Government of the District of Columbia

Office of the
Director

Office of Planning
415 12th Street, N.W.,
Washington, D.C. 20004

August 25, 1998

TO: Board of Zoning Adjustment

FROM: Jill C. Dennis
Director

SUBJECT: BZA Application No. 16387

OFFICE OF ZONING
DISTRICT OF COLUMBIA
'98 AUG 26 P12:31

APPLICATION

Application of Square 456 Associates, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 411.11 for approval of roof structures and a variance from Paragraph 1706.22(g) to permit commercial development to proceed prior to the issuance of the certificate of occupancy for permitted off-site affordable housing for the construction of an office, arts, retail and housing development in a DD/C-4 District at 625-627 E Street, 620 and 626 F Street and 501-507 and 511-517 7th Street, N.W. (Square 456, Lots 37, 39, 868 and 869).

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends conditional approval of this application.

APPLICANT'S PROPOSAL

On the subject site, the applicant is proposing to: (1) construct an office and retail building on the south side of F Street between 6th and 7th Streets, as an addition to the existing American Association of Retired Persons (AARP) building located at 601 E Street, N.W.; (2) renovate and reconstruct an addition to the former Hecht's building, located at the southeast corner of the intersection of 7th and F Streets, and renovate and add to the adjoining buildings at 511-517 7th Street, N.W., to be used for office, arts and retail purposes; and (3) renovate and add to the Murray Building, located at the northeast corner of the intersection of 7th and E Streets, and 625-627 E Street, N.W., for residential purposes with ground floor retail and arts uses. The proposed development also includes an agreement to construct affordable housing off-site at the Golden Rule Plaza site, located on the west side of New Jersey Avenue between New York Avenue and K Street, N.W.

BZA
CASE No. 16387
EXHIBIT No. 24

Board of Zoning Adjustment
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CASE NO.16387
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8/26/98

SITE AND AREA DESCRIPTION

Square 456 is bounded by 6th, 7th, E and F streets, N.W. The site consists of a surface parking lot located on the south side of F Street between 6th and 7th streets, directly across from the main entrance to the MCI Center, and the following buildings:

- The seven story terra cotta building known as the Hecht Company Addition at 626 F Street, presently vacant;
- 511 7th Street, a vacant four story commercial building, part of the Hecht's complex;
- 513 and 515 7th Street, vacant five story commercial buildings, also part of the Hecht's complex;
- 517 7th Street, a vacant six story commercial building, also part of the Hecht's complex;
- The four story Murray Building at 501-507 7th Street, also known as the Dime Savings Bank building; and
- Two, three and four story buildings at 625-627-629 E Street.

The proposed development would occupy the major portion of Square 456, excluding only the existing AARP building at 601 E Street N.W., the OBA Federal building at the southwest corner of the intersection of 6th and F streets N.W., and the District Chop House building at 509 7th Street N.W.

The property is located in the Gallery Place subarea of Downtown, just north of the existing Penn Quarter mixed-use residential area. Immediately to the north across F Street is the MCI Center. To the northwest is the National Portrait Gallery/ National Museum of American Art. To the west, across 7th Street, is the vacant General Post Office, also known as the Tariff Commission building, proposed to be converted to a hotel by a private developer awarded the site by the General Services Administration (GSA). To the southwest is the Lansburgh apartment complex, including the Shakespeare Theater and ground floor retail. To the south, across E Street, is the Gallery Row arts complex along 7th Street and a development site held by GSA for a potential mixed-use office and residential project. Also across E Street is a large office building constructed under the C-4 District before the Downtown Development (DD) District was adopted. To the southeast is an office building fronting on Judiciary Square, approved as a planned unit development (PUD) by the Zoning Commission and occupied by the Federal government. To the east, across, 6th Street is a District fire station and a development site, including some parking lots and some small buildings, for which an office building has been approved as a PUD. To the northeast is the WMATA headquarters building also fronting on Judiciary Square.

EXISTING ZONING AND RELIEF REQUESTED

The proposed property is located in a DD/C-4 District. The underlying C-4 District permits high density commercial office, retail and service uses, as well as hotel, institutional and residential uses, all to a maximum height of 110 feet and a maximum FAR of 8.5. The DD District is an overlay which modifies the controls of the underlying zone. The DD District contains some area-wide use and design controls, but primarily applies through five subareas: retail, arts, Chinatown, housing and historic preservation. The subject property is, in whole or in part, in three subareas: the Downtown Arts District, Housing Priority Area C and historic preservation.

The application requests two areas of relief:

- A special exception under Section 411.11 to allow roof structures which do not meet the normal 1:1 setback required for each foot of height above the roof; and
- A variance from Paragraph 1706.22(g), so that the applicant may construct and occupy the nonresidential portion of the proposed development on a separate time frame from the off-site affordable housing.

ANALYSIS

The proposed project contains a mix of uses (office, arts, retail and housing) in a combination of new construction and renovation and reconstruction of existing buildings which contribute to the character of the Historic District. The proposed partial demolition, alteration and new construction have been approved by the Historic Preservation Review Board and the Mayor's Agent.

The project includes a new eleven story, 120 foot high office and retail building to be constructed on the parking lot. The Hecht's building would be renovated for office, arts and retail uses, incorporated into a building to be constructed behind the retained facades of 511-517 F Street. A portion of the southeast corner of the Hecht's building would be demolished, as would all of the buildings at 511-517 7th Street, except for the facades. A six story addition would be made to the Murray Building, to be devoted entirely to residential use except for some ground floor arts and/or retail uses. Some infill additions would be made to the building at 625-627 E Street, which would be devoted entirely to residential use. The existing building at 629 E Street would be demolished to provide an open courtyard for the residential uses on either side.

The total gross floor area (GFA) of the proposed development is 736,405 square feet or 8.24 FAR. The total office and retail GFA is approximately 664,612 square feet. Parking spaces for 615 to 657 cars would be provided below-grade, with access from F Street and, through the AARP garage, from E Street.

The project would meet all of the various requirements of the DD District, which overlap across the three applicable subareas. To meet the arts requirements, 29,791 square feet of arts use would be provided. All that space would be devoted to the special arts uses specified in Paragraph

1704.3(a) (e.g., art gallery, art exhibition area, etc.) and all the space would have a ceiling height of twelve feet or greater.

To meet the housing requirement, 56,240 square feet (1.1 FAR) would be provided on-site in the expanded Murray Building and 625-627 E Street. The project would include approximately fifty-five units, with the number and size of units subject to market demand. An additional 40,991 square feet (0.8 FAR) would be provided as affordable housing off-site at Golden Rule Plaza and 5,247 square feet (0.1 FAR) would be off-set through bonuses earned for the arts uses.

Special Exception Request

The application requests special relief for some of the roof structures located on the roof of the project. The Zoning Regulations (Paragraph 770.6(b)) require a setback of 1:1; a roof structure must be set back from all edges of the roof one foot for each foot of height above the roof. Under Section 411.11, the BZA is "empowered to approve the location, design, number, and all other aspects of such structures ... even if such structures do not meet the normal setback requirements ..." The Board may grant the relief where it determines that compliance with the Regulations is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable." The Board must further determine that "the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely."

There are two roof structures which require relief from the Board. The first is on the roof of the Hecht's building and the addition to be constructed behind 511-517 7th Street. There is an existing roof structure to remain on the Hecht's building, and the new roof structure, to contain elevator overrides, stairs and mechanical equipment is to be an extension of the existing roof structure. Portions of the existing roof structure do not meet the existing setback requirement. The wall of the addition to the roof structure follows the line of the wall of the existing structure and, while 18.5 feet in height, is only 8.5 feet from the east edge of the roof. This edge is an interior side of the project, facing the new building to be constructed on the parking lot across an open court. The sides of the roof structure facing 7th and F streets meet the setback requirements.

The location of the penthouse is constrained by: (1) the location of the existing roof structure; (2) the location of the elevator cores serving the tenanted portions of the building; and (3) the setbacks for the lower floors required to obtain historic preservation approval for construction behind the historic facades to be retained. These elements combine to force the roof structure toward the rear of the site. The need to integrate the new and existing penthouses makes compliance with the setback requirements, in the applicant's opinion, unduly restrictive and unreasonable. Given the setbacks of the new construction behind the historic 7th Street structures, it would be structurally impossible to locate the penthouse so as not to require special exception relief from the setback requirements.

The roof structure on the expanded Murray Building is set back the required 18.5 feet for an 18.5 foot high penthouse from the edges of the roof facing 7th Street and the courtyard on the east side of

the building. The penthouse is setback only fifteen feet from the edges of the roof facing E Street and the District Chop House building to the north. The site of the Murray Building, Lot 39, is only seventy-five feet wide in a north-south direction. If the full setback was provided on all four sides, there would not be sufficient width remaining to accommodate all of the elevator equipment, stairs and mechanical equipment necessary to service the ten story apartment building. The size and dimensions of the lot create the operational difficulties for the building.

Variance Request

The application requests a variance from the requirements of Paragraph 1706.22(g). That paragraph applies to off-site affordable housing, which is permitted in partial satisfaction of the housing requirements of Subsection 1706.6. The applicant has an agreement with Golden Rule Plaza for the construction of 0.8 FAR of affordable housing. Golden Rule Plaza, a project of the Bibleway Church, is to be constructed on a site next to the Church on the west side of New Jersey Avenue between New York Avenue and K Street. The site is in a DD/C-2-C District and is on the edge of Downtown. The project would include approximately 131,000 square feet of gross floor area and would contain approximately 127 units for low and moderate income persons.

Pursuant to Paragraph 1706.22(g):

> "No certificate of occupancy shall be issued for the nonresidential development within the DD District until a certificate of occupancy has been issued for the affordable dwelling units."

Under normal conditions, where the applicant was meeting its affordable housing requirement by construction in a venture with a nonprofit housing developer, the funds would not be released until the project was at a point where construction and completion were guaranteed. No real estate investor would put up the money for affordable housing without knowing that occupancy of its own commercial project was assured.

In the present case, Golden Rule Plaza has requested the applicant to make the funds available at the time of the closing of the construction financing. This would assist the housing developer in completing the financing package and would increase the equity in the project, thereby leveraging the finance to a greater degree than would otherwise be possible. The applicant has advised OP that it is prepared to post the funds as long as it is assured that once the money has been made available, the development on Square 456 may proceed and be occupied.

The Board may grant a variance in accordance with the provisions of Section 3107.2, as follows:

> Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and

undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Extraordinary or Exceptional Situation or Condition

The exceptional conditions which affect this property come from a combination of the requirements of the Zoning Regulations, imposed on the site after development had already begun on the AARP building, and the constraints arising from the historic preservation requirements that derive from D.C. Law 2-144. The DD District is one of the most comprehensive and complicated districts in the current Zoning regulations. The separate subarea requirements must be read in conjunction with each other and the overlaps make compliance difficult. The applicant has advised the Office of Planning that the applicant has been working for almost ten years to understand the DD overlay; this property is the only privately owned site to be affected by the three previously mentioned overlays. This situation is compounded by the design and preservation requirements that came out of the process under D.C. Law 2-144. The maximum FAR is less than the maximum permitted. The building has numerous features that would not be present if the site were not in a historic district, including floor levels that do not line up, more elevators including shuttle elevators, facade restoration costs and setbacks at upper floors which would otherwise not be included.

Practical Difficulties

The requested variance is an area variance. All of the proposed uses are permitted uses and all of the minimum requirements for preferred uses have been met. The applicant therefore must meet the practical difficulty test.

The developers of the Golden Rule Plaza project have given OP every indication that they intend to proceed in the near future and that the building would be ready for occupancy prior to the nonresidential portion of the proposed development on Square 456. However, there are a multitude of factors which could cause the Golden Rule Plaza project to be delayed, including financing issues, unanticipated environmental or structural issues or construction cost overruns.

If the applicant was to make its financial commitment to Golden Rule Plaza and proceed to construct its project and then was unable to occupy its nonresidential buildings because the Golden Rule Plaza project was not complete, the applicant would suffer an extreme difficulty in being unable to use its property for any permitted nonresidential use. No real estate investor or developer would proceed without being assured of being able to occupy and use the property once construction was complete.

Impairment to the Zone Plan

The proposed project has a substantial benefit to the District. It would complete development of one of the central squares in the Gallery Place subarea. It would contain the first housing construction in Housing Priority Area C since the DD was adopted. It would enliven the 7th Street frontage with arts and retail uses and it would complement the attraction of the MCI Center across the street. The project would contain all of the preferred uses required under the Zoning Regulations and would be the first development to provide housing in the Penn Quarter area without the involvement of the Pennsylvania Avenue Development Corporation. It sets a positive precedent in the area.

Similarly, the Golden Rule Plaza project is important to the city. It includes a significant component of affordable housing, a commodity in very short supply in the city. It provides those units on the edge of Downtown, increasing the number of residents in and immediately around the central area of the city. The Office of Planning believes that a condition should be placed on the approval, requiring the applicant to provide its financial support for Golden Rule Plaza in the near future after approval of the application and that Golden Rule Plaza should be given every opportunity to proceed and succeed with its project. The applicant has proposed a satisfactory condition, noted below, to be included in the approval, which would achieve the Office of Planning's goals for the affordable housing construction.

COMMUNITY COMMENTS

The subject site is located within the jurisdictional boundaries of Advisory Neighborhood Commission (ANC) 2C. At the time this report was prepared, the ANC had not taken a formal position on this case.

RECOMMENDATION

The subject development is a positive project for the city. It includes on-site housing, off-site affordable housing, arts, retail and office space. The project meets all of the requirements of the DD District. The only area of relief regarding the DD District is the variance related to the timing of funding for affordable housing. The Office of Planning believes that the applicant has met the burden of proof for the granting of the requested area variance, as discussed above, and that the following condition, if imposed on the granting of the variance, meets the Office of Planning's concerns about the implementation of the affordable housing connection:

> Within thirty days after the issuance of the Board's order, the applicant shall place $500,000 in an escrow account for the benefit of Golden Rule Plaza, to be made available to Golden Rule Plaza Inc. at the time of settlement on the financing for the low and moderate income housing project to be constructed on the west side of New Jersey Avenue between New York Avenue and K Street. After placing the $500,000 in escrow, the applicant may proceed to construct and occupy the development in Square 456. In the event that the Golden Rule Plaza project has not settled on its financing and drawn down the funds in the escrow account within two

> years of the date of the Board's order, the applicant shall consult with the Office of Planning to determine an appropriate alternative plan as to how the funds would be used for affordable housing, and shall submit that plan to the Board in an appropriate motion. The submission of such an alternative plan in no manner affects the rights granted by this order enabling the applicant to proceed with the mixed-use development on the subject site.

In addition, the requested roof structure relief also meets the test under the Regulations. The size of the building site and the setbacks and the location of the existing roof structure on the Hecht's building, in conjunction with the historic preservation requirements, create the basis for approving the setbacks as proposed.

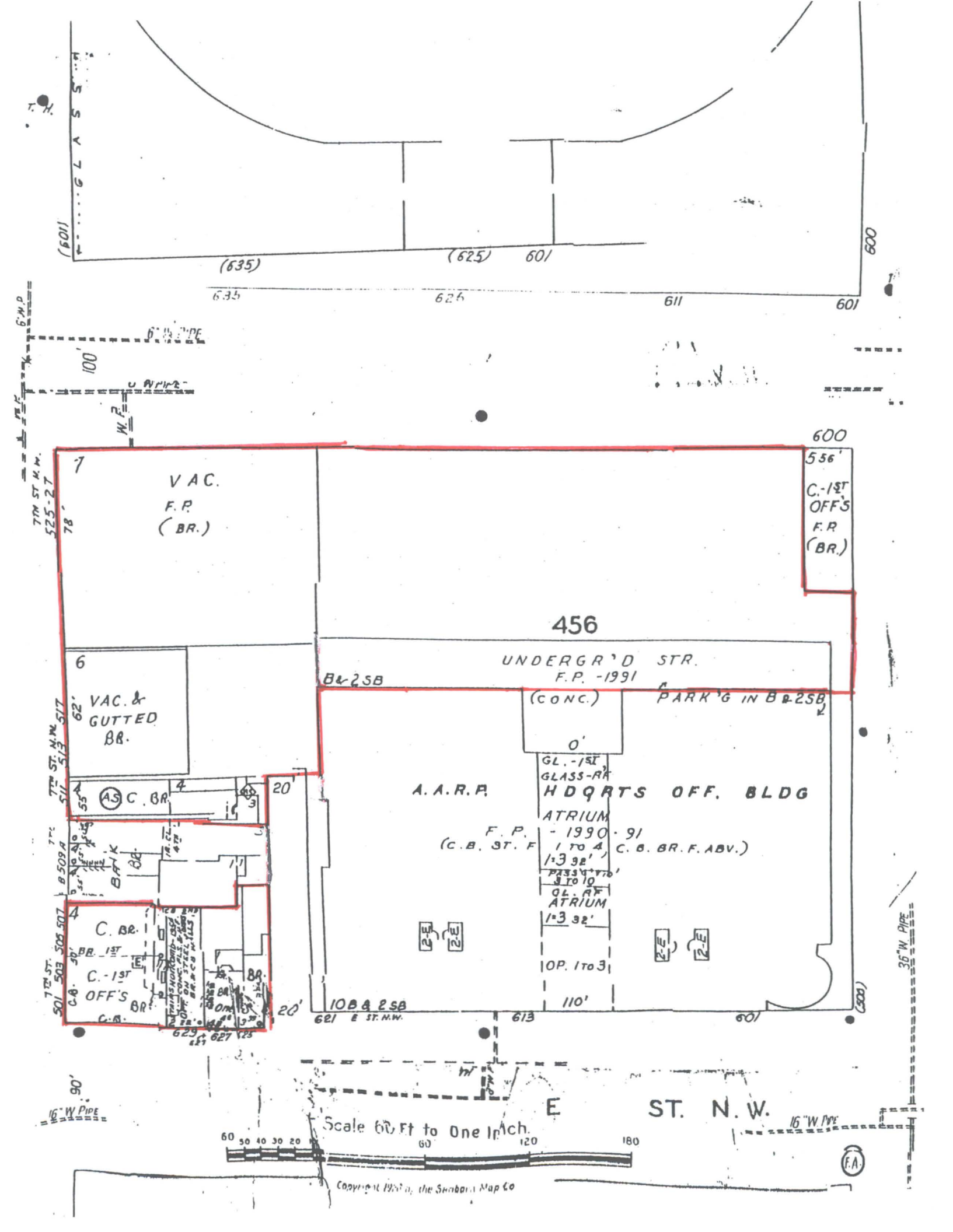
The Office of Planning further concurs with the applicant's request for flexibility in design and meeting the preferred use requirements. The project is still in the conceptual design stage, and the ultimate developer is still not known. This may occasion changes in the design and program, but the applicant has committed that all of the preferred use requirements would be met and that the residential component would not be reduced. The Office of Planning recommends approval of this application with the above-stated condition regarding housing and the following condition regarding design and uses:

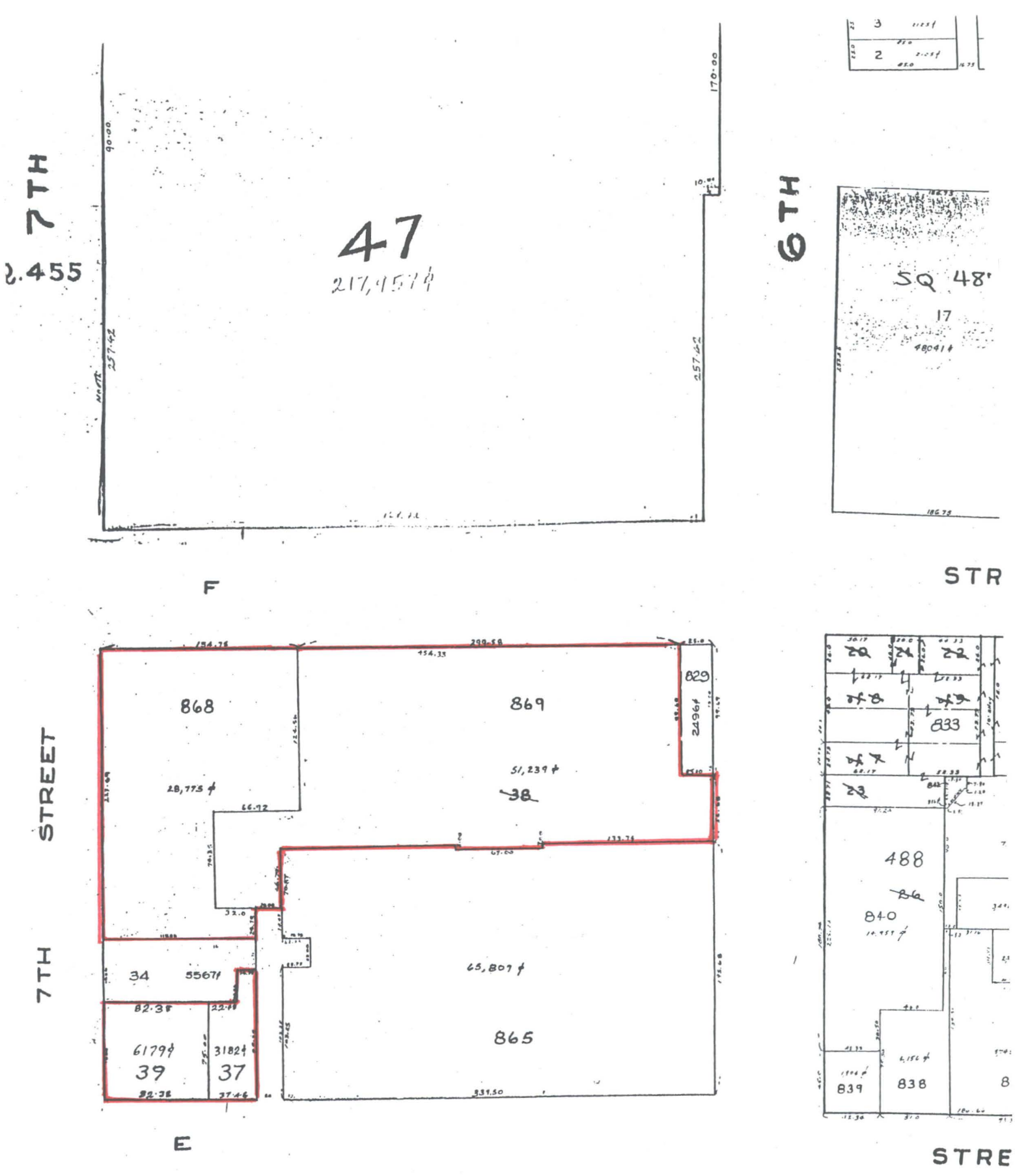
> The applicant may modify the design of the building subject to approval under D.C. Law 2-144 (Historic Preservation Review Board and/or Mayor's Agent), provided that those changes do not diminish the roof structure setbacks shown on the plans for which special exception relief is required, and may otherwise comply with the provision of preferred uses so long as all the requirements of the Zoning Regulations are met, provided that the applicant shall not reduce the amount of on-site housing shown on the plans submitted to the Board.

Attachment


F Street
28,775 sf land
Lot 868
"Old Hecht's"
and Townhouse Buildings:
(Lot 868 and part of Lot 869)
Office, Retail/Arts
51,239 sf land
Lot 869
"New Building"
(Part of Lot 869)
Office
OBA Federal
Not In Project
7th Street
6th Street
District Chop House
Not In Project
"AARP Headquarters Building"
601-611 E Street
Not In Project
6,179 sf land
Lot 39
3,182 sf land
Lot 37
Public Alley
E Street
"Murray Building": Housing
625-627 E Street: Housing


DD/C-4
SP-2
C-3-C
JUDICIARY SQUARE
INDIANA
PENNSYLVANIA
MARKET PL.
ST.
DD/C-3-C
DD/C-5


GLASS ST.
(601)
(635)
(625)
601
600
635
625
611
601
6" W. PIPE
100'
W. P.
600
556'
C.-1ST OFF'S
F.P.
(BR.)
7TH ST N.W.
525-27
78'
1
VAC.
F.P.
(BR.)
456
UNDERGR'D STR.
F.P. -1991
B & 2 SB
(CONC.)
PARK'G IN B & 2 SB
0'
GL.-1ST
GLASS-RR
A.A.R.P.
HDQRTS OFF. BLDG
ATRIUM
F.P. - 1990-91
(C.B. 1ST F 1 TO 4, C.B. BR. F. ABV.)
1:3 32'
PASS'G 1 TO 10
GL. RF
ATRIUM
1:3 32'
OP. 1 TO 3
110'
6
VAC. & GUTTED
BR.
62'
513
517
7TH ST. N.W.
511
55'
A.S.
C. BR.
4
3
20'
B 509 A
BR.
8d.
14.22
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4
C. BR.
30' BR. 1ST
C.-1ST OFF'S
BR.
C.B.
7TH ST.
501
503
505
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20'
10 B & 2 SB
621
E ST. N.W.
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629
627
625
2-E
36" W. PIPE
16" W. PIPE
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E ST. N.W.
Scale 60 Ft to One Inch.
60 50 40 30 20
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120
180
F.A.
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31824
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