or the embassies. As the Property is located in a high-density, mixed-use area within 0.5 miles of two Metrorail stations, the Applicant does not anticipate that implementation of the Function Room will cause substantial detriment to the public good. Further, the relief requested will not convert the Hotel into a “major conference center”; rather, it will permit modest improvements to a building that has operated as a hotel for decades and allow for the addition of new function space associated with other improvements to the programming of the Hotel. Finally, the Function Room will benefit neighboring properties by enclosing a portion of the open-air Courtyard and thereby mitigating potential impacts associated with the existing use thereof.

VII. COMMUNITY OUTREACH

The Applicant has been engaged in community outreach, both to neighbors and to Advisory Neighborhood Commission (“ANC”) 2B as a part of the process to transfer the Class Hotel C Liquor License into the name of the Applicant. A copy of the Liquor License, along with pertinent Alcoholic Beverage Control Board Orders on Settlement Agreement and Withdrawal of Protests are attached as **Tab H**, and the agreements made therein will apply to the Hotel going forward.

Prior to filing the variance request, the Applicant also contacted ANC 2B for preliminary discussions about this application. The Applicant served copies of the initial variance application package to ANC 2B and the Office of Planning, in conformance with applicable Zoning Regulations. Thereafter, the Applicant has been in ongoing communication with ANC 2B’s Zoning, Preservation, and Development (ZPD) Chair, Beverly Schwartz, the Single Member District Commissioner for the property, Commissioner Randy Downs, and ANC 2B Chair Daniel Warwick. Additionally, the Applicant presented the variance request at a meeting of ZPD on July 3, 2019. The Applicant is scheduled to present the variance request at a meeting of the full ANC on July 10, 2019. The Applicant pledges to fulfill all pre-hearing public notice requirements specified in the Zoning Regulations.

VIII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted

G. Evan Pritchard, Esq.



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Suite 300
Tysons, VA 22182
(703) 905-141

Statement of the Applicant

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- Tab F: Zoning Map
- Tab G: ABRA Control Board Order No. 2018-344
- Tab H: Additional ABRA Materials

Tab A

Baist Atlas Map of Square 195

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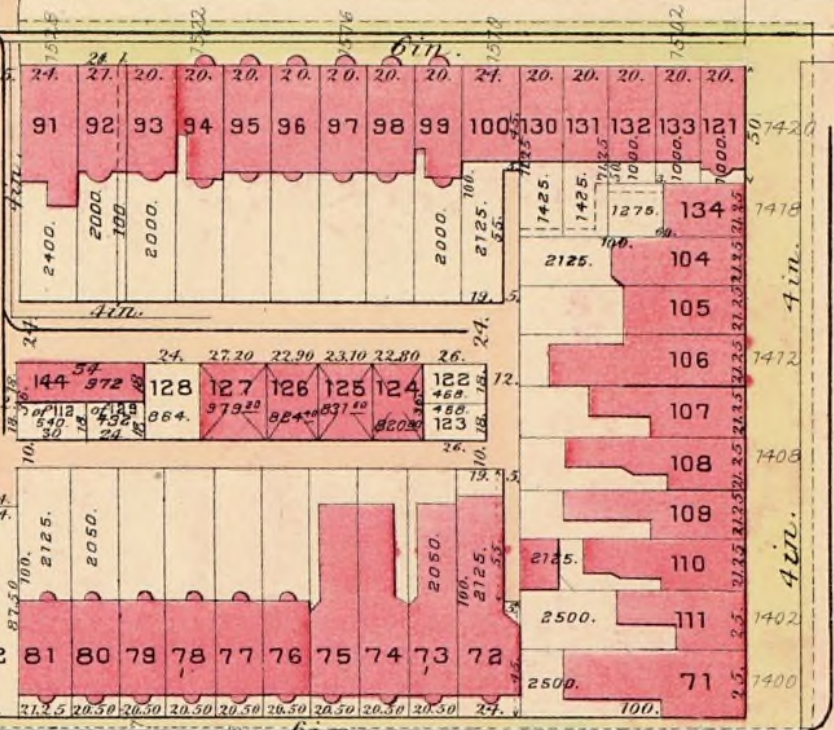
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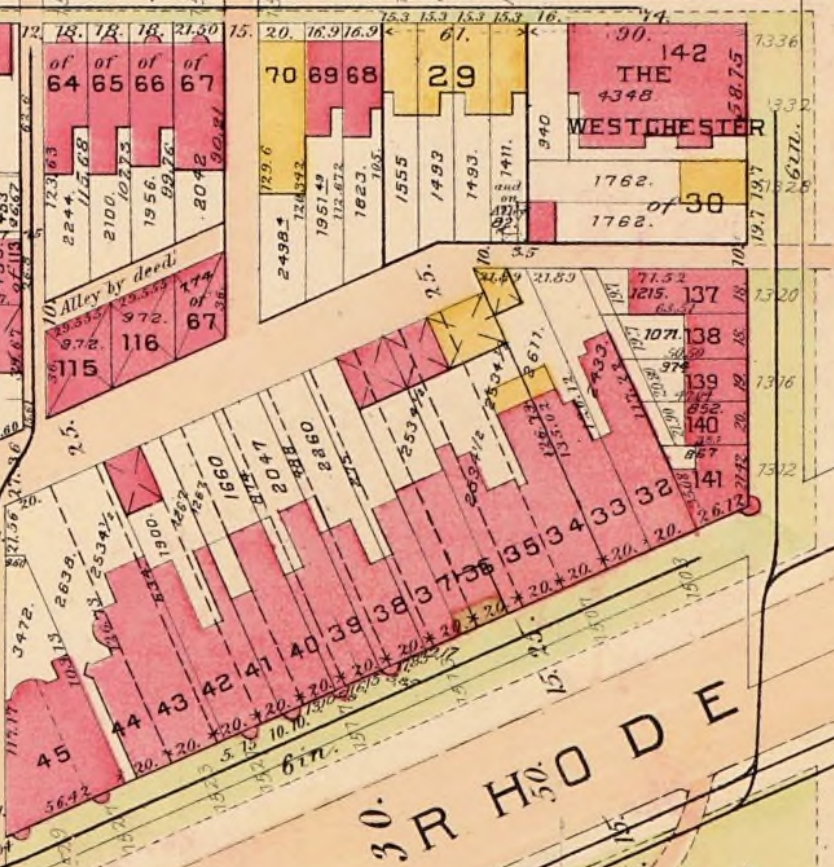
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Tab B

Civil Survey

(Please refer to plans uploaded through IZIS)

Tab C

1961 Certificate of Occupancy

Form LI-9-601

CERTIFICATE OF OCCUPANCY

No. B 27869

Washington, D.C. MARCH 30TH 19 61

Permission is hereby granted to EXECUTIVE HOUSE RESTAURANTS, INC.

to use the PT. OF 1ST floor(s) of the building located on Lot 37 TO 45 square 195

known as premises 1515 RHODE ISLAND AVE., N.W. for the following

purpose(s): RESTAURANT - COFFEE SHOP - PRIVATE DINING ROOMS FOR HOTEL AS HOTEL ADJUNCT

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R-5-B

FEE \$10.00

DEPT. OF LICENSES & INSPECTIONS, GOV'T. OF DIST. OF COL

Chief, Permit Branch

By Mary Kavanagh
Permit Clerk

SEE IMPORTANT NOTICE ON REVERSE SIDE HEREOF

Tab D

Architectural Plans

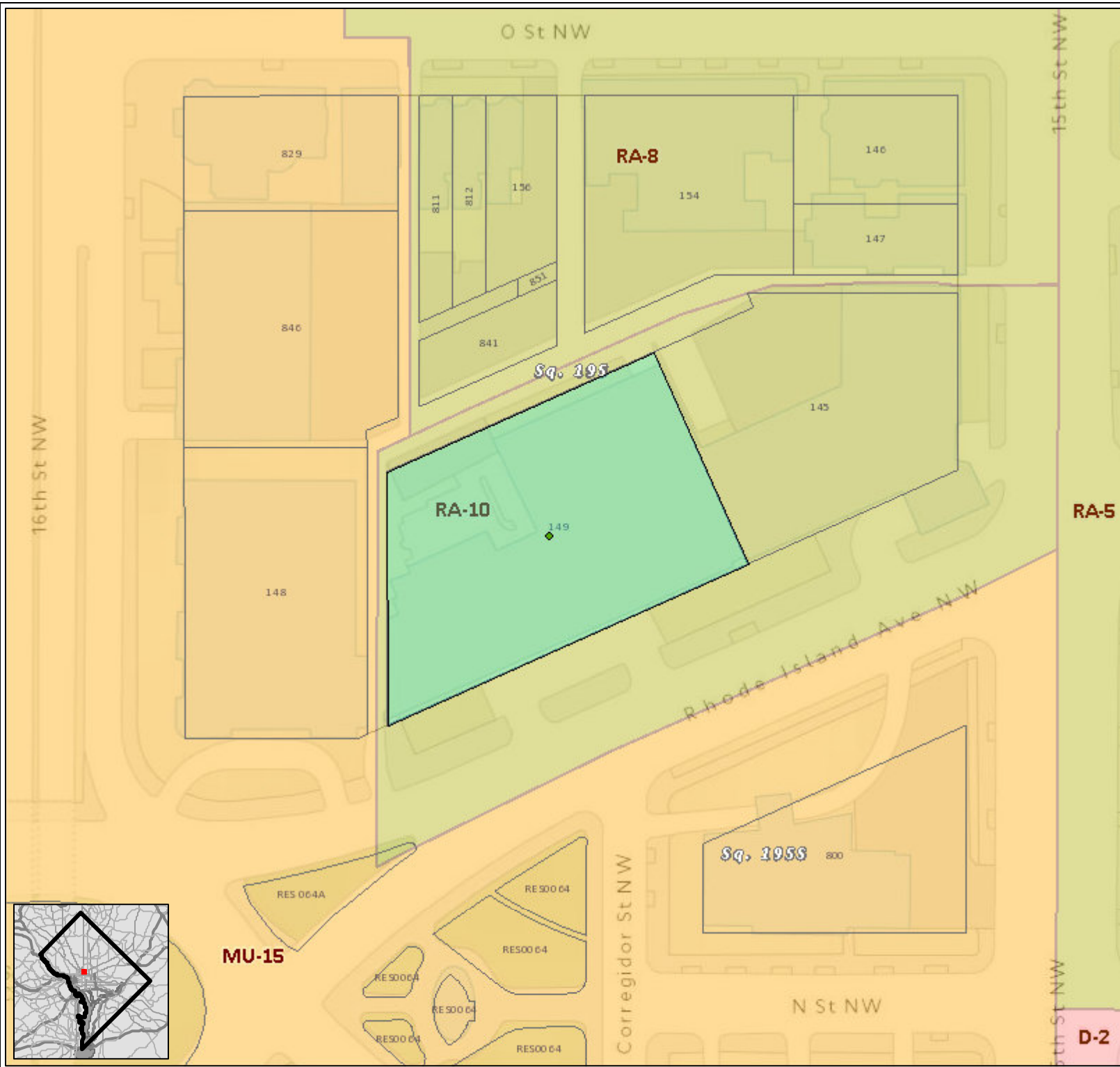
(Please refer to plans uploaded through IZIS)

Tab E

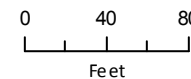
Property Photos

(Please refer to photographs uploaded through IZIS)

Tab F
Zoning Map



Zoning Map of the District of Columbia



Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO). Exported on: 5/30/2019

To certify zoning on any property in order to satisfy a legal requirement, contact the office of Zoning at the address listed below.

District of Columbia Office of Zoning,
441 4th St NW, Suite 200 South, Washington, DC 20001
202-727-6311 | dcoz@d.c.gov

Tab G

ABRA Control Board Order No. 2018-344

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)
)
)
KHP IV DC TRS, LLC)
t/a The Darcy Hotel)
)
Application for Substantial Change)
(Increase Occupancy))
to Retailer's Class CH License)
)
at premises)
1515 Rhode Island Avenue, NW)
Washington, D.C. 20005)
)

Case No.: 18-PRO-00009
License No.: ABRA-102437
Order No.: 2018-344

KHP IV DC TRS, LLC, t/a The Darcy Hotel (Applicant)
Daniel Warwick, Chairperson, Advisory Neighborhood Commission (ANC) 2B
Steven Kameny, on behalf of A Group of Five or More Individuals

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Donald Isaac, Sr., Member
Bobby Cato, Member
Rema Wahabzadah, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS**

The Application filed by KHP IV DC TRS, LLC, t/a The Darcy Hotel, for a Substantial Change to increase its occupancy to its Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on February 20, 2018, and a Protest Status Hearing on April 4, 2018, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2B, and a Group of Five or More Individuals entered into a Settlement Agreement (Agreement), dated May 9, 2018, that governs the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Daniel Warwick, on behalf of ANC 2B; and Steven Kameny, on behalf of the Group of Five or More Individuals, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2B and the Group of Five or More Individuals of this Application.

Accordingly, it is this 16th day of May, 2018, **ORDERED** that:

1. The Application filed by KHP IV DC TRS, LLC, t/a The Darcy Hotel, for a Substantial Change to increase its occupancy to its Retailer's Class CT License, located at 1515 Rhode Island Avenue, NW, Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Steven Kameny, on behalf of the Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board



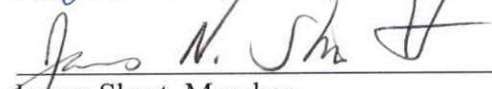
Donovan Anderson, Chairperson



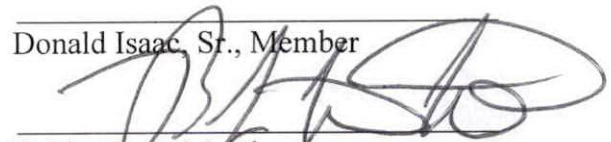
Nick Alberti, Member



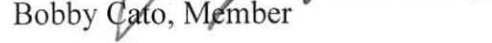
Mike Silverstein, Member



James Short, Member



Donald Isaac, Sr., Member



Bobby Cato, Member

Rema Wahabzadah, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

SETTLEMENT AGREEMENT

This Settlement Agreement is made on this 9th day of May, 2018, by and among KHP IV DC TRS, LLC/a The Darcy ("the Applicant") and Advisory Neighborhood Commission 2B ("the ANC"), and a group of 70 individuals¹ (the "Group of Individuals") (collectively "Protestants"). Steven Kameny is the designated representative of the Group of Individuals.

WITNESSETH

WHEREAS, Applicant is the holder of a Class CH (hotel) Alcoholic Beverage Control (ABC) license for premises located at 1515 Rhode Island Avenue, NW (the "Premises"); and

WHEREAS, the Applicant's substantial change application for an increase in the seating and occupant load of the existing summer garden is pending before the District of Columbia ABC Board; and

WHEREAS, said hotel Premises is within the jurisdictional boundaries of the ANC, and, the Group of Individuals reside or own property in immediate proximity of the Premises; and,

WHEREAS, the Protestants' objections to the substantial changes are limited to the summer garden capacity including noise and other concerns; and

WHEREAS, by Settlement Agreement between ANC 2B and a group of protestants dated October 3, 2016, with modification by Board Order dated October 19, 2016, the issues relating to the rear alleyways, parking and deliveries and music on the summer garden were addressed. This Settlement Agreement is not superseded; and

WHEREAS, Applicant acknowledges the July 6, 1999 Voluntary Agreement is not superseded by this Settlement Agreement; and,

WHEREAS, the parties desire to enter into this Settlement Agreement in order to reflect their understandings regarding certain limited aspects of the Applicant's operations of the summer garden at the rear of the Premises;

NOW, THEREFORE, in consideration of the recitals set forth above and the terms and conditions provided below, the parties agree as follows:

1. (a) At Applicant's election, the maximum seating capacity of the rear summer garden shall be increased to 100 seats and the maximum occupant load of the rear summer garden shall be increased to 120 persons. Such increases shall be conditioned upon Applicant's construction of a permanent enclosure of the existing outdoor space (lower portion of the rear summer garden), to provide sufficient sound attenuation from the increase in the

¹ There were seventy (70) individual petition signatures timely filed naming Steven Kameny as designated representative. At the initial hearing held on February 20, 2018, eight (8) individual petitioners appeared and standing was granted as to the group.

occupancy of the space, in an effort to be compliant with the noise provisions of DC Code 25-725. Applicant utilized a sound study prepared by Polysonics Acoustics & Technology Consulting which is attached as Exhibit A. The sound study proposed the use of a retractable enclosure to mitigate sound. Specifications for the permanent enclosure will meet or exceed the sound study's noise mitigation standard.

(b) Protestants agree to support (through their representative, Steven Kameny) an application for a zoning variance if such a variance is required in order to gain relief to construct the permanent enclosure referenced in Subsection 1(a), provided the variance applied for is limited to that purpose.

(c) There shall be no prominent flashing or moving lights visible to the exterior of the building or enclosed cover between the hours of 8pm and 10am daily.

2. (a) The hours of operation on the rear summer garden shall be 7:00 am to 11:00 pm Sunday through Thursday and 7:00 am to 12:00am Friday through Saturday. Sales and service of alcoholic beverages on the rear summer garden shall be Sunday through Thursday 8:00 am until 11:00 pm; and Friday and Saturday 8:00 am until 12:00 am.
 - (b) The smaller upper portion of the rear summer garden area will remain unenclosed and may be used for operation, sale, service and consumption of alcohol during the following hours: Sunday through Thursday 8:00 am to 9:00 pm; and Friday and Saturday 8:00 am to 10:00 pm. Maximum capacity of the upper terrace portion of the rear summer garden area shall not exceed 40. There shall be no amplified or live music located on the upper terrace portion of the rear summer garden. The maximum occupant load of the combined upper and lower terraces (collectively the "summer garden") shall not exceed 120 persons
3. Paragraph numbered 4 of the October 3, 2016 Settlement Agreement as modified by the Board's order dated October 19, 2016 is restated below:
 - (a) Applicant agrees not to permit the use of amplified music (no amplified live music entertainment) or public address system on the rear patio/courtyard. It is understood by the parties that recorded background music may be permitted, but the background music will not be amplified with subwoofer speakers and must be kept at a reasonable volume.
 - (b) The parties have agreed to permit the following activities inside the permanent enclosure which shall not be considered in violation of subsection 3(a) above, and paragraph 4 of the October 3, 2016 agreement:

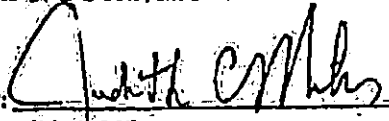
Live music performed with non-electric stringed instruments only which shall not be amplified

4. Applicant will include language in its contract for use of the outdoor summer garden providing that guests of the event host will not access the alley for any reason other than for egress in an emergency and will comply with restrictions on use of the summer garden set out in this Settlement Agreement. Applicant will have signage at the exit(s) from the summer garden to the alley that indicate for emergency use only.
5. Applicant will inform the event host contracting the summer garden space of the limitations on hours for deliveries to the hotel through the alley and shall use diligent commercially reasonable efforts to enforce them. These limitations are contained in the October 3, 2016 Settlement Agreement at sections 1 (b), (c) and (d). Applicant will advise the protest group on Applicant's efforts to post the hours of delivery, as required by the October 3, 2016 Settlement Agreement at section 1 (b). If Applicant is prohibited by any applicable laws or regulations from posting such signage, Applicant will promptly advise the Protestants of such prohibitions. Applicant will use diligent commercially reasonable efforts to overcome any barriers to posting the signage. If not prohibited by applicable law or regulations, the Applicant will post the signage before the increase in occupancy is effective. Applicant will notify ANC 2B, the Group of Individuals (through its representative, Steven Kameny) and the ABC Board of such posting through electronic mail to the parties and ABRA.legal@dc.gov.
6. The parties agree that upon ABC Board approval of this agreement, the increase in occupancy on the summer garden from 40 to 120 shall not be effective until construction of the permanent enclosure is complete. Applicant will notify ANC 2B, the Group of Individuals (through its representative, Steven Kameny) and the ABC Board of such completion through electronic mail to the parties and ABRA.legal@dc.gov. In the event that a zoning variance is required but not approved by the Board of Zoning Adjustment (BZA), the parties agree that this agreement is deemed null and void and the increase in occupancy for the summer garden from 40 to 120 shall not be effective. A copy of the BZA decision will be filed with the ABC Board with a request to enter an order terminating the agreement.
7. Subject to any restriction on signage imposed by applicable laws or regulations, Applicant will promptly post a sign at the rear of the Premises, indicating that there is "NO PARKING" in the alley adjacent to the Darcy Hotel. If not prohibited by applicable law or regulations, the Applicant will post the signage before the increase in occupancy is effective. Applicant will notify ANC 2B, the Group of Individuals (through its representative, Steven Kameny) and the ABC Board of such posting through electronic mail to the parties and ABRA.legal@dc.gov.

8. The Protestants acknowledge and agree that, in reliance on the foregoing commitments, they will withdraw the protests that heretofore have been filed with the ABC Board. The parties jointly request that this Agreement be incorporated into the ABC Board's order approving the pending summer garden substantial change of the Class CH License.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

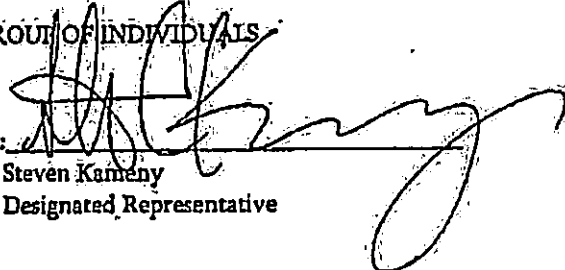
KHP IV DC TRS, LLC

By: 
Judith C. Miles
Vice President and Secretary

ADVISORY NEIGHBORHOOD COMMISSION 2B

By: 
Daniel Warwick, Chairman

GROUP OF INDIVIDUALS

By: 
Steven Kamény
Designated Representative



POLYSONICS
Acoustics & Technology Consulting

March 13, 2018

Mr. Mike Soliman
KHP IV TRS LLC
1515 Rhode Island Avenue, NW
Washington, DC 20005

Project: Darcy Hotel Terrace Noise Analysis
Report #5757

Dear Mr. Soliman,

Polysonics completed a noise analysis for the Darcy Hotel Terrace project in Washington, DC.

The purpose of the project is to determine the noise impact of the proposed outdoor terrace occupancy expansion to the adjacent residences.

The DCMR requires musical instruments or unamplified voices not to generate a noise disturbance or to disturb the "peace and quiet."

Polysonics performed a 24-hour test at the property to determine the existing noise levels at the site and performed calculations determining how loud the terrace will be at the nearest residences.

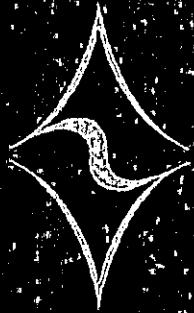
The results from our analysis show that the increased occupation from 40 to 120 is expected to increase the noise levels by approximately 20 dBA.

In order to mitigate the noise, Polysonics recommends a glass or plexiglass enclosure to the terrace. The enclosure will sufficiently reduce noise levels to the current "peace and quiet."

Please let me know if you would like any further information.

Sincerely,
Polysonics

Christopher Karner
Senior Consultant
Direct line: 540-341-4988 x-2102



POLYSONICS

Acoustics & Technology Consulting

NOISE ANALYSIS:
DARCY HOTEL TERRACE
WASHINGTON, DC
REPORT #5757

PREPARED FOR: KHP IV TRC LLC

PREPARED BY: CHRISTOPHER KARNER

MARCH 13, 2018

the sound of experience

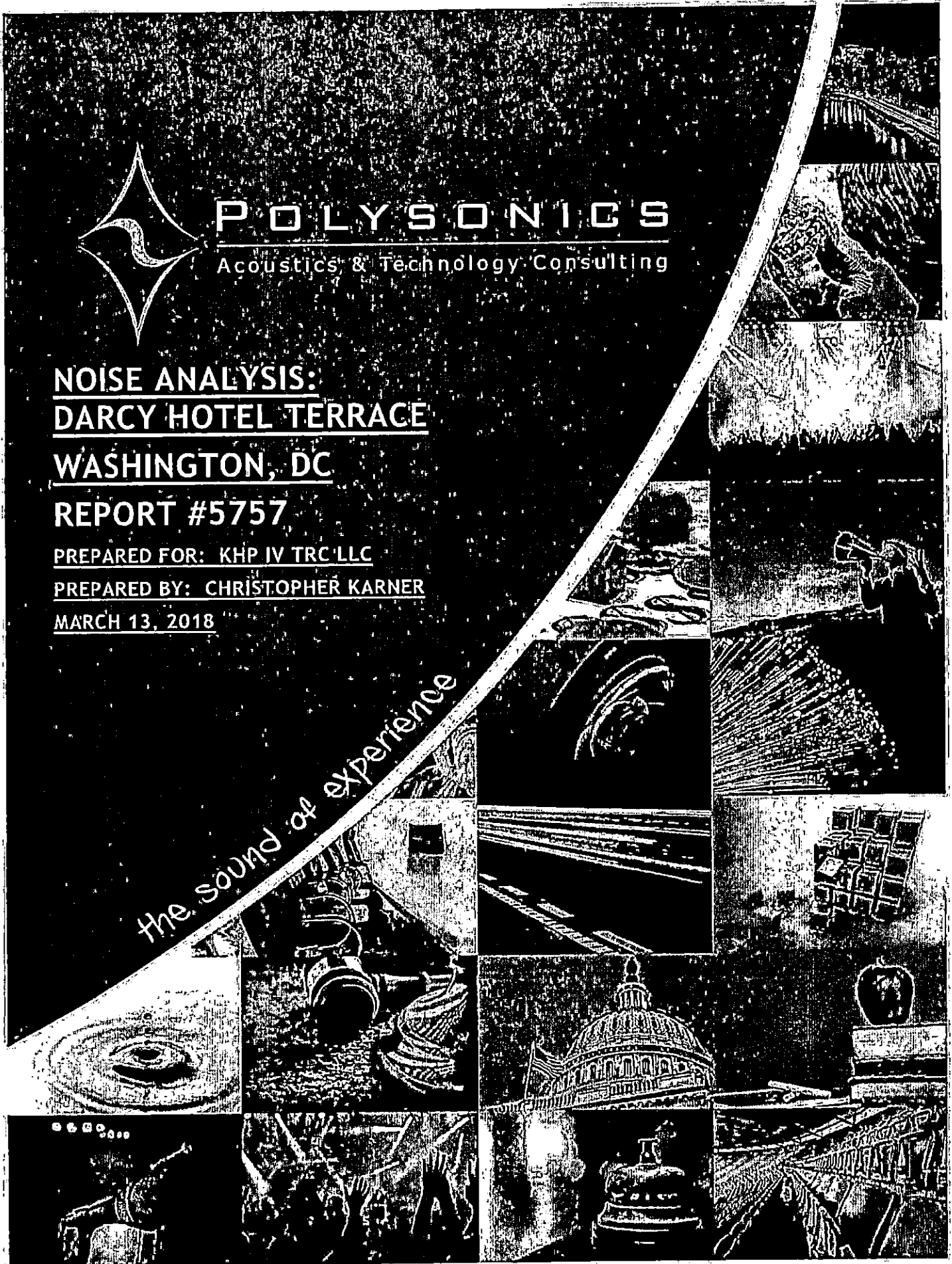


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EXECUTIVE SUMMARY

Polysonics completed a noise analysis for the Darcy Hotel Terrace project in Washington, DC.

The purpose of the project is to determine the noise impact of the proposed outdoor terrace occupancy expansion to the adjacent residences.

The DCMR requires musical instruments or unamplified voices not to generate a noise disturbance or to disturb the "peace and quiet."

Polysonics performed a 24-hour test at the property to determine the existing noise levels at the site and performed calculations determining how loud the terrace will be at the nearest residences.

The results from our analysis show that the increased occupation from 40 to 120 is expected to increase the noise levels by approximately 20 dBA.

In order to mitigate the noise, Polysonics recommends a glass or plexiglass enclosure to the terrace. The enclosure will sufficiently reduce noise levels to the current "peace and quiet."

Details of the analysis including discussion of applicable standards, analysis methodologies, and resultant noise impact are provided herein.

PROJECT INFORMATION

The project has a ground level terrace at the Darcy Hotel. The current terrace is allowed to have 40 people, and the hotel desires to increase the number to 120 people. Polysonics understands the use to be events such as banquets, wedding ceremonies, or meetings.

The current terrace is located behind the building in alleyway. There are residential buildings directly west of the building, and across the alley to the north. Background music is played quietly over loudspeakers.

The concern with increasing the number of people is causing a noise disturbance or exceeding the noise code.

Polysonics performed measurements at the site to determine the existing noise levels and used these noise levels to perform calculations predicting the future noise levels from the terrace.

DCMR NOISE LEVEL LIMITS

The District of Columbia regulates noise levels by providing noise level limits in the D.C. Municipal Regulations and D.C. Register (DCMR).

DCMR Section 2800 "Musical Instruments, Loudspeakers, Amplifiers, and Unamplified Voices" states that "noise resulting from musical instruments, loud speakers...and unamplified voices shall not...make, continue, or cause...any noise disturbance." A noise disturbance is defined in DCMR Section 2799 as "any sound which is loud and raucous or loud and unseemly and

unreasonably disturbs the peace and quiet of a reasonable person of ordinary sensibilities in the vicinity thereof.”

In Section 2800, a specific decibel level associated with a noise disturbance or peace and quiet is not provided. The term “peace and quiet” is difficult to define in an urban environment. However, Polysonics can define the current typical, average, and maximum noise levels occurring at the site, which presumably are not generating noise complaints. Noise levels above these existing levels would represent a noise disturbance, exceeding the existing “peace and quiet.”

An excerpt from the U.S. Department of Housing and Urban Development (HUD) Noise Guidebook can be seen in Figure 1 in the Appendix. Various noise levels will be discussed in this report, and Figure 1 can be used as a general guide to how loud the levels will sound, and what the perception of the level will be.

MEASURED NOISE CONDITIONS

From Wednesday January 24 to Thursday January 25, 2018, Polysonics performed a 24-hour noise measurement at the project site.

Measurements were performed at one location. The measurement location can be seen in Figure 2.

Traffic and mechanical equipment were the primary noise sources at the site.

The instrumentation used for the measurement included one Bruel and Kjaer 2238 sound level meter. This instrument is capable of measuring noise levels and calculating statistical results over the measured time period. The unit meets ANSI S1.4 standards for Type I Sound Level Meters and was calibrated prior to the measurement survey, traceable to the National Institute of Standards and Technology (NIST). All measurements were made in the standard dBA metric, which best simulates human hearing and is in accordance with DCMR standards.

Weather data from the weather station located at Ronald Reagan National Airport shows no periods of rain during the measurement. Wind gusts exceeding 10 mph were reported sporadically between 1:40 p.m. and 5:00 p.m. and 8:00 p.m. to 9:00 p.m. on January 24th and 7:00 a.m. to the end of the measurement on January 25th. Although these wind gusts likely elevated the ambient noise levels at the outdoor measurement locations, the effect is not apparent on the measurement data. The meters were likely shielded within the walled terrace within the building courtyard.

MEASUREMENT RESULTS

The “peace and quiet” of the existing noise levels is not represented by a single number. The noise level present most of the time represents the site at its quietest, but there are also peaks in the noise data. These peak noise levels exceed the typical noise levels, but are still within the existing noise levels of the site.

Based on the measured data, Polysonics can determine the “peace and quiet” of the site.

We measured sound levels using two different metrics: L_{eq} and L_{90} . L_{eq} is a metric describing the average noise level measured over a given time period. L_{90} is the noise level present for 90 percent of the entire measurement period. The L_{90} noise level will exclude all one-time noise events that were included in the L_{eq} (such as sirens, horns, or passing vehicles) and represents the typical noise level at the site. The L_{eq} is useful in understanding the overall noise level of a site, the L_{90} is useful in determining what the typical “quiet” (no loud noise events) noise level of a site is.

The one-minute L_{eq} results from the noise measurement can be seen in Figure 3.

As seen in Figure 3, the noise level is generally around 56 dBA throughout the day and 55 dBA during the nighttime. There are peaks throughout the day, reaching as high as 75 dBA, but generally the peaks are between 60 to 70 dBA.

A summary of these different perspectives of the “peace and quiet” at the site can be seen in Table 1.

TABLE 1: MEASURED NOISE LEVELS

Typical Noise Level, L_{90} dBA	Average Noise Level, L_{eq} dBA	Max. Noise Level, L_{eq} dBA	Min. Noise Levels, L_{eq} dBA
55	58	75	52

As seen when comparing Table 1 and Figure 3 to Figure 1, it can be determined that the “peace and quiet” at is between moderate and loud.

DATA ANALYSIS

The areas of concern are people speaking loudly, unamplified music, or any other array of typical dining noises.

A person typically speaks 60 dBA at a low voice and 85 dB in a loud voice, when measured at 3 feet. Polysonics understands that the events will not be raucous, so only typical speaking voices are expected.

The speech from people is a point source, which decrease 6 dB per doubling of distance. The center of terrace is approximately 58 feet from the closest façade of the buildings to the west and 166 feet from the closest façade to the north. Therefore, the speaking noise is reduced 13 dB (56') to the west and 17 dB (122') to the north.

For example, a person speaking at 60 dBA within the terrace would be 47 dBA at the façade of the western building and 42 dBA at the northern building.

Existing Conditions

A 40 person event did not occur during the measurement, but if 40 people were speaking normally simultaneously, the expected noise levels would be 63 dBA to the western building and 59 dBA to the northern building.

When comparing these noise levels to the results shown in Table 1, it can be seen exceeding the measured typical noise level and average noise level, but not the maximum noise level.

When compared to Figure 1, the results of 40 people speaking normally at the same time, the results would be considered loud. As previously mentioned, a noise level event of 63 dBA would be typical for the peaks occurring at the site, as shown in Figure 3.

Therefore, a 40 person event would be within the measured "peace and quiet" of the site.

Future Conditions

If the number of people is increased to 120, the noise levels of everyone speaking simultaneously would increase by around 20 dBA. For example, 120 people speaking at 60 dBA within the terrace would be 83 dBA at the façade of the western building and 79 dBA at the northern building.

When compared to the data in Table 1, the measurement in Figure 3, or the projected noise levels with 40 people speaking, it can be seen the noise levels would be increased over the existing "peace and quiet."

Polysonics understands that the 120 people at an event would not be speaking loudly or simultaneously throughout the day constantly. However, at some events everyone may be clapping or cheering simultaneously, which would result in noise levels as described above.

NOISE MITIGATION

The terrace currently has a 6' barrier along the northern and western sides which would mitigate noise at a ground level, but most of the adjacent locations are elevated above the wall.

An enclosure above the terrace and barrier could be used to provide sufficient mitigation to accommodate the additional 80 guests into the existing "peace and quiet."

The enclosure could be made of glass or plexiglass. The proposed enclosure (Roll-A-Cover, Int'l) lists their ¼" clear tempered single pane of glass reducing noise 26 dBA and their 10mm polycarbonate panel reducing noise 19 dBA.

As previously stated, an increase from 40 to 120 people is inherently a 20 dB increase, so the use of either of these materials would effectively reduce the noise back to the current "peace and quiet".

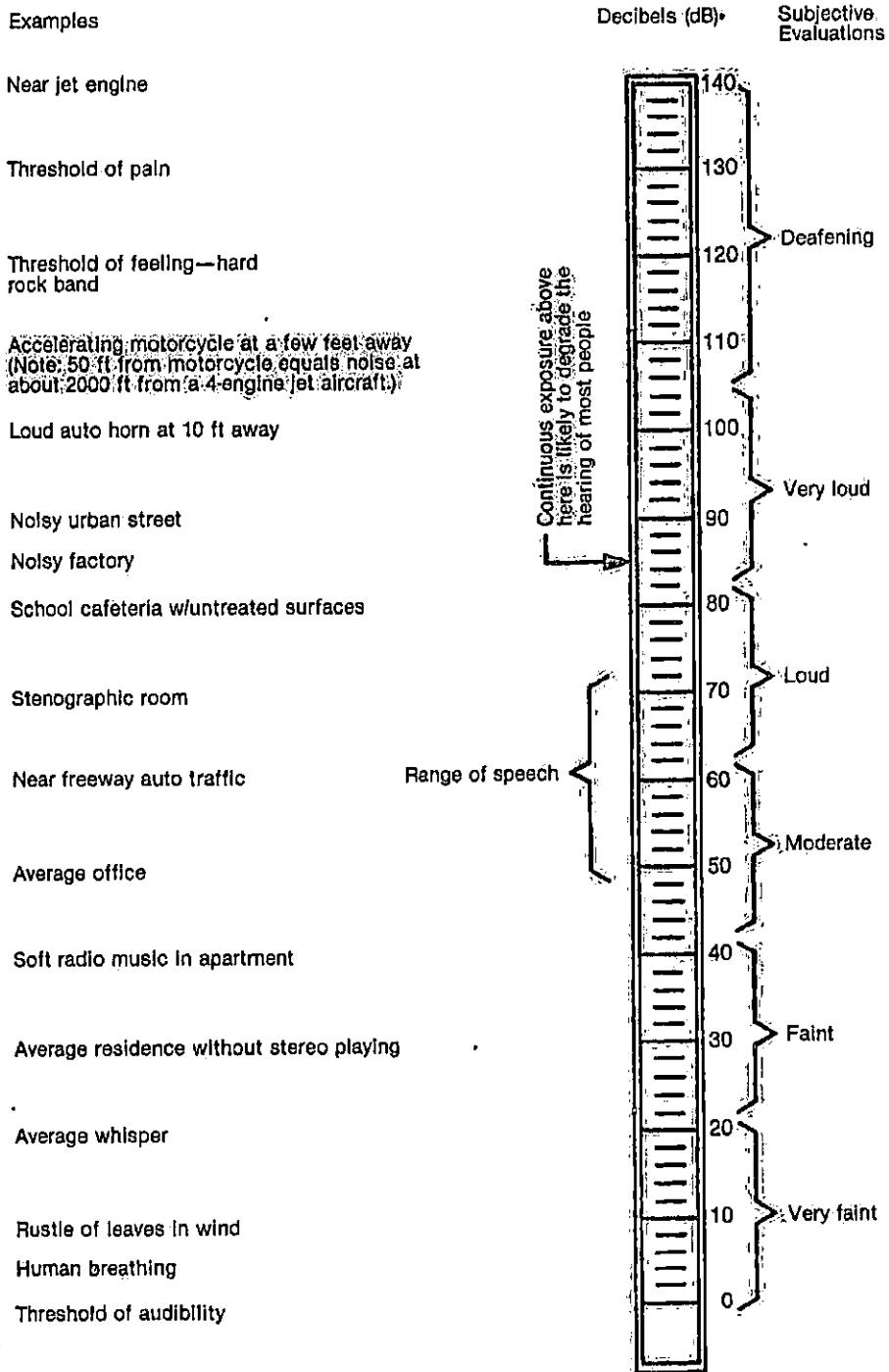
CONCLUSIONS

As shown in this report, the noise levels at the site consist of constant noise sources (traffic and HVAC) and intermittent noise levels (single event cars, garbage trucks, exterior hotel events) which, when combined, constitute the existing "peace and quiet" of the site. The "peace and quiet" of an urban environment is not expected to be silent, but to represent the typical noise levels present at the site.

Increasing the number of allowed people at the terrace for events is expected to exceed the existing "peace and quiet" of the site. In order to mitigate the noise, Polysonics recommends a glass or plexiglass enclosure to the terrace, as detailed earlier in the report. The enclosure will sufficiently reduce noise levels to the current "peace and quiet."

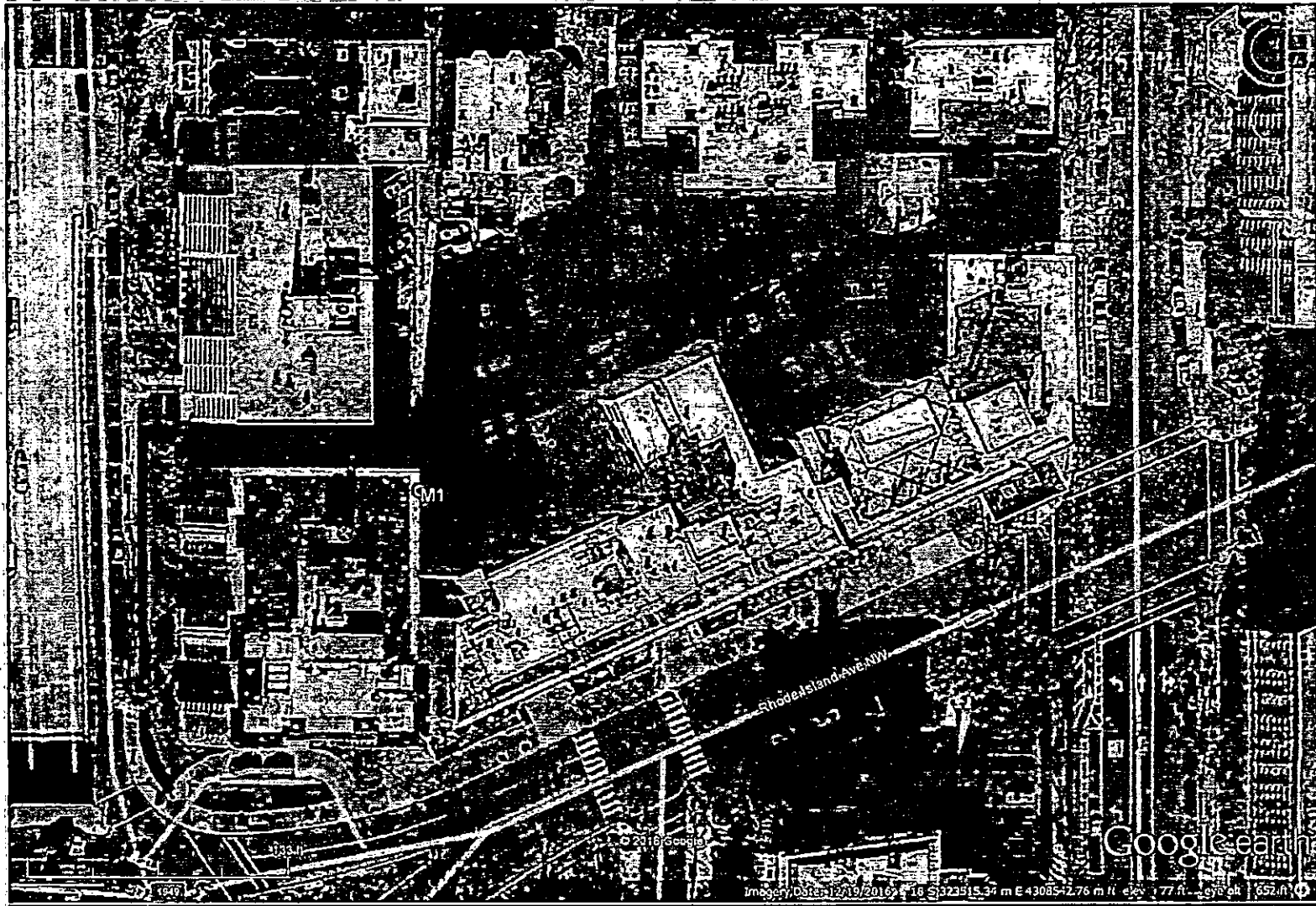
APPENDIX

FIGURE 1: COMMON SOUND LEVELS



*dB are "average" values as measured on the A-scale of a sound-level meter
(From *Concepts in Architectural Acoustics*: M. David Egan, McGraw Hill, 1972.)

FIGURE 2: SOUND LEVEL METER LOCATION



POLYSONICS

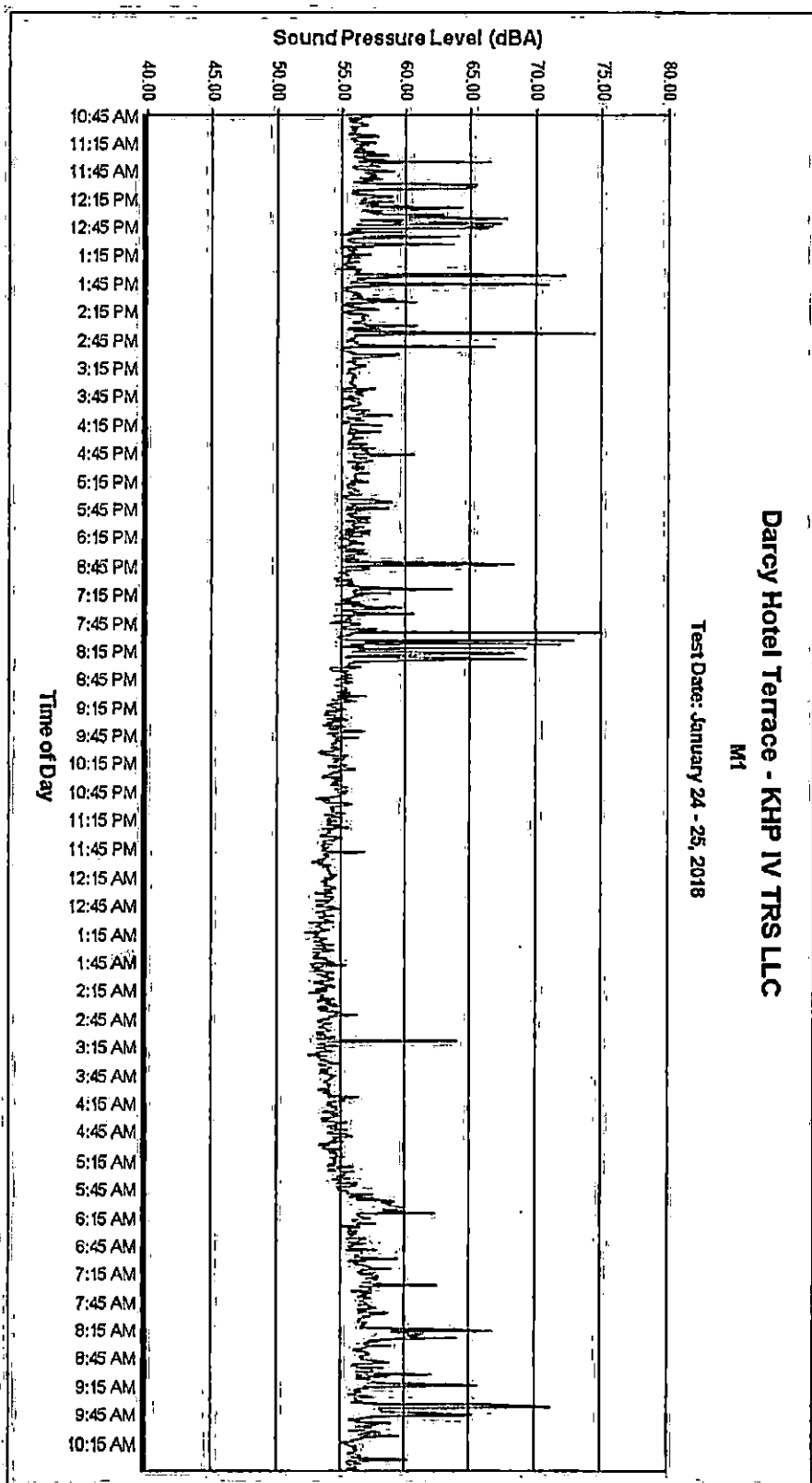
NOISE ANALYSIS—DARCY HOTEL TERRACE

MARCH 13, 2018

REPORT # 5757

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FIGURE 3: 24-HOUR MEASUREMENT - M1

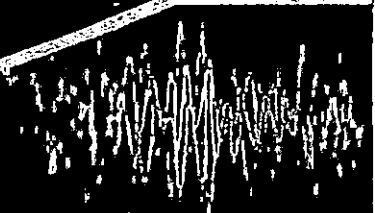




POLYSONICS

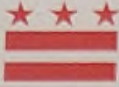
Acoustics & Technology Consulting

405 Belle Air Lane
Warrenton, VA 20186
800.388.7172
www.polysonics.com



Tab H

Additional ABRA Materials



The Darcy Hotel
 NW DC Operating, LLC
 1515 RHODE ISLAND AVE NW
 License Number : ABRA-112244
 License Class: Hotel C Capacity: 220
 Issue Date: February 12, 2019



Voluntary Agreement

Endorsement(s): Holiday Extension, Entertainment, Dancing, Sidewalk Cafe, Summer Garden

Hours of Operation

	Operation	Sales	Entertainment
Sunday:	24 hr - 24 hr	10 am - 1 am	11 am - 12 am
Monday:	24 hr - 24 hr	8 am - 1 am	11 am - 12 am
Tuesday:	24 hr - 24 hr	8 am - 1 am	11 am - 12 am
Wednesday:	24 hr - 24 hr	8 am - 1 am	11 am - 12 am
Thursday:	24 hr - 24 hr	8 am - 1 am	11 am - 1 am
Friday:	24 hr - 24 hr	8 am - 1 am	11 am - 1 am
Saturday:	24 hr - 24 hr	8 am - 1 am	11 am - 1 am

Sidewalk Cafe Hours of Operation

Total Sidewalk Cafe Capacity: **80**

Total Number of Sidewalk Cafe(s): **2**

	Operation	Sales
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 12 am	11 am - 12 am
Saturday:	11 am - 12 am	11 am - 12 am

Summer Garden Hours of Operation

Total Capacity: **120**

Total number of Summer Garden(s): **2**

	Operation	Sales
Sunday:	10 am - 1 am	10 am - 1 am
Monday:	8 am - 1 am	8 am - 1 am
Tuesday:	8 am - 1 am	8 am - 1 am
Wednesday:	8 am - 1 am	8 am - 1 am
Thursday:	8 am - 1 am	8 am - 1 am
Friday:	8 am - 1 am	8 am - 1 am
Saturday:	8 am - 1 am	8 am - 1 am

Expiration Date: 03/31/2019

You will be billed annually for any balance due.

Fred Morally
 Director

THE LAW REQUIRES THIS LICENSE TO BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES

008634

VOID IF ALTERED

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:

KHP IV DC TRS, LLC
t/a Doubletree Washington DC

Application for Renewal of a
Retailer's Class CH License

at premises
1515 Rhode Island Avenue, N.W.
Washington, D.C. 20005

Case No.: 16-PRO-00086
License No.: ABRA-102437
Order No.: 2016-557

KHP IV DC TRS, LLC, t/a Doubletree Washington DC (Applicant)

Nicole Mann, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Abigail Nichols, on behalf of A Group of Five or More Individuals

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS**

The Application filed by KHP IV DC TRS, LLC, t/a Doubletree Washington DC, for renewal of its Retailer's Class CH License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on August 8, 2016, and a Protest Status Hearing on September 28, 2016, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2B, and A Group of Five or More Individuals entered into a Settlement Agreement (Agreement), dated October 3, 2016, that governs the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Nicole Mann, on behalf of ANC 2B; and Abigail Nichols, on behalf of the Group of Five or More Individuals; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2B and the Group of Five or More Individuals of this Application.

Accordingly, it is this 19th day of October, 2016, **ORDERED** that:

1. The Application filed by KHP IV DC TRS, LLC, t/a Doubletree Washington DC, for renewal of its Retailer's Class CH License, located at 1515 Rhode Island Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

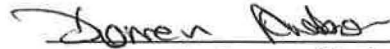
Section 4 (Rear Patio Amplified Music) – The language “no amplified music” shall be replaced with the language “no amplified live music entertainment.”

Section 5 (Meetings between Parties) – The language “agrees to” shall be replaced with the language “encouraged to.”

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Abigail Nichols, on behalf of the Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board

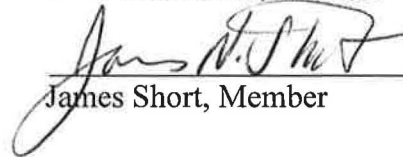


Donovan Anderson, Chairperson



Nick Alberti, Member

Mike Silverstein, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

SETTLEMENT AGREEMENT

This Settlement Agreement is made on this 3rd day of October, 2016, by and among KHP IV DC TRS, LLC t/a Doubletree Washington DC ("the Applicant") and Advisory Neighborhood Commission 2B ("the ANC"), and Steven Kameny, designated representative of a group of 16 individuals¹ ("the Group of Individuals") (collectively "Protestants").

WITNESSETH

WHEREAS, the Applicant's renewal application for a Class CH Alcoholic Beverage Control (ABC) license for premises located at 1515 Rhode Island Avenue, NW (the "Premises") is pending before the District of Columbia ABC Board; and,

WHEREAS, said Premises is within the jurisdictional boundaries of the ANC, and, the Group of Individuals reside in immediate proximity of the Premises; and,

WHEREAS, the Protestants' objections are limited to the rear alleyways, parking, deliveries, and related activities that impact the Group of Individuals, and there are not objections to the underlying hotel/restaurant operations within the Premises; and,

WHEREAS, Applicant acknowledges the July 6, 1999 Voluntary Agreement is not superseded by this Settlement Agreement; and,

WHEREAS, service to a large hotel with food and alcoholic beverage service generates many deliveries, trash removal, and valet parking; and,

WHEREAS, the parties desire to enter into this Settlement Agreement in order to reflect their understandings regarding certain limited aspects of the Applicant's operations at the rear of the Premises;

NOW, THEREFORE, in consideration of the recitals set forth above and the terms and conditions provided below, the parties agree as follows:

1. **Hours for Deliveries and Trash Removal in Rear Alleyway.**

(a.) Applicant agrees to take such measures as are within its reasonable control (including the measures identified in clauses (b) through (d) below) to limit vehicular deliveries to the rear of the Premises between the hours of 8:00 am and 8:00 pm. Trash removal may not occur prior to 9:00 am. Applicant agrees to use commercially reasonable efforts to add the hours agreed to herein in the contracts with vendors.

¹ The parties agreed to list the individuals that executed the petition letter: Jennifer A. Hanley, Steven Kameny, Elizabeth Bennett, Shawn Parker, Meredith De Hart, Katie Mastin and Paul E. Mastin, Gary Caruso, Loyd P. Rhiddlehoover III, Alexander Pommer, Paul E. Martin, Gillian Mueller, Elizabeth Young, Caroline Eszes, Christopher Gillies, Robert Coggins

(b.) Subject to any restrictions on signage imposed by applicable laws or regulations, Applicant will post a sign at the rear of the Premises, with the hours for deliveries consistent with this Agreement.

(c.) Applicant will notify its vendors that any deliveries to be made to the hotel outside of the hours in subsection (a), are to be made to the Rhode Island Avenue entrance to the Premises.

(d.) Applicants will notify its vendors that deliveries by large trucks (that is, trucks too large to be able to exit the rear alley to Rhode Island Avenue via the driveway on the west side of the Premises) should be reduced to a minimum, and where practicable and available, large truck deliveries will be made from alternative approaches to the Premises that will avoid the use of the rear alley by such large trucks.

2. Restrictions on Employee Parking.

Applicant agrees to continue its reduction of employee parking on the surface lot in the rear.

3. Employee Education on Settlement Agreement.

Applicant agrees to provide copies of this Settlement Agreement to its management staff and to instruct subordinate staff on the restrictions and issues set forth herein

4. Rear Patio Amplified Music.

Applicant agrees not to permit the use of amplified music or public address system on the rear patio/courtyard. It is understood by the parties that recorded background music may be permitted, but the background music will not be amplified with subwoofer speakers and must be kept at a reasonable volume.

5. Meetings between Parties.

Applicant agrees to host meetings between the parties as may reasonably be requested but no less than once per year. Applicant agrees to continue to communicate with the Protestants through the General Manager of the Premises regarding any concerns about compliance with this Agreement.

6. Licensee Point of Contact.


The Protestants acknowledge having received the contact information for the Applicant's management company. Applicant will provide the Protestants with new contact information for successive management staff, including the General Manager. The Protestants are encouraged to contact the General Manager directly regarding complaints related to this Agreement, including, but not limited to, any complaints regarding the alleyway deliveries and vehicle disruptions impacting the residents.

7. **Incorporation of Settlement Agreement.**

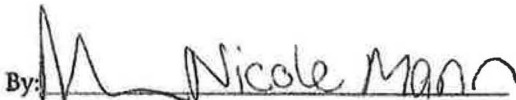
The Applicant acknowledges that the Protestants are relying on the foregoing commitments and will withdraw the protests that heretofore have been filed with the ABC Board. The parties jointly request that this Agreement be incorporated into the ABC Board's order approving the pending renewal of the Class CH License application.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

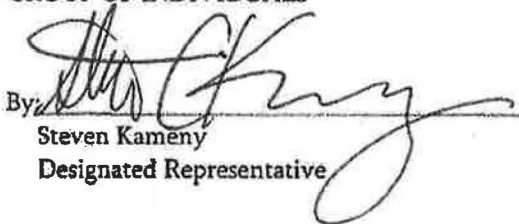
KHP IV DC TRS, LLC

By: 
Judith C. Miles
Secretary

ADVISORY NEIGHBORHOOD COMMISSION 2B

By: 
Nicole Mann, Chairman

GROUP OF INDIVIDUALS

By: 
Steven Kameny
Designated Representative

Meredith De Hart

VOLUNTARY AGREEMENT

Made this 6th of July, 1999, by and between

**WASHINGTON PARK HOTEL ASSOCIATION
t/a DOUBLETREE HOTEL PARK TERRACE
Represented by General Manager
Tina Milosevic
1515 Rhode Island Avenue, N.W.
Washington, D.C. 20005
("Applicant")**

and

**JEFFERY BROOKE
1523 O Street, N.W.
Washington, D.C. 20005
("Protestant")**

**MEREDITH DE HART
1528 O Street, N.W.
Washington, D.C. 20005
("Protestant")**

WHEREAS, Applicant's application for reissuance of a Retailer's Class "CH" License (App. No. 8653) is pending before the District of Columbia Alcoholic Beverage Control Board ("Board"); and

WHEREAS, Jeffery Brooke and Meredith De Hart are recognized by the Board as protestants in said case; and

WHEREAS, Applicant and protestants mutually desire to resolve said protest;

NOW THEREFORE, in consideration of the mutual covenants and promises set forth below, and subject to the approval of this Agreement by the Board, the parties agree as follows:

1. Applicant will constantly monitor any parking in the alley to the rear of the Doubletree Hotel by its employees, utilizing disciplinary action as well as strict towing enforcement (attachment).
2. Applicant will contact all of its early morning vendors and request that they submit in writing that they will not deliver goods until after 8:00 a.m. unless suitable arrangements can be made for delivery through the front Rhode Island

Avenue, N.W. entrance or from a designated street loading zone and "walked" quietly to the kitchen door. Any vendor arriving prior to 8:00 a.m. will not drive trucks into the alley system.

3. Applicant will contact all vendors who utilize large or extra large trucks and advise them to park on 15th Street in the loading zone area.
4. Applicant will pursue a mutually advantageous agreement with the Jana Corporation t/a Quality Hotel (1315 16th Street, N.W.) for trash management and control. The following arrangements will be pursued with a licensed trash hauler:
 - a. Applicant will share two trash compactors with the Quality Hotel under an agreement between
 - b. Applicant and the Quality Hotel.
 - (1) The compactors will be located on property owned by the Quality Hotel where hotel dumpsters currently are located.
 - (2) Separate compactors will be provided for cardboard and for general trash.
 - (3) A deodorant accessory will be included in the compactor contract.
 - (4) Compactors will be removed and emptied as required so as to prevent the collection of uncontrolled trash in the area.
 - (5) Trucks used for transporting the compactors will be single axle trucks.
 - (6) Dumpsters currently used by the applicant and located partially on public space will be removed.
 - (7) Compactor area will be secured to prevent access by unauthorized individuals.
 - (8) Compactor area will be maintained free of trash, food waste, and other debris. Applicant will monitor the area daily.
 - (9) No collection will occur prior to 9:00 a.m.
 - (8) (Attachments)
 - c. Recycling containers for glass, plastic, and metals for both the applicant and the Quality Hotel will be located in a secure, fenced area at the rear of the Doubletree Hotel (applicant). Trucks collecting these items will be single axle trucks. No collection will occur prior to 9:00 a.m. The recycling bin area will be maintained free of trash, food waste, and other debris. Applicant will monitor the area daily.
5. Applicant will install, if available, a 10-foot tall fence at the rear of the Doubletree Park Terrace Hotel. Otherwise, Applicant will install a eight-foot tall fence. This fence will extend from the garage entrance to the fenced parking area behind the outdoor walled patio area. This fence will screen recycling bins from public view

and will partially screen cooling equipment currently located on I-beam platforms.

- 6. Applicant has installed timers on cooling equipment located on I-beam platforms at the rear of the hotel. These timers will be set so that cooling equipment will not be in operation during late evening hours.
- 7. Applicant, in good faith agrees that, at time of replacement of cooling equipment currently located on I-beam platforms at the rear of the hotel, Applicant will assess the feasibility of relocating replacement units to a roof location.
- 8. Applicant will continue to work closely and in good faith with the residential representatives to address the above concerns as well as any new concerns which may arise in the future.

In consideration of, and reliance upon, the foregoing commitments, and with the understanding that the stated conditions will be made part of Applicant's license, protestants hereby agree to withdraw their protest to the Applicant's Application Number 8653.

The Applicant acknowledges that any failure to adhere to the foregoing commitments will constitute grounds for protestants to petition the Board for revocation of Applicant's ABC license following a Show Cause Hearing pursuant to 23 DCMR 1513 or for violation of this Agreement. Protestants agree to notify Applicant in writing of any alleged violation of this Agreement and shall afford Applicant fourteen (14) calendar days to correct, or to begin to correct, the violation, prior to notifying the Board.

This Agreement shall not preclude protestants from exercising any other rights under the ABC statute or regulations, nor from challenging Applicant's compliance with any other District of Columbia laws or regulations not covered in this Agreement.

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures:

[Signature]
 for Applicant
 WASHINGTON PARK HOTEL ASSOCIATION
 t/a DOUBLETREE HOTEL PARK TERRACE

Tina Milosevic
 Print Name
July 6 1999
 Date

[Signature]
 for Protestant
 JEFFERY BROOKE

JEFFERY S. BROOKE
 Print Name
July 6 1999
 Date

[Signature]
 for Protestant
 MEREDITH DE HART

Meredith L. DeHart
 Print Name
July 6 1999
 Date