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October 31, 2005

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RECEIVED
D.C. OFFICE OF ZONING
2005 OCT 31 PM 3:09

By Hand Delivery

Ms. Carol Mitten
Chairperson, D.C. Zoning Commission
441 4th Street, N.W.
Second Floor
Washington, DC 20001

Re: Zoning Commission Case No. 05-15 - Consolidated PUD Application for 318 I Street, NE (Square 775, Lots 1, 22, 23, 32, 826 and 827) – Final Submissions and Draft Findings of Fact and Conclusions of Law

Dear Chairperson Mitten and Members of the Commission:

Enclosed please find the post-hearing submissions of Broadway I Associates LLC (the "**Applicant**") for the above referenced case based on the requests of the Zoning Commission and the Office of Planning at the October 24, 2005, public hearing.

The following is a list and description of the material submitted into the record by this letter:

- North wall elevation adjacent to the existing townhouses and west wall elevation adjacent to the alley (Please see page 25 of the attached Exhibit A).
- Conceptual studies of the decorative precast spandrel panels (Please see page 26 of the attached Exhibit A).
- Conceptual studies of the decorative metal railings and fencing (Please see page 26 of the attached Exhibit A).
- Information pertaining to the conceptual details of the decorative bracket system at the cantilevering portion of the building over the alley (Please see page 26 of the attached Exhibit A).
- Clarification of dimensions and labeling on the roof plan and "green roof" elements (Please see page 9 of the attached Exhibit A).

ZONING COMMISSION
District of Columbia
CASE NO.05-15
EXHIBIT NO.27

- Detail of environmentally sensitive and LEED certifiable areas – The Applicant's design includes many features that are environmentally sensitive. The Office of Planning typically treats characteristics of a building that are LEED certifiable but not LEED certified as amenities. The design features of the project that are environmentally sensitive, which are potentially LEED certifiable, include:

  - the reuse of industrial land;
  - protecting and restoring open space through the courtyard;
  - the implementation of a stormwater management system and reuse of stormwater;
  - landscaping and exterior design to reduce urban heat islands;
  - use of energy efficient appliances through the use of hyrdonic heat-pumps;
  - storage and collection of recyclables;
  - specifying a certain amount of materials from nearby areas;
  - provision of a portion of unit ventilation via mechanical system;
  - the provision of at-grade bike storage and additional bike storage below-grade; and
  - a green roof system covering part of the building's roof top.

- A shadow study showing the potential shadow impact as they extend from the project toward the direction of K Street (Please see pages 20 and 24 of the attached Exhibit A) – The shadow study provided clearly illustrates that the shadows cast by the proposed project on the shortest day of the year at 10 AM would not affect the roofs of the properties at the northwest quadrant of the square. The Applicant illustrated the shadows for 10 AM since earlier hours are not considered capable of providing useful solar energy for collection devices. There are only 3.37 hours of useful solar energy available at the winter solstice straddling noon, per references surveyed by the project architect. The shadows cast by the proposed project would lessen as noon approached and the shadows were cast due north. By 2 PM the shadows would fall to the northeast the same distance as illustrated in Exhibit A.

- Further study of garage layout to provide easier access in parking garage than the bottlenecks caused by the visitor spots (Please see page 13 of

the attached Exhibit A) – **The Applicant revised the garage plans such that the driving aisle for the garage conform to the Zoning Regulations.** The Applicant is no longer requesting flexibility from the requirements of 11 DCMR § 2117.5. In addition, during that review of the garage layout, the Applicant also altered its mix of compact and full size spaces such that it no longer requires relief from the requirements of 11 DCMR § 2115.2 limiting the amount of compact spaces provided in a parking garage.

- Review of the alley to investigate whether there are any appropriate cautionary measures (see memorandum from Applicant's parking consultant attached as Exhibit B).

- Summary of the District of Columbia Department of Transportation's ("**DDOT**") views on converting the northern portion of the alley to one-way (see memorandum from Applicant's parking consultant attached as Exhibit B).

- Confirmation with DDOT that the Applicant will provide we are going to offer a 25 foot wide alley, with a 20 foot curb cut for the entrance and a separate pedestrian walkway (see memorandum from Applicant's parking consultant attached as Exhibit B) – The Applicant's parking consultant discussed this issue with DDOT and confirmed that DDOT supports the alley width of 25 feet.

- Evidence of which community group received the $25,000 contribution to ANC 6C – The Applicant has requested ANC 6C's recommended community designee for the $25,000 contribution. However, ANC 6C is not able to designate such a community group by October 31, 2005. The ANC has a meeting at which they will determine such organization on November 7, 2005. Due to the incongruous schedules of the ANC and Zoning Commission, the Applicant hereby withdraws the $25,000 contribution from its amenity package. The Applicant remains committed to contributing $25,000 to the ANC's designated non-profit once it receives ANC 6C's recommendation.

- Revised list of ADUs (please see the attached Exhibit C). Based on the requests of the Office of Planning at the October 24, 2005 public hearing, the Applicant substituted a one bedroom affordable unit for an affordable studio unit.

In addition, the Applicant is submitting a draft Findings of Fact and Conclusions of Law with this letter (attached as Exhibit D).

If you have any questions or comments, please do not hesitate to call or email us.

Sincerely,

Allison C. Prince

Jeffrey C. Utz

Enclosures

cc: ANC 6C
Arthur Jackson
DDOT
Paul Heavey

Document #: 1500685 v.1

EXHIBIT A

318 EYE STREET, NE

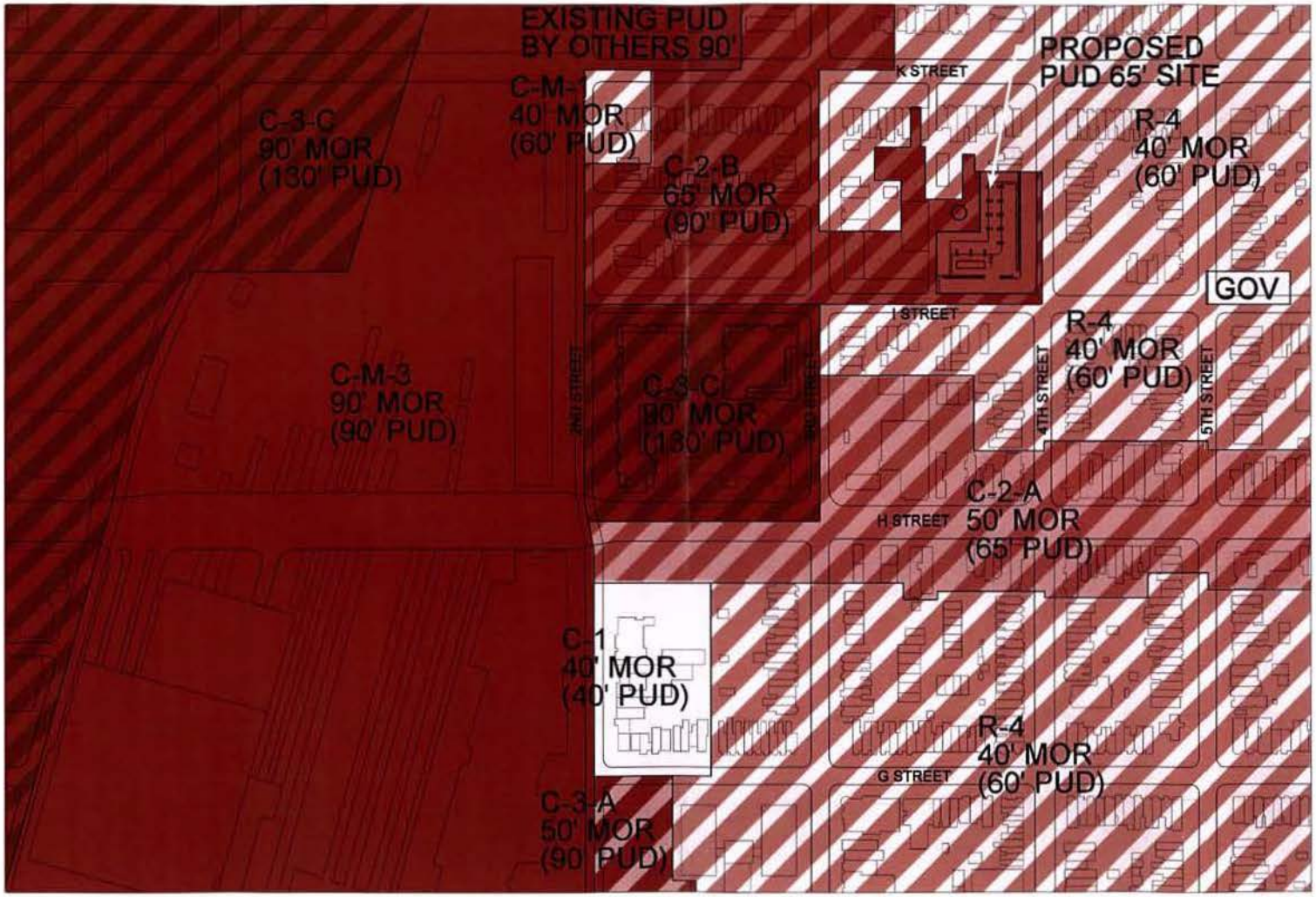
WASHINGTON, DC

A PLANNED UNIT DEVELOPMENT



CONTENTS

Lot Plan	2
Aerial Site Photo	3
Map of Area Zoning Districts	4
Neighborhood Photos - Alley to West of Site	5
Neighborhood Photos - Eye St. and 4th St.	6
Neighborhood Photos - Eye St. and 4th St.	7
Area / Zoning Tabulations	8
Site Plan	9
1st Floor / Entry plan	10
2nd Floor / Typical Floor	11
7th Floor / Roof Plan	12
Parking Plan Levels 1, 2 and 3	13
Composite Eye Street Elevation	14
Composite 4th Street Elevation	15
East-West Site Section	16
North-South Site Section	17
Shadow Study	18
Shadow Study	19
Shadow Study	20
Shadow Study	21
Enlarged Plan at Alley and Loading	22
Enlarged Elevation at English Basement	23
Shadow Study	24
Elevations	25
Precast and Railing Details	26
Existing Condition Plan	C .01
Sediment & Erosion Control Plan	C .02
Site Plan	C .03
Utility Plan	C .04
SWM Plan	C .05
Sediment & Erosion Control Details	C .06



MOR = MATTER OF RIGHT



(1) View of Alley Facing South



(2) View of Alley Facing North

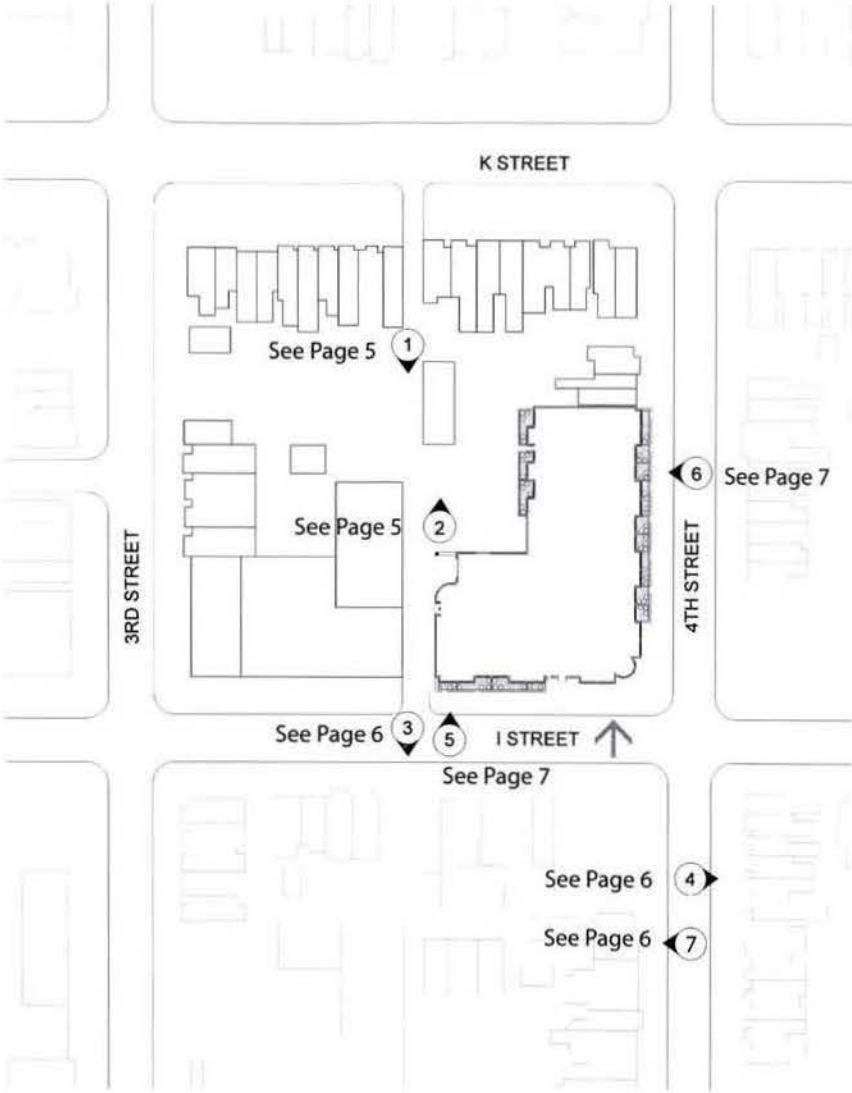


Photo Key Plan



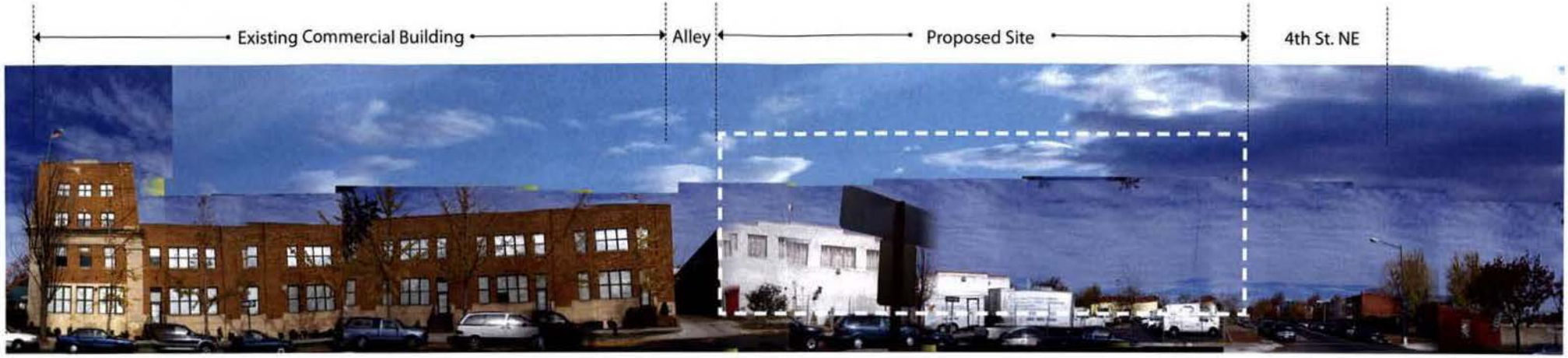
(3) 300 Block of Eye Street NE - South Side (Opposite Proposed Project)



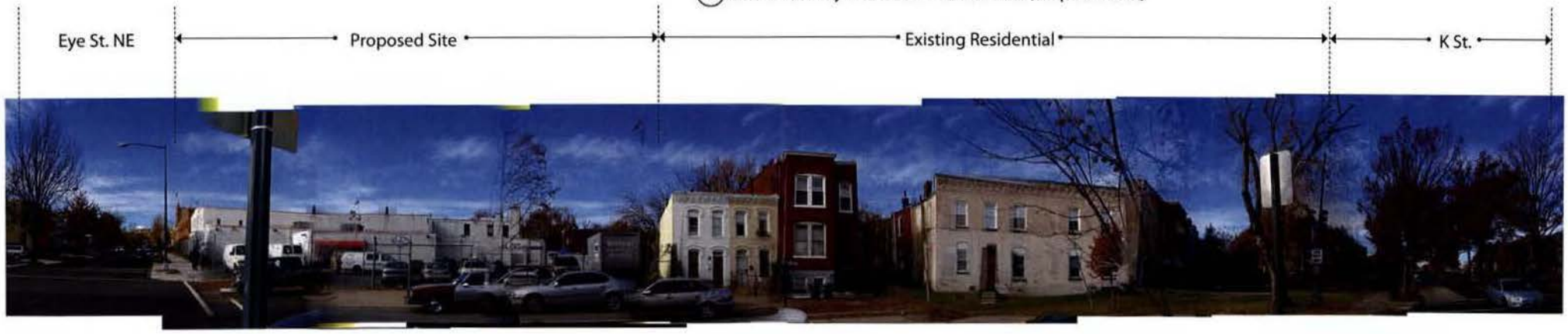
(4) 800 Block of 4th Street NE - East Side



(7) 800 Block of 4th Street NE - West Side



5 300 Block of Eye Street NE - North Side (Proposed Site)



6 900 Block of 4th Street NE - West Side (Proposed Site)



Site Plan Roof Level

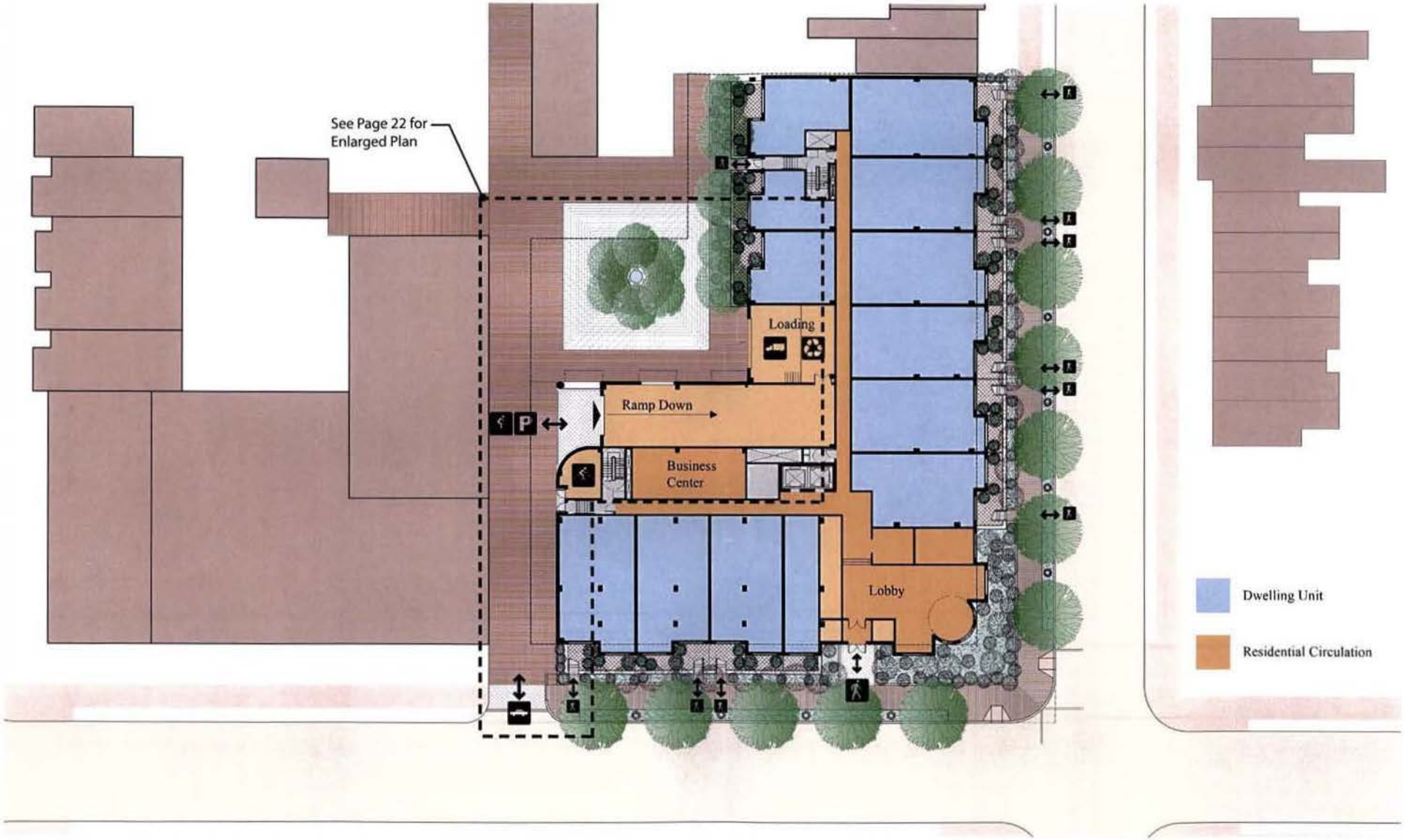
318 Eye Street

Site Plan

ESOCOFF & ASSOCIATES | architects

0 50'

SCALE: 1/50" = 1'-0"



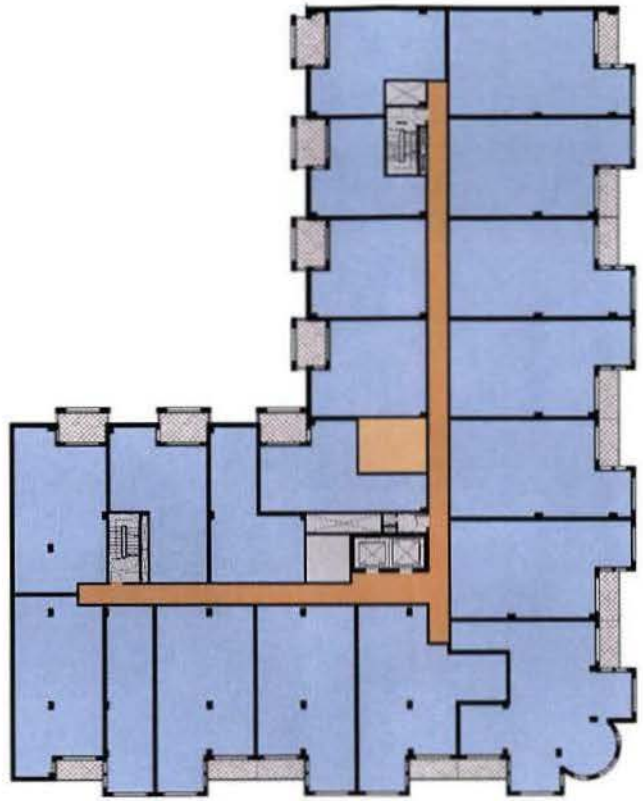
1st Floor / Entry Plan

0 8' 16' 32' 64'

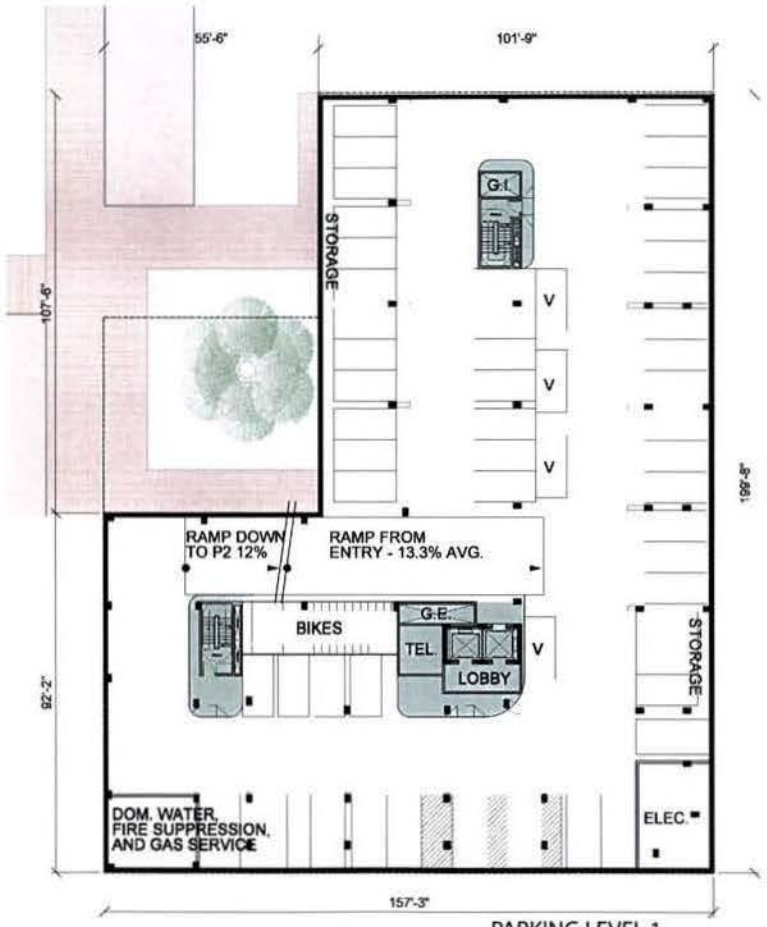
SCALE: 1/32" = 1'-0"



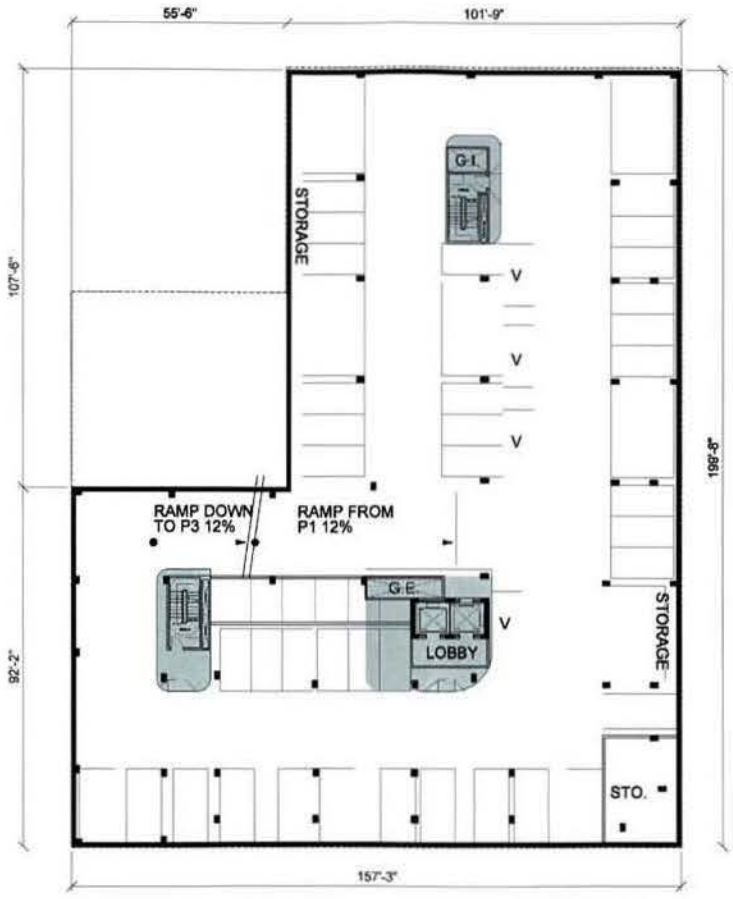
2nd Floor Plan



Typical Floor Plan



PARKING LEVEL 1

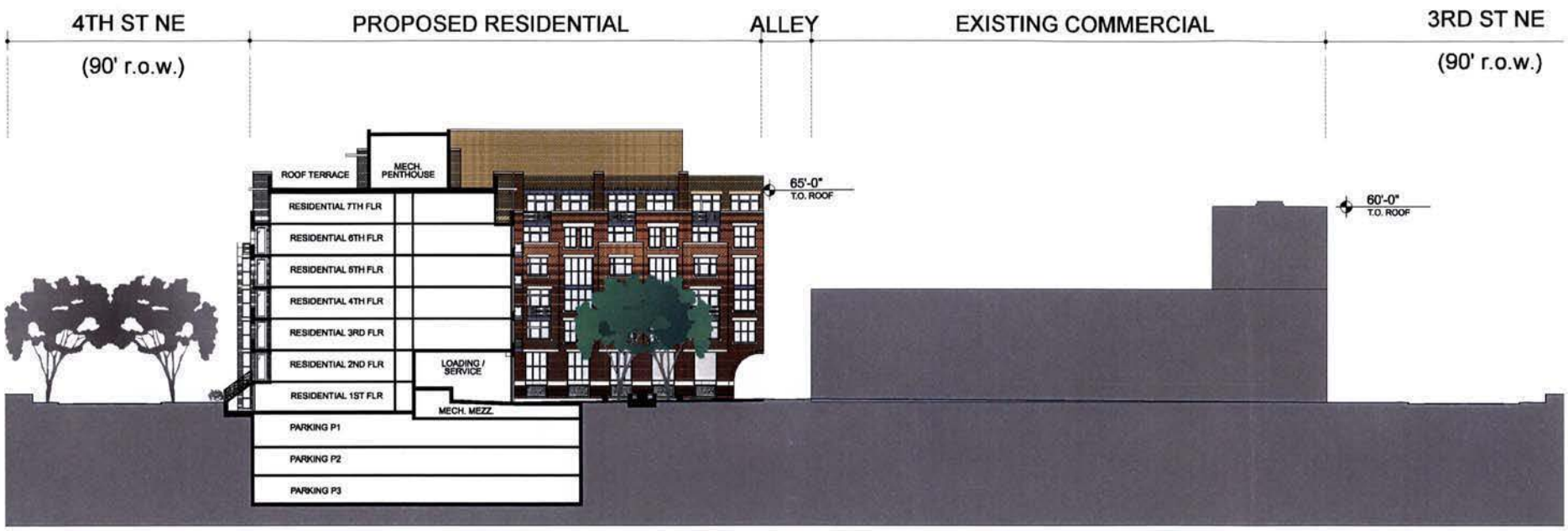


PARKING LEVELS 2 & 3

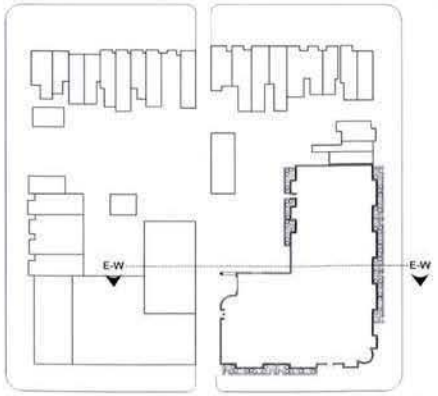
Note : Total Quantity of Parking Spaces in all Parking Levels Ranges between 140-170. Plus 12 visitor spaces.



Composite 4th Street Elevation



East - West Site Section

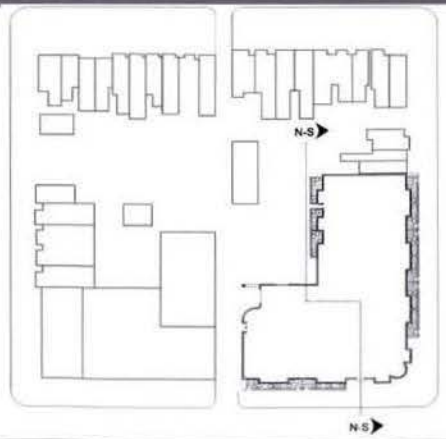


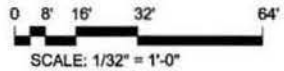
0 8' 16' 32' 64'

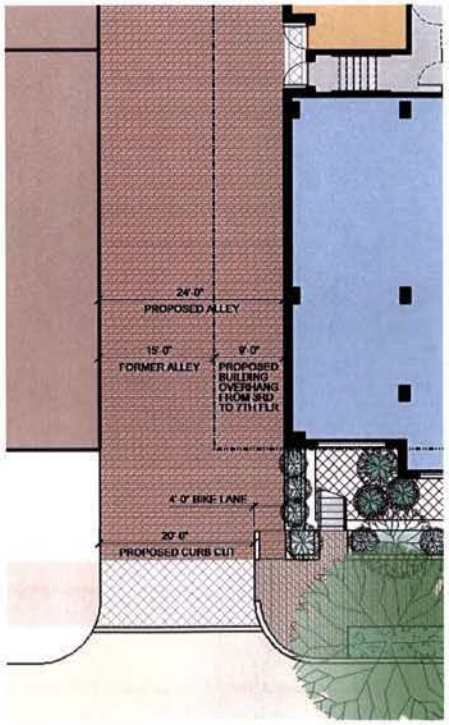
SCALE: 1/32" = 1'-0"



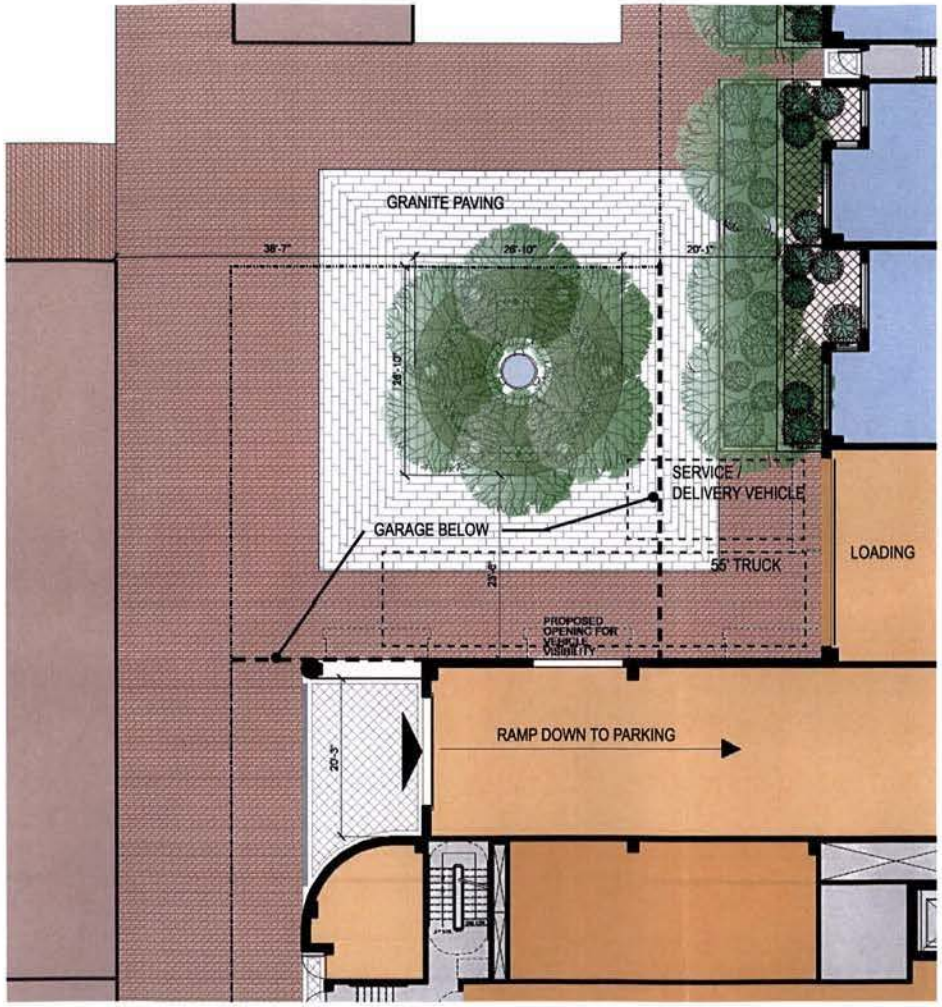
North - South Site Section





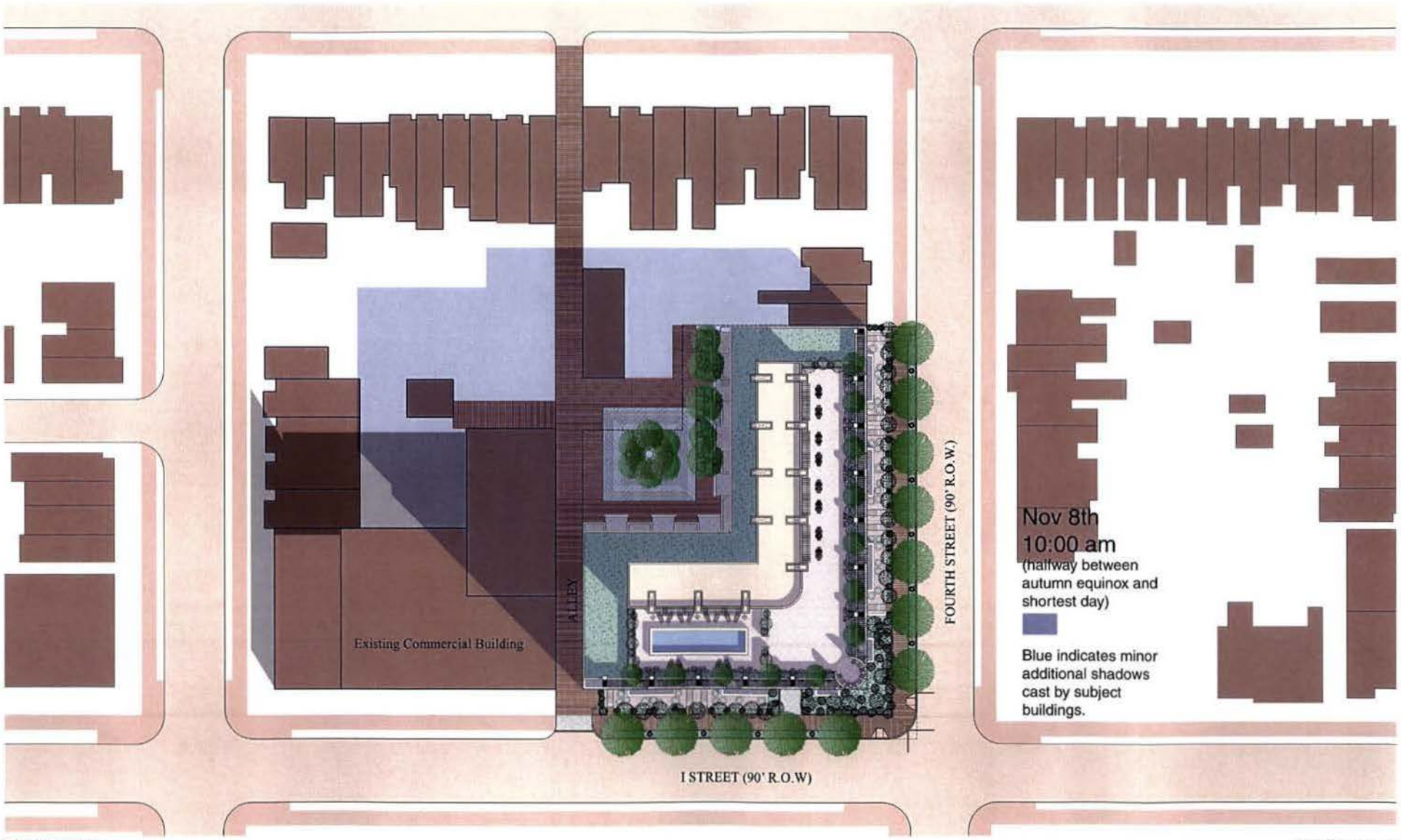


Enlarged Plan of Alley



Enlarged Composite Plan of Parking Entry, Loading and Courtyard

0 4' 8' 16' 32'
SCALE: 1/16" = 1'-0"



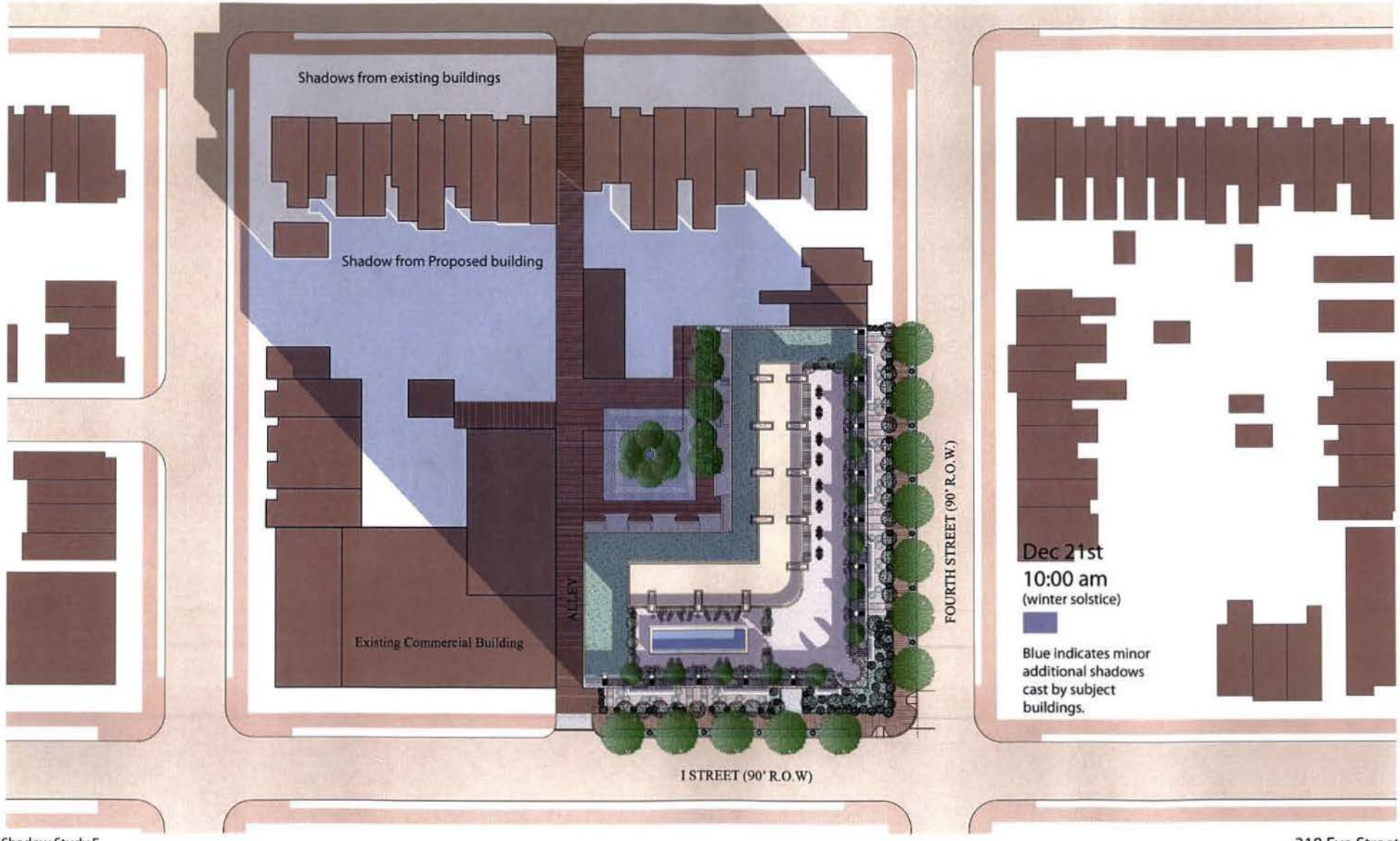
Shadow Study C

318 Eye Street

0 50' 100'

SCALE: 1/50" = 1'-0"

ESOCOFF & ASSOCIATES | architects



Shadow Study E

318 Eye Street

0 50' 100'

SCALE: 1/50" = 1'-0"

ESOCOFF & ASSOCIATES | architects



Proposed Alley Elevation

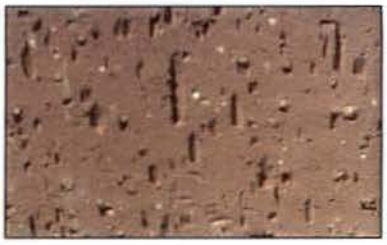


Proposed North Wall Elevation (above adjacent townhouse)



BRICK 1
I-XL PRAIRIE DUSK

MORTAR 1
LEHIGH 1803



BRICK 3
I-XL PEACH BUFF

MORTAR 3
MOHAVE



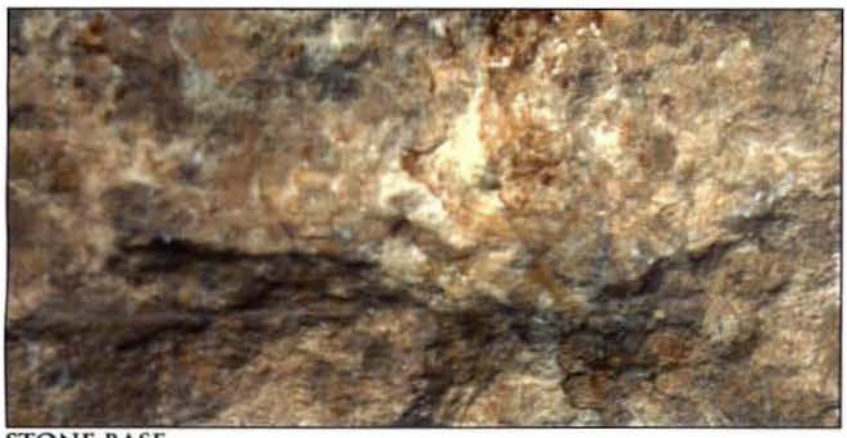
BRICK 2
I-XL RUSSET

MORTAR 2
LEHIGH 1494



BRICK 4
I-XL CORAL

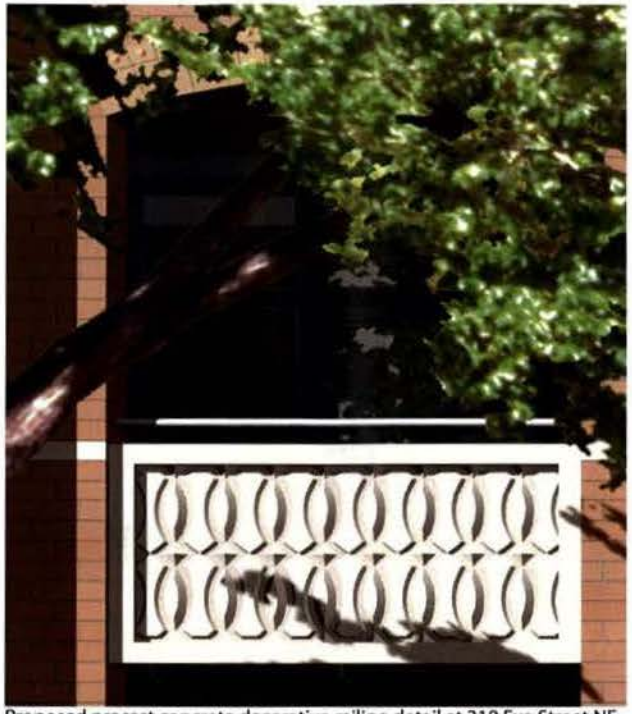
MORTAR 4
LEHIGH 3336



STONE BASE
GOLDEN BUFF VEINE ROCKFACE



Proposed bracket detail at building cantilever 318 Eye Street NE



Proposed precast concrete decorative railing detail at 318 Eye Street NE



Proposed ornamental metal railings & fencework at 318 Eye Street NE

The following are examples of the level of complexity and detail Esocoff and Associates expects to provide for the decorative bracket detail, precast concrete, and decorative metal railings shown in the renderings of 318 Eye Street, NE above. We have utilized geometric patterns because we feel that they will appropriately estimate the finished product in terms of material and cost. Esocoff, however, requests the right to study these elements and their design maintaining the possibility of generating patterns that further capture the characteristics of the immediate neighborhood.



2401 Pennsylvania Avenue
Precast detail



Torgersen Hall, Virginia Tech
Precast detail



The Jefferson at Penn Quarter
Railing & precast detail



The Jefferson at Penn Quarter
Decorative gate detail

EXHIBIT B

WELLS & ASSOCIATES, LLC
TRAFFIC, TRANSPORTATION, and PARKING CONSULTANTS

October 31, 2005

VIA ELECTRONIC TRANSMITTAL

Jeffrey Utz
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037

Re: 318 Eye Street, N.E.;
Washington, D.C.

Dear Jeffrey,

The letter responds to comments from the Zoning Commission for the District of Columbia for the Public Hearing of Case 05-15 on Monday October 24, 2005.

1. Provide any appropriate cautionary measures for the existing north/south alley.

   It is recommended that building management schedule deliveries by large trucks during off peak times. It further is recommended that truck drivers be encouraged to both enter and leave the alley at the widened south end off of Eye Street. It is recognized that the existing alley operates two-ways today and that large trucks would use the alley infrequently. One-way operation of the north end of the alley is not recommended at this time.

2. Confirm with DDOT that a 25-foot wide alley is proposed, with a 20-foot curb cut for the entrance and a pedestrian walkway.

   This was confirmed via a phone conversation between Mr. Abdoulaye Bah of DDOT and Wells & Associates on Thursday, October 20th, 2005.

3. Secure DDOT's views on converting the northern portion of the alley to one-way.

   Mr. Bah confirms that the existing alley currently operates two-ways. DDOT encourages the use of the widened southern end of the alley. DDOT would consider converting it to one-way if they receive a request to convert the alley to one-way.

If you have any questions or require any additional information, please do not hesitate to contact me at (703) 917-6620 or Cathy Proot at (410) 266-5723.

Sincerely,

Martin J. Wells, P.E.
President

EXHIBIT C

318 I Street PUD
Office of Planning Memo
Selection of Affordable Housing Units

Unit #	Unit Type	SF
205	Studio	560
213	1BR/1BA	740
214	1BR/1BA	625
314	1BR/1BA	625
414	1BR/1BA	625
514	1BR/1BA	625
319	1BR + D/2BA	860
419	1BR + D/2BA	860
519	1BR + D/2BA	860
619	1BR + D/2BA	860
320	2BR / 2BA	950
420	2BR / 2BA	950
12	**Total SF**	**9140**
	Required SF	9120
	Variance	20 over required sf

EXHIBIT D

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

ZONING COMMISSION ORDER NO. 05-15
Case No. 05-15

(Application for the Consolidated Review and Approval of a Planned Unit Development by Broadway I Associates, LLC)
November 14, 2005

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on October 24, 2005, to consider an application from Broadway I Associates, LLC for the consolidated review and approval of a planned unit development application for Lots 1, 22, 23, 32, 826, and 827 in Square 775 located at 318 I Street, NE, pursuant to Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

1. The project site consists of Lots 1, 22, 23, 32, 826, and 827 in Square 775 and has an address of 318 I Street, NE (the "**Property**"). The Property is located in the Near Northeast neighborhood of Ward 6 at the northwest corner of 4th and I Streets, NE. The Property consists of approximately 28,310 square feet of land area and is in the C-2-B Zone District. The Property was most recently used by the Uptown Bakery as a wholesale bakery establishment and accessory parking lot for the many trucks owned by the bakery. (Exhibit 13, Pre-Hearing Statement of the Applicant ("**Pre-Hearing Statement**") at p. v.)

2. On May 23, 2005, Broadway I Associates, LLC (the "**Applicant**"), filed an application with the Zoning Commission ("**Commission**") for review and approval of a planned unit development ("**PUD**"). The Applicant did not seek a Zoning Map amendment and requested the continuation of the C-2-B Zone District for the Property. The proposed height and density of the project are significantly less than the maximum provided under the PUD guidelines in the C-2-B Zone District. The PUD project involves a condominium building with approximately 140 new residential units. The PUD project also includes approximately 9,120 square feet of affordable housing. (Exhibit 13, Pre-Hearing Statement at p. 1.)

3. At a Special Public Meeting on July 11, 2005, the Commission unanimously voted to set down the application for a public hearing. The Zoning Commission held a public hearing on the above-mentioned application on October 24, 2005, which was conducted in accordance with the provisions of 11 DCMR §3022.

4. At the October 24, 2005, public hearing, the Commission accepted Phil Esocoff of Esocoff and Associates and Martin Wells of Wells & Associates as experts

based on a review of their resumes (submitted as Exhibit A to Exhibit 20 in the record). There were no other preliminary matters before the Commission and no applications for party status. ANC 6C, the ANC in which the Property is located, is automatically a party to this application.

PUD APPLICATION AND PROJECT

5. The Property includes the lots in the southeastern portion of Square 775. It is commercially-zoned and has a long history of non-residential use. The lots in Square 775 to the west of the Property contain commercial office buildings that line the entire length of I Street, NE, between 3rd Street, NE, and the alley directly to the west of the Property. The square to the west of Square 775 contains commercial buildings along its I Street frontage. The square to the south of the Property is ringed by rowhouses. To the southwest at the intersection of 3rd and H Streets, NE, is a large commercially-zoned, vacant property (formerly a gas station) and the former Capital Children's Museum (currently being converted to a residential project). Directly to the east of the Property are rowhouses and single family homes. To the north of the Property are rowhouses and a few warehouses. (Exhibit 13, Pre-Hearing Statement at p. 3.)

6. The recently approved Station Place PUD project is located on the west side of 2nd Street, NE, between F and H Streets, NE. The Station Place PUD project included a rezoning to the C-3-C Zone District to allow a commercial office development with retail and service uses of approximately 1,396,950 square feet (5.9 Floor Area Ratio ("**FAR**")) and a building height of 115.5 feet. In March 2005, the Commission also granted final action to the Capital Children's Museum PUD, which is located on the west side of 3rd Street, NE, between H and I Streets, NE. The Capital Children's Museum PUD includes a rezoning to the C-3-C Zone District and a residential development of approximately 599,134 square feet (5.72 FAR). The new buildings on that site will have a maximum height of approximately 110 feet and the existing Capital Children's Museum building, which will be retained, is approximately 64 feet in height. (Exhibit 13, Pre-Hearing Statement at p. 3-4.)

7. In Zoning Commission Case No. 821, the Property was rezoned from C-M-1 to C-2-B (except for Lots 22, 23, and 32, the small lots at the north of the Property, which were rezoned from R-4 to C-2-B in that Commission action). These lots were rezoned, in large part, because OP determined that a mixture of residential and commercial uses at moderate to medium density should be encouraged. Such a change in the designation supports the construction of a high-quality residential project on a site that is currently home to a wholesale bakery and accessory parking lot. (Exhibit 13, Pre-Hearing Statement at p. 19.)

8. The City's planning objectives call for more residential use in the area of the Property. The Property is located in the Moderate Density Residential land use category as shown on the District of Columbia Generalized Land Use Map. The properties to the north and east of the Property in Square 775 are also included in the Moderate Density Residential land use category. The square directly to the west of the

Property and the squares to the south and southeast of the Property are located in the Low Density Commercial/Moderate Density Residential land use categories. The properties further to the west, which include the Station Place PUD site, and the square to the northwest of the Property are located in the Production and Technical Employment/Medium-High Density Commercial land use categories. The square directly southwest of the Property is located in the Institutional land use category. (Exhibit 13, Pre-Hearing Statement at p. 4.)

9. The Applicant stated that the proposed project will result in the creation of a unique and inviting residential building with the introduction of approximately 140 residential units. All of the residential units will be for-sale units. The main lobby for the building will be accessed from the I Street entrance. The project will have ground floor access to individual units along I and 4th Streets, NE. (Exhibit 13, Pre-Hearing Statement at p. 4-5.)

10. The total gross floor area included in the proposed PUD is approximately 160,000 square feet for a total FAR of approximately 5.65. The project's height is approximately 65 feet measured from I Street, NE, the maximum permitted height under existing zoning. The project's lot occupancy is approximately 85%. The project is considerably smaller than what is permitted under the C-2-B District PUD guidelines (maximum FAR of 6.0 and a maximum building height of 90 feet). The PUD guidelines for the C-2-B Zone District allow a height of 90 feet and a maximum FAR of 6.0, with a limit of 2.0 of non-residential FAR. The C-2-B Zone District, as a matter-of-right, permits a maximum height of 65 feet, a maximum lot occupancy of 80% for residential uses, and a FAR of 3.5 with a limit of 1.5 of non-residential FAR. (Exhibit 13, Pre-Hearing Statement at p. 8-9.)

11. The building will be primarily brick and masonry with metal windows and precast concrete and stone and metal trim. No EIFS will be used on the project. Along 4th and I Streets, NE, the design provides soft edges through the secondary massing of bays, balconies, and setbacks. Elevational elements within these bays, ornamental brickwork, and window patterns will further establish an appropriate scale relationship to nearby buildings and an intricate design that will bring richness to a site presently devoid of charm. (Exhibit 13, Pre-Hearing Statement at p. 5.)

12. The roof of the new building will serve as a landscaped recreation space. The roof will feature planters with both trees and shrubs and many clusters of seats arranged to facilitate resident and guest gatherings. A swimming pool will be one of the primary features on the roof. In addition to being a usable and attractive recreation area, the roof will be a partially "green roof." The roof will be constructed in a manner that creates a lush urban park and will feature material that will both absorb rainwater and utilize it to keep the vegetation on the roof green. In addition, the Applicant will add trellises to the roof penthouse to make the space more inviting. Esocoff & Associates has created similar emblematic roofscapes at 1499 Massachusetts Avenue, NW, 616 E Street, NW, and 400 Massachusetts Avenue, NW. Mr. Esocoff was also the architect for 2401 Pennsylvania Avenue, NW. All these projects are well known for adding character and

quality to the urban fabric of Washington. The last three projects also received public design review by a selection of the following: Office of Planning ("**OP**"), GSA Design Excellence, Historic Preservation Review Board ("**HPRB**"), the Commission, Board of Zoning Adjustment ("**BZA**") and the Commission of Fine Arts. (Exhibit 13, Pre-Hearing Statement at p. 5-6.)

13. Access to the below-grade parking garage of approximately 140-170 parking spaces will be from the public alley located on I Street, NE, in the middle of the block between 3rd and 4th Streets, NE, as shown on pages 10 and 24 of Exhibit A to Exhibit 13 in the record. Based on community requests, the project includes 12 additional visitor parking spaces in the parking garage. Also due to District of Columbia Department of Transportation ("**DDOT**") requests and community concerns, the Applicant established an easement of 9 feet in width to widen the north-south alley. The easement will allow easier vehicular access, and calm traffic flow around the Property and increased sightlines. The vehicular entrance and exit opens onto a courtyard that has been designed as an attractive and inviting entry for residents of the project and their guests. Residents of the project can go directly from their parking space in the below-grade garage to their units. A pedestrian-only entrance will be located on I Street, NE. (Exhibit 13, Pre-Hearing Statement at p. 6.)

14. The project includes extensive landscape improvements on the Property. Trees and small rows of grass will be planted down the length of the Property on I and 4th Streets, NE. The project reinvigorates the alley space by carefully cultivating the interior of the Property. The project entails the repaving of the north/south alley and the eastern extensions of that system in unit pavers in consultation with DDOT and the community. The Applicant also will pave the northwest corner of the Property in similar materials to effectively create a central, urban courtyard around a bosque of trees as an amenity for residents of the project and the square. The trees are located on the Property – not in public space – and outside the footprint of the garage to ensure their long-term survival and growth. The trees will be surrounded with bollards to protect them from vehicles and include appropriate, aesthetic lighting. Such trees will soften the space and create a livable alley area in great contrast to typical District properties. Small, walled gardens adjoining ground level units of our building will allow individual residents to add varied background greenery to this environment. (Exhibit 13, Pre-Hearing Statement at p. 6-7.)

15. The courtyard will allow service vehicles to access the project's enclosed loading area as well as the service areas of surrounding neighbors. The loading platform and recycling areas will be enclosed within the building and accessed from the open space in the alley just below the tree bosque. However, the level of service activity for a condominium is low with trash vehicles arriving at most once a day and moving vans far less frequently. Hence, the Applicant intends to develop this service area as a landscaped urban courtyard that occasionally accommodates a service vehicle. Designing the courtyard in the manner proposed, as a cared-for communal space, will be an effective way to improve security for all the surrounding residents. The aesthetic incorporation of the surrounding alley system into one, coherent design will suggest implicitly that all that

space has been 'claimed' by the surrounding residents. (Exhibit 13, Pre-Hearing Statement at p. 6-7, 9, pages 11 and 24 of Exhibit A to the Pre-Hearing Statement.)

16. The Applicant will work closely with the DDOT to implement the proposed I Street streetscape improvements adjacent to the site. (Exhibit 13, Pre-Hearing Statement at p. 7.)

17. The project will have approximately 25,200 square feet of residential recreational space (15.75% of the residential space), exceeding the 15% residential recreational space required in the C-2-B Zone District. It will be comprised of space on the roof, in the courtyard, in the lobby, and in a fitness center. Based requests of the Commission and OP, the Applicant further developed the rooftop recreation space and landscaping. As a result, the mechanical penthouse and other rooftop functional elements of the project have been further refined and the space has been enhanced. (Exhibit 13, Pre-Hearing Statement at p. 8.)

18. The project design and massing are compatible with the surrounding area. As shown on pages 15 and 25 of Exhibit A to Exhibit 13 in the record, special attention has been paid to the scale and massing of the surrounding area, particularly on 4th Street, NE, so that the project complements the residential neighborhood. In addition, the project acts as a bridging element to between the low scale Near Northwest neighborhoods to the larger structures to the south and west of the project, including Station Place and Senate Square projects. The Applicant planned a building with a height lower than the PUD guidelines and greater lot occupancy to make the design appropriate for the neighborhood. Based on requests of the Commission and OP, the elevations have been refined to illustrate the use of two setbacks, at the top of the bay projections and top floor. Along with reproportioning of windows and doors, this strategy has established an appropriate scale relationship with the physically smaller buildings adjoining and surrounding the project. (Exhibit 13, Pre-Hearing Statement at p. 8-9.)

19. As detailed in Exhibit C of Exhibit 13 in the record, no adverse environmental impact will result from the construction of the project. In addition, the increased use of water and sanitary services that will occur as a result of the project, will have an inconsequential effect on the District's delivery systems. The Property is currently served by all major utilities. The project's proposed stormwater management and erosion control plans will minimize impact on the adjacent property and existing stormwater systems. The requisite erosion control procedures stipulated by the District will be implemented during construction of the project.

20. The project will not have an adverse impact on the public facilities that it will rely on for service. The Property is located within easy walking distance of the Union Station transportation hub, which offers Metrorail, MARC, and VRE service. In addition, numerous Metrobus lines utilize H Street, NE, which is only one block south of the Property, such that the project is adequately served by public transportation. Bicycle usage by residents of the project has been integrated into the design of the project. Bicycle usage will be supported and encouraged through the provision of secure bike

storage areas, including a bike room directly off the alley and more bike storage in the parking garage.

21. The proposed development complies with the broad parameters of the C-2-B Zone District. However, the design scheme proposed for the PUD has created a configuration that does not meet all the exact requirements of the C-2-B Zone District. Specifically, the Applicant seeks a lot occupancy of 85% rather than the 80% lot occupancy provided for in 11 DCMR § 772.1. This increased lot occupancy has allowed for a building height that is more compatible with the neighboring buildings, which required more of the Property to be used. (Exhibit 13, Pre-Hearing Statement at p. 9.)

22. As its second area of flexibility, the Applicant requests relief from the fifteen foot rear yard requirement imposed by 11 DCMR §774.1. Under 11 DCMR §2405.5, the Commission may grant such flexibility from the rear yard requirement. The Applicant has designed a proposed landscaped and finished courtyard in lieu of a rear yard.

23. In its Pre-hearing Statement, the Applicant requested relief for two aspects of its parking garage - the requirement of 11 DCMR § 2115.2 that allows no more than 40% of the parking spaces to be compact spaces and the requirement of 11 DCMR § 2117.5 that drive aisles be at least 20 feet wide. At the request of the Commission, the project architect revised the parking garage design to eliminate the necessity of this relief. (Exhibit 13, Pre-Hearing Statement at p. 10.)

24. The project is fully consistent with and fosters the goals and policies stated in the elements of the District of Columbia Comprehensive Plan. The project is consistent with the following major themes of the Comprehensive Plan:

- Stabilizing the District's neighborhoods;
- Respecting and improving the physical character of the District; and
- Preserving and ensuring community input.

The project is also consistent with many Major Elements of the Comprehensive Plan (including: the Housing and Urban Design Elements), and fulfills the goals and policies of the Ward 6 Plan. The OP report submitted on October 14, 2005 stated that OP believes that the land use impact of the project would be favorable to the District. (Exhibit 13, Pre-Hearing Statement at p. 15-17; Exhibit 21, OP Report, p. 4,9-11.)

25. Testimony and evidence on behalf of the Applicant was provided by Marge Brown, Director of Midatlantic Operations, Broadway Management Company; Phil Esocoff of Esocoff & Associates Architects (who testified as an expert in the field of architecture); and Martin Wells, of Wells & Associates, (who testified as an expert in the field of traffic and parking engineering).

26. Ms. Brown testified about the Applicant's history and other recent projects in the District. She noted that the Applicant participated in many meetings with neighborhood organizations and residents regarding the proposed project.

27. As addressed in the Applicant's Pre-Hearing Statement and in the testimony of Ms. Brown and Mr. Esocoff, the following public benefits and project amenities will be created as a result of this project.

- Housing and Affordable Housing – The PUD project will create approximately 12 affordable residential units in the Near Northeast neighborhood. The units will comprise approximately 9,120 square feet of gross floor area will be available to potential purchasers with a household income that does not exceed 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area. The Applicant submitted a site plan as Exhibit F of Exhibit 20 that shows the proposed location of the affordable units, their sizes and their configurations. This distribution was slightly amended based on requests by OP and is subject to further refinement (with OP approval) as the overall project is finalized.. The Applicant submitted Exhibit __ into the record to reflect the substitution of a one bedroom unit for a studio unit. The Applicant has distributed the affordable units throughout the building and evenly across the sizes and configurations of units offered at the property. (Exhibit 13, Pre-Hearing Statement at p. 12; Exhibit F of Exhibit 20; OP Report Exhibit 21; Exhibit __, p. __.).

- Urban Design and Architecture – Ms. Brown and Mr. Esocoff noted the significant architectural quality and superior urban design involved in the PUD project are greater than the same found in a matter-of-right project. The following is a list of such design features:

  - the provision of self-imposed setbacks on the top floor to further decrease the perceived height of the building;

  - the provision of direct access units with ornamental metal balconies and flower boxes evoking the traditional townhouse architecture of the community and further adding to the streetscape of the neighborhood;

  - the provision of both parking and loading access to the building off of the rear alley system making additional curb-cuts unnecessary for the project and maintaining the existing residential character of both I and 4th Streets;

  - the provision of at-grade bike storage and additional bike storage below-grade;

  - the provision of a 1:1 ratio of parking located in a below grade garage;

- the provision of using time-tested, quality methods and materials of deep set windows, ornamental metal railings, brick, and precast concrete lintels and sills on all sides of the building; the provision of a hydronic heat pump system in lieu of a through-wall type system for both aesthetic and acoustic benefits;

- the provision of windows on the north party wall further enhancing the building's residential character when viewed looking south on 4th Street;

- the provision of recycling collection on each level of the building to encourage the practice of recycling;

- no thru wall vents along the street facades;

- the provision of a high level of finish on all exposures of the building, including the rear of the building facing the alleys;

- and 100% outside ventilation air to corridors and dwelling units.

(Exhibit 13, Pre-Hearing Statement at p. 12-13.)

➢ Site Planning – The proposed project involves substantial site planning that includes significant landscape and hardscape improvements surrounding the property. As shown in the plans submitted to the Zoning Commission, these improvements would not necessarily be included in a matter-of-right project. These enhanced landscape and hardscape features provide benefits for the residents of the project and the entire neighborhood yet will be maintained by the new building. First, the project will include numerous upgrades to the public alley system that will be of benefit to the nearby neighbors and the District of Columbia. The Applicant will enhance the alley in the following ways:

- increase the width of the alley and existing curb cut on I Street from the existing 15 feet to 20 feet to match DDOT's recommendations for alleys;

- increase the width of the alley along the property's west boundary by 4 feet for a total alley width of 24 feet to allow for both additional vehicular maneuvering room and pedestrian and bicycle traffic;

- repave both the north-south alley from I Street to K Street and the alley system just north and west of the property with brick pavers; and

- provide a landscaped 'piazza' courtyard interior to the block with trees planted in natural soil, benches, aesthetic lighting and a water feature.

Second, the provision for a streetscape on both Eye and 4th Streets will meet the DDOT Streetscape Standard Regulations established for other parts of the

District. The Applicant is proposing to add brick pavers to the entire street frontage of the project. In addition, the Applicant noted that the proposed project has been designed to provide residents and their guests with open and inviting spaces for entertainment and relaxation. These spaces include the large landscaped courtyard on the interior of the site, the private garden areas, the roof terrace, and a health club. (Exhibit 13, Pre-Hearing Statement at p. 13.)

- Effective and Safe Vehicular and Pedestrian Access – The project provides effective and safe vehicular and pedestrian access by separating the two methods of accessing the building. The main vehicular ingress/egress is provided through the enhanced alley off of I Street, NE. The pedestrian entrance is on I Street at the corner of the property near 4th Street, NE, and the first floor residences facing the streets have their own individual entrances. The Applicant responded to OP, DDOT and community concerns to refine the vehicular and pedestrian access plan for the project. (Exhibit 13, Pre-Hearing Statement at p. 13.)

- Environmental Benefits – The project will include numerous environmentally sensitive features that would not necessarily be included in a matter-of-right project. These attributes include: a green roof system covering part of the building's roof top; a landscaped roof terrace reducing the effects of urban heat islands; and the use of storm water retention as much as feasible for site irrigation. (Exhibit 13, Pre-Hearing Statement at p. 5 and 11.)

- Revenue for the District – The Applicant noted that the addition of approximately 140 new households will result in the generation of additional tax revenues for the District of Columbia. (Exhibit 13, Pre-Hearing Statement at p. 14.)

- Employment and Training Opportunities – The Applicant submitted into the record a draft First Source Employment Agreement with the Department of Employment Services ("**DOES**"), and a draft Memorandum of Understanding with the Office of Local Business Development ("**OLBD**") that the Applicant will enter into upon approval of the application. (Exhibits D and F to Exhibit 20, Pre-Hearing Statement at p. 14.)

- Consistency with the Comprehensive Plan – The Applicant noted that the project fosters and furthers numerous elements of the Comprehensive Plan as well as numerous major themes of the Comprehensive Plan. (Exhibit 13, Pre-Hearing Statement at p. 14-15.)

28. At the public hearing and in his transportation impact study submitted into the record as Exhibit B to Exhibit 13 in the record and as Exhibit 3 to Exhibit 21 in the record, the Applicant's traffic engineer, Mr. Wells, concluded that the proposed project will have no significant impact on peak hour levels of service at nearby intersections. Mr.

Wells testified that all key intersections around the Property currently operate at an acceptable level of service, but the 4th and K Street intersection operates near capacity at the PM peak hour due to the high volume of eastbound traffic. The redevelopment of the Property will be adequately accommodated at the key intersections in the study area with traffic signal timing modifications. Mr. Wells stated that the vehicular access to the site through the existing alley along I Street is the preferred location to access the parking garage and the loading area. The transportation study noted that the proposed on-and off-site parking supply would adequately meet the minimum zoning parking requirements and prevailing parking demands in this neighborhood. In addition, the PUD project provides for 12 dedicated, non-sellable visitor parking spaces located in a below grade garage and in addition to the 1:1 ratio of parking previously noted. These spaces were provided in response to community concerns about parking. At the public hearing, the Mr. Wells testified that the visitor spaces would function sufficiently and did not create any adverse conditions for the project. (Exhibit B to Exhibit 13; Exhibit 3 to Exhibit 21.)

29. In response to issues raised by Commissioners during the public hearing, the record of the case was left open for the Applicant to provide the post-hearing materials. The Applicant submitted the required materials on October 31, 2005. (Exhibit __.)

GOVERNMENT REPORTS

30. OP, in its report dated October 14, 2005 and through its testimony at the public hearing recommended approval of the project subject to the provision of more information. The OP report noted that the project benefits and amenities are commensurate with the amount of development incentives requested, that the application meets the standards for a PUD, and that the project is not inconsistent with the Comprehensive Plan. The other information requested by OP included: a signed First Source Agreement and LSDBE Memorandum of Understanding; a tabulation of the type, size and location of the affordable units, summation of the approximate floor area of affordable units, and classification of the affordable units according the DHCD affordability stands; a revised ground-floor plan responding to DDOT's comments (by the time the OP report was submitted, the Applicant had addressed DDOT's concerns); a revised roof plan identifying the portion that would be a "green roof," consistent with LEED standards; and a list of environmentally-sensitive standards and systems incorporated into the development that meet LEED standards. (Exhibit 21, p. 1-2.)

31. The Fire and Emergency Medical Services Department issued a memorandum that was attached to the OP report. That memorandum stated that D.C. Fire and EMS Department had no object to the proposal provided that the alley is not less than 20 feet wide for fire department access. (Exhibit 5 of Exhibit 21.)

32. In testimony at the public hearing, representatives of OP noted that the significant amenities of the project include: the construction of an entirely residential project on a commercially-zoned site; the significant affordable housing component of the

project; set aside visitor parking; and the site planning and urban design aspects of the project.

33. The DDOT submitted a report dated August 8, 2005, which supported the PUD project with a slight modification that the alley be widened. Since the DDOT report was submitted, the Applicant revised the site plan to accommodate DDOT's modification request to widen the alley entrance to incorporate a pedestrian buffer area. (Exhibit 14.)

ADVISORY NEIGHBORHOOD COMMISSION REPORTS

34. Advisory Neighborhood Commission ("ANC") 6C voted to support the project with no conditions at a regularly scheduled and publicly noticed meeting on October 12, 2005. The letter sent by Mark Dixon, Chairman of ANC 6C, on October 19, 2005 states that the Applicant held several community meetings to explain the project and answer questions. The letter stated that the project was generally well received at these meetings and the ANC 6C Zoning and Planning Committee meeting. No one from ANC 6C was present at the public hearing. (Exhibit 23.)

PARTIES AND PERSONS IN SUPPORT

35. In a letter dated October 14, 2005, the Capitol Hill Restoration Society noted its support for the application with the conditions that the Applicant: increase the affordable housing to 17,600 square feet; guarantee that the mix of the unit sizes for the affordable housing is the same ratio as the mix for the market units; and provide more two bedroom units rather than one bedroom plus den units. (Exhibit 22.)

36. Two neighbors of the Property submitted letters in support of the application. These support letters highlighted the positive community relations of the Applicant and the beneficial impact the project would have on the neighborhood. Both letters highlighted the appropriateness and importance of the change from a heavy industrial use to a vibrant residential use.

37. No persons testified in support of the application at the public hearing.

PARTIES AND PERSONS IN OPPOSITION

38. At the public hearing, one resident of Square 775, Paul Heavey, testified in qualified opposition to the PUD project. Mr. Heavey raised concerns that the project may cast a shadow on his house. The Applicant provided shadow studies to show that the height and mass of the new buildings will not create such adverse shadow impacts on neighboring residential properties.

CONCLUSIONS OF LAW

39. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits, 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

40. Notice of the public hearing was provided in accordance with the Zoning Regulations.

41. Under the PUD process, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. The Zoning Commission may also approve design elements that are permitted by variance and would otherwise require approval by the BZA. In this application, the Commission finds that the requested flexibility from the requirements of §772.1 regarding lot occupancy can be granted with no detriment to surrounding properties and without detriment to the zone plan or map. The slightly increased lot occupancy allows the project to remain within the matter of right height limit of 65 feet. Under 11 DCMR §2405.5, the Commission also finds that the PUD project may provide the proposed landscaped and finished courtyard in lieu of the fifteen foot rear yard requirement imposed by 11 DCMR §774.1. The courtyard achieves the same goals that the rear yard requirement was created to encourage and will likely have a more positive impact on the surrounding properties.

42. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

43. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

44. The Commission agrees with the testimony of the project architect and the representative of the Applicant and finds that this project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the affordable housing provided in the project, the enhanced design and environmental sensitivity of the project, and the landscape and hardscape improvements provided on the site are significant and substantial project amenities of this PUD application.

45. In accordance with D.C. Official Code §1-309.10(d)(2001), the Commission must give great weight to the issues and concerns of the affected ANC. The Commission takes note of ANC 6C's letter in support of the project and has accorded to the ANC's decision the "great weight" consideration to which it is entitled. The

Commission agrees with ANC 6C's conclusion that the Applicant has been well received by the community.

46. The Commission notes the support that the project received from Capitol Hill Restoration Society. In response to the issues raised by the Capitol Hill Restoration Society, the Board finds that the proposed amount and unit mix of affordable housing is sufficient and appropriate.

47. Approval of the PUD is not inconsistent with the Comprehensive Plan. Specifically, the Commission believes that the proposed project will provide a signature residential project of appropriate height that, along with the Senate Square project, provide a critical mass of new residents that will revitalize the commercial corridor of H Street, NE.

48. In response to issue raised by Paul Heavey, regarding the impact on the shadow of the proposed building on Mr. Heavey's solar panels, the Applicant provided detailed shadow studies. These shadow studies demonstrate that there will not be such a problem. The Commission notes that abundant light, air, and views still will be available to residents of the square. The Commission concurs with the testimony of the project architect, and the information submitted into the record, that the setting back of the top two floors of the proposed building and the terraces on some of the units effectively reduces the scale of the building and further mitigates the visual impact of the building on surrounding properties.

49. The Commission finds that the project relates well to nearby townhouses. The Commission finds that the treatment of the lower levels of the project, including individual entries on a rhythm and scale similar in frequency and detailing to that of individual row houses, balcony projections, front yards, two story windows, and significant landscaping creates a design along 4th Street, NE, that is consistent with townhouses and townhouse neighborhoods throughout the Near Northeast Neighborhood, Capitol Hill, and the District.

50. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

51. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

52. The project will achieve numerous goals of the District. The project will create a significant residential development and will improve dramatically the appearance of the site. The proposed height and massing of the project is consistent with recently approved PUD projects in the area and with the District's planning goals for the future of this neighborhood. The Applicant has not sought a height in excess of that permitted as matter of right in recognition of the site's location east of 3rd Street, NE, in recognition of the need to achieve compatibility with the surrounding residential neighborhood.

53. The Applicant does not propose any change in zoning and the proposed apartment house use is permitted in the C-2-B Zone District.

54. No adverse environmental impact will result from the construction of the project. In addition, the increased use of water and sanitary services that will occur as a result of the project, will have an inconsequential effect on the District's delivery systems. The Property is currently served by all major utilities. The project will not have an adverse impact on the public facilities that it will rely on for service.

55. 11 DCMR § 2403 provides the standards for evaluating a PUD application. 11 DCMR § 2403.9 provides categories of public benefits and project amenities for review by the Commission. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. The instant application will achieve the goals of the PUD process by creating high quality residential development, with a significant affordable housing component, on the Property which will help to enliven and revitalize the Near Northeast neighborhood of Ward 6.

- Housing and Affordable Housing - Pursuant to 11 DCMR § 2403.9(f), the PUD guidelines state that the production of housing is a public benefit that the PUD process is designed to encourage. This project will create approximately 140 new, for-sale, residential units in the Near Northeast neighborhood. In addition, the project will result in the creation of approximately 9,120 square feet of affordable housing. This amount represents 15% of the additional density received through the PUD process. Given the current strong demand for the production of affordable housing in the District, this is a significant amenity. In addition, the affordable housing units have been distributed sufficiently throughout the building and across the sizes, types and configurations of the units at the project.

- Urban Design and Architecture - 11 DCMR § 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. As shown in the detailed plans, elevations, and renderings included as Exhibit A in the Pre-Hearing Statement and Exhibit __, the project exhibits all of the characteristics of exemplary urban design and architecture. The courtyard, landscaping, raised first floor level access, and alternating composition of projecting bays, all combine to create a sense of scale and visual interest. The design includes many design features that would not be found in a matter of right project. The result is an exemplary design.

- Site Planning - Pursuant to 11 DCMR § 2403.9(b), "Site planning, and efficient and economical land utilization" are public benefits and project amenities to be evaluated by the Commission. The project is an efficient design that beneficially maximizes the zoning designation of the Property without negatively impacting the neighboring properties. In addition, the

project has been designed to provide residents and their guests with open and inviting spaces for entertainment and relaxation. These spaces include the landscaped courtyard on the interior of the site, the large roof deck, the fitness center, and the private garden areas. Further, the project includes a great deal of parking, including visitor parking at the request of the community.

- Effective and Safe Vehicular and Pedestrian Access - 11 DCMR § 2403.9(c) states that "Effective and safe vehicular and pedestrian access" can be considered public benefits and project amenities of a project. Based on the testimony and report of the Applicant's traffic expert and review of the Applicant's submissions, the project provides such effective and safe vehicular and pedestrian access. The project will provide a below-grade parking garage with approximately 140 parking spaces and approximately 12 parking spaces for visitors. This vehicular entrance and exit will be accessed from a public alley off of I Street, NE, and will be appropriately landscaped and buffered from neighboring properties. This entrance opens onto a courtyard that has been designed as an attractive and inviting entry for residents of the project, visitors, and their guests. A pedestrian only entrance/exit will be constructed on I Street, NE. Lastly, the street-fronting first floor units will have their own separate entrances. These separate and distinct entrances/exits will mitigate any potential pedestrian and vehicular conflicts.

- Revenue for the District – According to 11 DCMR § 2403.9(i), "uses of special value to the neighborhood or the District of Columbia as a whole" are deemed to be public benefits and project amenities. The addition of approximately 140 new households will result in the generation of significant additional tax revenues in the form of recordation, transfer, property, income, sales, use and employment taxes for the District.

- First Source Employment Program - According to 11 DCMR § 2403.9(e), "employment and training opportunities" are representative public benefits and project amenities. Therefore, the Applicant will voluntarily enter into an agreement to participate in the DOES First Source Employment Program to promote and encourage the hiring of District of Columbia residents.

- Local Business Opportunity Program - Pursuant to 11 DCMR § 2403.9(e), the use of local firms in the development and construction of a project is a representative public benefit and project amenity. Therefore, the Applicant will enter into a Memorandum of Understanding ("**MOU**") with the OLBD to use the resources of the LBOC to utilize local business enterprises in the development of the project.

- Comprehensive Plan - According to 11 DCMR § 2403.9(j), public benefits and project amenities include "other ways in which the proposed planned unit development substantially advances the major themes and other policies and

objectives of any of the elements of the Comprehensive Plan." The project is consistent with and furthers many elements and goals of the Comprehensive Plan.

- Public Benefits of the project - 11 DCMR §§ 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical development of the type proposed. The Applicant has addressed this issue in the text of the Pre-Hearing Statement, and in the table attached thereto as page 8. It is only as a result of the additional density provided through the PUD process that the Applicant is able to construct such a well-designed project. The architectural detailing of the proposed building and the large open spaces provided in the project set it apart from a matter-of-right residential project. In addition, a matter-of-right project would not provide any affordable housing. The approval of this PUD application will result in the creation of approximately 9,120 square feet of affordable housing.

56. The PUD project is fully consistent with and fosters the goals and policies stated in the elements of the District of Columbia Comprehensive Plan.

- Stabilizing the District's Neighborhoods - The creation of approximately 140 new residential units, which will be sold rather than rented, will help stabilize the Near Northeast neighborhood. The creation of a significant residential development on the Property is also likely to help stimulate additional residential development and stabilize the neighborhood. The influx of these new residents in this neighborhood will provide the critical mass of customers needed to patronize existing commercial uses on nearby H Street, NE. Therefore, the project will both have a catalytic effect on surrounding areas while respecting the massing and scale of the neighborhood.

- Respecting and Improving the Physical Character of the District - The project has been designed to integrate with the surrounding neighborhood and to dramatically improve the streetscape on 4th and I Streets, NE. The 4th and I Street facades, landscaping, raised first floor level access, and alternating composition of projecting bays, all combine to create an appropriate scale and visual interest. The design of the building blends the structure with the surrounding single family rowhouses. Due to the Applicant's sensitivity to the height of the surrounding houses, the matter of right height limit of 65 feet has been observed.

- Preserving and Ensuring Community Input - Through the PUD process, the Applicant has worked and will continue to work with representatives of ANC 6C, as well as the surrounding neighborhood, to create a new residential building that is a benefit to the neighborhood and the District.

57. The Comprehensive Plan also contains 11 major elements. The project furthers the objectives and policies of several of these elements as follows:

- Housing Element - The creation of approximately 140 for-sale residential units on this currently underutilized property fully satisfies all of the provisions of the Housing Element of the Comprehensive Plan. As previously stated, the project will provide approximately 9,120 square feet of affordable housing. The inclusion of these affordable units in the project is also entirely consistent with the provisions of the Comprehensive Plan.

- Urban Design Element - As shown in the detailed plans, elevations, and renderings included with Exhibit A to the Pre-Hearing Statement and in post-hearing submissions to the Commission submitted as Exhibit __, the project exhibits all of the characteristics of exemplary urban design and architecture. The construction of a prominent residential building will complement the established residential neighborhood that surrounds the site. As mentioned, the project has been painstakingly designed to complement and enhance the scale of the surrounding neighborhoods, particularly that on 4th Street, NE, adjacent to the Property. The architects designed a building with lower height than allowed under the PUD guidelines and greater percentage of lot occupancy to create a more appropriate design.

- Generalized Land Use Map - As previously mentioned, the Generalized Land Use Map includes the Property in the Moderate Density Residential Land Use Category. In Commission Case No. 821, the Property was rezoned from C-M-1 to C-2-B (except for Lots 22, 23, and 32, the small lots at the north of the Property, which were rezoned from R-4 to C-2-B in that Commission action). These lots were rezoned, in large part, because OP determined that a designation permitting high density residential and mixed uses was more appropriate for the largely residential area. Such a change in the designation supports the construction of a high-quality residential project on a site that is currently home to a wholesale bakery and accessory parking lot. The project and C-2-B Zone District are consistent with the flexibility that the Moderate Density Residential Land Use category provides for the Property. In addition, the proposed residential project is foregoing all commercial density that would otherwise be allowed on the Property in the existing C-2-B Zone District.

- Ward 6 Goals and Policies - Under 10 DCMR § 1707.1, the Ward 6 Element of the Comprehensive Plan seeks to maintain and strengthen the quality and construction of housing, stimulate production of new housing and promote low and moderate income housing development opportunities. The proposed PUD is consistent with these provisions of the Ward 6 Elements of the Comprehensive Plan.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this

order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review and approval of a Planned Unit Development application for Lots 1, 22, 23, 32, 826, and 827 in Square 775. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 13, 20, and __ of the record, as modified by the guidelines, conditions and standards of this order.

2. In accordance with the plans and materials noted above, the approved PUD shall consist of an all residential project that includes a maximum of minimum of 125 and a maximum of 140 residential units. There will be a minimum of approximately one parking space for each residential unit. The entire project will include approximately 160,000 square feet of gross floor area resulting in a FAR of approximately 5.65. The new building will be 65 feet tall and the total lot occupancy of the project will be approximately 85%.

3. The Applicant is required to provide 12 non-sellable visitor spaces in the parking garage.

4. The project will include a minimum of approximately 9,120 square feet of gross floor area available for sale as affordable units to households having an income not exceeding 80% of Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for family size), and consistent with the eligibility requirements and enforcement mechanisms enumerated in the District of Columbia's Department of Housing and Community Development's ("**DHCD**") guidelines and policies. To the extent that minor modifications are needed in the execution of this program to conform to District or Federal housing programs, the applicant will work with DHCD to make such changes comply with the same. The unit types and locations shall be as shown on p. __ submitted as Exhibit __. Any changes to the proposed unit types and locations must be approved by OP and in no event shall the total amount of affordable housing be less than 9,120 square feet.

5. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the draft First Source Agreement submitted as Exhibit D to Exhibit 20 of the record.

6. The Applicant shall enter into a Memorandum of Understanding with the Office of Local Business Development in substantial conformance with the draft Memorandum of Understanding submitted as Exhibit E to Exhibit 20 of the record.

7. The Applicant shall have flexibility with the design of the PUD in the following areas:

- To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;

- To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and

- To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.

- To make alterations to the parking garage design provided that the parking garage contains a minimum of approximately one parking space for each residential unit and a total of 12 visitor spaces, and conforms to the Zoning Regulations regarding parking garages, such as but not limited to aisle width.

8. The consolidated PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit and construction of the project must start within three years of the date of the effective date of this order pursuant to 11 DCMR §§2408.8 and 2408.9.

9. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

For the reasons stated above, the Commission concludes that the applicant has met the burden, it is hereby **ORDERED** that the application be **GRANTED**.

VOTE: __-__-__

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register on _____.

ANTHONY HOOD
Vice Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning

CERTIFICATE OF SERVICE

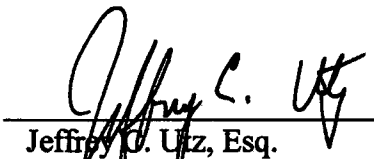
I hereby certify that on this 31st day of October 2005, I served a copy of the foregoing Proposed Findings of Fact and Conclusions of Law via hand delivery, to:

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