

ATTACHMENT
~~EXHIBIT~~ D

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

ATTORNEYS AT LAW

1666 K STREET, N. W.

WASHINGTON, D. C. 20006

(202) 457-7800

CABLE ADDRESS: WILAN
TELECOPIER: 202-457-7814NORMAN M. GLASGOW, JR.
(202) 457-784251 MONROE STREET
ROCKVILLE, MARYLAND 20850
4020 UNIVERSITY DRIVE
FAIRFAX, VIRGINIA 22030

March 20, 1987

Mr. Joseph Bottner, Jr.
Acting Zoning Administrator
Room 333
614 H Street, N.W.
Washington, D.C. 20001ZONING COMMISSION
CASE No. 86-26
263
FILE No.Re: Violation Letter Written to Mr. Roger Murphy,
Manager, Sheraton Washington Hotel dated
December 31, 1986

Dear Mr. Bottner:

At our March 10, 1987 meeting we discussed the above-referenced letter (a copy of which is attached as Exhibit A). The aforesaid letter raises two distinct issues, one respecting the use of required loading berth facilities and the other addressing the use of required parking spaces.

1. Loading Berth Facilities.

As a result of our meeting, it is my understanding that so long as a leading berth is being used for loading and unloading purposes, that it may be occupied by a flat bed trailer or similar trailer vehicle and said trailer vehicle may or may not be carrying a cargo. Furthermore, it is my understanding that the Zoning Regulations affecting loading berths do not set any time limits as to how long it takes to unload a trailer once it is occupying the loading berth.

As a practical matter, the function and exhibit space contiguous to the portion of the Sheraton facility in question (known as "Loading Dock A"), a site plan of which is shown on the attached Exhibit B, is completely occupied by the Association of the United States Army's annual exhibit and is usable for no other loading and unloading purpose during the course of the week of that convention. Therefore, the only loading and unloading purpose for which that area of the site can be utilized during that week is in conjunction with the operation of the aforesaid convention.

Furthermore, it is my understanding that only required loading berths are subject to the provisions cited in the December 30 letter and, if such berths are not required, then the area devoted to them can be used for other purposes as permitted by the Zoning Regulations. A review of the Zoning Computation sheets on file in your office for premises 2660 Woodley Road, N.W. reveals in box No. 18 that four loading berths are required for

VIEW OF THE
2660 Woodley
CASE NO. 86-26
EXHIBIT NO. 263

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

Mr. Joseph Bottner, Jr.

March 20, 1987

Page 2

the Sheraton facility. (See Exhibit C). These required berths are provided elsewhere on the site and, therefore, the area in question is not being used in contravention of the regulations if not being used exclusively for loading purposes.

2. Parking Spaces.

Attached hereto as Exhibit D is a copy of a letter previously sent to Jim Fahey in December 1983 and it is my understanding that you presently have a copy of the parking plans attached to it. The aforesaid letter recognizes that the Sheraton facility has 649 required parking spaces pursuant to B.Z.A. Order No. 13112. (See Exhibit E).

The site presently contains parking spaces in excess of that required by the Zoning Regulations with the area known as "Loading Dock A" not contributing to the excess. Section 7206.2 (now Section 2117.2) specifically states that "required parking spaces shall not be reduced in total extent after their provision except upon approval of the Board of Zoning Adjustment. . . ."

The Loading Dock A area is occasionally used for overflow parking purposes at times when not being used for loading purposes. We find no prohibition in the regulations to this type use. It is my understanding that establishment of the principal use of Loading Dock A for loading purposes occurred sometime after December 1983 and that the property is signed for that purpose.

It is my understanding as a result of our meeting that so long as required spaces are not utilized in conjunction with the exhibits of the AUSA convention, that such use is permitted as a matter of right under the Zoning Regulations so long as it is paved surface area or other uncovered space on the site that is being devoted to exhibit purposes. In this respect, we reviewed Section 3105.34 (now Section 350.4(d), 11 DCMR, October, 1986, of the regulations and determined that said regulations apply to "area within the hotel" and not to exterior space open to the sky.

If the foregoing is in accord with your understanding, please execute a copy of this letter in the space provided below.

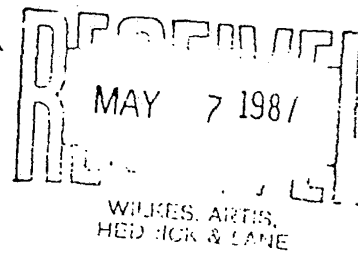
Very truly yours,

ACKNOWLEDGED:

Norman M. Glasgow, Jr.

Joseph F. Bottner, Jr.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION



May 6, 1987

Norman M. Glasgow, Jr., Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Glasgow:

Thank you for your letter dated March 20, 1987, relative to violations that had been cited relating to loading berths and parking spaces at the Sheraton Washington Hotel, 2660 Woodley Road, N.W.

The discussion we had on March 10, 1987, relating to loading berths led me to believe that the berths would be used only for loading and unloading. It is not my intention to allow a flat bed trailer or similar trailer vehicle to be parked in a loading berth and used as a part of an exhibition. Loading berths are to be used for loading and unloading only.

Parking spaces which are required cannot be reduced as long as the use to which they are servicing exists. Parking spaces beyond what is required may be reduced.

The letter you referenced dated December 20, 1983, as well as plans showing parking spaces for the hotel applies to parking requirements which were in effect at that time. The parking requirement for hotels was changed effective March, 1985. Considering the new parking requirements, I feel there is a possibility that there are no excess parking spaces. This being the case, what was considered to be excess parking cannot be discontinued unless authorized by the Board of Zoning Adjustment.

If I can be of further assistance, please do not hesitate to call me on 727-7350.

Sincerely,

Joseph F. Bottner, Jr.
Acting Zoning Administrator

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

ATTORNEYS AT LAW

1888 K STREET, N. W.

WASHINGTON, D. C. 20006

(202) 457-7800

CABLE ADDRESS: WILAN
TELECOPIER: 202-457-7814

NORMAN M. GLASGOW, JR.
(202) 457-7842

51 MONROE STREET
ROCKVILLE, MARYLAND 20850
4020 UNIVERSITY DRIVE
FAIRFAX, VIRGINIA 22030

June 17, 1987

Mr. Joseph Bottner, Jr.
Acting Zoning Administrator
Room 333
614 H Street, N.W.
Washington, D.C. 20001

Re: Sheraton Washington Parking and Loading

Dear Mr. Bottner:

After careful review of your May 6, 1987 letter and in furtherance of our discussion on June 4th, we find that the hotel and your office are in substantial agreement on several issues but that clarification is needed on others. As always, the Sheraton will conduct business completely in accord with all zoning and other applicable municipal regulations.

With respect to the first two sentences of the second paragraph of your letter, we understand your position with respect to the outdoor area presently under discussion. The area designated "Loading Dock A" at certain times, as previously referenced in our March 20th letter, has been used for loading purposes and for parking purposes and, on occasion, other exterior uses such as that for AUSA exhibits which have regularly been located in that area for each of the past several years. In short, this area has never been utilized for any single or exclusive purpose. This is consistent with the fact that the major loading berth area for the Sheraton facility is located elsewhere on the site and that, likewise, the four required loading berths are provided elsewhere on the site.

Assuming that the area has not been devoted exclusively to loading purposes since its construction, the property owner has the right to continue to devote the subject area to permitted uses pursuant to Section 350.4, 11 DCMR, April 1987.

Proceeding to the third paragraph of your letter, we agree that non-required parking spaces may be reduced. The Zoning Regulations have been consistently interpreted to that effect in any number of cases.

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

Mr. Joseph Bottner, Jr.

June 17, 1987

Page 2

In reviewing paragraph four of your letter, we thought it appropriate to bring certain additional facts to your attention affecting the parking requirements of hotels. You will note from a review of Section 2101.1 that hotels permitted in the R-5-B and R-5-C zoning districts, where the subject facility is located, have a parking requirement of one space for each two sleeping rooms or suites. This is the identical requirement applicable to this hotel at the time of the review of its plans and issuance of permits for construction in 1977 and 1978. There is no parking requirement for the largest function room or exhibit space as is the case in certain other zoning districts. The March 1, 1985 regulations presently in effect do not in any manner change the parking requirement for the hotel use of the property.

Therefore, for the foregoing, among other reasons, the finding of the Board in 1982 that the parking for the hotel is 649 spaces is valid today. A copy of this Order is attached as Exhibit A. Furthermore, this part of the Board's decision was upheld by the District of Columbia Court of Appeals in the action of Woodley Park Community Association v. D.C. B.Z.A., 490 A.2d 628, D.C. App. 1985, a copy of which is attached as Exhibit B.

In summary, the parking regulations affecting this hotel and the requirements to provide parking to this hotel are the same today as they were at the commencement of its construction and the vesting of rights to proceed with its construction in the timeframe of 1977-78.

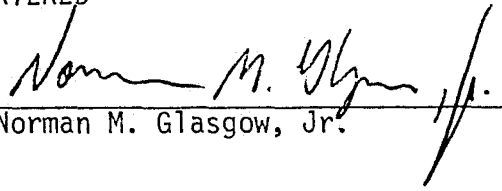
We thought these additional facts would be helpful to you in concluding that excess parking does, in fact, exist at the subject property thereby permitting the reduction of excess parking spaces as permitted pursuant to paragraph 3 of your May 6, 1987 letter. This was my understanding at the termination of our June 4th meeting.

If you have any questions or comments concerning the foregoing, please do not hesitate to call.

Very truly yours,

WILKES, ARTIS, HEDRICK & LANE,
CHARTERED

By


Norman M. Glasgow, Jr.

CC: Mr. Gary Sieland
Mr. Ray Sherbill