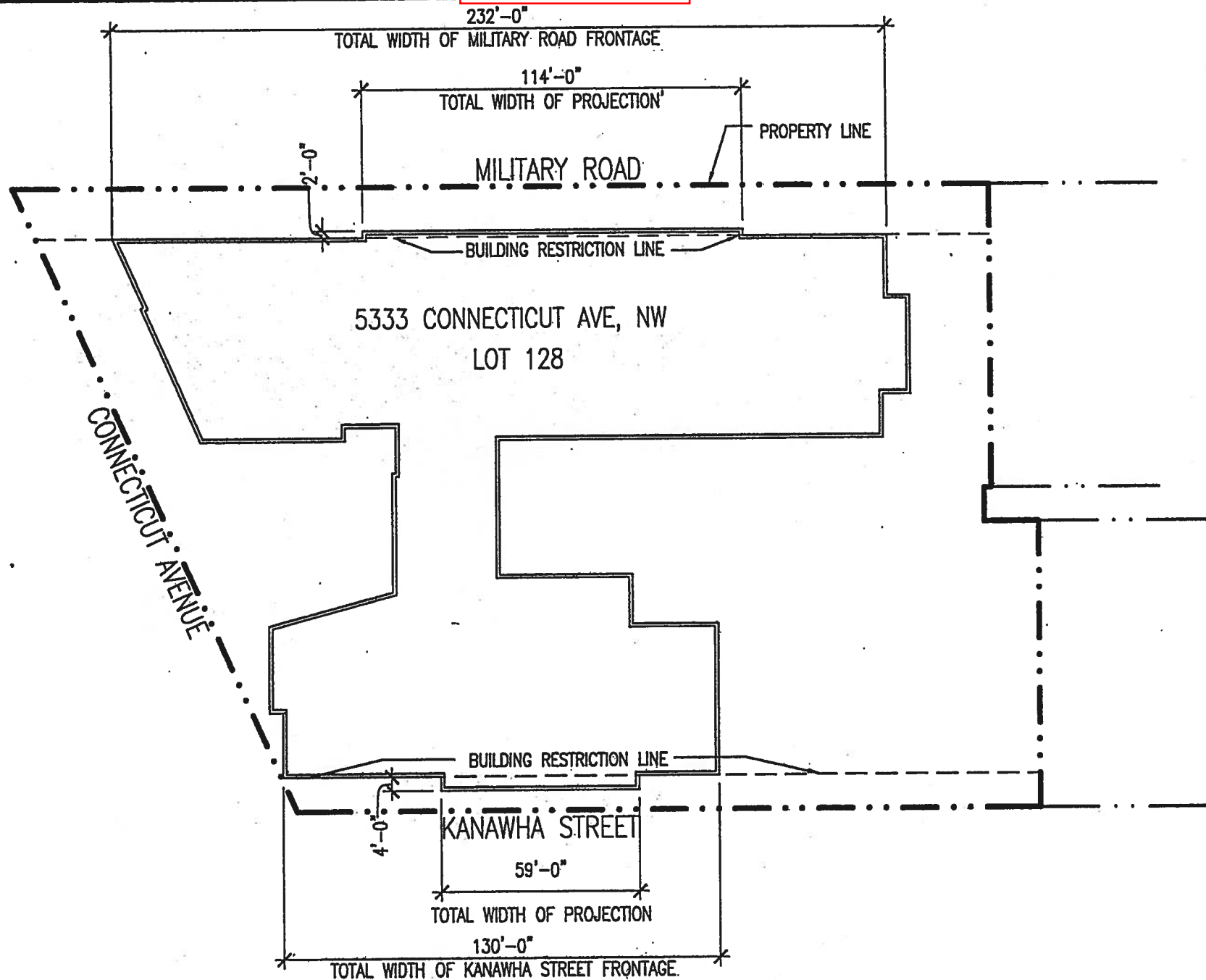


EXHIBIT 17



PROJECTING BAY ANALYSIS
(BAYS PROJECT OVER BUILDING RESTRICTION LINE BUT NOT PROPERTY LINES)



Board of Zoning Adjustment
District of Columbia
DATE: 01/24/2013
CASE NO. 20013
EXHIBIT NO. 23

Exhibit T



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Guest comment: We can relax D.C.'s height limits

Keep city's character by using roof structures for human occupancy



Whayne S. Quin

Acrophobia is normally thought of as a fear of heights from the person's perspective looking down. But it's also a good way to describe the fear of seeing and permitting higher buildings in D.C.

Scores of articles have been written and many symposia have been held debating and commenting about the limitation on building heights. Local and federal agencies frequently reference the height of buildings as being one of the most sensitive parts of the city's planning and built environment. The core of this focus always seems to be the congressionally enacted 1910 height act. Most everyone takes pride in the horizontality of our capital city, arguing the city would not have that character without the act.

Unfortunately, myths, misunderstandings and strained interpretations sometimes cause public officials and preservationists to fear that real estate developers, architects and their attorneys want to breach the limitations and destroy that character with major vertical increases having an adverse impact on our skyline.

No doubt, there are those who would like to do away with the 1910 height act and, at the other extreme, there are those who would like to apply interpretations that restrict heights far below what was intended by the act.

Both are wrong. There is a middle ground — all completely within the framework of the overall heights of buildings as consistently permitted and built over the last 100 years.

The 1910 height act was initiated by the District of Columbia Board of Commissioners — not Congress — because, after the permitting of the Cairo Hotel at 1615 Q St. NW, our city fathers felt that there should be appropriate height limits. The essential requirements of the act, as now in effect, are that buildings on business streets may be erected to a height of the width of the street plus 20 feet, with an overall maximum height of 130 feet, except for the north side of Pennsylvania Avenue between First and 15th streets NW, where "an extreme height" of 160 feet is permitted. On a residence street, the maximum height is 90 feet, but further limited by the width of the street diminished by 10 feet. The point of measurement is required to be taken from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof or parapet, provided that if the building has more than one front, the height shall be measured from the elevation of the sidewalk that permits the greater height.

Above the maximum height of a building itself, the law also provided for essentially two types of structures, namely architectural elements such as spires, towers, domes, minarets which has evolved into what generally has become known as "architectural embellishments"; and utilitarian elements such as penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks and fire sprinkler tanks. Congress set no limit for these roof structure elements but required them to be constructed with a setback from public street frontages on a 1:1 basis and prohibited them from being used for "human occupancy."

Since the inception of zoning in D.C., the Zoning Commission has established height limits by zoning districts. While there have been several limits regarding size of roof structures, no limit on the height of roof structures existed until December 1976, when the Zoning Commission adopted a general limit of 18 feet, 6 inches, with the right of the Board of Zoning Adjustment to approve higher structures.

So the result today is that a 90-foot building with an 18-foot, 6-inch roof structure would have a silhouette of 108.5 feet with setbacks above the height act restriction and a 130-foot building would have a silhouette rising to 148.5 feet with certain setbacks above the restrictions. Aside from setbacks imposed by zoning, the only setback required by the height act is from public streets. These heights have been deemed appropriate to preserve our horizontal city.

Within the overall height limitations, it is clear that Congress intended broad flexibility under the height act enabling the city to be competitive as evidenced by the fact that

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the act left to D.C. agencies the question of what constitutes a building, left to the city the enforcement of the act through the Office of Corporation Counsel (now the Office of the Attorney General), gave the city the right to adopt a schedule of heights for buildings adjacent to federal buildings and allowed the city to determine how high and how large roof structures should be. Originally, the primary purpose of the height limits was fire safety. That rationale has completely faded, and the sole arguments are now aesthetic and historic aimed at protecting the horizontality vision. Today, the city is at a distinct disadvantage in not being able to be more competitive with our surrounding jurisdictions in terms of design and availability of residential and commercial space.

So, within the existing framework, what additional height can be permitted without doing damage to the essential constraints of the 1910 act? Architects and engineers indicate that the ability to provide one or two more floors of first-class residential and commercial space in new buildings could be provided with 10 to 20 feet more of height. We need to find a way to allow this without damaging the wonderful perspectives of our city. One solution would be to allow human occupancy within the established total framework of our buildings. This includes the space within buildings as now limited by the act and the space that is already permitted for roof structures with the additional 18 feet, 6 inches. Recently the Office of Planning has suggested that a roof structure height of 20 feet would make more sense.

The aesthetic and historic nature of the height act's application would then be respected and the horizontal nature of our city would not be impaired. While presenting technical and architectural issues on how to provide mechanical and safety measures within the same space above the basic height limits, in many cases additional residential units or commercial space could be provided. Two legislative actions would be required:

1. Congress would have to amend the 1910 height act to allow human occupancy in the space previously allowed for the architectural and utilitarian roof structures. Congress could limit how high human occupancy could go, for example, 20 feet, with the previously required public street 1:1 setback.
2. The Zoning Commission would have to amend the zoning regulations to follow such congressionally approved limitations and would need to determine what size and setback would be required and then provide for limited flexibility through the Board of Zoning Adjustment.

In this manner, the increase of height would be within the overall building heights now permitted and the competitive position of the District of Columbia could be enhanced without disturbing the long and widely respected structural height limitations.

Wayne S. Quin is a partner and land-use practice leader for the mid-Atlantic region at Holland & Knight LLP.



April 24, 2013

Nicholas A. Majett, Director
Rabbiah Sabbakhan, Chief Building Official
Matthew LeGrant, Zoning Administrator
DC Department of Consumer and Regulatory Affairs
1100 4th Street S.W., Room 3100
Washington, DC 20024

Re: Permit Applications for 5333 Connecticut Avenue, N.W.

Dear Gentlemen:

Please note that at our duly noticed April 22, 2013 meeting, the Chevy Chase ANC 3/4G voted 7 to 0 (a quorum being four) to send you this letter reviewing and reiterating our concerns with aspects of the requested permit for construction of a 263-unit, 299,000-square foot apartment building at 5333 Connecticut Avenue, N.W. This letter follows up on our meetings with you on January 18, 2013, and March 8, 2013, and reflects our meetings with a representative of the developer and the neighbors of the proposed building.

We recognize that your role is limited to interpretation and implementation of the zoning statutes and regulations. Consequently, you defer to other District agencies – including the Office of Zoning, the Department of Transportation (DDOT), and the Department of the Environment – for their determinations in areas of their expertise and jurisdiction. Moreover, your determinations must be based on the applicable zoning statutes and regulations, and you may not deviate from those rules. However, based on our review of the preliminary plans for this project, the applicable statutes, and the relevant zoning maps, we believe the proposed plans may include deviations from underlying statutory and regulatory requirements for this project that would prevent it from receiving a building permit as of right.

As an initial matter, we understand that there may be a discrepancy between the zoning designation on the official zone map and the designation in the filed plans. Although the proposed plans identify the entire lot as zone R-5-D, some of the zoning maps since 1975 may be read as designating only a portion of the lot as R-5-D, with the remainder requiring a lower density. Indeed, the documentation from the expired Planned Unit Development for this lot may be read as expanding the R-5-D zoning to the entire lot (i.e., extending the boundary of R-5-D

EXHIBIT 19

zoning from 251 feet from Connecticut Avenue along Military Road to 290 feet). We understand that you defer to the Office of Zoning for its determination of which zone applies, but we ask that you expressly raise this possible inconsistency with the Office of Zoning. To the extent that the lot is bisected by a zoning boundary, we ask that you explain how you determine which zoning designation will apply and the basis for your determination. Of course, if a portion of the property is, in fact, not zoned as R-5-D, then this project would require a variance which would be subject to ANC review, and the ANC's view would be entitled to "great weight." By copy of this letter to Mr. Richard Nero, Director, Office of Zoning, we are asking that he clarify the proper zoning for this property based on the original copies of the relevant zoning maps and any other applicable documentation and that he explain the basis for his conclusions.

Moreover, we believe that the development as currently proposed may not be consistent with the plain language of the District Height requirement. The developer has chosen to determine the height of the building based on the width of Connecticut Avenue (which would permit a height up to the allowable maximum of 90 feet) but has taken the measurement of the building for purposes of determining the maximum height from the "front" of the building, which it designates as Kanawha Street. We understand from our meetings with you that your office has previously approved this "mix-and-match" approach as permissible for determining a building's height, and we are aware of the D.C. Corporation Counsel's May 11, 1950 and December 1976 opinions that supported this interpretation. Of course, you are bound by those opinions so long as they remain in force and have not been overturned by a reviewing court, but we urge you to ask the Attorney General for an updated opinion in light of more recent jurisprudence that emphasizes the plain language of the statute.

In addition, as you have previously acknowledged, there are additional aspects of your review that require some degree of interpretation. A number of our concerns with Cafritz Enterprises' permit application for 5333 Connecticut fall into this latter category.

First, even if it were appropriate to measure the proposed building's height along Kanawha Street, we still have questions about the point where the developer measures that height. As you confirmed, the building's height is to be measured from curb at the center of the "front" of the building (on Kanawha Street based on the developer's designation of the "front"). It appears from the plans we've seen that the developer actually used a measurement point that is near the highest point on Kanawha Street, well to the east of the center of the proposed building "front" that faces Kanawha. We understand from the developer that it construes the regulations as permitting it to determine the measurement point based on the midpoint between the corner of Kanawha and Connecticut Avenue and the furthest point of the "back" of the building facing Military Road. This interpretation does not seem to be reasonable. Either the measurement point should be based on the portion of the building actually facing Kanawha Street or, if the "back" of the building has any relevance at all for this purpose, the measurement point should be the middle of the full extent of the building from the corner of Military Road and Connecticut Avenue to the alley. We urge you to examine this issue carefully to ensure that the developer's plans actually use a measurement point at the center of the portion of the building that faces Kanawha Street. Again we request that you provide us with information that would justify the developer's current measurement point.

EXHIBIT 19

Second, we are concerned about the degree of subjectivity that will be required for the Administrator to approve the proposed plan's artificial berm that is as much as 16 feet above Military Road on the north side of the building. In a stratagem apparently designed to maximize the actual Floor Area Ratio (FAR) for the building, the developer proposes to construct a retaining wall and earth berm the length of the building so that its top will be slightly less than four feet below the ceiling of the "cellar" floor. See Title 11, Section 199 (defining a "cellar" as "that portion of a story, the ceiling of which shall be less than four feet (4 ft.) above the adjacent finished grade"). By using this "finished grade level," that "cellar" floor will not count against the FAR – even though it will include 17 rentable units – and the developer will be able to increase its effective FAR to 4.67 versus the maximum 4.2 allowed by the Zoning Regulations.

You told us that the Administrator has previously approved landscaping for other projects that changed the original ground contours to ensure that one level of a building will be categorized as a "cellar," not a "basement" (which would count against the FAR). We can understand approval of such plans if they do not radically reshape the landscape and do not materially alter the allowed density. As Council Member Cheh properly asked at our March 8 meeting, however, what prevents the Administrator from approving a building with at 10-foot berm around it, thereby converting an entire floor or more into an artificial "cellar"? We believe the zoning regulations are not susceptible to such a reading. The developer told us that the grade along Military Road will be increased by only two feet over a 30-foot span, but we are not able to confirm those representations. We urge you to consider the application of your subjective judgment in this instance and to assess whether the proposed plans are inconsistent with the letter and intent of zoning regulations and density restrictions. Because, of the degree of discretion and subjectivity exercised by the Administrator on this issue, we believe that the views of the ANC should be given "great weight" and that the final plans for the berm should be submitted to the ANC for review and comment before final approval.

Third, the proposed plans include significant encroachments into the public space on both the Military Road and the Kanawha Street sides of the proposed building, both above and below the ground level. Title 11, Section 199 defines the "building line" – normally applied to "building restriction lines" – as "a line beyond which property owners have no legal or vested right to extend a building or any part of the building without special permission and approval of the proper authorities." Title 12, Section 3202.1 provides that

[e]ncroachments (hereinafter referred to in this Section as 'projections') are a privilege. They cannot be claimed as a right, and require a permit issued by the code official. . . . The code official is authorized to further restrict or refuse proposed projections if the code official considers such action best for the public interest.

Section 3201.2 provides that permits for "projections" shall be issued with the understanding that they will be promptly removed on notice by the code official and Section 3202.7.1 provides that building projections into public space "shall not be allowed on any street less than 60 feet in width."

EXHIBIT 19

At our last meeting, Matthew Marcou from DDOT told us that decisions regarding such private encroachments into public space are a DCRA responsibility. We seek an explanation and justification for any approval of such an extensive projection. We urge you to consider whether the proposed projections, particularly on the Kanawha Street side of the building – extending four feet into public space, 60 feet wide, and 85 feet high, from slightly above the foundation to the top of the building – are permissible under the building code and applicable regulations. We understand from the developer that the Code Official has concluded that the above-ground building projections are “bays or balconies” and are permitted on a narrow street like Kanawha because the building restriction line is construed as if it were the property line for purposes of determining street width. This interpretation seems unreasonable, and we request a complete explanation for your determination.

The proposed plans include several other projections into public space, including the facade on the Military Road side, the underground parking vault, the Military Road “areaway”/light-well, the garage air intake “areaway,” and the Kanawha Street foundation. Although you indicated that such projections are common design features that are routinely approved, we are concerned that these projections are not consistent with the zoning regulations in that they will subvert the zoning regulation’s density restrictions and protections against large-scale intrusions on public space. In effect, the proposed plans would extend a significant portion of the building’s livable area into public space, thus appropriating it for permanent private use. Again, because of the extent of subjectivity and discretion exercised in the approval of these projections, we believe that the ANC is entitled to review and comment of the final plans with our opinions entitled to “great weight.”

We appreciate the effort that you and your office have devoted to reviewing the developer’s plans and meeting with the community to hear their concerns. If this were truly an “as-of-right” building, your approval would be straightforward, and the ANC’s role would be limited. We believe, however, that the proposed plans may go beyond what the developer is entitled to construct and will require the Administrator’s subjective judgment to approve deviations. In these circumstances, the ANC should be consulted, and, on at least some of the issues we have identified, its views should be accorded great weight. As you complete your review, we trust that you will consider our concerns and keep us apprised of your decision.

Sincerely,

Jim McCarthy
Chair, ANC 3G

cc: Council Member Mary Cheh
Terry Bellamy, Director, DDOT
Sam Zimbabwe, Associate Director for Policy, Planning and Sustainability, DDOT
Richard J. Nero, Director, Office of Zoning
Wayne Quin, Counsel for Cafritz Enterprises
5333 Connecticut Neighborhood Coalition
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May 6, 2013

Nicholas A. Majett, Director
Rabbiah Sabbakhan, Chief Building Official
Matthew Le Grant, Zoning Administrator
District of Columbia Department of Consumer
and Regulatory Affairs
1100 4th Street, SW
Washington, DC 20024

Re: ANC 3G Letter of April 24, 2013 regarding 5333 Connecticut Avenue, NW; response on
behalf of Calvin Cafritz Enterprises

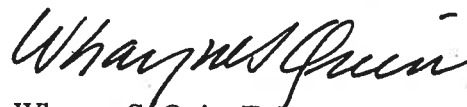
Gentlemen:

On behalf of Calvin Cafritz Enterprises ("CCE"), the enclosed memorandum with exhibits is sent in response to the letter dated April 24, 2013 received by CCE on April 29, 2013, from ANC 3G to you. CCE has already provided answers to most, if not all, of the "concerns" described in the letter through presentations at the community meetings of January 23 and April 8, 2013, and information subsequently furnished to representatives of the ANC. In order to have a full record of precedents and citations making clear that the building complies with all applicable regulations, the memorandum addresses all of the issues described in the ANC 3G letter.

We note that the ANC requests that its views be given "great weight" in connection with permitting matters such as the determination of a zoning boundary line, calculation of gross floor area for a combined cellar/basement area and calculation of gross floor area for projections in public space. While it would not make any real difference, such items are not entitled to "great weight." See DC Official Code § 1-309.10(a).

Respectfully submitted,

HOLLAND & KNIGHT LLP



Wayne S. Quin, Esq.
Dennis R. Hughes, Esq.
Steven E. Sher, Director of Zoning and
Land Use Services

WSQ:lsn
Enclosures

EXHIBIT 20

May 6, 2013

Page 2

cc: Jim McCarthy, Chair, ANC 3G
Calvin Cafritz Enterprises
Council Member Mary Cheh
Terry Bellamy, Director, DDOT
Sam Zimbabwe, Associate Director for Policy, Planning and Sustainability, DDOT
Richard J. Nero, Director, Office of Zoning
5333 Connecticut Neighborhood Coalition

EXHIBIT 20

May 6, 2013

**Response of Calvin Cafritz Enterprises to ANC 3G Letter dated April 24, 2013
Regarding
5333 Connecticut Avenue, NW**

I.

Introduction

The proposed building at 5333 Connecticut Avenue, NW, is to be constructed on Lot 128 in Square 1873, a lot that has frontage on Connecticut Avenue, Military Road and Kanawha Street, NW, with a depth from Connecticut Avenue of approximately 291 feet along Military Road, and 221 feet along Kanawha Street. A copy of the recorded subdivision for Lot 128 is attached as Exhibit A and a copy of the plat of Public Alley Closed, Easement Established for the property is attached as Exhibit B. The proposed building will be built as a matter of right under the existing R-5-D zoning, meeting and using the Inclusionary Zoning provisions of Chapter 26 in the Zoning Regulations.

II.

Specific Responses to ANC 3G Letter

A. Zoning of Property

In the Comprehensive Zoning of the District of Columbia of 1958, the zoning for the western part of Square 1873, between Military Road and Kanawha Street, was established as R-5-C on the Connecticut Avenue frontage and R-1-B to the east. The boundary line was shown as being 71 feet back from Connecticut Avenue on the Kanawha Street side and not dimensioned but following a north-south alley on the Military Road side. See 1958 Official Zoning Map attached as Exhibit C.

On March 16, 1965, the Zoning Commission rezoned lots 44, 35, 37, 19, 20 and 21 in Square 1873 to R-5-C. On Military Road, this zoning extended to the West line of Lot 38 on Military Road and to the West line of Lot 18 (now Tax Lot 828) on Kanawha Street. A copy of the order is attached as Exhibit D with an excerpt from the Baist Atlas showing the location and dimensions of those lots as Exhibit E. The total width of the

EXHIBIT 20

three lots on Military Road is 165 feet; the total width of the three lots on Kanawha Street is 134 feet. When added to the depth of the zoning line existing at the time, the depth of the R-5-C zoning was approximately 221 feet on Kanawha Street and approximately 290 feet on Military Road (if the alley width at its opening onto Military Road is calculated as only 15 feet wide). Note that §107.3 provides that:

Dimensioned district boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location.

Also note that the width of the alley actually entering Military Road is greater than 15 feet due to its diagonal position and that the total distance from Connecticut Avenue to the west line of Lot 38 is approximately 291 feet.

There have been no actions since 1965 by the Zoning Commission to change the location of the zone boundary line in Square 1873.

The 1966 Official Zoning Map showed the boundary lines with those dimensions. See Exhibit F. The line appears to go south from Military Road and then jogs slightly to the east at the alley before continuing south to Kanawha Street.

The 1973 Official Zoning Map (Exhibit G) showed the 290 foot dimension along Military Road. It was not dimensioned along Kanawha Street. The location of the line appears to be exactly the same as shown on the 1966 Official Map.

The boundary line shown on the 1975 Official Zoning Map (Exhibit H) showed a dimension of 291 feet along Military Road and no dimension along Kanawha Street. However, the top of the "9" in the number is partly obscured by the dashed line denoting the building restriction line and the dimension could be read as 251 feet. It is clear that the location of the zoning line is the same as was shown on the 1973 Map. If it had actually been 251 feet, the line would have been shown farther to the west, closer to Connecticut Avenue.

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The 1983 Official Zoning Map, the 1984 Official Zoning Map, the 1987 Official Zoning Map and the 1996 Official Zoning Atlas all show the same boundary line condition as had been shown on the 1975 Official Map, again with the top of the number "9" covered with the building restriction line dash. (All included in Exhibit I). The R-5-C zone category to the west of the line was redesignated to R-5-D in 1992, without any substantive change.

The 2003 Official Zoning Map (Exhibit J) was produced in a different format and shows the boundary on the Military Road as 251 feet from Connecticut Avenue. The Map also indicates the location of the PUD which was approved in 1990 but which approval expired in 1998 without the PUD having been constructed. In any event, no change in zoning was requested or granted as part of the PUD process. The Map shows the entire PUD site as zoned R-5-D. The location of the zoning boundary line as depicted remains unchanged from the lines shown on all the previous maps. The 251 foot dimension was an obvious mistake based on an erroneous reading of the partially obscured "9" on the prior maps, as described above.

The January 1, 2013 Zoning Map (Exhibit K) shows the entirety of Lot 128 in Square 1873 as zoned R-5-D. The depth of Lot 128 on Military Road is approximately 291 feet and the depth of 128 on Kanawha is 221 - both as existed when the rezoning occurred in 1965. The Official Zoning Map (Exhibit L), as found on the website of the Office of Zoning, also shows all of lot 128 as zoned R-5-D, even though the site is designated for some unexplained reason as the "Regency House Community Rec Pk." The property is privately owned and, although unimproved, it is not a community park.

As custodian of the official records of the Zoning Commission, the Office of Zoning issued a Certification in January, 2013, indicating that the property (for the entire Lot 128 in Square 1873) is zoned R-5-D. A copy of that certification is attached as Exhibit M and shows the dimension of R-5-D zoning to be 291.31 feet along Military Road and 221.22 feet along Kanawha. Note that the dimension along Kanawha has never changed and the placement of the zoning boundary line has never changed.

EXHIBIT 20

B. Building Height and Point of Measurement

The primary law governing the height of buildings in the District of Columbia is the 1910 Height of Buildings Act codified in § 6-601 of the DC Official Code. (Copy of Code provisions not provided as attachment). The District of Columbia Zoning Regulations essentially follow these provisions.

There are two steps in determining the maximum height of buildings in the District of Columbia. The first step is to determine what the maximum height can be with reference to the width of the widest abutting street. Different provisions are contained for buildings that front on "residence" or "residential" streets from those that front on business or commercial streets. The applicable provision for streets confronting 5333 Connecticut Avenue, NW, is § 6-601.05 (c) which provides that:

On a residence street, avenue, or highway no building shall be erected, altered, or raised in any manner so as to be over 90 feet in height at the highest part of the roof or parapet, nor shall the highest part of the roof or parapet exceed in height the width of the street, avenue, or highway upon which it abuts, diminished by 10 feet

Since Connecticut Avenue confronting Lot 128 in Square 1873 is 130 feet wide, the height for the apartment building is limited to 90 feet. Additionally, the applicable Zoning District (R-5-D) limits heights to 90 feet. Accordingly, the height of a building on the property may be built to a height of 90 feet.

The second step, namely, determining the point of measurement, is governed by an entirely separate section of the Act, in §6-601.07, which provides for how and from where the height is actually measured. This section provides that:

For the purposes of this subchapter the height of buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than 1 front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height. (Emphasis added.) No parapet walls shall extend above the limit of height

EXHIBIT 20

The proposed building at 5333 Connecticut Avenue on Lot 128, Square 1873, fronts on three streets: Connecticut Avenue, Military Road, and Kanawha Street. Kanawha Street has the highest elevation and will permit the greater height. Accordingly, the point of measurement for determining maximum height of this building "shall" be Kanawha Street. The point of measurement for the building is the level of the curb opposite the middle of the front of the building on Kanawha Street (Elevation 316.83). This is approximately the same point of measurement and with the same height as the existing Chevy Chase Towers building, on the south side of Kanawha Street, immediately across Kanawha from the subject site.

These provisions have been applied consistently in the same manner by the DC Office of Corporation Counsel (now the Office of Attorney General), the Zoning Administrator, the Zoning Commission, and the Board of Zoning Adjustment. The application and interpretation of the governing law on the subject was established or reconfirmed over 60 years ago by The Office of Corporation Counsel, on May 11, 1950, in an Official Opinion to the Commissioners of the District of Columbia. After analyzing the Congressional Act and the legislative history, the Corporation Counsel, Vernon E. West, confirmed the two step process as now applicable here. A copy of that Opinion is attached as Exhibit N.

The pertinent language of the 1910 Height Act providing for the separate point of measurement has been cited and furnished. The 1950 Opinion of Corporation Counsel confirming the mandated method of measurement has also been cited and furnished. Virtually hundreds of buildings have followed the same methodology. The following are precedents, most in fairly recent rulings, which continue to follow that interpretation.

a. Zoning Commission decisions:

- PUD for the South Block over the Center Leg Freeway (a/k/a Capitol Crossing): property fronts on four streets (2nd, 3rd, E and F, NW); width of 3rd Street used for the maximum permitted height, curb opposite middle of front of building on F Street used as point of measurement (ZC Case No. 08-34A, Order dated January 28, 2013, see Finding of Fact No. 30)

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- PUD for the project known as View 14: property fronts on 3 streets (14th and Belmont Streets and Florida Avenue, NW); width of 14th Street used for the maximum permitted height, curb opposite middle of front of building on Belmont Street used as point of measurement (ZC Case No. 05-22, Order dated January 9, 2006)
 - PUD for 2400 14th Street: property fronts on 3 streets (14th, Belmont and Chapin Streets, NW); width of 14th Street used for the maximum permitted height, curb opposite middle of front of building on Chapin Street used as point of measurement (ZC Case No. 06-24, Order dated April 9, 2007)
 - PUD for 200/250 K Street, NE: property fronts on four streets (2nd, 3rd, K and L); width of K Street used for the maximum permitted height, curb opposite middle of front of building on 3rd Street used as point of measurement (ZC Case No. 05-36, Order dated April 20, 2006)
 - PUD for Marriott Marquis convention center hotel: property fronts on 3 streets (9th and L Streets and Massachusetts Avenue, NW); width of Massachusetts Avenue used for the maximum permitted height, curb opposite middle of front of building on L Street used as point of measurement (ZC Case No. 08-13, Order dated February 23, 2009)
 - Review under the Capitol Gateway Overlay for 1111 New Jersey Avenue, SE: property fronts on 3 streets (L and M Streets and New Jersey Avenue); width of New Jersey Avenue used for the maximum permitted height, curb opposite middle of front of building on L Street used as point of measurement (ZC Case No. 12-09, approved on February 11, 2013, Order pending, see sheet A-5 of plans marked as Exhibit 22)
- b. Rulings of the Zoning Administrator:
- Constitution Square: property fronts on three streets (1st, M and N Streets, NE); width of 1st Street used for the maximum permitted height, curb opposite middle of front of building on N Street used as point of measurement (ZA letter dated April 23, 2007)
 - 1200 1st Street, NE: property fronts on three streets (1st, M and Patterson Streets); width of 1st Street used for the maximum permitted height, curb opposite middle of front of building on Patterson Street used as point of measurement (ZA letter dated March 24, 2009)
 - 2030 M Street, NW; property fronts on three streets (21st and M Streets and New Hampshire Avenue); width of New Hampshire Avenue used for the maximum permitted height, curb opposite middle of front of building on 21st or M Street used as point of measurement (ZA letter dated April 18, 2011)

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- 601 Massachusetts Avenue, NW: property fronts on four streets (6th, 7th and K Streets and Massachusetts Avenue); width of either K Street or Massachusetts Avenue used for the maximum permitted height, curb opposite middle of front of building on 7th Street used as point of measurement (ZA letter dated April 18, 2011)

c. Projects approved by the BZA:

- 655 New York Avenue, NW: property fronts on four streets (6th, 7th and L Streets and New York Avenue); width of New York Avenue used for the maximum permitted height, curb opposite middle of front of building on L Street used as point of measurement (BZA Case No. 18502, Order dated February 6, 2013)
- 1201 Vermont Avenue, NW: property fronts on both M Street and Vermont Avenue; Vermont Avenue width permitted the maximum height and M Street used for point of measurement of height (BZA Appeal 6186 - Public hearing January 25, 1961)
- 2660 Woodley Road, NW (Washington Sheraton Hotel): property fronts on Calvert Street and Woodley Road; permitted height taken from Calvert Street and point of measurement taken from Woodley Road (See finding of fact 86 a. of BZA Appeal 13112, October 21, 1983.) This decision was challenged in the District of Columbia Court of Appeals but affirmed on other grounds. Woodley Park Community Association v. BZA, Washington Sheraton Corp., Intervenor, 490 A.2d 628 (DCCA 1985).
- 1401 Pennsylvania Avenue, NW (Willard Hotel Addition): property fronts on Pennsylvania Avenue and 14th and F Streets, NW; permitted height of building taken from Pennsylvania Avenue, NW and point of measurement as approved by the BZA taken from 14th Street, NW (BZA Application 13276 of October 6, 1980) Note: The Office of Corporation Counsel by Memorandum dated July 29, 1980, once again confirmed the consistent application of the Height Act in ruling that Pennsylvania Avenue could be used for determining maximum height and 14th Street could be used for point of measurement for the Willard Hotel Addition.

In determining the actual point of measurement for applying height limitations and calculating the maximum height for 5333 Connecticut Avenue, the Zoning Administrator followed the same method used for many years. As it relates to the height of a particular building, once the street is selected for measuring the height, two points are critical: 1) the point for starting the vertical measurement, i.e., the base, and 2) the point for ending the vertical measurement at the top of the building.

EXHIBIT 20

As the starting point, the Zoning Administrator consistently over the years has used the full length of the building on a lot to determine the middle of the building - drawing lines out perpendicular to the street on which the building fronts from both ends but not beyond the end of the street on either end. The mid-point from those projected lines fix the location on the top of the curb to begin the measurement vertically. (For the subject building, this point of measurement is elevation 316.83'.) In this manner, no matter the shape of the building (for example a building that squarely fronts on the street, or has a portion a few feet back or many feet back, or is designed with an angle back) would always have the same consistent point of measurement. Otherwise, a developer could take a gerrymandering approach and could simply design a building so that only a small portion of the building were on the front property line and thereby achieve a higher point of measurement without respect to the rest of the building.

Under the Zoning Regulations, the height of a ninety foot building in the R-5-D zoning district is measured to the top of the roof from the point of measurement at street level. However, under the 1910 Height Act, the height is measure to the top of the parapet which is normally slightly above the height of the roof. Roof structures, railings, guards and architectural embellishments may extend above the maximum height of buildings.

Taking a conservative approach, the architects for 5333 Connecticut Avenue designed the building to be lower than the permitted 90 foot height. Based on the method of measurement used for height, the building at 5333 Connecticut is not a 90 foot high building. The building is 90 feet to the top of the guardrail, which is not the top measuring point required for height under either the Zoning Regulations or the 1910 Height Act. When measured pursuant to the "highest point of the roof or parapet" (in compliance with both the Height Act and the Zoning Regulations), the building is actually 87.83 feet in height. This could accommodate higher ceilings and an increase in height, with up to a 2.17 increase in height, if desired.

Attached, as Exhibit 0, is a plat that shows, not only the point of measurement based upon the consistent rulings of the Zoning Administrator, but also two other points

EXHIBIT 20

of measurement suggested by those who are in opposition. Under all of these points, the building is within the 90 foot limitation. Under the point of measurement applied pursuant to the consistent application of the Zoning Regulations and 1910 Height Act (using the entire building) the height will be 87.83 feet. Using only that portion of the building closest to Kanawha Street, the measuring point would shift to the west and the height would be 89.01 feet. Using the maximum width of the entire building (including the portion closest to Military Road) projected through Connecticut Avenue to the curb extended on Kanawha Street, the height would be 88.9 feet.

Attached, as Exhibit P, is an elevation drawing (A-3.4) that shows the respective heights (elevations) to the top of the roof (403.33'), top of the parapet (404.66'), and top of the safety railings and guard 406.83'). Attached, as Exhibit Q, is a detailed elevation drawing (A-5.2) that shows heights of the roof, the parapet, and the railings and guards for 5333 Connecticut Avenue.

C. Calculation of Cellar in Permitted Gross Floor Area

Under the applicable zoning, the overall permitted gross floor area (excluding roof structure which permits an additional .37 FAR for that structure and use) is 4.2 FAR. (3.5 FAR under R-5-D and an additional .7 FAR under the IZ provisions). Since the site has a record area of 47,284.44 Square feet (47,370 measured), the permitted gross floor area as defined in the Zoning Regulations is 198,594.648 square feet based on record, and 198,954 square feet based on measured dimensioned. Under either record or measured calculations, the gross floor area provided is less, namely, 198,338 square feet.

When a floor of a building is classified in its entirety as a cellar ("that portion of a story, the ceiling of which is less than four feet (4 ft.) above adjacent finished grade"), the floor area is not included in gross floor area. When the floor of a building is classified in its entirety as a basement ("that portion of a story partly below grade, the ceiling of which is four (4) feet or more above the adjacent or finished grade"), the floor area is included in gross floor area." However, when a story is partially a cellar and partially a basement, i.e. where only part of the ceiling is four feet or more above

EXHIBIT 20

adjacent finished grade, a separate calculation for that story is made under the "perimeter wall" method of calculation (long ago established by the Zoning Administrator) to determine what portion of that floor is included in the calculation of permitted gross floor area. Attached, as Exhibit R, is the methodology required by the Zoning Administrator as set forth in a memorandum dated September 11, 1990 by the then Zoning Administrator, James J. Fahey. In the plans for 5333 Connecticut Avenue, the gross floor area of partial basement areas was calculated and included within the permitted gross floor area.

Regrading of a site for new construction is permitted - hence the criteria of the definition of cellar area being defined by "adjacent finished grade." (Emphasis added.) The actual changes in grade are minor. There is a minor change in grade along Military Road of approximately 2 feet (higher) than the existing condition. This change takes place over a horizontal distance of approximately 30 feet. The benefit of this actually flows to the neighborhood. This area will be heavily landscaped and will assist in providing a privacy buffer between the existing houses on the north side of Military Road and the new building. Along Connecticut Avenue, the grade of the building will be about 2 feet lower than existing. Along Kanawha Street, it will be about 6 inches to a foot lower than existing grade. When the whole site's street frontages are considered, the grading will be close to the existing average grade.

D. Projections Beyond Building Restriction Lines

The Building Restriction Lines (BRL) for the property were established in 1910 for Military Road (15 feet on each side) and Kanawha (10 feet on each side) and with the specific reference to the right to build outside the BRL as provided by building regulations. See Exhibit S. The proposed building has projections both above and below grade beyond the building restriction lines on Military Road and Kanawha which do not extend beyond private property lines. These projections are permitted by the applicable provisions of the Construction Codes of the District of Columbia. Balconies are permitted specifically under Section 3202.10.2 of the District of Columbia

EXHIBIT 20

Construction Code, with limitations set forth in Section 3202.10.2.2 and bay windows are permitted under Section 3202.10.3 of the same Code, as limited by Section 3202.10.3.3. All the projections above grade including portions beyond the BRL are located on private property and, except for balconies (which are excluded by the definition of gross floor area in the Zoning Regulations), are included in the calculations of permitted gross floor area.

The minor nature of these projections is shown by the plat attached as Exhibit T and the permit approved for the balcony and bay window projections for the property is attached as Exhibit U. The Authorized Code Official has treated the area outside the building restriction lines as public space essentially as part of the adjacent streets, for the sole purposes of reviewing and approving the projections. Thus, Kanawha is effectively 70 feet in width and Military Road is effectively 120 feet in applying the code provisions. The other choice would be to treat the property beyond the BRL in all respects as private property not subject to the limitations set forth in the applicable code provisions relating to projections.

As for the projections, both the balconies and the bay windows have been approved with all the correct dimensions shown on the specifically approved plat. The bay windows which embellish the building on the Kanawha side extend 4 feet beyond the BRL, or 1 foot beyond the 3 foot limitation normally applicable to projections in public space under Section 3202.10.3.3. However, the additional foot beyond the building restriction line on Kanawha is entirely within private property and even set back 6 feet back from the property line. This is clearly permitted and was approved by the Code Official under Section 3202.4.1 as a modification deemed to be in the general public interest to embellish the building - specifically complying with all four conditions: 1) no additional public space is occupied since, as private property, the projections are counted in FAR, 2) the primary object is not to change interior arrangements, 3) the additional foot will not interfere with adjacent buildings, and 4) the additional foot will not interfere with the general public interest.

EXHIBIT 20

Subsurface projections are specifically permitted under Section 3202.9 and the use of the vault space for those uses are specified in Section 3202.9.2.3. The proposed building and its uses extending beyond the building restriction line within private property comply in all respects with the provisions of the Building Codes applicable. (District of Columbia Construction Code Supplement of 2009.)

III.

Full Compliance with All Regulations

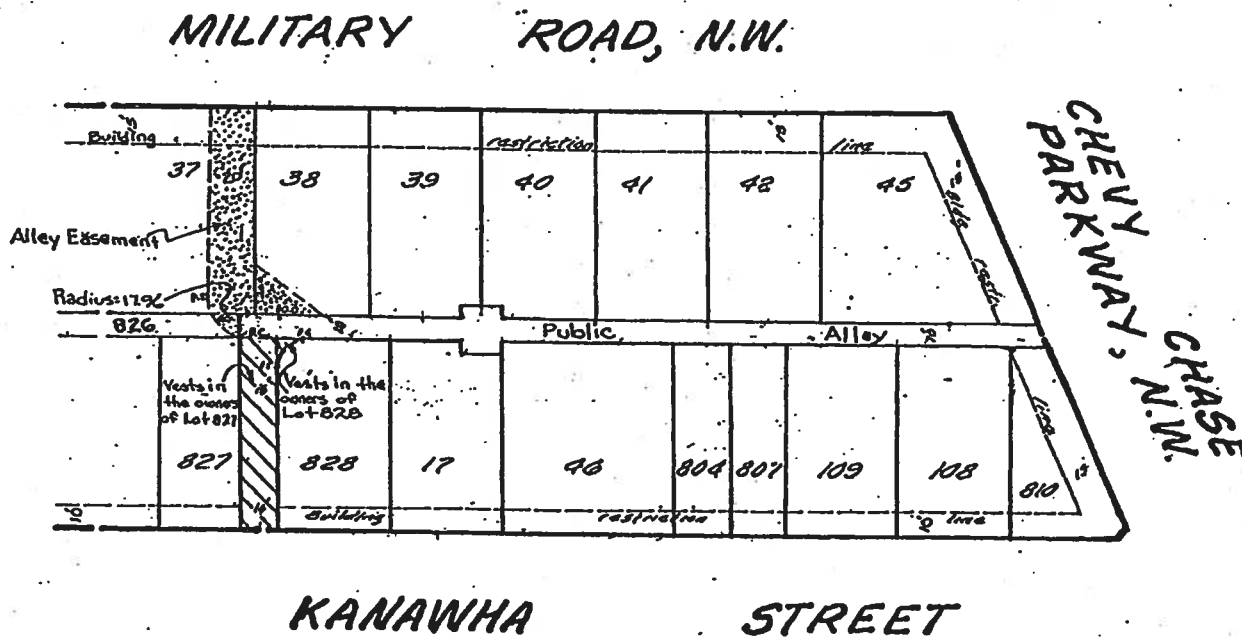
CCE requires full compliance with all applicable laws and regulations. For 5333 Connecticut Avenue, the entire development team has scrupulously followed all applicable laws and regulations. Moreover, as pointed out at the community meetings of January 23 and April 8, 2013, as well as subsequent meetings with representatives of the ANC, the residential use and density are not only in compliance with the Zoning Regulations and other laws, but help implement provisions of the Comprehensive Plan calling for higher density residential uses along major transportation corridors. This, in turn, helps retain adjacent lower density residential neighborhoods. Additionally, while the zoning permits 75% lot occupancy, the proposed building will have less than 50% lot occupancy with the majority of the open space at the eastern end of the site closest to the lower density existing R-2 development.

Holland & Knight LLP

By Whayne S. Quin
Whayne S. Quin

Dennis R. Hughes
Dennis R. Hughes

Steven E. Sher
Steven E. Sher, Director of Zoning
and Land Use Services

PUBLIC ALLEY CLOSED
EASEMENT ESTABLISHED
SQUARE 1873

K&E 10 1154 4-93 AT&EP

Pursuant to D.C. Law No. 7-191, effective March 16 1989,
the alley shown thus: XXXXXX, is closed, and title vests as
shown upon recordation of this plat. The easement shown is
subject to the provisions of the covenant recorded with the
Recorder of Deeds as Instrument No. 28929, recorded
May 17, 1990.

Office of the Surveyor, D.C.

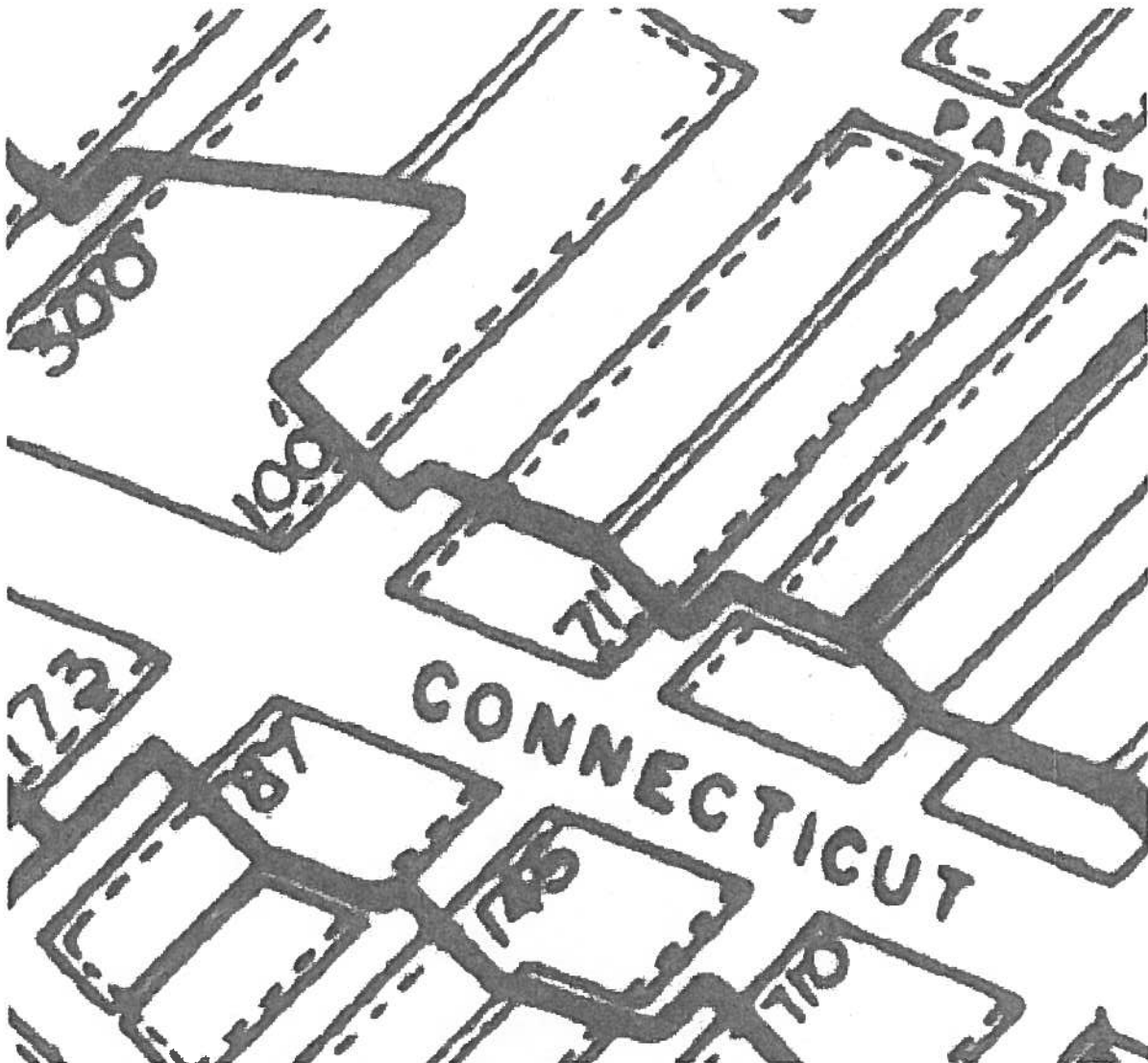
3 November, 1992.

I certify that this plat is correct and is recorded.

Y. G. Bunch, P.E.
Surveyor

SURVEYOR'S OFFICE, D.C.	
Made for	<u>Katherine Yamagata</u>
Drawn by	<u>P.N. Rollins</u> (S.O. <u>29</u>)
Recorded at	<u>3:15 PM November 3, 1992</u>
Recorded in Book	<u>185</u> , page <u>116</u>
Scale: 1 inch =	<u>50</u> feet
File No.	<u>85-243</u>

T.M.



Excerpt from 1958 Zoning Map

Government of the District of Columbia
ZONING COMMISSION



March 16, 1965

ORDERED:

That after public notice and hearing as prescribed by law, the following districts heretofore established by the Zoning Commission of the District of Columbia, as shown in the official zoning map and atlases, are hereby modified and amended as follows:

The C-M-3 District, abutting 14th St. in Square 209 is extended to include lots 878 and 879, said property being premises 1410-1412 Que St., NW. (65-4).

Lots 819 and 820, Square 2218, said property located on the east side of 27th St. from Macomb to Ordway Sts., NW are changed from R-1-A to R-5-A. (65-6)

The R-5-C District abutting the east side of Connecticut Ave. is extended easterly to include lots 44, 35, 37, 19, 20 and 21, Square 1873, said property being premises 3712-3716 Military Rd. and 3739-3743 Kanawha St., NW. (65-13).

The public alley, in Square 115, which was closed by order of the Commissioner, D. C. and recorded in Book 146, Page 163, Records of the Surveyor, D. C. is included in the SP District (S. O. 61-58).

C. M. Duke
C. M. DUKE

WALTER N. TOBRINER

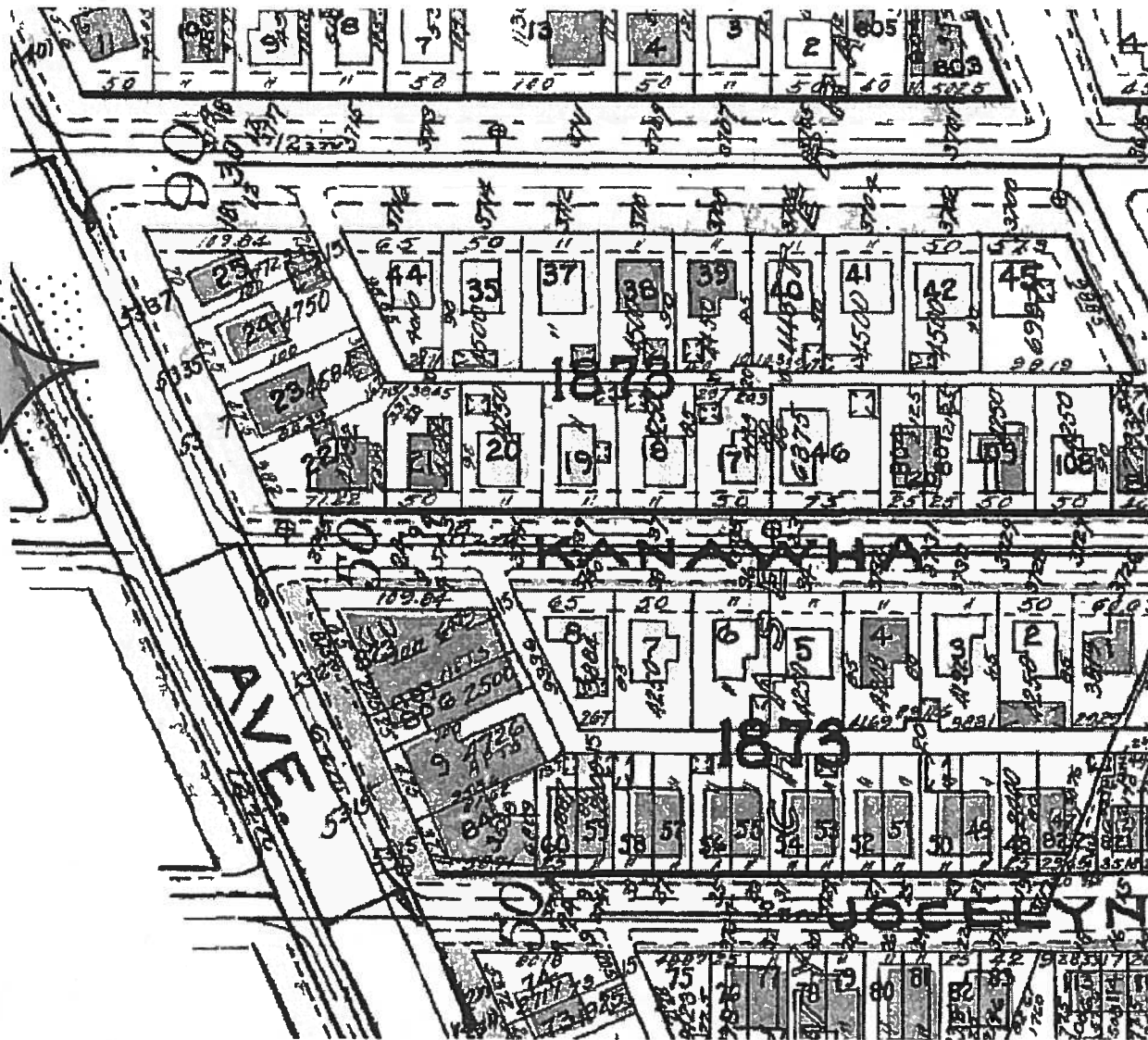
J. George Stewart
J. GEORGE STEWART

John B. Duncan
JOHN B. DUNCAN

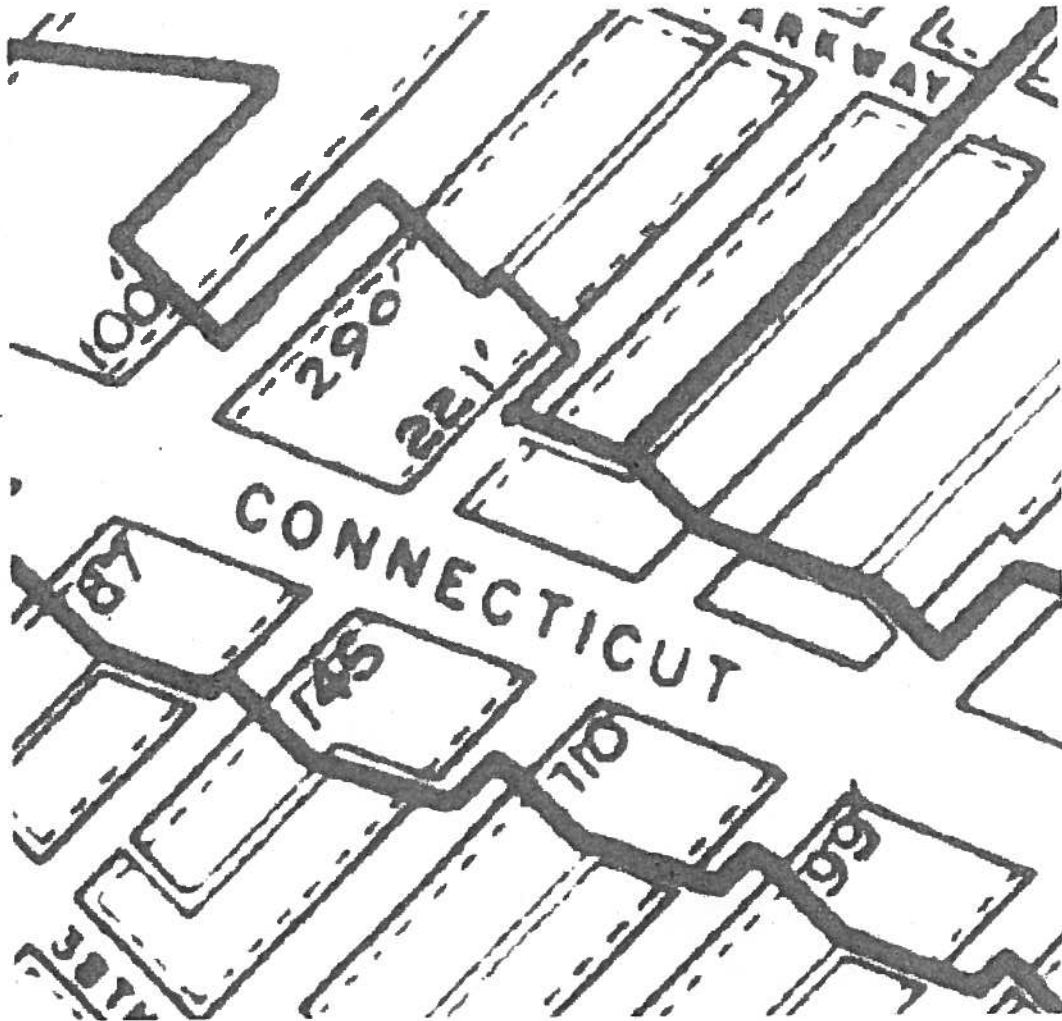
T. SUTTON JETT

ATTEST:

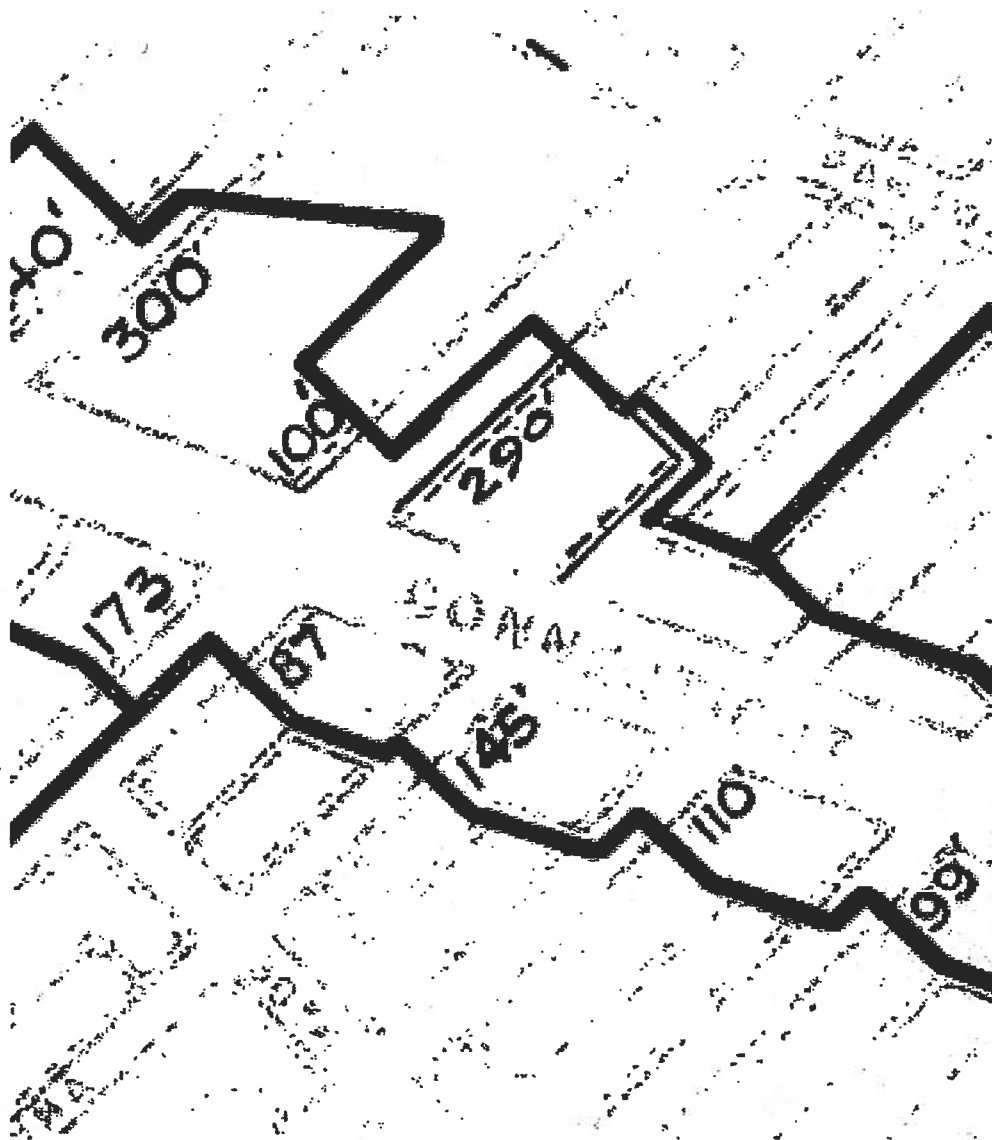
H. G. Ashton
H. G. ASHTON
Executive Officer (Acting)



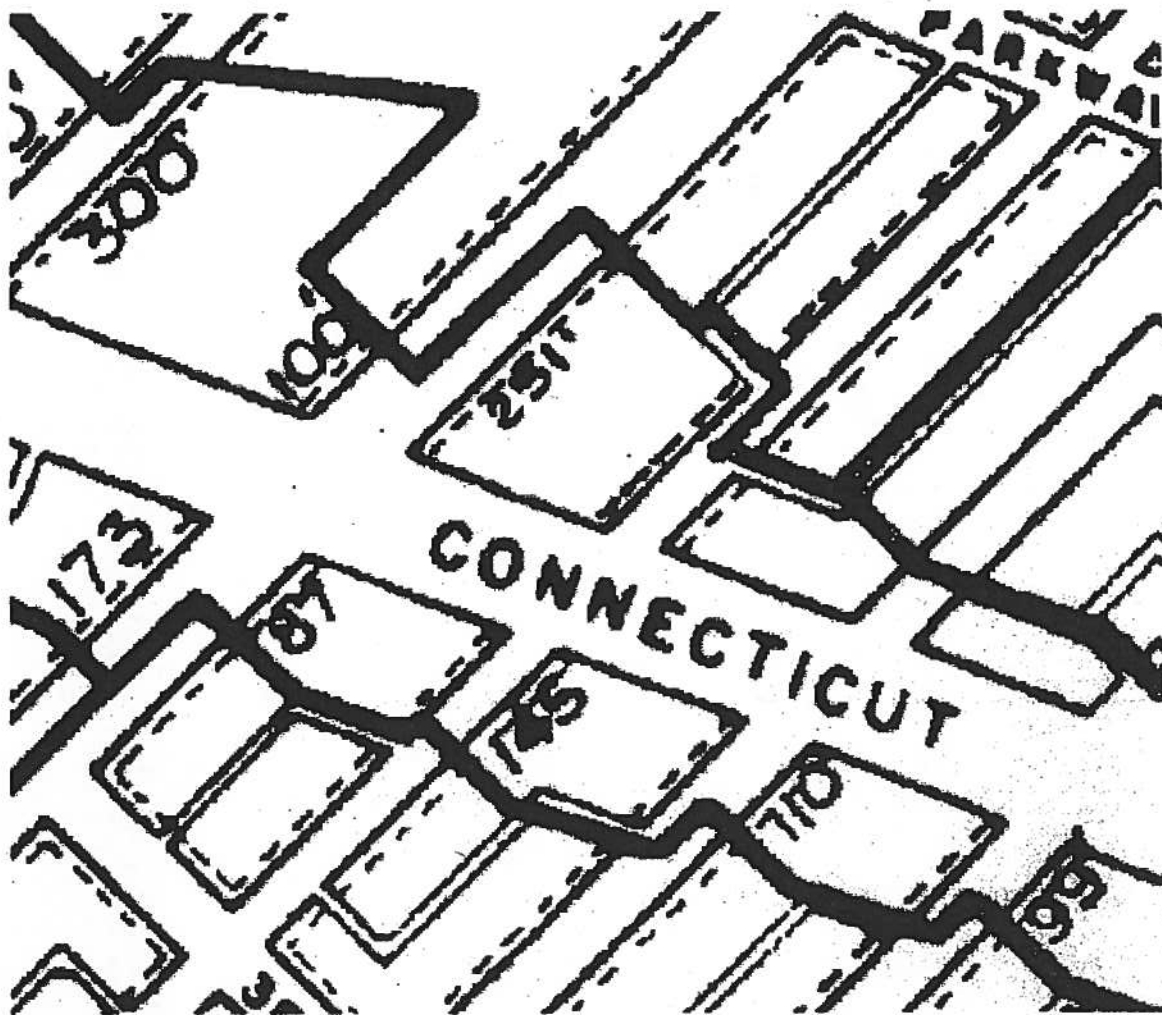
Excerpt from the Baist Atlas Vol. 3, Page 34 for Square 1873



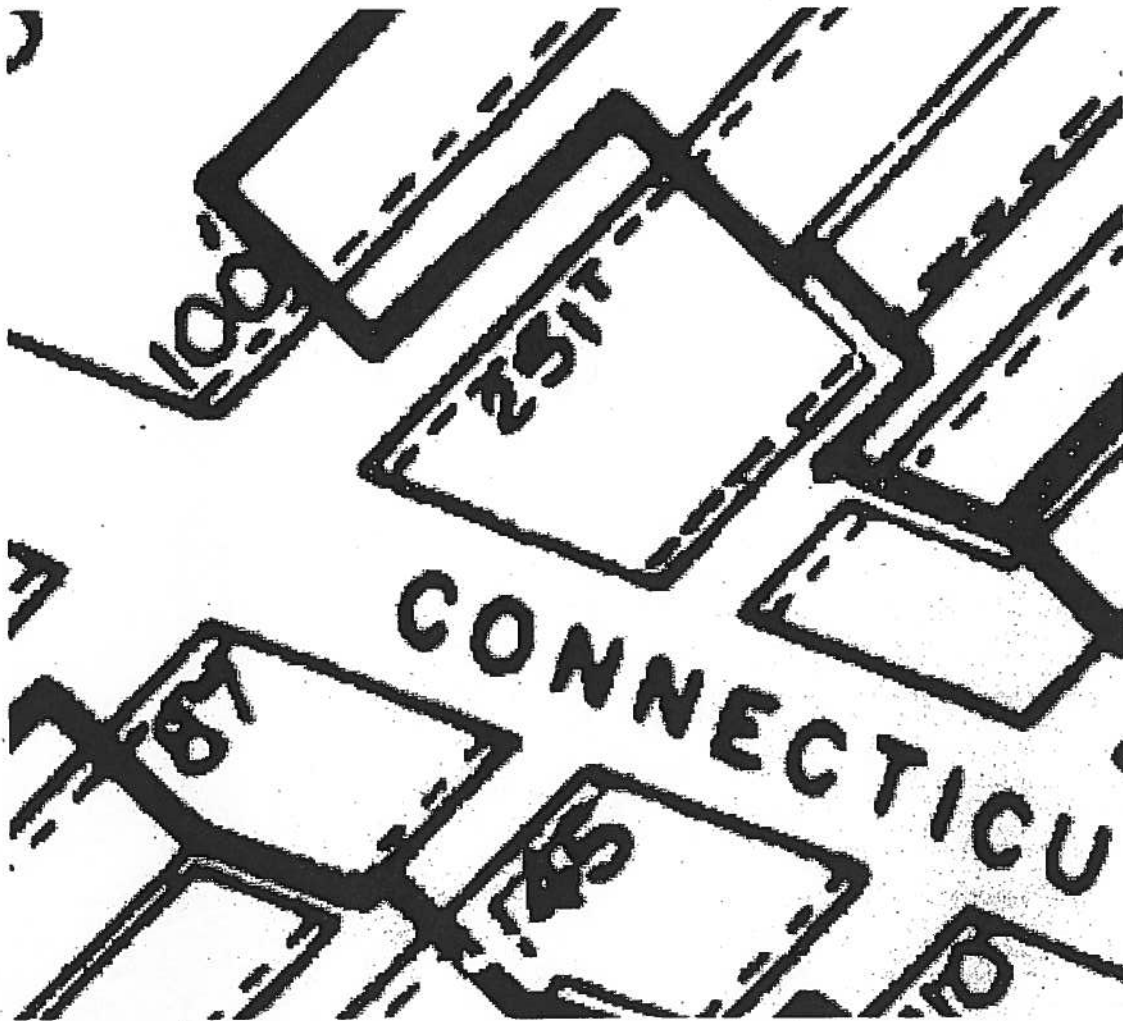
Excerpt from the 1966 Zoning Map



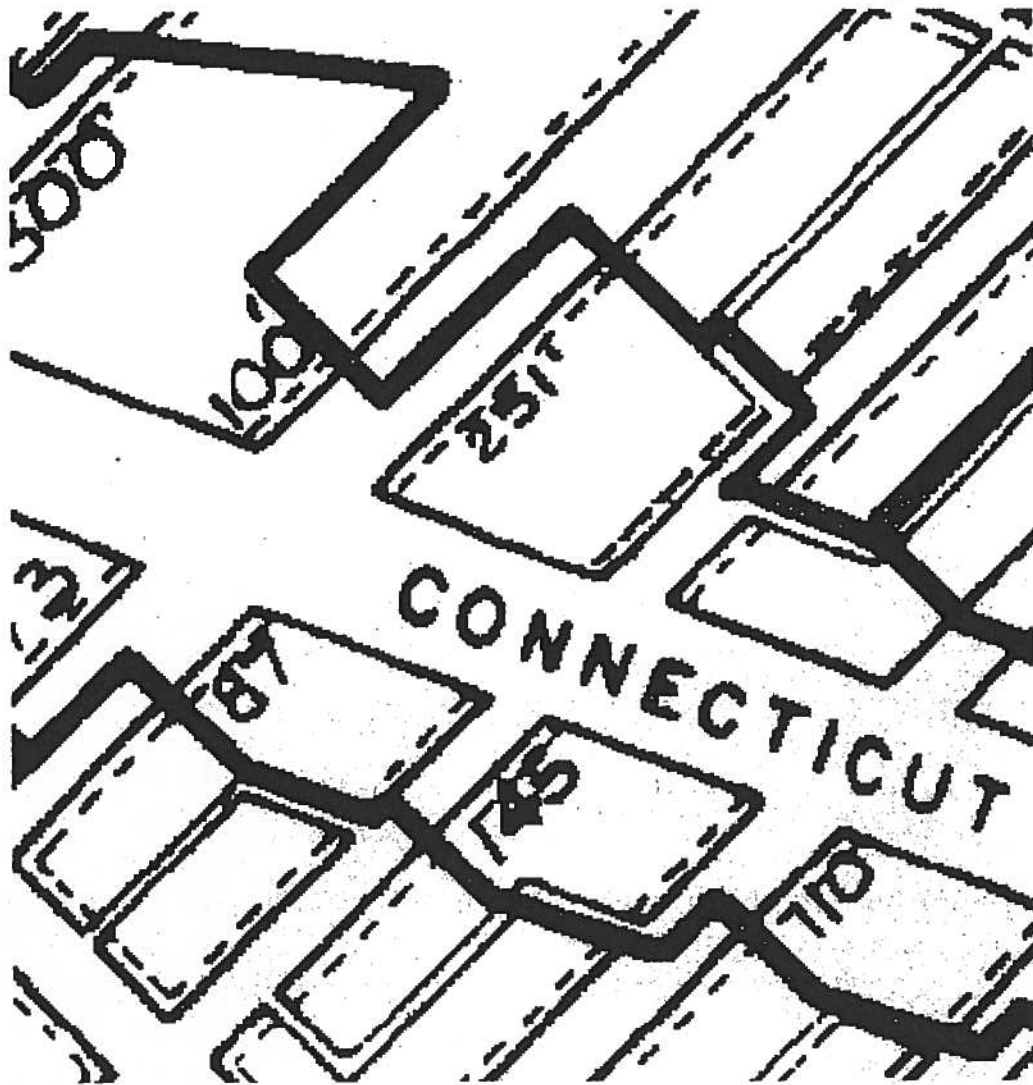
Excerpt from the 1973 Zoning Map



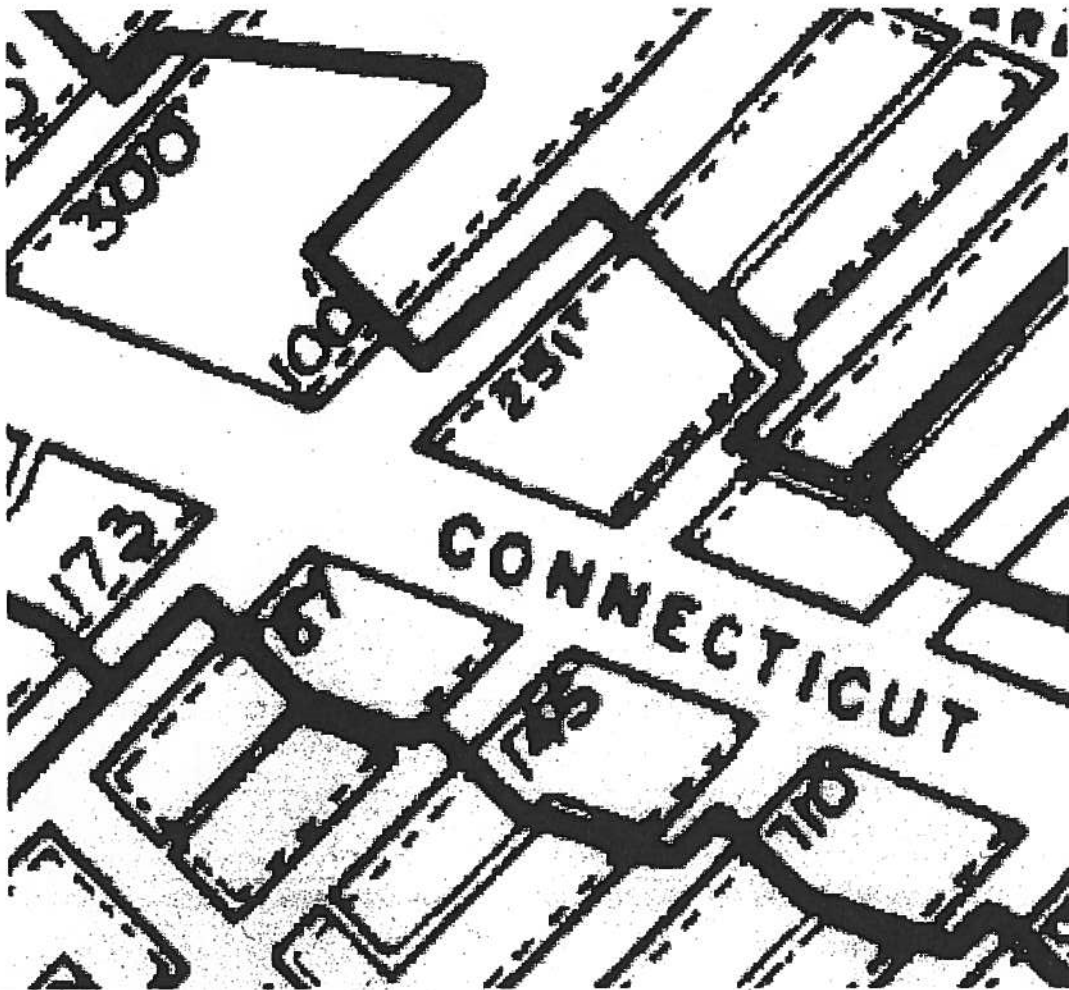
Excerpt from the 1975 Zoning Atlas



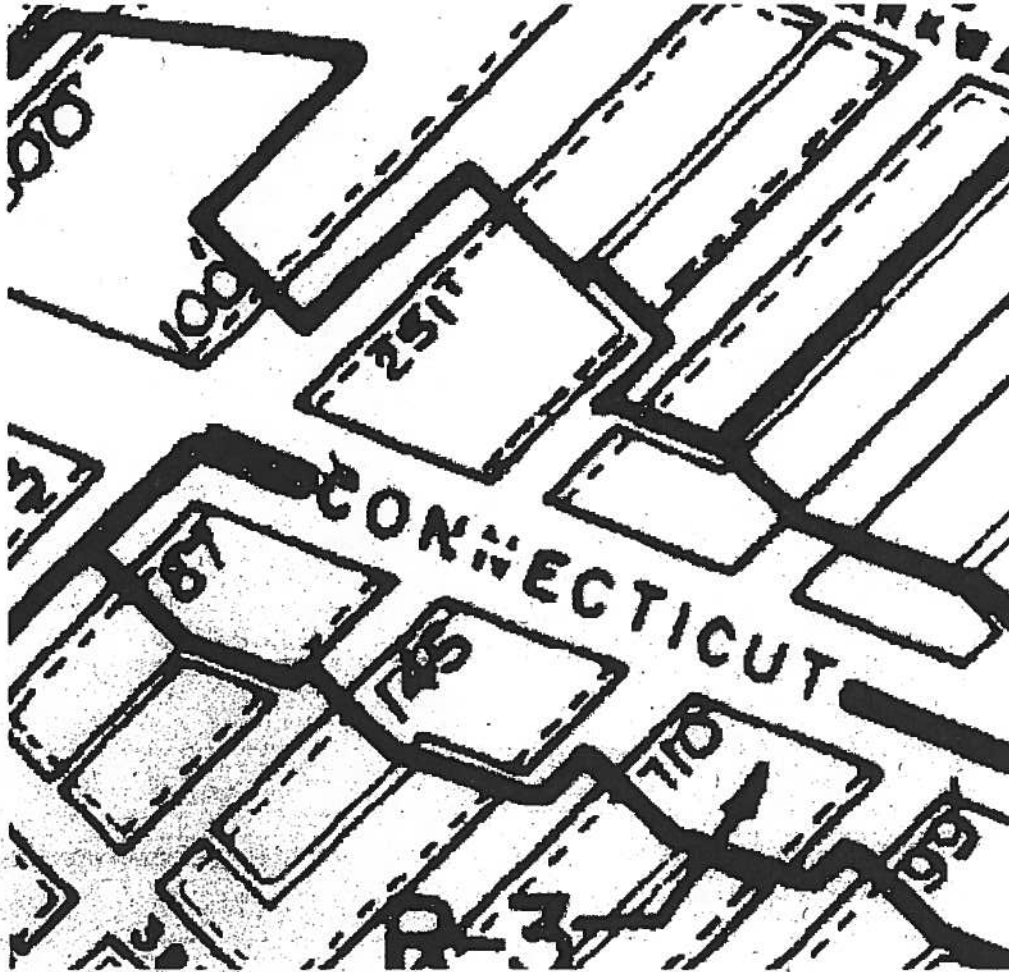
Excerpt from the 1983 Zoning Map



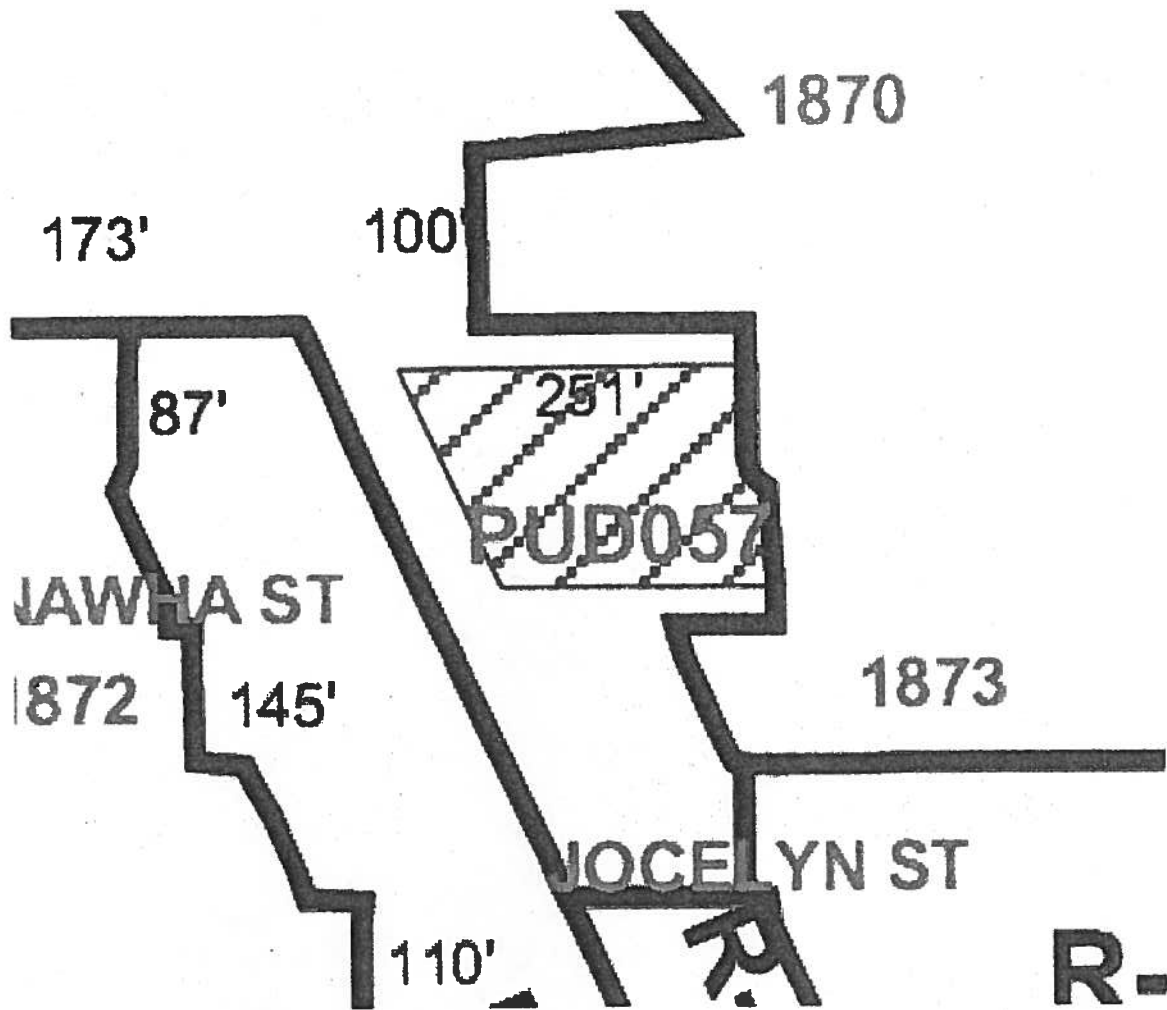
Excerpt from the 1984 Zoning Map



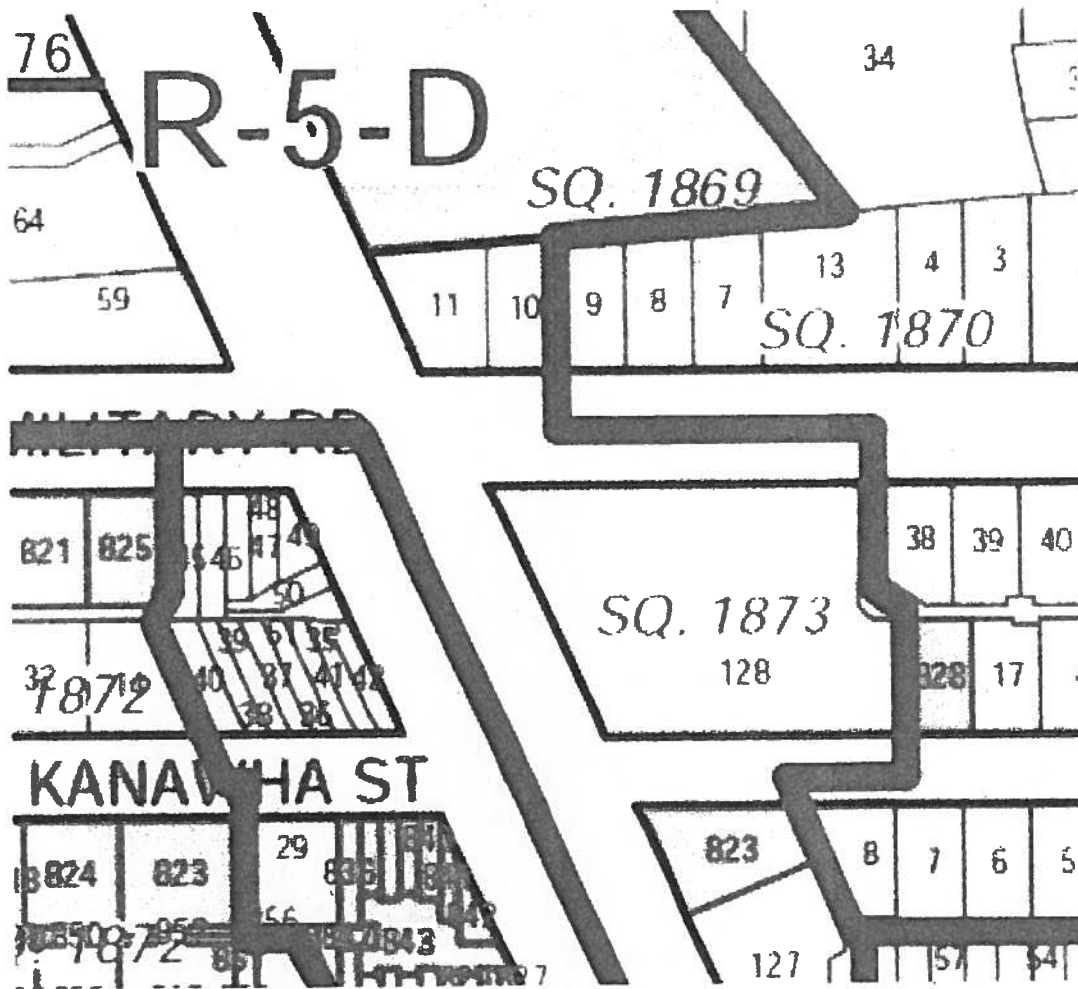
Excerpt from the January 1, 1987 Zoning Map



Excerpt from the 1996 Zoning Atlas



Excerpt from the 2003 Zoning Map



Excerpt from the January 1, 2013 Zoning Map

Exhibit L

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning*January 22, 2013*

*I certify and attest that the official records of the Zoning Commission for the
District of Columbia indicates that, Lot 128 in Square 1873 is zoned R-5-D with
boundary lines as shown on the attached plat.*

*RICHARD S. NERO, JR.
Deputy Director of Operations
Office of Zoning*

District of Columbia, ss

Signed and sworn to before me this 22nd day of January 2013.

*SHARON S. SCHELLIN
Notary Public, DC*

My Commission expires on JANUARY 1, 2014

EXHIBIT 20
DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Exhibit M
(Pg. 2 of 2)

Washington, D.C., January 15, 2013

Plat for Building Permit of: SQUARE 1873 LOT 128

Scale: 1 inch = 40 feet Recorded in Book 191 Page 41

Receipt No. 13-01862

Furnished to: HOLLAND KNIGHT/FREDA HOBAR

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon are drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this plat has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 2.0% for single-family dwellings on lots, or in excess of 1.2% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

[Signature]
Ki Surveyor, D.C.

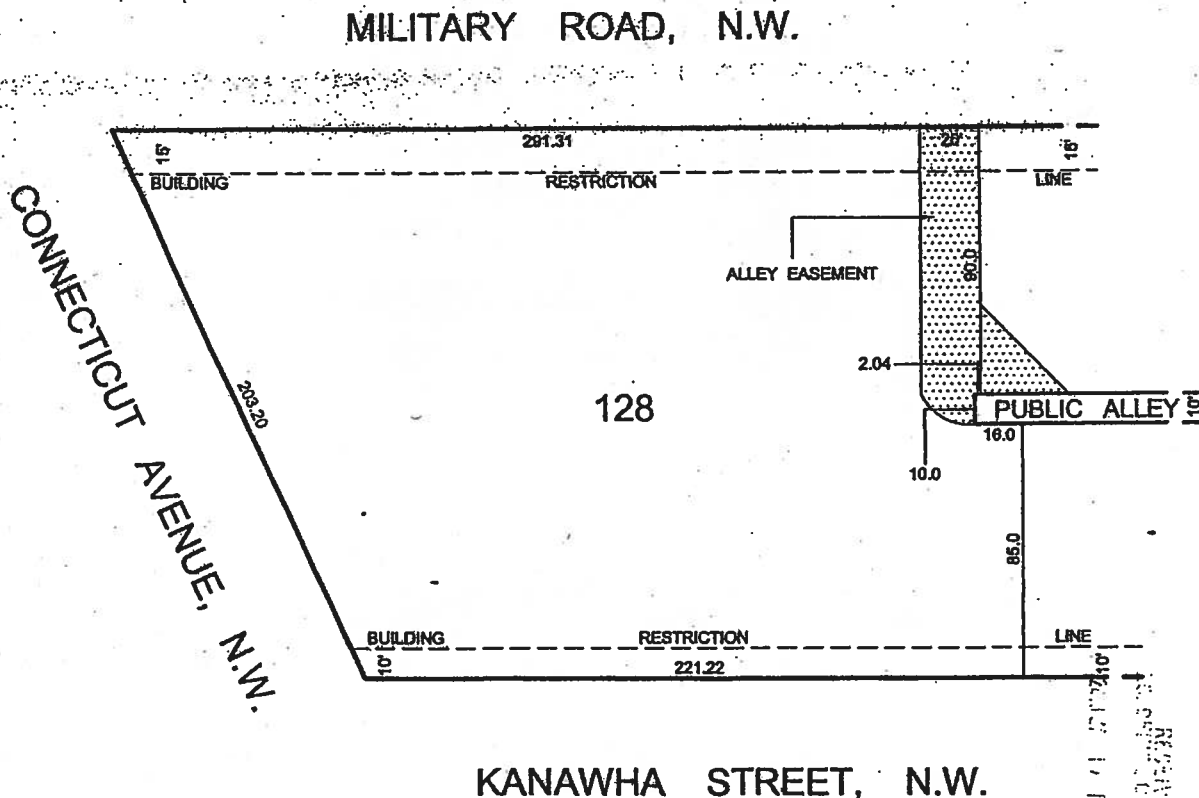
By: A.S.

January 22, 2013

NOTE: Date

I certify and attest that the official records of the Planning Commission for the District of Columbia indicates that, Lot 128 in Square 1873 is zoned R-3-D with boundary lines as shown on the attached plat.

[Signature]
RICHARD S. NERO, JR.
Deputy Director of Operations
Office of Planning



C
O
P
Y

May 11, 1950

TO: THE COMMISSIONERS

IN RE: Request of Lt. Col. T. J. Hayes, Assistant Engineer
Commissioner, for an opinion as to the place from which
the height of a building to be erected in the triangle
bounded by H Street, 14th Street, and New York Avenue,
N. W., shall be measured under the provisions of the
Act of 1910 regulating the height of buildings in the
District of Columbia.

REPORT:

The Virginia Hotel Company is the owner of the above-mentioned property and proposes to erect thereon an office building to the full height permitted by the laws and Zoning Regulations of the District. The plans as submitted call for a building approximately 130 feet in height with setbacks above the 110 foot level as required by Paragraph 11 of Section XIII of the Zoning Regulations. 14th Street and New York Avenue are of sufficient width to permit, under Section 5 of the Act of 1910 (Section 5-405, D. C. Code 1940 edition), the erection of this building to a height of 130 feet. H Street is not wide enough to permit a height of 130 feet, but it has an elevation greater than New York Avenue.

Section 5 of the Act of 1910 reads in part as follows:

"Sec. 5. That no building shall be erected
... so as to exceed in height above the sidewalk
the width of the street, avenue, or highway in its
front, increased by 20 feet;"

"No building shall be erected ... as to
exceed the height of 130 feet on a business street
... except on the North side of Pennsylvania
Avenue between First and Fifteenth Sts., N.W., where
an extreme height of 160 feet will be permitted."

"The height of a building on a corner lot
will be determined by the width of the wider street."

The question has arisen as to the point from which the height allowed by Section 5 should be measured. The owners of the building contend it should be measured from H Street which has the greatest elevation, while the Building Department insists the measurement must be made

from the front facing 14th Street, the street from which the height of the building is taken. Section 7 of the Act of 1910 (Section 5-407, D. C. Code, 1940 edition) provides as follows:

"Sec. 7. That for the purposes of this Act the height of buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than one front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height."

The Building Department construes this Section as if it read that the height shall be measured from the elevation of the sidewalk opposite the middle of the front facing the street the width of which permitted the greater height. In my opinion there is no basis for this construction. Section 5 establishes maximum height classifications for all buildings, based on width of streets, business or residential use of the streets, and occupation of adjacent blocks for parks, reservations or public buildings. The maximum height classification having been determined under Section 5, Section 7 then furnishes the rule for determining the permissible height of a particular building within that class. Section 7 states that "the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height". Neither the elevation of the sidewalk nor the front of the building determines the maximum height classification. The words "that will permit of the greater height" refer to the height to be determined by the actual measurement, rather than to the maximum height classification which has already been determined by the width of one or more of the streets. Sections 5 and 7 are separate and distinct. As before stated the maximum height classification is determined by the widest street. When that has been ascertained the actual height of the building is measured from the middle of the front of the building opposite the sidewalk having the greatest elevation.

There is nothing in the Committee Reports on the Act of 1910 which throws any light upon this problem. However, some help is obtained from a consideration of the Act which the Act of 1910 superseded. On March 1, 1899 Congress passed an Act to regulate the height of buildings in the District of Columbia (30 Stat. 922). This Act provided in part in Section 4, as follows:

"Sec. 4. That no building shall be erected or altered on any street in the District of Columbia to exceed in height above the sidewalk the width of the street in its front. * * *. The height of

buildings on corner lots shall in all cases be regulated by the limitations governing on the broader street; * * *."

Section 6 of the Act provided:

"Sec. 6. That the height of all buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof; if the building has more than one front the measurement shall be made upon the front facing the street of steepest grade. * * *."

It will be noted that the Act of 1899 provided that the height of buildings on corner lots would be regulated by the limitations governing on the broader street, and that if the building had more than one front the measurement was to be made from the front facing the street of steepest grade. The method prescribed for measuring the height had nothing to do with the width of the street from which the theoretical height was ascertained since that street was not necessarily the one having the steepest grade. In fact, if the narrower street had the steepest grade and that grade ascended the actual height of the building would be increased because of the condition on the narrower street. On March 3, 1903 the provisions of Section 6 of the Act of 1899 prescribing the method of measuring the height of a building having more than one front was amended to read as follows: (32 Stat. 1022).

"Sec. 6. That the height of all buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than one front, the height should be measured from the mean elevation of the sidewalk at the street corners."

Here, again, the measurement of the height was determined without reference to the width of the street from which the theoretical height was taken. The Act of 1899, both as originally enacted and as amended, clearly shows the intent of Congress that the measurement of the actual height of the building was to be made without regard to the street the width of which permitted the greater theoretical height, and there is nothing in the 1910 Act which indicates that Congress intended to change this principle.

I am therefore of the opinion that the height of the building here involved should be measured from the middle of the front of the building on H Street, the elevation of the sidewalk on that street permitting the greater height.

RECOMMENDATION:

It is recommended that a copy of this opinion be furnished Lt. Col. T. J. Hayes.

/s/ VERNON E. WEST
Corporation Counsel, D. C.

VEV:ehh
CCO-799.1 -- Virginia Hotel Co.
5/10/50

EXHIBIT 20
DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Exhibit O

Washington, D.C., March 23, 2012

Plet for Building Permit of: **SQUARE 1873 LOT 128**

Scale: 1 inch = 40 feet Recorded in Book 191 Page 41

Receipt No. 12-02702

Furnished to: **SONEIL CHARLES**

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

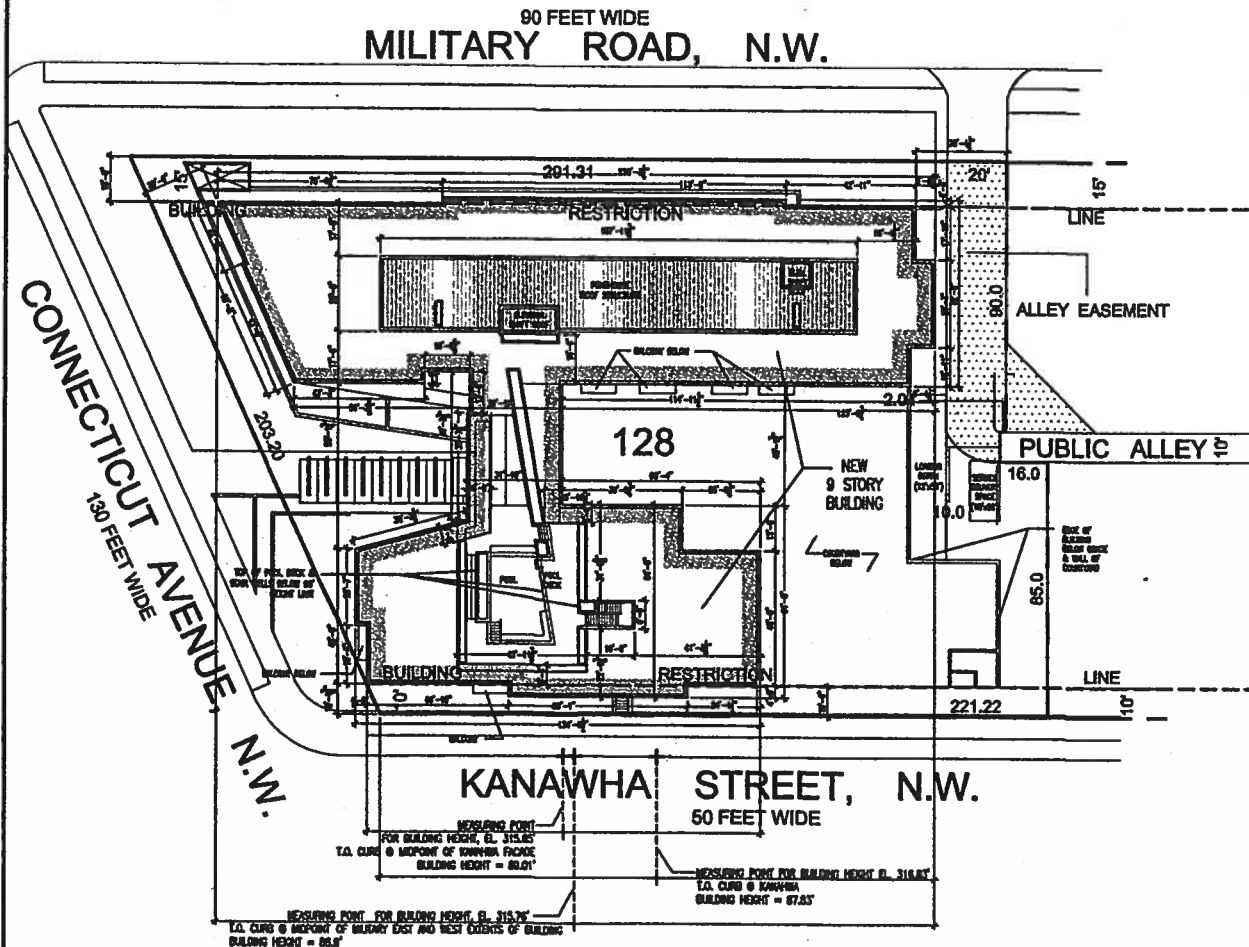
Date: _____

Surveyor, D.C.

By: **A.S.**

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



**ERIC COLBERT &
ASSOCIATES, P.C.**

1750 5th Street, N.W. Washington, D.C. 20001

5333

CONNECTICUT AVE.

333 CONNECTICUT AVE, NW
WASHINGTON, DC 20015

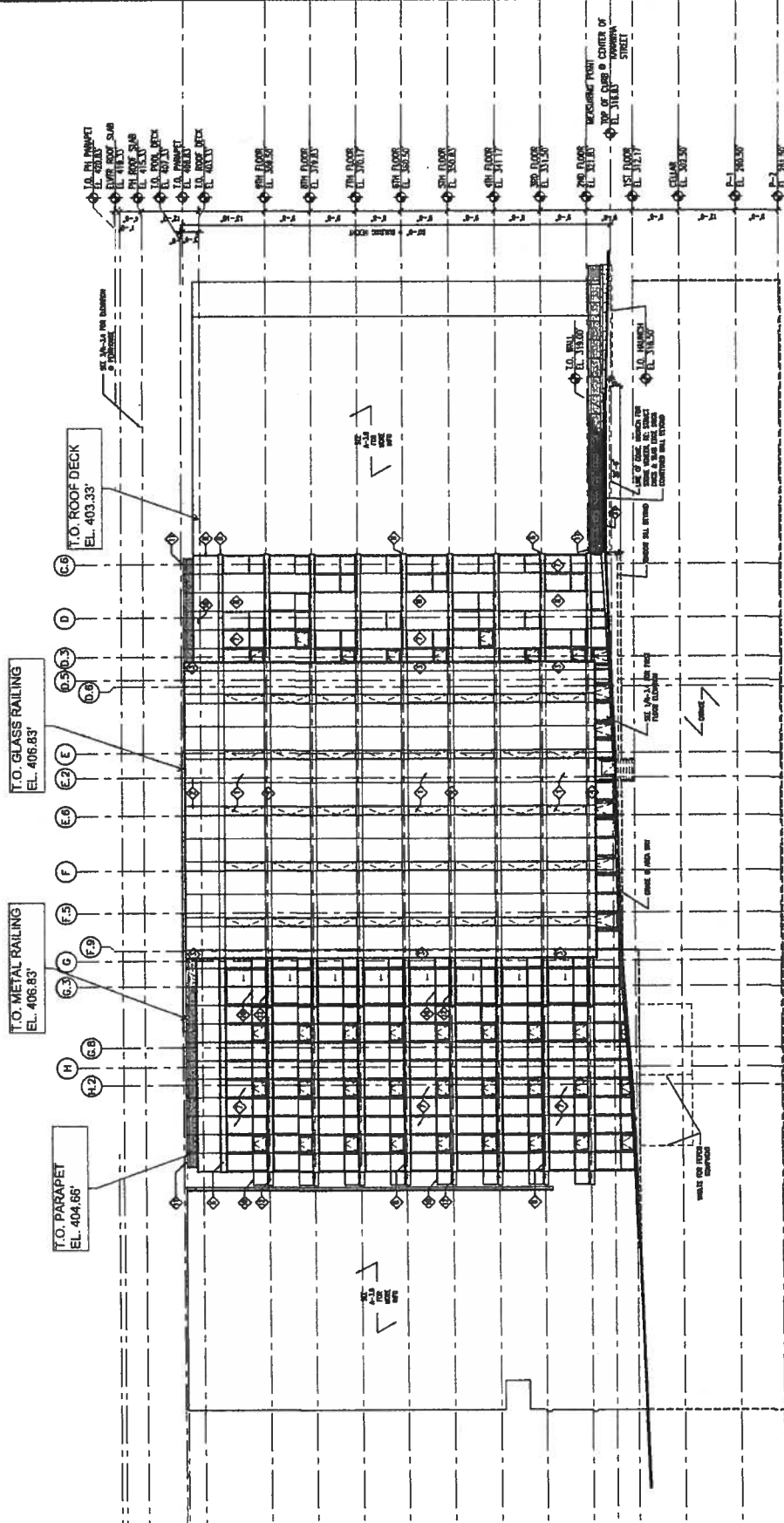
ISSUE / REVISED DATE	ISSUE SET	REVISED SET
02/13/2012	00 SET	
04/02/2012	170 PERMAN SET	
04/30/2012	000 C20/PROLOG SET	
05/31/2012	PERMAN SET	
06/15/2012	REVISED PERMAN SET	
08/20/2012	000 SET	
12/03/2012	REVISED 000 SET	
01/26/2013	PROLOG SET	

ELEVATION
KANAWHA

A-34

ELEV. NOTES

FOR ELEVATION NOTES, SEE SHEET A-3.1



BUILDING ELEVATION

BUILDING ELEVATION @ FIRST FLOOR

EXHIBIT 20

Exhibit R

(Pg. 1 of 3)

M E M O R A N D U M

TO: Steven E. Sher

FROM: Jim Fahey *Jim Fahey*

DATE: September 11, 1990

RE: Outline of What Is and Is Not Included in Gross Floor Area

=====

As requested, the following is an outline of what is and is not included in gross floor area, for purposes of determining the maximum floor area ratio allowed under the D.C. Zoning Regulations.

Gross floor area is the sum of the gross horizontal areas of the several floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of party walls separating two buildings. This is achieved by simply multiplying the length by the width of each floor excluding those areas listed on pages 2 and 3 and adding up the totals. Keep in mind to include all exterior walls and to the center line of party walls when taking measurements.

In the case of a building that has a difference in grade, resulting in floors that are by definition part basement and cellar; you use the following method for obtaining the floor area charged to gross floor area:

1. First measure the total perimeter of the floor in question.
2. Then, measure that portion of the perimeter of the floor, the ceiling of which is four feet or more above the adjacent finished grade, and what percentage this is of the total perimeter of the floor in question.
3. The answer to the above will be the percentage of the floor area chargeable to gross floor area.

The term gross floor area includes:

1. All floors of the building above grade.
2. Basements; by definition a basement is that portion of a story partly below grade, the ceiling of which is four feet or more above the adjacent finished grade.
3. Elevator shafts and stairwells at each story; however, this does not include elevator shafts or stairwells that are located in the cellar area of a building.
4. Mechanical equipment rooms with a structural headroom of six feet six inches or more.

EXHIBIT 20

Exhibit R

(Pg. 2 of 3)

5. Interior balconies.
6. Mezzanines
7. Attic space (whether or not a floor has actually been laid), providing structural headroom of six feet six inches or more.
8. Overhangs, including covered entrances, canopies, marquises, etc.
9. Open arcades in the "C-5", Downtown SHOP and proposed Downtown Development Overlay Districts.
10. Atriums; ground floor only.
11. Vent shafts and pipe chaser shafts; ground floor only.
12. That portion of an outside balcony projecting more than six feet beyond the exterior wall of a building.
13. All floors of accessory buildings, the ceiling of which is four feet or more above the adjacent finished grade.

Other areas of the building that are included in gross floor area but are given an increase in allowable floor area ratio solely for the following uses:

1. Under sub-section 411.7, penthouses housing mechanical equipment and elevator penthouses are allowed an increase of .37.
2. Except in the "C-5", Downtown SHOP and proposed Downtown Development Overlay Districts, an open arcade complying with Section 2515 is allowed a floor area credit not to exceed 25% of the gross floor area of the floor adjacent to the arcade.

The following are exclusions from gross floor area:

1. Cellars; by definition is that portion of a story, the ceiling of which is less than four feet above the adjacent finished grade.
2. Mechanical equipment rooms with a structural headroom of less than six feet six inches.
3. Outside balconies that do not exceed a projection of six feet beyond the exterior wall of the building.
4. All projections beyond the lot line that may be allowed by other Municipal Codes.

EXHIBIT 20

Exhibit R

(Pg. 3 of 3)

5. In Residential Districts, the first floor or basement areas designed and used for parking space or for recreation space, provided that not more than 50% of the perimeter of the space may be comprised of columns, piers, walls, or windows, or similarly enclosed.
6. Vent shafts and pipe chaser shafts above the ground floor.
7. Atriums above the ground floor.
8. Ramps on the ground floor leading to a parking garage on a lower level.

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1999 herds, including, part of a herd of last fall in area 32, into 30a, 30b, 30c, 30d, 30e, 30f, 30g, 30h, 30i, 30j, 30k, 30l, 30m, 30n, 30o, 30p, 30q, 30r, 30s, 30t, 30u, 30v, 30w, 30x, 30y, 30z, 30aa, 30ab, 30ac, 30ad, 30ae, 30af, 30ag, 30ah, 30ai, 30aj, 30ak, 30al, 30am, 30an, 30ao, 30ap, 30aq, 30ar, 30as, 30at, 30au, 30av, 30aw, 30ax, 30ay, 30az, 30ba, 30bb, 30bc, 30bd, 30be, 30bf, 30bg, 30bh, 30bi, 30bj, 30bk, 30bl, 30bm, 30bn, 30bo, 30bp, 30bq, 30br, 30bs, 30bt, 30bu, 30bv, 30bw, 30bx, 30by, 30bz, 30ca, 30cb, 30cc, 30cd, 30ce, 30cf, 30cg, 30ch, 30ci, 30cj, 30ck, 30cl, 30cm, 30cn, 30co, 30cp, 30cq, 30cr, 30cs, 30ct, 30cu, 30cv, 30cw, 30cx, 30cy, 30cz, 30da, 30db, 30dc, 30dd, 30de, 30df, 30dg, 30dh, 30di, 30dj, 30dk, 30dl, 30dm, 30dn, 30do, 30dp, 30dq, 30dr, 30ds, 30dt, 30du, 30dv, 30dw, 30dx, 30dy, 30dz, 30ea, 30eb, 30ec, 30ed, 30ee, 30ef, 30eg, 30eh, 30ei, 30ej, 30ek, 30el, 30em, 30en, 30eo, 30ep, 30eq, 30er, 30es, 30et, 30eu, 30ev, 30ew, 30ex, 30ey, 30ez, 30fa, 30fb, 30fc, 30fd, 30fe, 30ff, 30fg, 30fh, 30fi, 30fj, 30fk, 30fl, 30fm, 30fn, 30fo, 30fp, 30fq, 30fr, 30fs, 30ft, 30fu, 30fv, 30fw, 30fx, 30fy, 30fz, 30ga, 30gb, 30gc, 30gd, 30ge, 30gf, 30gg, 30gh, 30gi, 30gj, 30gk, 30gl, 30gm, 30gn, 30go, 30gp, 30gq, 30gr, 30gs, 30gt, 30gu, 30gv, 30gw, 30gx, 30gy, 30gz, 30ha, 30hb, 30hc, 30hd, 30he, 30hf, 30hg, 30hh, 30hi, 30hj, 30hk, 30hl, 30hm, 30hn, 30ho, 30hp, 30hq, 30hr, 30hs, 30ht, 30hu, 30hv, 30hw, 30hx, 30hy, 30hz, 30ia, 30ib, 30ic, 30id, 30ie, 30if, 30ig, 30ih, 30ii, 30ij, 30ik, 30il, 30im, 30in, 30io, 30ip, 30iq, 30ir, 30is, 30it, 30iu, 30iv, 30iw, 30ix, 30iy, 30iz, 30ja, 30jb, 30jc, 30jd, 30je, 30jf, 30jg, 30jh, 30ji, 30jj, 30jk, 30jl, 30jm, 30jn, 30jo, 30jp, 30jq, 30jr, 30js, 30jt, 30ju, 30jv, 30jw, 30jx, 30jy, 30jz, 30ka, 30kb, 30kc, 30kd, 30ke, 30kf, 30kg, 30kh, 30ki, 30kj, 30kl, 30km, 30kn, 30ko, 30kp, 30kq, 30kr, 30ks, 30kt, 30ku, 30kv, 30kw, 30kx, 30ky, 30kz, 30la, 30lb, 30lc, 30ld, 30le, 30lf, 30lg, 30lh, 30li, 30lj, 30lk, 30ll, 30lm, 30ln, 30lo, 30lp, 30lq, 30lr, 30ls, 30lt, 30lu, 30lv, 30lw, 30lx, 30ly, 30lz, 30ma, 30mb, 30mc, 30md, 30me, 30mf, 30mg, 30mh, 30mi, 30mj, 30mk, 30ml, 30mm, 30mn, 30mo, 30mp, 30mq, 30mr, 30ms, 30mt, 30mu, 30mv, 30mw, 30mx, 30my, 30mz, 30na, 30nb, 30nc, 30nd, 30ne, 30nf, 30ng, 30nh, 30ni, 30nj, 30nk, 30nl, 30nm, 30nn, 30no, 30np, 30nq, 30nr, 30ns, 30nt, 30nu, 30nv, 30nw, 30nx, 30ny, 30nz, 30oa, 30ob, 30oc, 30od, 30oe, 30of, 30og, 30oh, 30oi, 30oj, 30ok, 30ol, 30om, 30on, 30oo, 30op, 30oq, 30or, 30os, 30ot, 30ou, 30ov, 30ow, 30ox, 30oy, 30oz, 30pa, 30pb, 30pc, 30pd, 30pe, 30pf, 30pg, 30ph, 30pi, 30pj, 30pk, 30pl, 30pm, 30pn, 30po, 30pp, 30pq, 30pr, 30ps, 30pt, 30pu, 30pv, 30pw, 30px, 30py, 30pz, 30qa, 30qb, 30qc, 30qd, 30qe, 30qf, 30qg, 30qh, 30qi, 30qj, 30qk, 30ql, 30qm, 30qn, 30qo, 30qp, 30qq, 30qr, 30qs, 30qt, 30qu, 30qv, 30qw, 30qx, 30qy, 30qz, 30ra, 30rb, 30rc, 30rd, 30re, 30rf, 30rg, 30rh, 30ri, 30rj, 30rk, 30rl, 30rm, 30rn, 30ro, 30rp, 30rq, 30rr, 30rs, 30rt, 30ru, 30rv, 30rw, 30rx, 30ry, 30rz, 30sa, 30sb, 30sc, 30sd, 30se, 30sf, 30sg, 30sh, 30si, 30sj, 30sk, 30sl, 30sm, 30sn, 30so, 30sp, 30sq, 30sr, 30ss, 30st, 30su, 30sv, 30sw, 30sx, 30sy, 30sz, 30ta, 30tb, 30tc, 30td, 30te, 30tf, 30tg, 30th, 30ti, 30tj, 30tk, 30tl, 30tm, 30tn, 30to, 30tp, 30tq, 30tr, 30ts, 30tt, 30tu, 30tv, 30tw, 30tx, 30ty, 30tz, 30ua, 30ub, 30uc, 30ud, 30ue, 30uf, 30ug, 30uh, 30ui, 30uj, 30uk, 30ul, 30um, 30un, 30uo, 30up, 30uq, 30ur, 30us, 30ut, 30uu, 30uv, 30uw, 30ux, 30uy, 30uz, 30va, 30vb, 30vc, 30vd, 30ve, 30vf, 30vg, 30vh, 30vi, 30vj, 30vk, 30vl, 30vm, 30vn, 30vo, 30vp, 30vq, 30vr, 30vs, 30vt, 30vu, 30vv, 30vw, 30vx, 30vy, 30vz, 30wa, 30wb, 30wc, 30wd, 30we, 30wf, 30wg, 30wh, 30wi, 30wj, 30wk, 30wl, 30wm, 30wn, 30wo, 30wp, 30wq, 30wr, 30ws, 30wt, 30wu, 30wv, 30ww, 30wx, 30wy, 30wz, 30xa, 30xb, 30xc, 30xd, 30xe, 30xf, 30fg, 30fh, 30fi, 30fj, 30fk, 30fl, 30fm, 30fn, 30fo, 30fp, 30fq, 30fr, 30fs, 30ft, 30fu, 30fv, 30fw, 30fx, 30fy, 30fz, 30ga, 30gb, 30gc, 30gd, 30ge, 30gf, 30gg, 30gh, 30gi, 30gj, 30gk, 30gl, 30gm, 30gn, 30go, 30gp, 30gq, 30gr, 30gs, 30gt, 30gu, 30gv, 30gw, 30gx, 30gy, 30gz, 30ha, 30hb, 30hc, 30hd, 30he, 30hf, 30hg, 30hh, 30hi, 30hj, 30hk, 30hl, 30hm, 30hn, 30ho, 30hp, 30hq, 30hr, 30hs, 30ht, 30hu, 30hv, 30hw, 30hx, 30hy, 30hz, 30ia, 30ib, 30ic, 30id, 30ie, 30if, 30ig, 30ih, 30ii, 30ij, 30ik, 30il, 30im, 30in, 30io, 30ip, 30iq, 30ir, 30is, 30it, 30iu, 30iv, 30iw, 30ix, 30iy, 30iz, 30ja, 30jb, 30jc, 30jd, 30je, 30jf, 30jg, 30jh, 30ji, 30jj, 30jk, 30jl, 30jm, 30jn, 30jo, 30jp, 30jq, 30jr, 30js, 30jt, 30ju, 30jv, 30jw, 30jx, 30jy, 30jz, 30ka, 30kb, 30kc, 30kd, 30ke, 30kf, 30kg, 30kh, 30ki, 30kj, 30kl, 30km, 30kn, 30ko, 30kp, 30kq, 30kr, 30ks, 30kt, 30ku, 30kv, 30kw, 30kx, 30ky, 30kz, 30la, 30lb, 30lc, 30ld, 30le, 30lf, 30lg, 30lh, 30li, 30lj, 30lk, 30ll, 30lm, 30ln, 30lo, 30lp, 30lq, 30lr, 30ls, 30lt, 30lu, 30lv, 30lw, 30lx, 30ly, 30lz, 30

[illegible]

Office of the Commissioner of the Columbia
Washington, D. C. June 1st 1900

[illegible]

I call up for the above subject's interest & record will remain at New Orleans office, Bureau of Civil Affairs

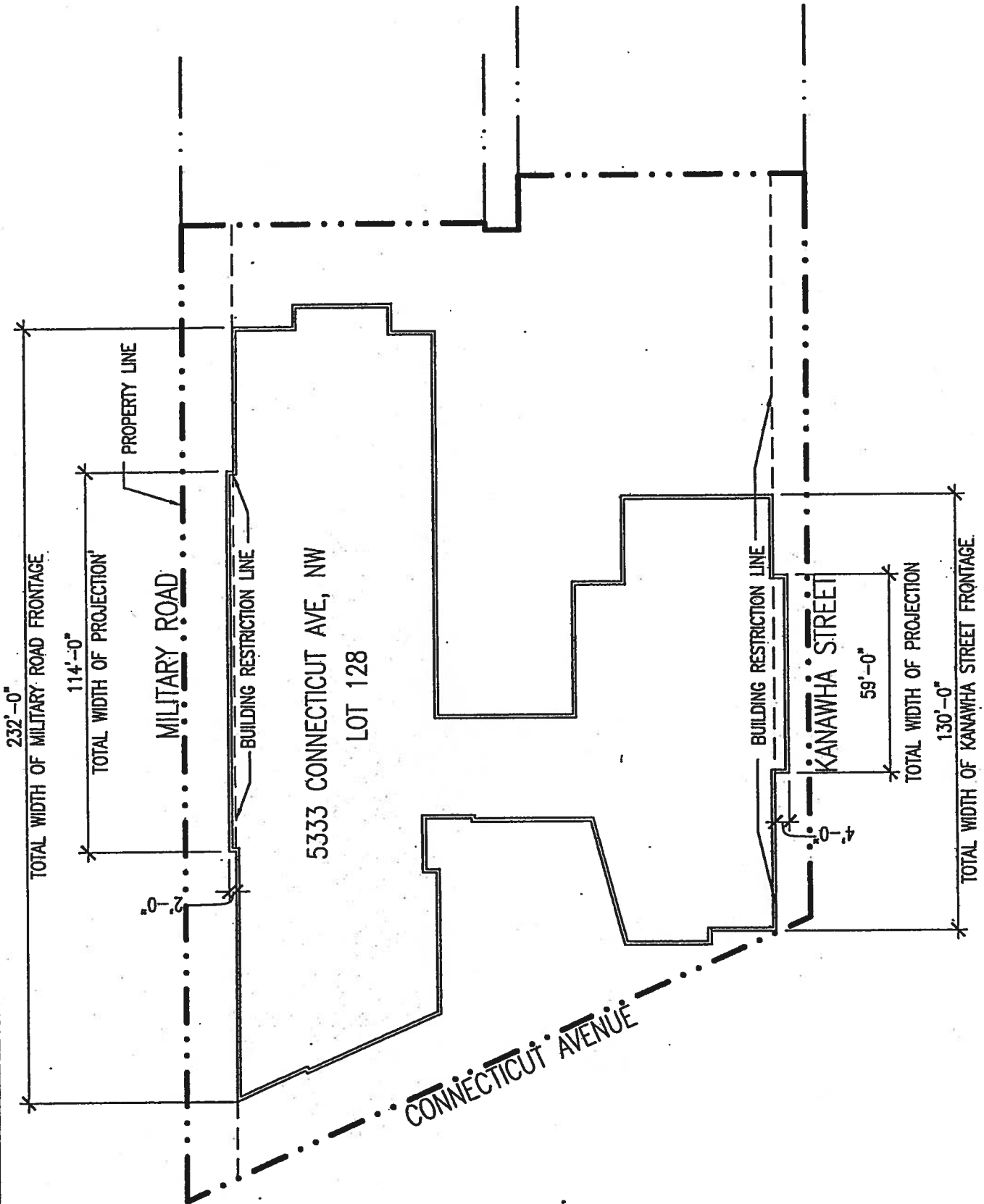
JANUARY 1960
JAMES M. CLARK
Sergeant Major of Columbia

I certify that the above is a true copy of the original retained for return
to me at the time I signed it.
Witness my hand and seal this last day of June 1914.

J. Edgar Hoover

W. G. F. _____ (no)
Warner. District of Columbia

MOORE'S BOOK



SCALE: 1" = 40'-0"
DATE: 01/24/2013

PROJECTING BAY ANALYSIS
(BAYS PROJECT OVER BUILDING RESTRICTION LINE BUT NOT PROPERTY LINES)

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT OPERATIONS DIVISION**

CONSTRUCTION CODES VARIANCE/MODIFICATION APPLICATION

Date: 12/13/2012

APPLICATION NUMBER: 012-326-12

Type of Construction: Concrete

Height of Construction: 90'

Construction Valuation: \$ 50,000,000

Use Group: R-2 + S-2

Lot: 128 Square: 1873

Gross Floor Area:

Sprinklered Yes ☒ No ☐

Standpipe Yes ☒ No ☐

Fire Alarm Yes ☒ No ☐

Plans Attached Yes ☒ No ☐

Owner's Name

CMK Dev, LLC c/o Calvin Cafritz Enterprises

Phone Number 202-248-5807

Owner's Address

1828 L Street NW #703, Washington DC 20036

Zip Code

Agent's Name

Eric Colbert

Phone Number

202-289-6800

Agent's Address

717 5th St. NW Wash DC 20001

Zip Code

Project Address: 5333 Connecticut Ave NW

Project or Permit Number: B 120 8792

In accordance with Section 104.10 of the District of Columbia Construction Code Supplement of 2008, DCMR 12A, as amended, I hereby request a variance/modification to the D.C. Construction Codes, specifically:

Code DC Amendments Section Number 3202.10.2.2

2008

3202.10.3.3

Section Title Balconies & Bays in Public Space

The following special circumstances or hardship exists: The building restriction lines require substantial setbacks on the north and south sides of the property. We propose to provide projections over the building restriction line as allowed for a property line.

Proposed alternative means of compliance with the regulation specified above: Projections are allowed by the DC code. This waiver is to formalize the director's opinion that the building restriction line should be treated like a property line.

This proposal meets the intent of the Code specified above because: The DC code authorizes projections beyond the property line. The chief building official agrees that the building restriction line can be treated like a property line with regard to projections.

I, the owner/owner's agent, assume full responsibility for non-compliance with said Code Section(s) and render the D.C. Government harmless for any consequent liabilities.

Waiver request is based on: Application denial Yes ☐ No ☒ Plan review comments: Yes ☐ No ☒

Field Inspection disapproval: Yes ☐ No ☒ Other: Yes ☒ No ☐ Clarification meeting with the Chief Building Official.

Owner's Signature

Calvin Cafritz

Agent's Signature

Eric Colbert

Contact Person

Eric Colbert

Phone

202
289
6800
x17

FOR OFFICIAL USE ONLY

Recommendation:

Reviewed by: John A. De

Date: 2-6-13

☒ Approval

☐ Disapproval

COMMENTS: Written Projection Swatches (Balconies + Bays) NORTH UNDERGROUND PARKING ON VENTS ARE INCLUDED IN THIS APPROVAL

APPROVED FOR VERTICAL PROJECTIONS OVER BRL

☒ Approved
☐ Disapproved

Authorized Code Official

Date

2-28-13