

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13912 of Paul I. Burman and the Trustees of the Estate of Louis and Eva Burman, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraphs 4101.48 and 3308.12 to construct a hotel and to allow construction of a roof structure which does not place all penthouses and mechanical equipment in one enclosure and for variances from the court niche requirements (Sub-section 4305.6) and the requirement that parking spaces be accessible (Sub-section 7206.5) for a proposed new hotel containing 422 rooms in an SP-2 District at premises 1499 Massachusetts Avenue, N.W., (Square 212, Lot 122).

HEARING DATE: February 9, 1983
DECISION DATE: February 9, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located at the northeast corner of the intersection of 15th Street, Massachusetts Avenue and Highland Terrace, N.W. and is known as premises 1499 Massachusetts Avenue, N.W. It is in an SP-2 District.

2. The subject property is irregular in shape containing 50,381 square feet of land area with 319.61 feet of frontage along Highland Terrace which is parallel to Massachusetts Avenue, 90.88 feet of frontage along 15th Street and eighty-four feet of frontage along N Street. The site is presently used as an all day commuter parking lot for approximately 200 cars with an attendant shelter. The site rises in elevation from 15th Street to the eastern portion of the site.

3. The site is abutted on the north by the ninety foot high Towne Terrace East and West Condominium apartment building on the south side of H Street. On the north side of N Street are row structures and three to nine story apartment houses in the SP-2 and R-5-D Districts. Abutting the site to the northwest in the subject square are three four four-story row structures, one of which is occupied as an apartment house and the remaining two of which are occupied as offices in the SP-2 District. Directly across 15th Street from the subject site is an office building containing the National Association for the Advancement of Science in the SP-1 District. Northwest of the site at the northwest corner of the intersection of Rhode Island Avenue

and 15th Street is a nine-story Holiday Inn. South of the site across Highland Terrace and Massachusetts Avenue is the National Housing Center in the SP-2 District followed by the twelve-story Vista Hotel and a recently constructed twelve story office structure on the south side of M Street in the C-4 District. On the southwest corner of the intersection of 15th Street and Massachusetts Avenue is a residential and office structure. The remainder of Square 192 consists of a small hotel and office structures in the SP-2 District. Abutting the site on the east is the eight-story Heatherington Apartment house followed by the National City Christian Church of Washington.

4. The applicant proposes to construct a nine-story, 420 room luxury hotel with 302 off-street parking spaces and two function rooms seating 450 and 250 persons each. The off-street parking is proposed to include both self park and attendant parking in two below grade garage levels. The function space provided is not large enough to accommodate large conventions. The hotel will also provide support facilities such as restaurants, lounge, shops and other support services.

5. The applicant's father purchased the subject property in 1953 when it was occupied by the German Embassy. A favorable feasibility study for hotel use was prepared by a consultant and a twenty year management contract has been entered into with Swissotel.

6. The applicant sought the closing of the adjoining twenty foot wide public alley to the north of the property to increase the area of the site and to maximize the floor area ratio. The public alley adjoining the site runs north and south with access into N Street and then runs easterly toward the eastern portion of the site. It is interrupted by a projecting portion of the site near its eastern lot line. The closing of the alley provided ownership of half the alley to the applicant and the other half to the adjoining property owner, the Towne Terrace West Condominium. The applicant purchased the Towne Terrace West Condominium portion of the alley in exchange for the granting of a perpetual easement over the alley or private drive for access to the Towne Terrace West Condominium. The applicant proposes to provide a connection with the alley system in the eastern portion of the square. The north-south portion of the vacated alley is proposed to be widened from twenty to twenty-four feet and the east-west portion will remain at twenty feet.

7. The applicant testified that the Mayor's Downtown Plan advocates that the downtown area provide 11,000 hotel rooms. Presently the area contains only approximately 3,200 hotel rooms. As noted in the Plan, "provision of these rooms will stimulate evening and weekend activity in

Downtown, provide jobs for skilled and unskilled workers and generate tax revenues at a rate almost five times that of comparable office development". A hotel of the caliber proposed, located one block from an area envisioned by the Downtown Plan as a hotel cluster area, will compliment and extend the proposed hotel uses in the Downtown Plan. The Board so finds.

8. The architect for the applicant testified that the proposed hotel use is compatible with the residential and institutional uses in the square and that there is a balance of uses in the area. The height of the hotel is consistent with the height of other structures in the area. The area of the hotel devoted to function rooms does not exceed fifteen percent of the gross floor area of the structure. The proposed structure is within 1300 feet of the Central Employment Area. The off-street parking and loading births are so designed as to avoid unduly impacting parking or traffic on the surrounding streets. The Board so finds.

9. The proposed hotel is of a traditional architectural design which is in keeping with most of the structures along Massachusetts Avenue. Limestone is proposed on the first two stories and face brick is proposed from the third floor up to a two-story metal mansard roof.

10. The proposed penthouse structure is designed to be approximately three feet lower than the maximum allowed height of 18.5 feet. The overrides for the elevator penthouses will be the only portion of the penthouse structure proposed to be constructed at the 18.5 foot height. The architect testified and the Board finds that the lower height for the remainder of the penthouse structure would create less bulk and be aesthetically appealing. It would lessen the building's impact on adjoining structures by permitting more light and air between them. The penthouse structure otherwise complies with all the requirements of the Regulations.

11. The architect testified that the need for off-street parking spaces far exceeds the required number of parking spaces. The hotel will provide 302 parking spaces. Three below grade levels are proposed. The lower two levels will provide parking with ingress and egress from 15th Street. The two levels of parking are not sufficient to accommodate the 302 needed spaces. A third parking level cannot be built without extraordinary measures due to the presence of underground water based on the findings of a geotechnical engineering report of Schnabel Engineering Associates. Attendant parking is proposed to accommodate the extra parking spaces provided on two levels rather than three. A variance is requested to allow for stacked parking.

12. An existing seven to eight foot high garden retaining wall is located on the subject property two feet from the north-south property line which is the rear lot line of the adjacent row structures immediately to the northwest of the subject property with frontage on 15th Street. The existing garden wall will remain and the wall of the proposed structure will be constructed immediately west of and contiguous to the existing garden wall vertically to the height of the proposed structure. A two foot niche is created. Removal of the garden wall would adversely affect the adjoining property. To build over the existing wall would be costly, create extraordinary structural design and create inefficient interior spaces.

13. Swissotel, founded in 1980, is the trade name for Swissair Nestle Hotels Limited, which is owned by Swiss Air Transport Limited, Swiss National Airlines and Nestle. Swissotel's objective is to manage and operate international hotels in major cities throughout the world with high standards in product service and security. Swissotel presently owns and operates the Hotel President of 200 rooms in Geneva, Switzerland. The Hotel Bellevue Palace Berne of 150 rooms owned by the Government of Switzerland is operated by Swissotel. The Hotel International in Zurich, Switzerland with 350 rooms is seventy-six percent owned by Swissair Nestle. The Drake Hotel in New York City of 640 rooms was acquired in January, 1981. Swissotel has either letters of intent or management agreements for hotels in Chicago and New Orleans in the United States; Colombo, Sri Lanka; Riyadh, Saudia Arabia; and Frankfurt, West Germany.

14. Hotel development by Swissair Nestle is a priority in the United States, particularly Washington D.C. The proposed hotel site is accessible to downtown, commercial areas and the Convention Center.

15. Swissotel's marketing activity will be aimed at capturing the executive level of business coming to Washinton. The guest mix will be approximately two-thirds individual guests and one-third group business. It is expected there will be a six to one ratio of U.S. clientele to foreign guests. Swissotel will make a special effort to attract European and international business. Guests of the hotel will be traveling for reasons connected with government, national and international institutions.

16. The proposed hotel is a year-round five star luxury hotel and it is expected the average daily room rate in 1985-86 will be \$135 to \$140.

17. The applicants' traffic consultant testified that the proposed hotel will reduce peak hour traffic at the intersection of 15th Street and Massachusetts Avenue. The existing parking lot has a theoretical capacity of 190

spaces and has actually parked 250 cars. The proposed hotel at maximum occupancy would require 250 spaces, 100 spaces for hotel guests and 150 spaces for ball room guests. Trip generation rates were established for similar hotels such as the Madison, Four Seasons and the Ritz Carlton to determine trip generation for the proposed hotel. The witness concluded that the hotel use will not cause any adverse affects on existing traffic operations. The Board so finds.

18. The traffic witness argued that guests driving to the proposed hotel would perceive that there is no public parking in the surrounding area. Public parking is available south of Massachusetts Avenue but to guests it would be a barrier both physically and psychologically. The witness argued that it is quite important to provide adequate off-street parking. It was anticipated that most persons coming to the hotel will desire attendant parking which will also provide security. The Board so finds.

19. The SP-2 District allows a floor area ratio of 6.0, or 302,286 square feet for hotel use. The subject hotel provide 302,286 square feet. The SP-2 District requires 123 parking spaces, and 302 spaces are provided. Of the total, 204 meet the nine foot by nineteen foot standard, and ninety-eight are compact spaces. Of the 123 required spaces, 106 spaces are required for hotel rooms and seventeen spaces are required for function space.

20. Three loading berths are required and three re provided.

21. A rear yard of 18.82 feet is required, and forty-five feet is provided from the centerline of N Street.

22. A minimum niche of three feet is required. As described in Finding No. 12, two feet is provided, requiring a variance of one foot or thirty-three percent.

23. The subject property was first permitted to be used as a parking lot by Board Order No. 5776, dated December 21, 1959. The property has since been used as a parking lot for the past twenty-four years. The most recent Board Order, No. 13033, dated March 10, 1980, granted a use variance to continue use of the site for all day commuter parking. At the public hearing in Application No. 13033, the applicant stated his intention to develop the site after three years in accordance with the SP-2 District.

24. The Office of Planning, by report dated January 25, 1983, recommended conditional approval of the application for the following reasons:

- a. The proposed hotel building meets the height

and floor area ratio requirements of the SP-2 District, and is in general harmony with neighboring property. Except for the three neighboring three story townhouses to the north of the property, the proposed hotel will not be out of scale with the height of the surrounding development. It should be noted that, if the townhouse structures were razed, a building of equal height to the hotel could be constructed. The site is surrounded by large condominium and apartment buildings. The design of the hotel is, in the opinion of the Office, architecturally compatible with the older residential structures on N Street as well as the abutting Heatherington Apartment on Massachusetts Avenue. The design is stately and compatible in regards to its choice of building materials of limestone and brick.

- b. Approval of the hotel will result in a balance of residential, office and hotel uses in the vicinity of the site in the SP District.
- c. The gross floor area of the proposed hotel's function rooms and exhibit space does not exceed fifteen percent.
- d. The site is on the very edge of the Central Employment Area as defined in the Zoning Regulations. In the vicinity of the site, Massachusetts Avenue is the northern boundary of the CEA.
- e. Although the D.C. Department of Transportation had not completed its report, it informed the Office of Planning that the applicant's parking arrangements are satisfactory. The Department of Transportation further noted that the traffic impact generated by the existing parking lot on the site will be lessened by the construction of the hotel. A primary concern of DOT was the large truck access to the proposed loading berths via the private driveway on the subject property and whether or not the design on the plan would leave enough maneuvering room for a fifty-five foot truck. The DOT further advised OP that it would work with the applicant's transportation expert on this issue. The DOT further advised OP that it had no objection to the stacked parking and attendant parking arrangement.
- f. The proposed penthouse meets the roof occupancy, FAR and set back requirements specified in Section 3308.

- g. The construction materials, color and character of the penthouse will harmonize with the main structure.
- h. The encroachment of the garden wall from adjoining lots 115, 116 and 117 in the northwest corner of Square 212 onto the subject site, is viewed by the applicant as a condition which should remain. Being a good neighbor, the applicant has chosen not to remove the wall and build to the lot line as a matter-of-right. A strict observance of the Zoning Regulations would require the removal of the encroaching garden wall, thus eliminating the court niche variance but at the same time reducing the rear yard size of the neighboring properties causing the possible elimination of a subgrade garage in the rear of one of the townhouses.

In summary, the Office of Planning was of the opinion that the granting of the variances to allow stacked parking and a court niche would not impair the intent or purpose of the Zoning Regulations, but would instead work to avoid adverse traffic impacts, and protect the neighbors environment, respectively. The Office of Planning viewed the requested special exception from the roof structure provisions as allowing an esthetically pleasing alternative from the strict requirements of the Zoning Regulations. Except for the concerns raised by the Department of Transportation about the adequacy of the truck loading berth access, which is pertinent to Sub-paragraph 4101.486, the Office of Planning believed that the applicant met the other criteria for approval for the location of a hotel in the SP District. The Office of Planning recommended that this application be approved with the condition that the applicant address to the Board's satisfaction, the issue concerning the accessibility of the truck loading berth.

25. The Board concurs with the views and recommendation of the Office of Planning. At the public hearing the applicant and the Office of Planning reported to the Board that the concerns of the D.C. DOT regarding the loading berths had been satisfied. The applicant submitted into the record a revised plan of the loading berths. The Board concurs with the revised loading berth plan.

26. The Logan Circle Citizens Association, by letter of February 7, 1983, and at the public hearing reported that the Association supported the application for the following reasons:

- a. The siting and design of the proposed hotel is very attractive and would be an asset to the neighborhood.

- b. The proposed project is to be built on vacant land and thus does not cause the removal of any residential units from the neighborhood.
- c. The location of the proposed hotel and the design of its parking accommodations should minimize any adverse impact on traffic congestion and parking in the surrounding residential area.

27. The Towne Terrace West Unit Owners Association, by letter dated February 8, 1983, did not oppose the application.

28. Four letters of support were received into the record from nearby residents and property owners including the National City Christian Church, owners of the Heatherington Apartments, and the owners of 1227 - 15th Street. The basis for their support was that the proposed hotel would be beneficial to the neighborhood by stabilizing and up-grading property values, the hotel would be architecturally attractive and the hotel as a business would provide employment to the city.

29. One letter was received into the record in opposition to the application from a unit owner in the Towne Terrace East Condominium building stating that there are other existing hotels in the area, the proposed hotel will obstruct sun-light and view and would cause a decrease in property values. The Board does not concur. The weight of the evidence in the record is strongly supportive of the application. Other than the unsupported assertions of the letter, there is no evidence that the hotel will cause adverse impacts.

30. Advisory Neighborhood Commission 2C, by letter of January 24, 1983, reported that the ANC approved the application. The ANC further reported that the developer had filed with the ANC a letter stating that he will employ efforts with the general contractor to assure its commitment to equal employment opportunity, affirmative action and local participation goals and objectives in the construction of the hotel project.

31. The Board is required by statute to give great weight to the "issues and concerns" of an ANC in the form of a written resolution. The Board concurs with the ANC's recommendation. However, the ANC has voiced no zoning issues for the Board to address.

32. No one appeared in opposition to the application at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board finds that the applicant is seeking special exceptions and variances. The granting of the special exceptions requires that the applicant comply with the requirements of Paragraphs 4101.48 and 3308.12. The Board concludes that the applicant has met the burden of proof. The proposed hotel is in harmony with the height, bulk and design of existing uses and structures. Construction of the hotel will result in a balance of residential, office and hotel uses in the SP District in the vicinity of the proposed site. The floor area devoted to function rooms and exhibit space does not exceed fifteen percent of the gross floor area of the hotel. The site is located at the northern edge of the Central Employment Area which is within the 1300 foot distance requirement from the hotel entrance to the boundary of that area. The Board concludes that the provision for parking spaces beyond the 123 spaces required by Article 72 of the Regulations, with 302 spaces provided, is adequate to avoid unduly impacting parking or traffic on the surrounding streets. The location and design of driveways, access roads and other circulation elements of the hotel will not cause dangerous or other objectionable traffic conditions. The Board further concludes that the proposed roof structures of varying heights will not adversely affect nearby or adjoining property. Most of the roof structure will be less than the allowed 18.5 feet in height, thus reducing its bulk. It will be in harmony with the main structure in architectural character, material and color.

As to the court niche and parking space variances, the Board concludes that the variances requested are area variances the granting of which requires the showing of a practical difficulty. As to the court niche requirement the existence of the garden wall on the site and the adverse affect of its removal on the adjoining property is an exceptional condition. As to the parking variance, the existence of underground water creates a practical difficulty upon the owner to provide a third level of underground parking. To achieve adequate off-street parking without a third level of parking below grade, creates an exceptional situation. Stacked parking on the proposed two-levels of parking is the only practical and reasonable solution. The stacked parking will have attendants who also will offer a means of security to the parking levels.

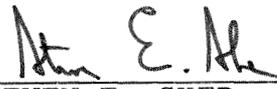
The Board further concludes that the requested relief can be granted without causing substantial detriment to the public good. The proposed hotel would be eliminating an existing parking lot and would improve peak hour traffic conditions on streets surrounding the site. The hotel would be furthering the accomplishment of the objectives of the Mayor's Downtown Plan.

The Board is further of the opinion that the relief can be granted without substantially impairing the intent, purposes and integrity of the zone plan. The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 3-0 (William F. McIntosh, Charles R. Norris and Walter B. Lewis to grant; Carrie L. Thornhill and Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

JUN 22 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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