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Washington, DC 20006-2803

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'00 SEP 19 P3:05
OFFICE OF ZONING
DISTRICT OF COLUMBIA

September 19, 2000

BY HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: Statement of the Applicant
BZA Application No. 16603
Fidelity Limited Liability Company and
CG Investments, Inc.

Dear Members of the Board:

Enclosed please find 10 copies of the Statement of Applicant for the above-mentioned application.

If you have any questions or comments with regard to the Statement of the Applicant, please feel free to call the undersigned at (202) 457-7800.

Sincerely,

Norman M. Glasgow, Jr.

Norman M. Glasgow, Jr.

Martin P. Sullivan

Martin P. Sullivan

Enclosures

cc: Ellen McCarthy, Office of Planning
John Fondersmith, Office of Planning
ANC 2C

BZA
Case No. 16603
Exhibit No. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.16603
EXHIBIT NO.41

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Fidelity Limited Liability Company and CG Investments, Inc.

BZA Application No.16603
Hearing Date: October 3, 2000
ANC 2C

'00 SEP 19 P3:06
OFFICE OF ZONING
DISTRICT OF COLUMBIA

STATEMENT OF THE APPLICANT

I.
Nature of Relief Sought

This is an application pursuant to 11 DCMR 3103.2 for the following area variances: (i) a variance from the rear yard setback requirement for a structure in the C-2-C District (Subsection 774.1); (ii) a variance from the residential recreation space requirement (Subsection 773.3); and (iii) a variance from the maximum permitted floor area ratio (FAR) (Subsection 771.2). The requested relief is necessary to permit the construction of a 14-story apartment house (with potential ground floor retail) ("Project") in the DD/C-2-C (subject to rezoning from HR/SP-2) District at the southeast corner of the intersection of Massachusetts Avenue, N.W., I Street, N.W. and Fifth Street, N.W. (Square 517, Lot 50) ("Subject Property").

II.
Jurisdiction of the Board

This Board has jurisdiction to grant the relief requested pursuant to Section 3103 of the Zoning Regulations.

III.
Background

A. Description of the Subject Property

The Subject Property is bounded by Massachusetts Avenue, N.W., to the northeast, I Street, N.W., to the north, on the northwestern edge of the Subject Property, 5th Street, N.W., to the west and a public alley, within the same square, to the south and east. The Subject Property is currently used as a commercial parking lot and has been vacant for at least twenty years. The lot is irregular in shape with the west end being widest and becoming narrowest at the eastern end and consists of approximately 44,833 square feet of land area.

On March 11, 1982, the Zoning Commission adopted Order No. 369, approving a PUD and map amendment for the Subject Property which changed the zoning from HR/SP-2 to HR/C-3-C and provided conditions for development of the site. Development under Order No. 369 was never commenced, and Order No. 369 expired in 1987.

On February 12, 1990, the Zoning Commission adopted Order No. 639 approving another PUD and map amendment, again changing the zoning from HR/SP-2 to HR/C-3-C. Again, there was no development under PUD Order No. 639, and this Order, after several extensions, expired in February, 1998.

Under Subsection 2400.7 of the Zoning Regulations, if a PUD order expires, the zoning for such site reverts to "the pre-existing regulations and map." Therefore, upon expiration of Order No. 639, zoning on the Subject Property reverted to HR/SP-2. The owner of the Subject Property, on June 23, 2000, filed an

application with the Zoning Commission requesting that the Subject Property be rezoned to DD/C-2-C (Zoning Commission Case No. 00-19). A public hearing to consider this application is scheduled for September 21, 2000. We have assumed for the purposes of this Application that the Zoning Commission will approve the requested rezoning (see Office of Planning Report to the Zoning Commission recommending approval of Application No. 00-19, attached as Exhibit H). We are therefore requesting the variance relief necessary under the requirements of the DD/C-2-C District.

The existing SP-2 District permits medium-high density development. The Hotel Residential Incentive ("HR") District is designed to encourage construction of hotels and apartment houses, including retail, housing, hotel and office use as a special exception. (11 D.C.M.R. §1100.2.) In the HR/SP-2 District, a building which contains at least 2.0 FAR of apartment or hotel use may be built to the maximum height permitted by the Act to Regulate the Height of Buildings, June 1, 1910 ("Height Act"). Also, no part of a building shall project above a plane drawn at a forty-five degree angle from a line located 110 feet directly above the right-of-way line of a street. (11 D.C.M.R. §1101.6.) The maximum FAR is 8.5 for apartment and hotel uses. Hotel use is permitted as a matter-of-right while up to 3.5 FAR of office use would require BZA approval. No retail or service uses are allowed, and residential use is permitted but not required.

The proposed DD/C-2-C District permits residential, hotel, office, retail and service uses, provided that residential use is required in all new developments. In the DD/C-2-C District, Housing Priority Area B, the maximum FAR is 8.0, of which no less than 4.5 FAR shall be for residential use. An additional 0.5 FAR may be constructed for residential use (11 D.C.M.R. §§1706.4, 1706.7).

The maximum permitted height in both the HR/SP-2 and the DD/C-2-C Zones is 130 feet, the maximum permitted under the Height Act of 1910, and the maximum permitted lot occupancy is 80 percent (11 D.C.M.R. §§1701.7 and 772.1).

B. Description of the Surrounding Area

1. North

Square 517 has frontage on Massachusetts Avenue, N.W. Massachusetts Avenue, at this location, carries two-way traffic and has a right-of-way width of 160 feet. On the north side of Massachusetts Avenue is Square S516. Square S516 is primarily developed with a commercial surface parking lot, and also contains the 3-story House of Ruth building, several 2- and 3-story, free-standing, vacant row structures, a small one-story commercial building and a used car sales lot.

2. Northwest

Diagonally across the intersection of 5th and I Streets, N.W. is Federal Reservation No. 72. Diagonally across the intersection of 5th and Massachusetts Avenue is Square 484, which consists of a parking lot on the southern half of the Square.

3. West

The Subject Property has frontage on 5th Street, N.W. 5th Street at this location carries two-way traffic and has a right-of-way width of 80 feet. Across 5th Street is Square 485. The portion of Square 485 adjacent to the Subject Property is improved with the Corinthian Baptist Church, the Gospel Mission Building and a parking lot.

4. Southwest

Diagonally across the intersection of 5th and H Streets, N.W., is Square 486. Square 486 is improved with a Red Roof Inn on its northeast corner and parking lots on the majority of the remainder of the square.

5. South

The Subject Property faces a public alley to the south. This alley is within Square 517. On the south side of the alley is the Judiciary House apartment building, a ten-story, 273-unit apartment building built in 1966. Also to the south, just west of the Judiciary House apartments, are commercial buildings housing the Blinded Veteran's Association and the D.C. Lung Association.

6. East

The area east of the Subject Property, across the public alley and within Square 517, is improved with several vacant buildings, including an abandoned fire engine company, a parking lot and a restaurant.

C. Downtown Development District

Subject to the Zoning Commission's approval of the rezoning application mentioned above, the Subject Property will be located within the Downtown

Development District, which was established pursuant to Zoning Commission Order No. 681, dated December 17, 1990. One of the stated purposes for adoption of Order No. 681 was to further certain development and land use objectives contained in the Land Use and Downtown Plan Elements of the Comprehensive Plan for the National Capital. One of the policies in support of these objectives was to prepare new zoning regulations that provide appropriate incentives for key land uses, one of which is residential use.

In February 1990, the D.C. Office of Planning issued a report entitled "Rezoning for a Living Downtown" (Exhibit I) which was issued in support of adoption of Order No. 681. This Report stated that: "A critical mass of housing and residential population is a key element in achieving 18-hour activity in Downtown, market support for a wide range of business and entertainment uses, and housing in walk-to-work locations." (p.29.)

IV.
Exhibits in Support of Application

Exhibit A: Portions of the Baist and Sanborn Maps showing the Subject Property outlined in red.

Exhibit B: Portion of the Zoning Map showing the Subject Property outlined in red.

Exhibit C: Plans for the Project.

Exhibit D: Photographs of Surrounding Area.

Exhibit E: Outline of testimony of Greg Fazakerly, CG Investments, Inc.

Exhibit F: Outline of testimony of George Dove, WDG Design Group, Project Architect.

Exhibit G: Outline of testimony of Steven E. Sher, Urban Planner.

Exhibit H: Report from the Office of Planning to the Zoning Commission recommending the rezoning of the Subject Property.

Exhibit I: Office of Planning report: "Rezoning for a Living Downtown".

V.
The Application Meets The Requirements For Variance Relief Under Section 3103.2 of the Zoning Regulations

The burden of proof for variance relief is well established. The Applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. BZA*, 287 A.2d 535, 541 (D.C. 1972). As set forth below, the application meets the three-part test for area variance relief.

A. Variance Relief Under Subsection 774.1 – Rear Yard Setback

Subsection 774.1 of the Zoning Regulations requires that a structure in a C-2-C District have a minimum rear yard depth of fifteen feet. The structure to be built on Lot 50 is proposed to have a rear yard of zero feet; thus, an area variance of fifteen feet is required.

1. The Property Is Affected By An Exceptional Situation Or Condition

The Property has unique dimensions and a unique setting which give rise to an exceptional situation. Specifically, the Subject Property is triangular in shape, decreasing in depth from west to east. At the western edge, the Subject Property

has a front-to-rear depth of 175' 5". At the eastern edge, the Subject Property gradually narrows to a front-to-rear depth of only 55' 8".

2. A Strict Application Of The Regulations Would Impose A Peculiar and Exceptional Practical Difficulty On the Applicant

Due to the exceptional situation of the Subject Property, the strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty on the Applicant. If a fifteen-foot rear yard is provided for the Subject Property, a strict application of Subsection 774.1 of the Zoning Regulations would reduce considerably the footprint available for the apartment building on the eastern side of the Subject Property. This reduces the square footage available for apartment use and restricts design and layout of the structure. This effect is particularly present in a residential structure, which has minimum standards for unit size and lighting that are generally not as crucial in a commercial structure. These conditions create a practical difficulty which threatens the economic viability of this Project.

3. Relief Can Be Granted Without Substantial Detriment to the Public and Without Substantially Impairing the Intent, Purpose And Integrity of the Zone Plan, As Embodied in the Zoning Regulations and Map

A variance from the rear yard requirement for the Subject Property will not impair the intent, purpose and integrity of the zone plan embodied in the Zoning Regulations and Map, nor will it cause a detriment to the public. There is a twenty foot wide alley between the Subject Property and the Judiciary House apartments to the south. Also, the Judiciary House apartment building has a considerable set back from its rear lot lines, making the distance between it and the proposed

building on the Subject Property over fifty feet at the closest point and over seventy feet at the farthest point.

The Subject Property is in full compliance with the Zoning Regulations as to width, lot occupancy and street frontage. Granting of the variance relief does not lead to a negative effect upon the intent, purpose or integrity of the zone plan.

B. <u>Variance Relief from Subsection 773.3 – Residential Recreation Space</u>

The residential recreation space requirement of 15 percent of the area of the apartment building, or 69,670 square feet in the present case, cannot physically be met on the site. As set forth below, the Application meets the three-part test for area variance relief from §773.3 of the Zoning Regulations.

Section 773.1 provides that "when all or a portion of a building in a C-1, C-2, C-3, C-4, or C-5 district is devoted to a residential use other than a single family dwelling, flat, or hotel, recreation space shall be provided that is safe, secure, and suitably equipped or landscaped for the active or passive recreation use of the residents."

Furthermore, §773.3 requires that in the C-2-C Zone, not less than 15 percent of the gross floor area devoted to residential use shall be devoted to residential recreation space. Because the Applicant cannot provide the required amount of residential recreation space as part of the proposed Project, variance relief is required.

1. The Subject Property is Affected by an Exceptional Situation or Condition

The Subject Property is affected by exceptional conditions involving its location, size, shape and zoning history. The subject square is among a number of

squares designated by the Zoning Commission to be included in the Downtown Development District according to Order No. 681. Further, of those designated squares, the Subject Property is located in an exceptionally appropriate location for high-density residential. Finally, the Subject Property is an exceptionally large and unusually shaped property.

The Subject Property's exceptional size underlies the overall scope of the Applicant's proposed Project. The square footage of recreational space required would in fact be greater than the size of the Subject Property. The Subject Property measures approximately 44,833 square feet, with roughly 35,866 square feet proposed to be devoted to the apartment house building. Few other residential properties have been undertaken in the District on such large parcels of land since the residential recreation space requirement was included in the Zoning Regulations.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty

The Applicant proposes to develop the apartment house portion of its Project to 10.36 FAR, subject to the granting of variance relief for additional permitted FAR (see below). With approximately 35,866 (80% of 44,833 sq. ft.) square feet of land area available for the footprint of the apartment house on the Subject Property, the Project will create 464,470 square feet of housing (enclosed building area within property lines, not counting other allowed projections over property lines or balconies). Pursuant to §773.3, 15 percent of the gross floor area devoted to residential use in the C-2-C Zone shall be provided as residential recreation space. In the present case, the resulting residential recreation space requirement is 69,671 sq.

ft. (15% of 464,470 sq. ft.). According to Subsection 773.8, of that 69,671 square feet, fifty percent (or 34,836) must be outdoors.

The Applicant proposes to devote approximately 18,200 square feet of gross floor area and exterior open space to residential recreation space in the form of a courtyard and other landscaped spaces at grade (5,300 square feet), first floor recreation/fitness center, plus lobby sitting area (3,520 square feet), a meeting/party room (4,608 square feet) and a rooftop terrace (4,772 square feet).

In consultation with the Applicant's advisors, no additional residential recreation space is needed to create a viable project. In addition, the Applicant cannot physically afford to devote any additional gross floor area for residential recreation space.

The Applicant will comply with the fifty percent outdoor requirement, with 10,072 square feet, or 55.34 percent, of its residential recreation space requirement outdoors.

For all the above reasons, the strict application of §773.3 would result in a peculiar and exceptional practical difficulty for the Applicant, threatening the economic viability of this Project.

3. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Variance relief from the residential recreation space requirement of §773.3 can be granted in the present case without substantial detriment either to the public good or to the zone plan. As proposed, the Applicant's Project provides a significant amount of residential recreation space, provided through a variety of very

practical and distinct forms, namely a courtyard, a clubhouse, a meeting/party room and a rooftop terrace, amply providing both active and passive recreation space for residents and guests alike. The Subject Property is also close to several public open spaces and public amenities, including open space along the public right-of-way along Massachusetts Avenue. When these areas are considered along with the Subject Property's recreation space, the recreation space available to residents will be generous by market standards.

By providing a significant amount and meaningful variety of residential recreation space, the Applicant is complying with the spirit of §773 of the Zoning Regulations.

C. Variance Relief under Subsection 771.2 – Floor Area Ratio

Subsection 1706.4 of the Zoning Regulations provides any structure in the C-2-C District a maximum permitted floor area ratio (FAR) of 8.0, of which at least 4.5 FAR shall be for residential use, provided on-site, or provided off-site as part of a combined lot development. Subsection 1706.7 of the Zoning Regulations allows an additional .5 FAR, if devoted to residential use, for a total FAR of 8.5. The proposed apartment structure has a FAR of 10.36. Thus, an area variance of 1.86 FAR is requested.

1. The Property Is Affected By An Exceptional Situation Or Condition

The Subject Property has several unique conditions which give rise to an exceptional situation. First, the soils present in the Subject Property present a

significant challenge at the depths anticipated for underground parking. At the stratas required for footings, the soils are such that conventional spread footings will not yield capacities to support a high rise residential building. Preliminary structural evaluations indicate that substantial soils remediation as well as the utilization of a mat foundation will be required over the entire site. The result will be increased costs which will negatively impact the economic viability of the Project. The requested density will help to offset these extraordinary costs.

Second, the triangular shape of the property has an impact on the configuration of the apartment units, such that the additional FAR is necessary to allow the developer to produce the number of units needed to make the Project economically viable.

Third, the Subject Property is located in the easternmost section of the Downtown Development District, an area in which residential development is strongly encouraged, yet remains an economic gamble. It has been at least twenty years since a large residential structure has been constructed in this area, and it has been much longer since any large residential structure has been built in this area without considerable assistance from the City or other government agencies. If the goal of a living downtown is to be accomplished by private, unsubsidized development, a critical mass of housing is needed to give such private interests the incentive to invest in such an endeavor. If the desire of the City is to get the private market to respond to such opportunities, a critical mass of housing must exist. It is therefore important to provide a significant number of residential units in this

Project to begin to achieve this critical mass which is so crucial to the future of the eastern Downtown area.

2. A Strict Application of the Regulations Would Impose a Peculiar and Exceptional Practical Difficulty On the Applicant

This particular area of the Downtown Development District, included in Housing Priority Area B (11 DCMR 1706.8(b)), is particularly in need of a critical mass of housing. The Subject Property, as well as significant areas in surrounding squares, has remained vacant despite housing incentives created by the establishment of the Downtown Development District. The Subject Property and many surrounding squares continue as parking lots, despite the strong economy, evidencing a unique and exceptional condition. The Subject Property itself has experienced two expired PUDs for mixed use Projects in the last twenty years, and several surrounding squares also have expired or long-pending PUDs. Significant residential development in this area has not yet been undertaken, requiring the granting of the variances requested herein, in order to be completed. We believe that this is an exceptional situation which warrants such action to provide the housing desired to create a "Living Downtown."

The soil condition, the shape of the Subject Property and the threatened viability of a residential project in this part of Downtown, has created an exceptional practical difficulty for the Applicant which requires the greater density which this FAR variance will provide.

3. Relief Can Be Granted Without Substantial Detriment to the Public and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan, As Embodied in the Zoning Regulations and Map

The granting of a FAR variance of 1.86 can be granted without substantial detriment to the Public and without substantially impairing the Intent, Purpose and Integrity of the Zone Plan. While the apartment building's FAR would be increased to 10.36, lot occupancy will be within the maximum permitted percentage of 80%, and the height of the building will be in accordance with the Zoning Regulations and the Height Act of 1910. The external structure of the apartment building will not be affected by the increased FAR, thereby having no effect on the surrounding area. The addition of these apartment units will have a significant effect, however, on producing the critical mass of housing desired in the Downtown area, as embodied in the Zoning Regulations and in the Comprehensive Plan.

VI.
Conclusion

For all of the above reasons, the Applicant is entitled to variance relief in this case.

Respectfully submitted,

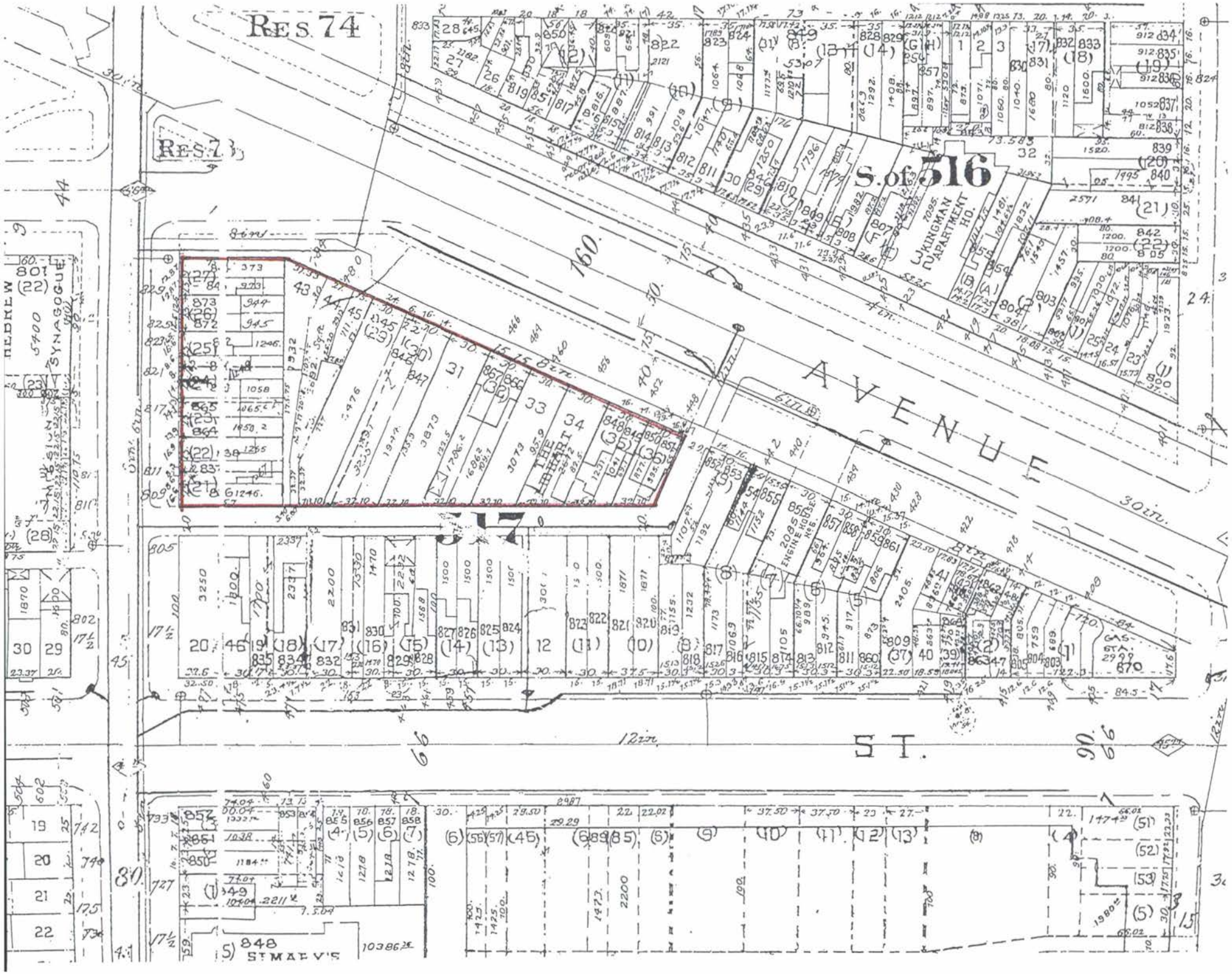
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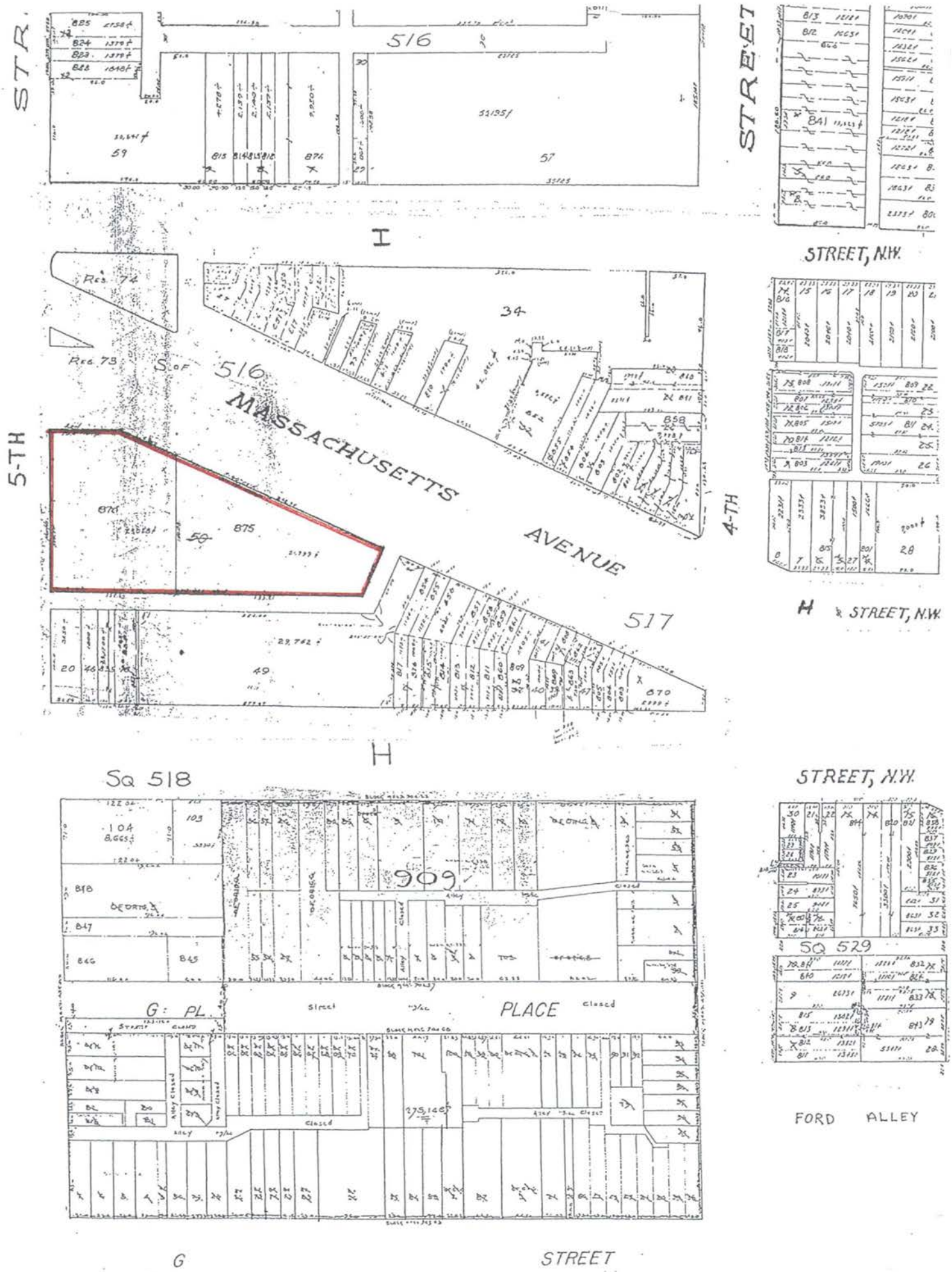
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Norman M. Glasgow, Jr.

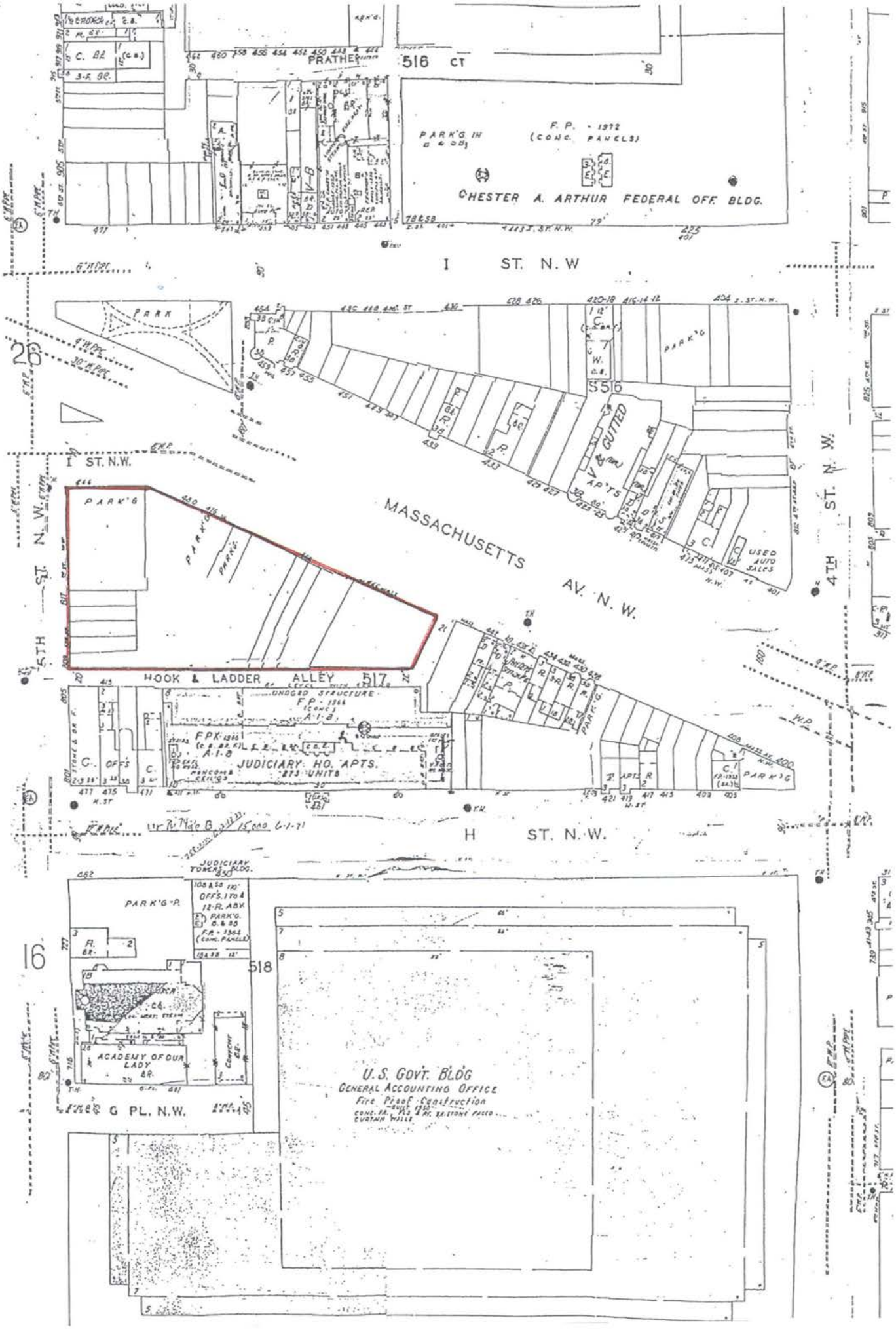
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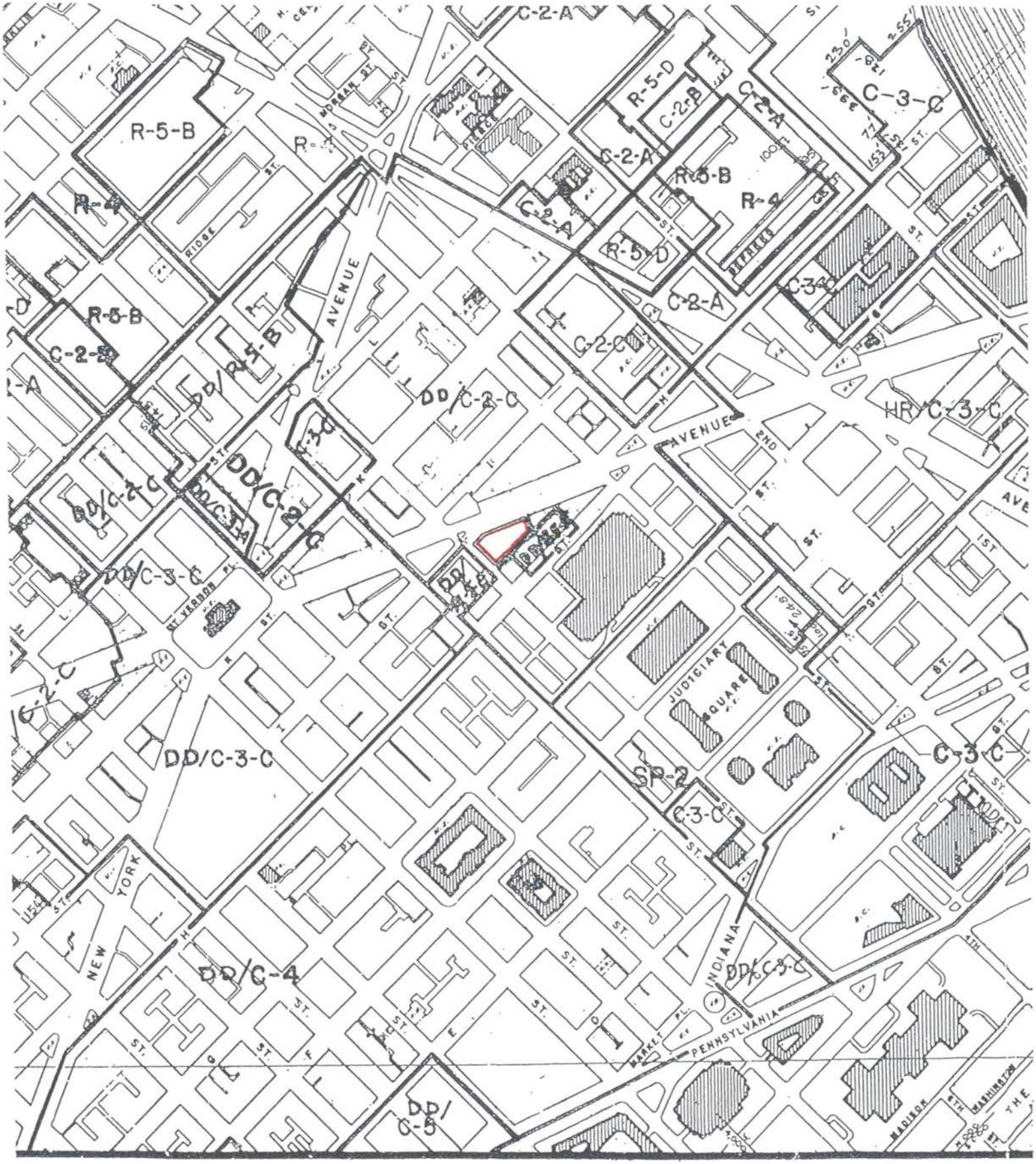



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15TH ST. N.W.
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JUDICIARY HO. APTS.
273 UNITS
H ST. N.W.
JUDICIARY TOWERS BLDG. 450
ACADEMY OF OUR LADY
G PL. N.W.
518
U.S. GOVT. BLDG
GENERAL ACCOUNTING OFFICE
Fire Proof Construction



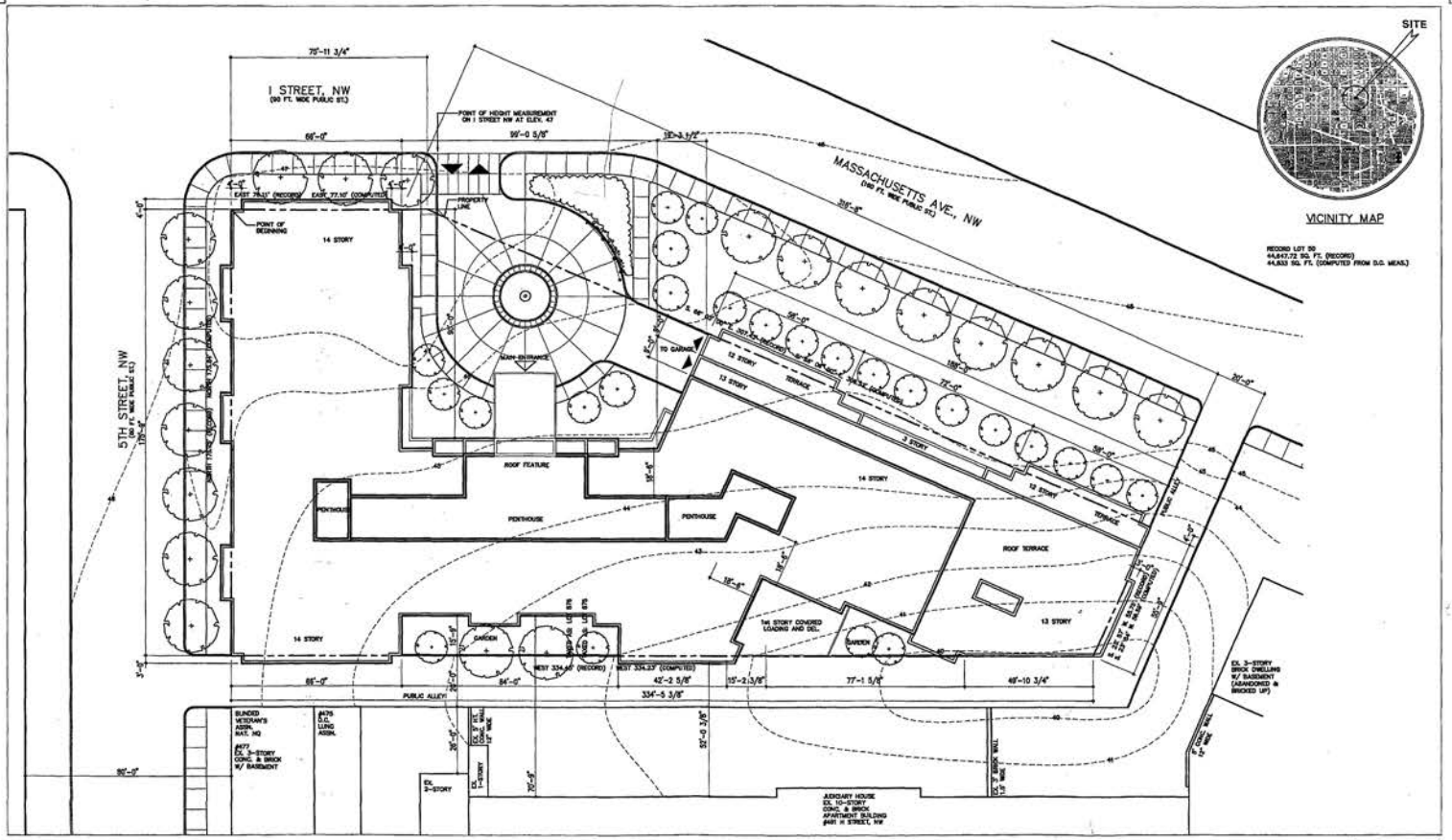


COLUMBIA

MAP

5





BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

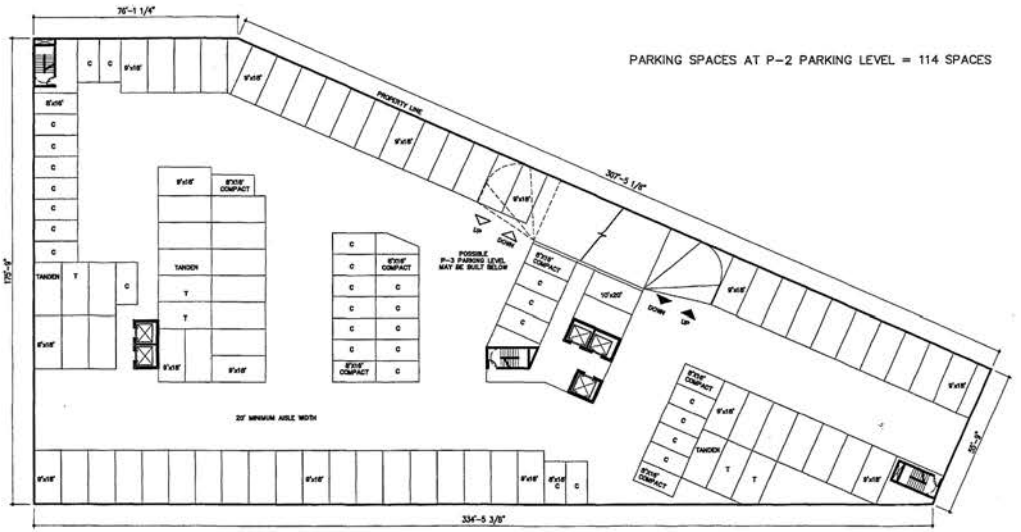
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

SITE PLAN

15 SEPTEMBER 2003
99088
Scheme 1

A1



PARKING SPACES AT P-2 PARKING LEVEL = 114 SPACES

BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

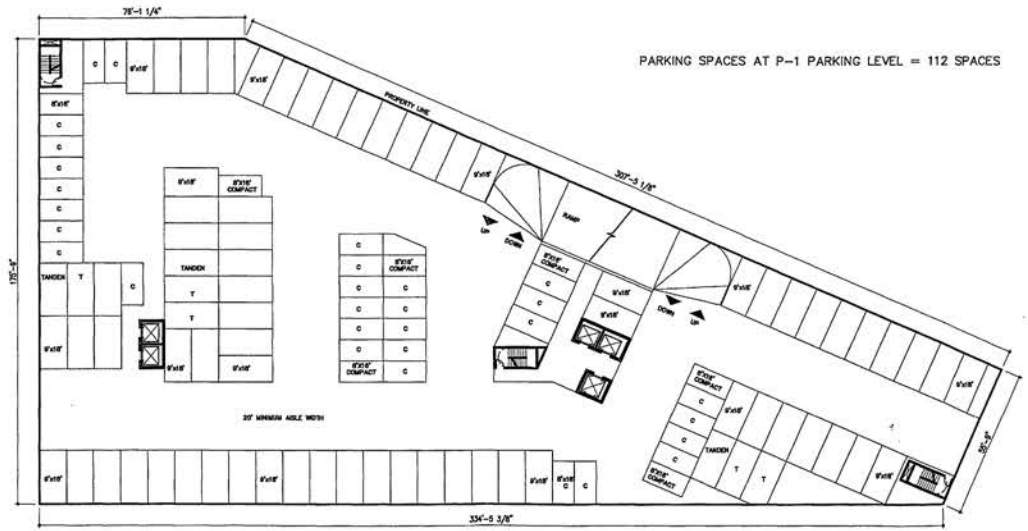
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

GARAGE P-2 FLOOR PLAN

15 SEPTEMBER 2000
99085
Scheme 1

A2



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

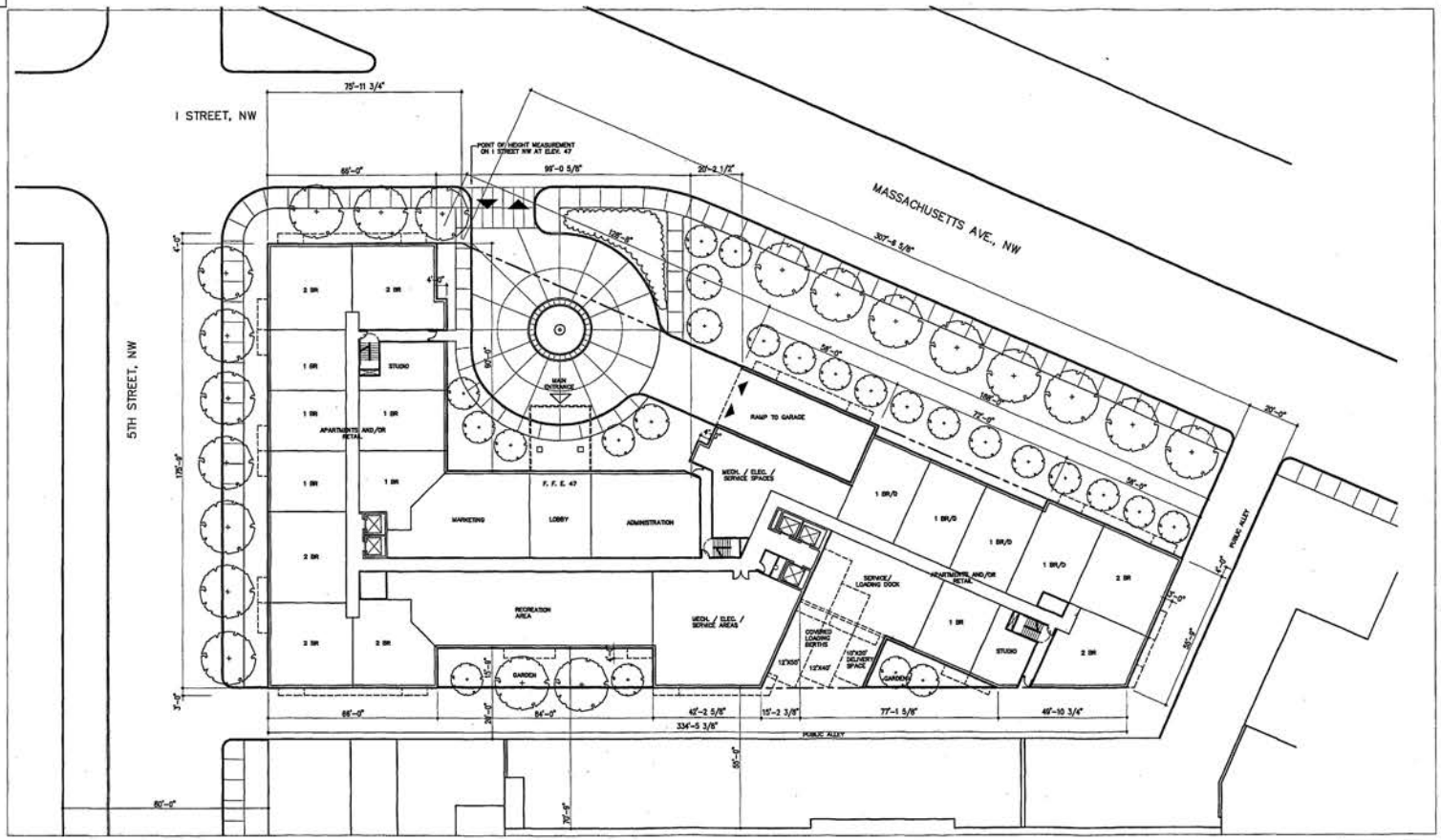
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

GARAGE P1 FLOOR PLAN

15 SEPTEMBER 2020
99098
Scheme 1

A3



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

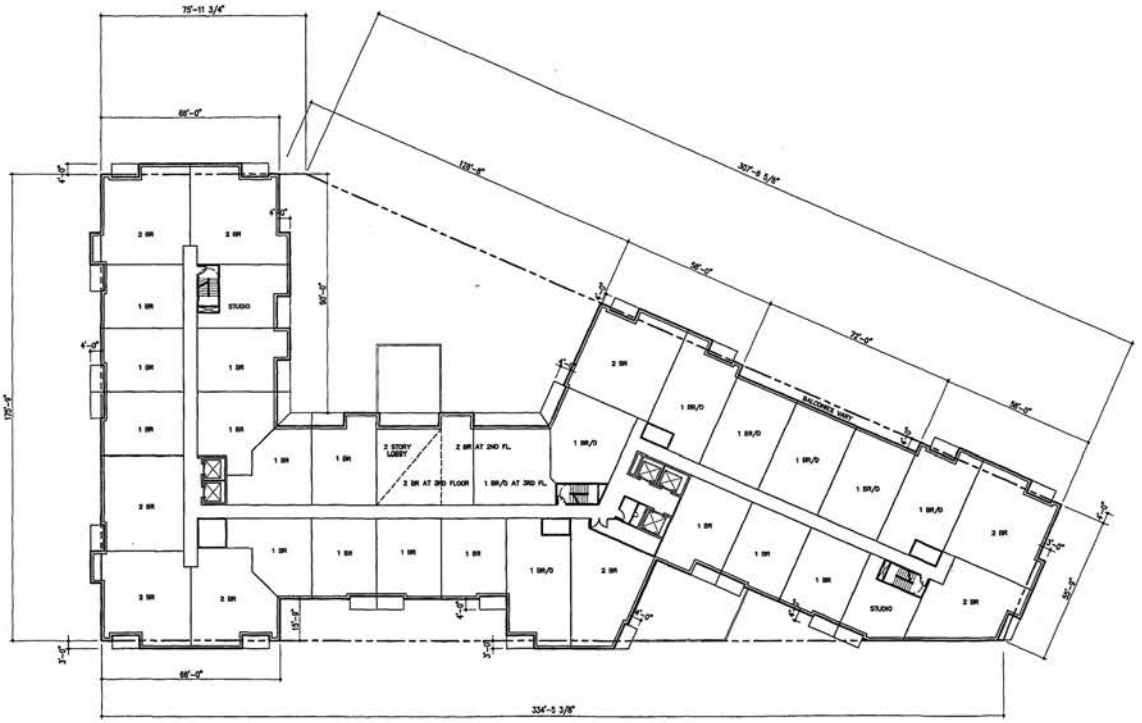
WASHINGTON, DC

WDG ARCHITECTURE PLANNING

GROUND FLOOR PLAN

15 SEPTEMBER 2000
99088
Scheme 1

A4



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

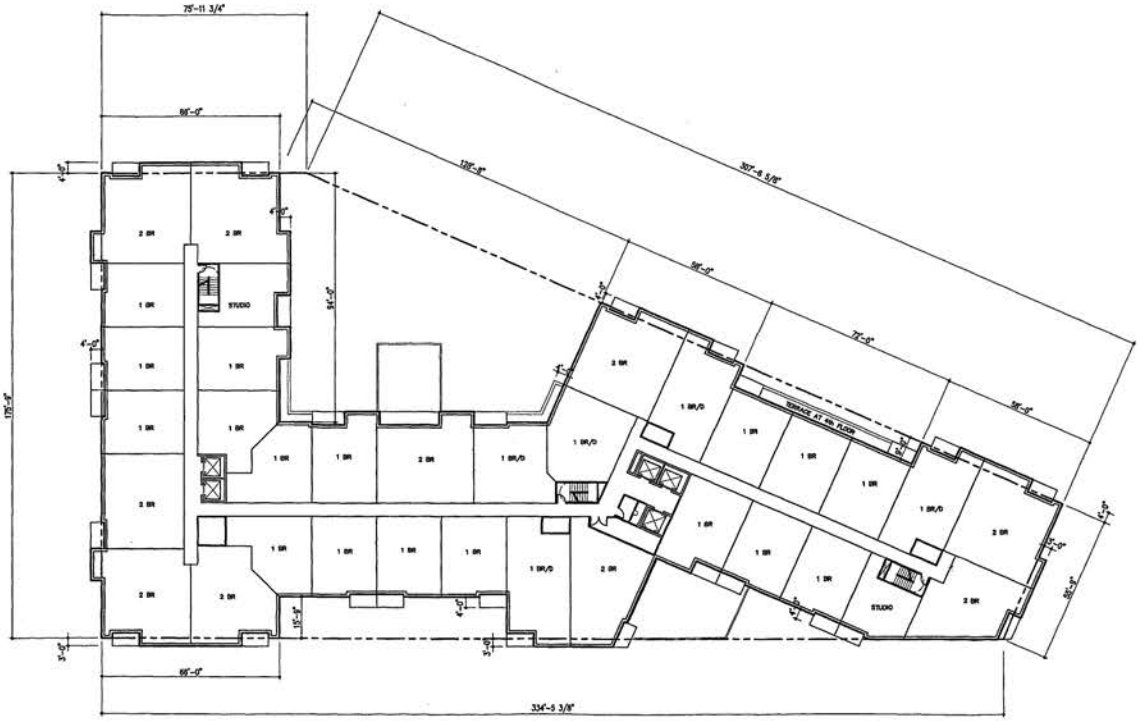
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

2nd–3rd FLOOR PLAN

15 SEPTEMBER 2000
99058
Schema 1

A5



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

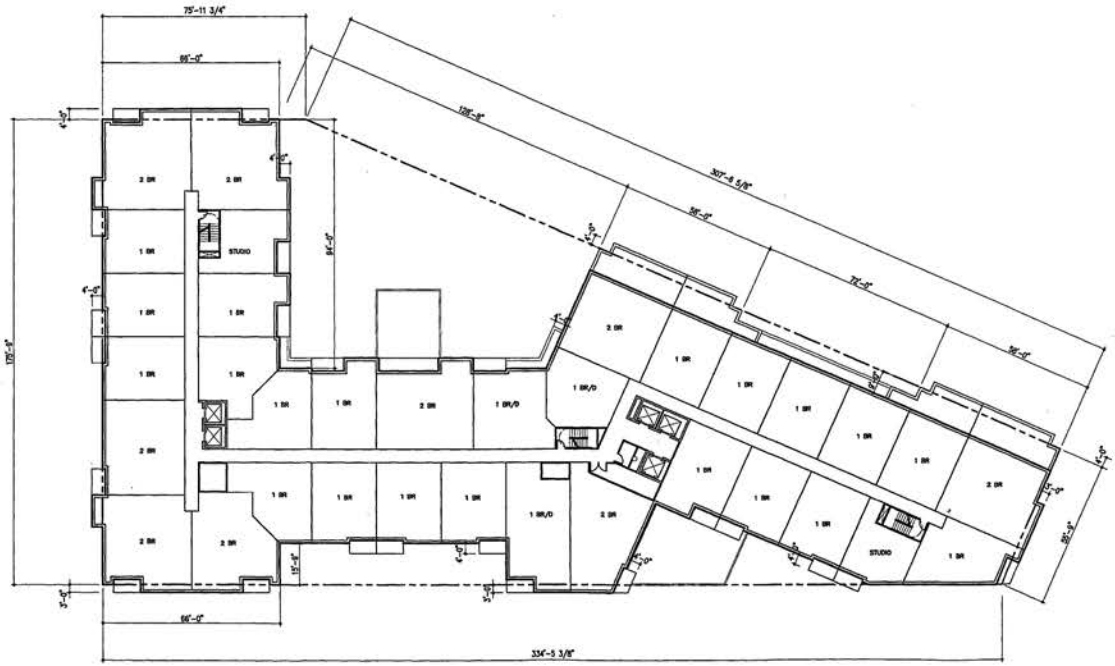
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

TYP. 4th–12th FLOOR PLAN

15 SEPTEMBER 2000
99088
Scheme 1

A6



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

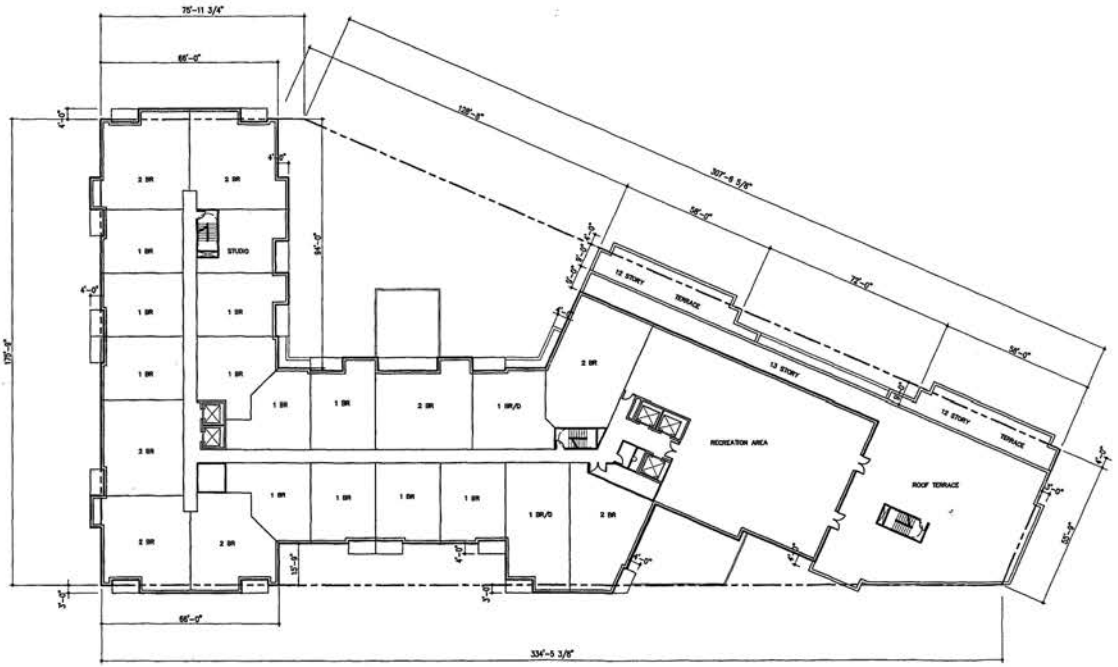
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

THIRTEENTH FLOOR PLAN

15 SEPTEMBER 2000
99030
Schema 1

A7



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

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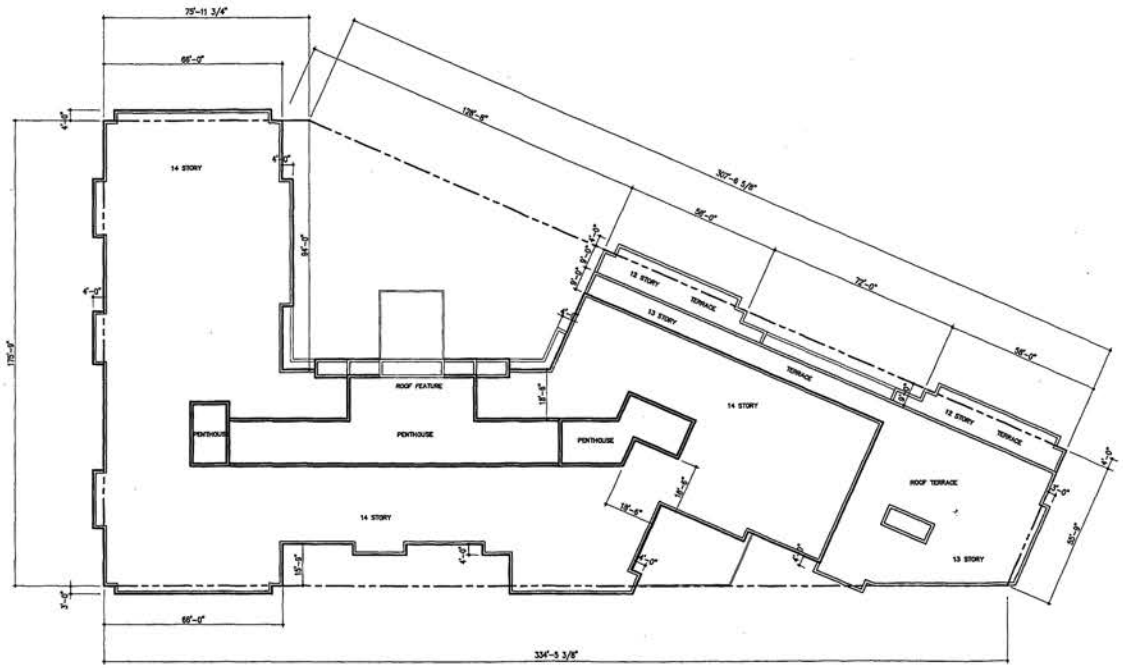
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

FOURTEENTH FLOOR PLAN

15 SEPTEMBER 2000
99050
Scheme 1

A8



BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

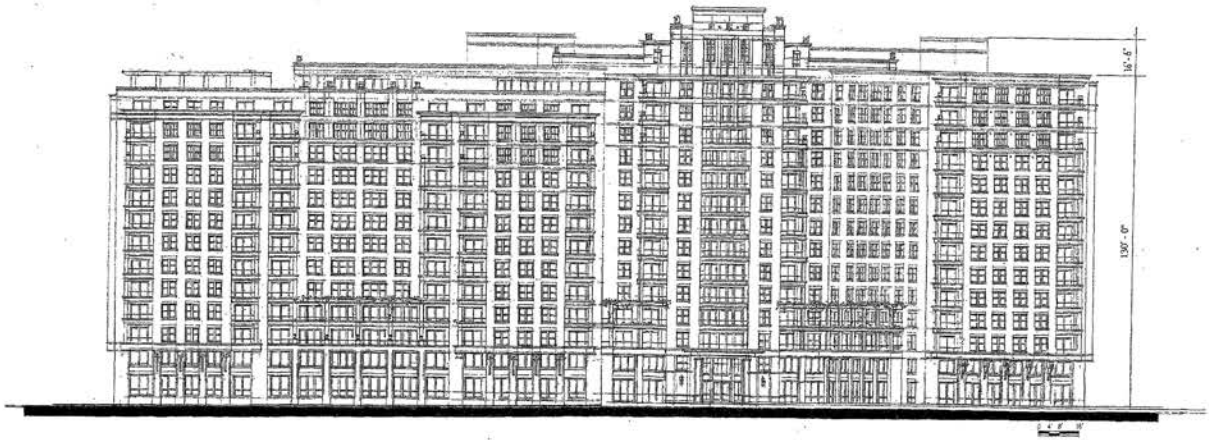
WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

PENTHOUSE/ ROOF PLAN

15 SEPTEMBER 2000
99088
Scheme 1

A9



NORTH ELEVATION ALONG MASSACHUSETTS AVENUE

BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

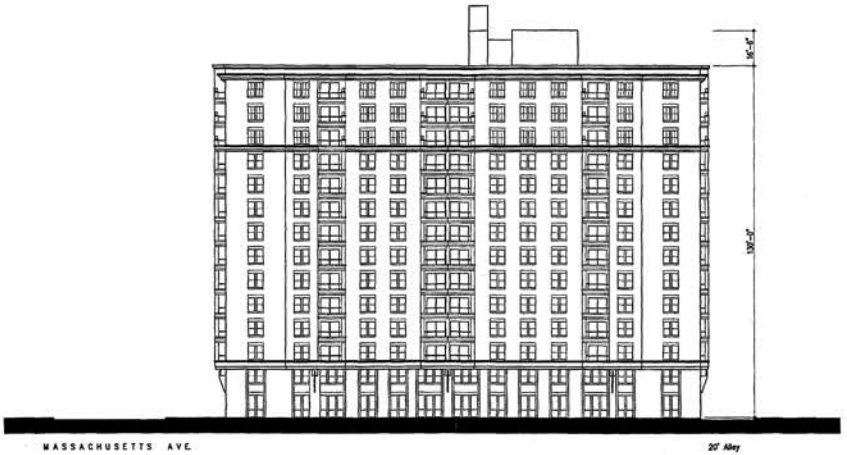
WASHINGTON, DC

WDG ARCHITECTURE PLANNING

MASS. AVE. ELEVATION

15 SEPTEMBER 2020

A10



WEST ELEVATION ALONG FIFTH STREET

BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

5TH STREET NW. ELEVATION

15 SEPTEMBER 2000
99038
Scheme 1

A11



SOUTH ELEVATION ALONG ALLEYWAY

BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

WASHINGTON, DC

WDG ARCHITECTURE PLANNING INTERIOR DESIGN

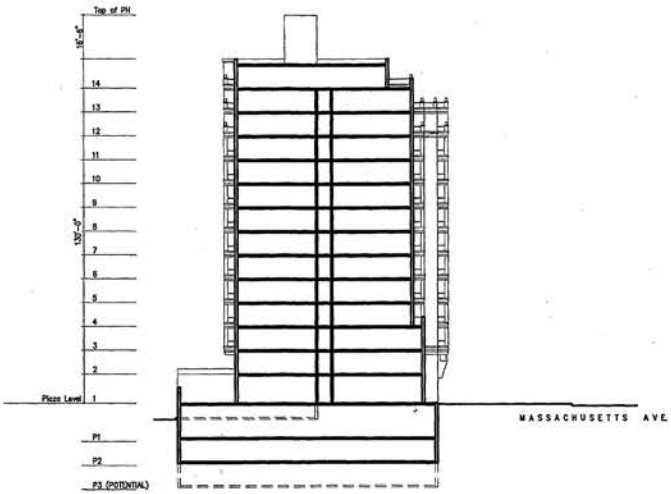
SOUTH ELEVATION

15 SEPTEMBER 2000
99088
Submit 1

A12



EAST ELEVATION ALONG ALLEYWAY



SECTION THROUGH EAST WING OF BUILDING

BOARD OF ZONING ADJUSTMENT SUBMITTAL

C G INVESTMENTS, INC.

5TH & MASSACHUSETTS AVENUE APTS.

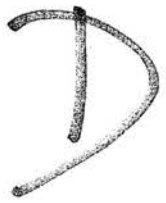
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WDG ARCHITECTURE PLANNING INTERIOR DESIGN

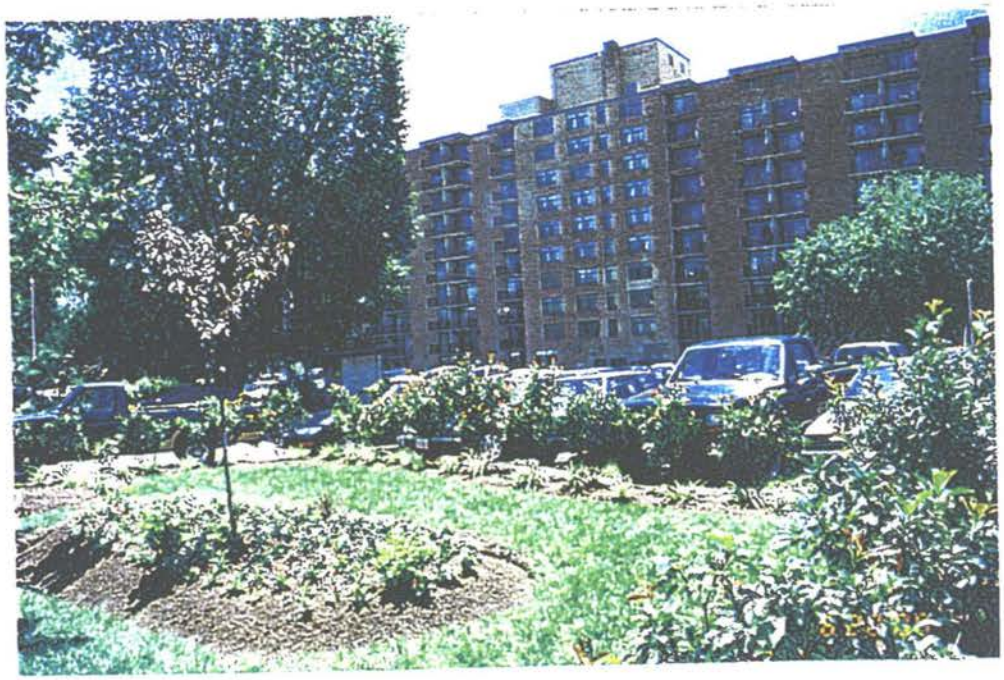
EAST ALLEYWAY ELEV. & SEC.

15 SEPTEMBER 2000
00088
Scheme 1

A13



1. View of the subject property (parking lot) looking south from Massachusetts Avenue, N.W. The building in the background is the 10 story Judiciary House apartment building.



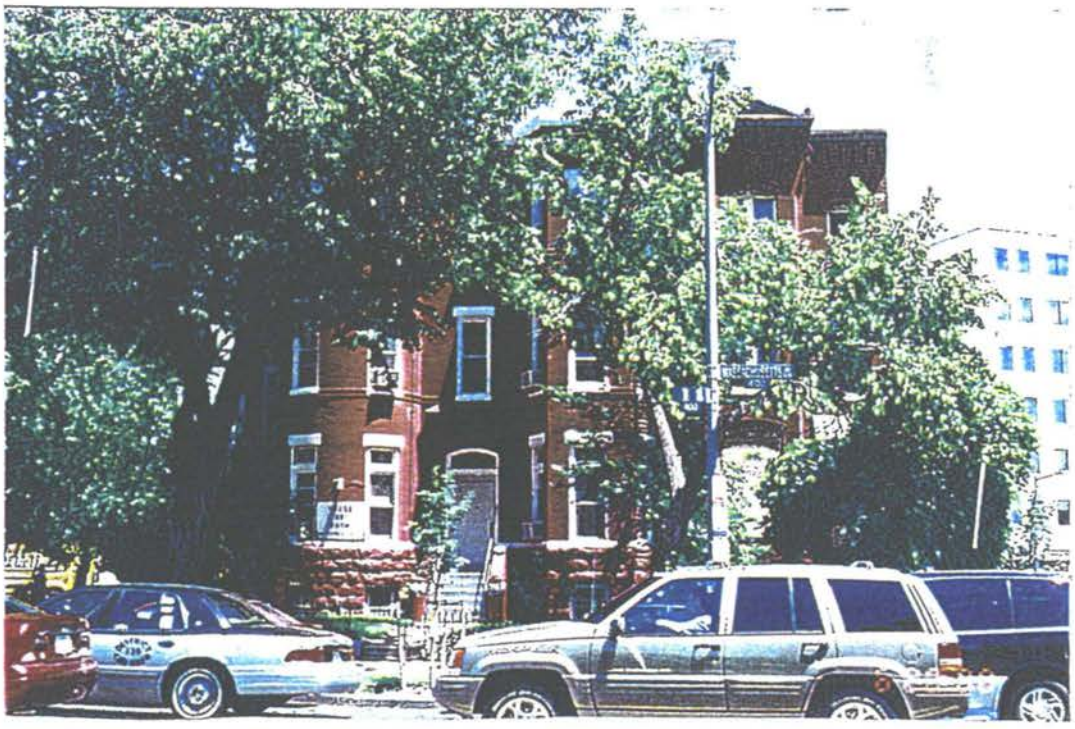
2. View of the subject property looking northeast from 5th Street, N.W.



3. View looking northwest across the intersection of 5th and Massachusetts Avenue, N.W. from the subject property. The brown building in the background is the National Public Radio office building.



4. View looking north across Massachusetts Avenue at the 3 story row dwelling occupied by the House of Ruth.



5. View looking nort' st at parking lot located across Massach tts Avenue, N.W. The building in the background is the Chester Arthur federal office building which fronts on the south side of I Street, N.W.



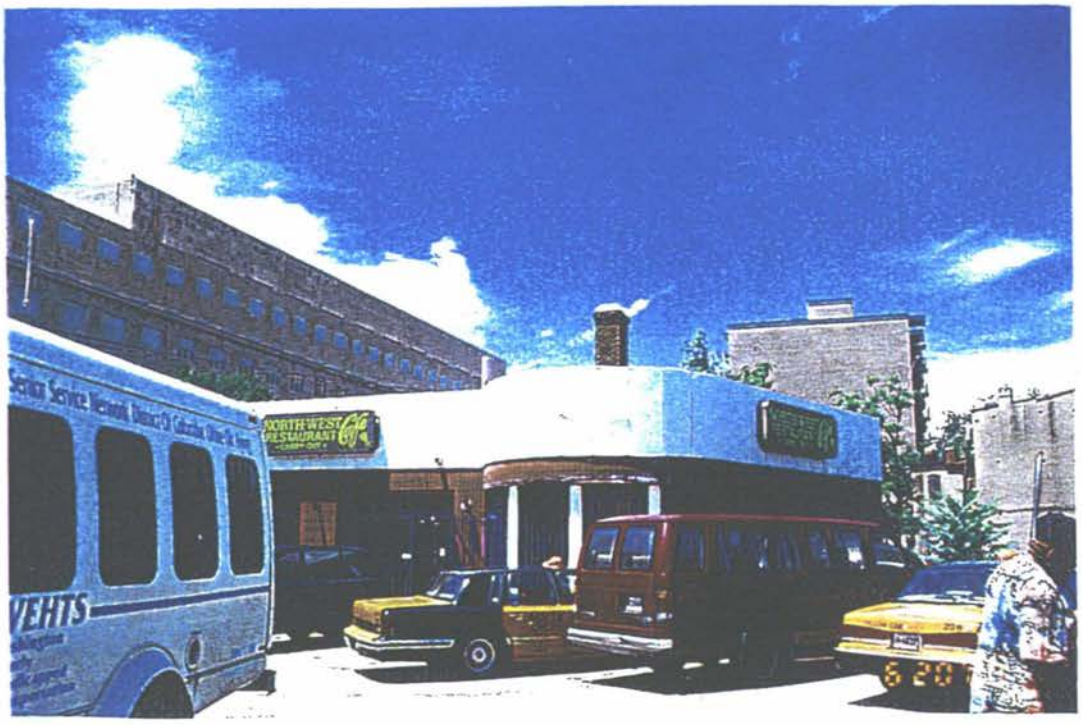
6. View of the streetscape on the northside of Massachusetts Avenue, N.W. between 4th and 5th Streets, N.W.



7. View of the boarded buildings including a defunct fire engine company located directly north of the subject property.

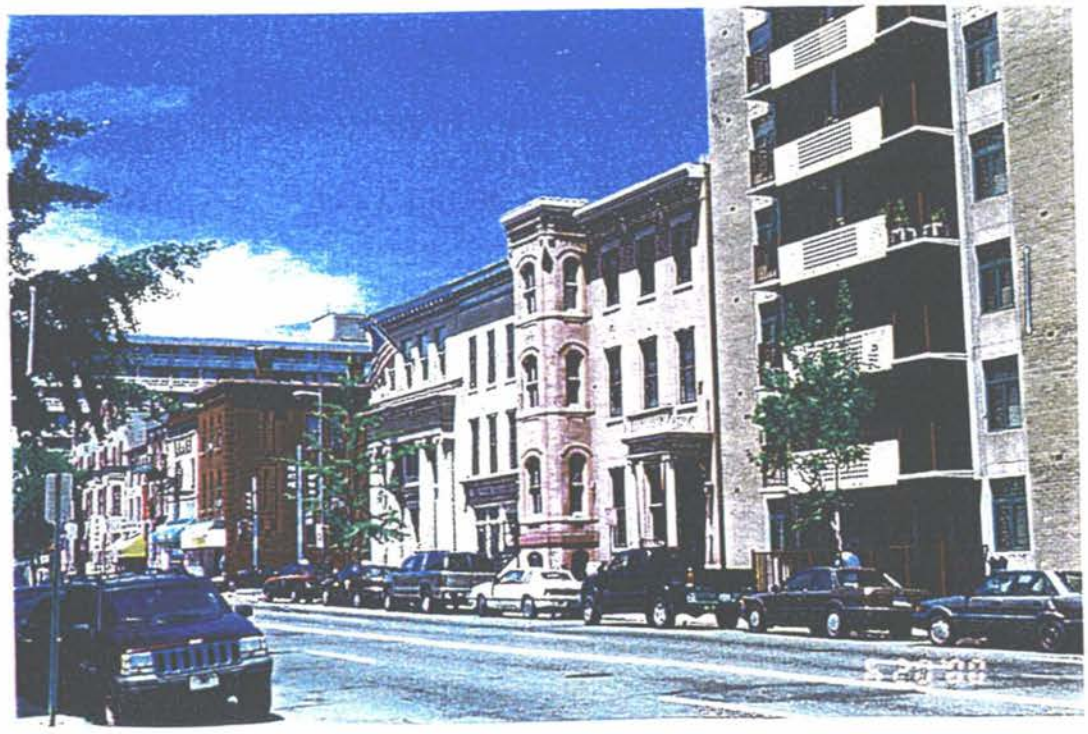


8. Restaurant and accessory parking lot located on the eastern most corner of the subject square.



9. Two photographs of the buildings located to the south of the subject property looking along H Street, N.W. The large building to the left in the first photo is the Judiciary House apartments.





10. U.S. General Accounting Office building located to the south of the subject property on H Street, N.W.



11. View of the properties located to the west of the subject property, including the Corinthian Baptist Church on the southwest corner of 5th & I Streets, N.W.



12. View of the Gospel Rescue Mission located across 5th Street to the east of the subject property.



13. View of the streetscape of the southside of H Street, N.W. looking west from 5th Street, N.W.



14. Red Roof Inn on the southwest corner of the intersection of 5th and H Streets, N.W.





OUTLINE OF TESTIMONY OF
REPRESENTATIVE
CG INVESTMENTS, INC.
CO-APPLICANT

I. Introduction and General Description of CG Investments, Inc.

II. Brief Overview of Development Plan for the Site

III. Brief Overview of Proposed Variance Request

IV. Conclusion

F

OUTLINE OF TESTIMONY OF
REPRESENTATIVE OF WDG DESIGN GROUP
PROJECT DESIGNER

I. Introduction

II. Site Description

III. Description of the Relationship Between Variances and the Proposed Site Plan

   a. Rear yard setback

   b. Residential recreation space requirement

   c. Maximum permitted Floor Area Ratio (FAR)

IV. Conclusion



OUTLINE OF TESTIMONY OF
LAND PLANNER

I. Introduction

II. Site Location

III. Site Description

IV. Zoning

V. Description of Proposed Variances

VI. Compliance with Standards

VII. Consistency with Comprehensive Plan

VIII. Compatibility with the Area

IX. Conclusion



Hard Copy

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

'00 SEP 14 P4:09

Office of the Director

DI

MEMORANDUM

TO: D.C. Zoning Commission

FROM: Andrew Altman

DATE: September 13, 2000

SUBJECT: Hearing Report: Zoning Commission Case No. 00-19MP, Zoning Map Amendment for Square 517

APPLICATION

Fidelity Limited Liability Company (the "Applicant"), the owner, and Development Resources, Inc. ("DRI"), the contract purchaser, have petitioned the Zoning Commission for an emergency amendment to the Zoning Map to change the zoning of Lot 50 in Square 517 from HR/SP-2 to the C-2-C District, with the Downtown Development ("DD") District Overlay, i.e. DD/C-2-C. **The Office of Planning recommends that the Zoning Commission approve the requested rezoning.**

SITE AND AREA DESCRIPTION

Location of Site in Square 517

Square 517 is essentially triangular in shape, bounded by Massachusetts Avenue, N.W. on the north (also bounded on the north by a short segment of I Street, N.W.), H Street, N.W. on the south and 5th Street, N.W. on the west. Lot 50, for which rezoning is being requested, is located on the northwest corner of Square 517, with frontage on 5th Street, the short section of I Street and Massachusetts Avenue. Lot 50 has an area of approximately 44,827 square feet and is separated from other property on the Square by an alley. For practical purposes, the northern frontage of Lot 50 can be considered Massachusetts Avenue. Lot 50 is now used as a surface parking lot.

Square 517 is located on the north edge of Downtown, in the northern section of the Judiciary Square area of Downtown. Square 517 is adjacent to the Chinatown section of Downtown on the west, but is not in Chinatown. As explained below, Square 517 is an important square in the ongoing development of housing in Downtown and also in

spurring housing in the portion of the Mount Vernon Square area north of Massachusetts Avenue.

Zoning History and Existing Zoning

The Zoning Commission undertook a major rezoning of a portion of Downtown, including Square 517 and the surrounding area, in 1990 in the Downtown Development District case (Zoning Commission Case No. 89-25, Zoning Commission Order 681, adopted December 17, 1990 and effective January 18, 1991). A large area, generally bounded by G Street on the south, New York Avenue on the north, 6th Street on the west and 3rd Street on the east was rezoned to DD/C-2-C, a zoning district with an overlay intended to achieve a mix of residential and commercial development. The previous zoning in the southern portion of this larger area was HR/SP-2. That area was generally rezoned to DD/C-2-C by Zoning Commission Order 681.

There are three exceptions to the general pattern of rezoning to DD/C-2-C in this area noted above.

- First, in the 1990 DD District rezoning, a portion of Square 517 facing on H Street, N.W. was rezoned to DD/R-5-D to relate to and protect the existing Judiciary Square apartment building.

- Second, in the 1990 DD District rezoning, the northern portion of Square 485 to the west of Square 517 was rezoned from HR/SP-2 to DD/R-5-D to reflect the pattern of residential buildings and use on that portion of the Square. Square 485 is also included in the Downtown Historic District. In addition, the adjacent southeast corner of Square 453 was rezoned from R-5-D to DD/R-5-D to reflect and protect the existing Wah Luck House (apartment building). Note that both of these small DD/R-5-D areas later became DD/R-5-E when the R-5 districts were renumbered later in the mid-1990s,

- **The third exception to the general pattern of DD/C-2-C zoning in this area is the property for which rezoning is now being sought, Lot 50 in Square 517.** In Zoning Commission Case No. 81-15C, Zoning Commission Order No. 369, the Zoning Commission approved a Planned Unit Development (PUD) for a hotel/office development on this site. The underlying zoning with the PUD was changed from HR/SP-2 to HR/C-3-C. The Order for this PUD was extended several times but expired in October 1987. The zoning on this property then reverted from the HR/C-3-C (with the PUD) to HR/SP-2.

  A new PUD with an office and residential mix was soon proposed for the site. The underlying zoning was again to be changed from HR/SP-2 to HR/C-3-C. The Zoning Commission approved this new PUD, adopting Zoning Commission Order No. 639 on February 12, 1990. **Note that this activity on the second PUD**

was taking place approximately one year before the Downtown Development District was approved in late 1990.

Background of the Downtown Development District Rezoning

The concept of housing in Downtown, including the area north of Massachusetts Avenue, goes back at least to the work of Downtown Progress beginning in 1959 and to later Downtown planning work, including urban renewal planning and the work of the Pennsylvania Avenue Development Corporation for what is now called the Pennsylvania Quarter area of Downtown. New concepts for a mixed-use "Living Downtown" were outlined in the 1982 report, *Downtown D.C.: Recommendations for the Downtown Plan,* prepared by the Office of Planning and Development and the Mayor's Downtown Committee. Those recommendations were adopted as the Downtown chapter of the Comprehensive Plan in 1984.

By the late 1980s it became clear that additional zoning actions were necessary to achieve many aspects of the Downtown Plan, especially to obtain housing in mixed-use areas. The Office of Planning began work on proposed zoning map and text amendments that were presented to the Zoning Commission on December 14, 1989 (Zoning Commission Case No 89-25). Beginning on February 22, 1990, the Zoning Commission held nine hearing sessions on the Downtown Development District proposals. The Office of Planning prepared the report, *Rezoning for A Living Downtown* (February 1990) to outline the background concepts for the requested rezoning actions. That report includes a map of existing zoning at the time and a map of proposed zoning, as well as a description of "Rezoning: Rationale for Changes in Underlying Base Zones" (page 10). This section of the report summarizes the reasons for making the map changes, including: "Delete HR Overlay from Map in DD area", "Replace Existing SP-2 Zones" and "R-5-D, SP-2 and C-2-C to DD/C-2-C."

As noted above, the Zoning Commission had approved the second PUD for Lot 50 in Square 517 (Zoning Commission Order 639) on February 12, 1990, just before hearings began on the Downtown Development District text and map revisions. **Review of the sequence of events, and the Office of Planning report, makes it clear that if the second PUD for Lot 50 had not been recently approved, the Zoning Commission would have changed the previous HR/SP-2 zoning to DD/C-2-C in December 17, 1990 (the date of the order for the DD District rezoning).**

Present Zoning Status of Lot 50

The second PUD for Lot 50 in Square 517 was approved in Zoning Commission Order 639 on February 12, 1990 and that order was extended three times. However, the development project did not proceed and the order eventually expired in February 1998. Chapter 24 of the Zoning Regulations deals with Planned Unit Development (PUD). Section 2400.7) provides that: "Failure of an applicant to complete a proposed

development as directed within the time limits set by the Zoning Commission or the Zoning Regulations shall result in the termination of the benefits granted under the application, and reversion of the zoning controls to the pre-existing regulations and map." The regulations do not address the case of what happens when the Zoning Commission has made an overall zoning change for the area in the meantime, as is the case for this area. In the past, the Office of Planning has expressed its sense that when the Zoning Commission has made a change in the surrounding zoning, and a PUD is terminated, the zoning of the PUD site should revert to the revised zoning that is around the site.

In this case, the Applicant and the Contract Purchaser have petitioned the Zoning Commission to change the present HR/SP-2 zoning to DD/C-2-C, the same zoning that surrounds the site except for the two areas of DD/R-5-E zoning noted earlier.

ROLE OF SQUARE 517 IN THE DOWNTOWN HOUSING STRATEGY

Square 517 is especially important in the City's Downtown housing strategy, especially as it is evolving today, and in the efforts to convert the adjacent section of Massachusetts Avenue to a great avenue. The original 1982 concept for Downtown housing envisioned a concentration of housing in the Pennsylvania Quarter area, with new housing threading north generally along the 7th Street Corridor to connect with new housing in Gallery Place, Chinatown and parts of Judiciary Square, then connecting with another major concentration of housing in Mount Vernon Square East (now often called the Mount Vernon Square Triangle).

The current Downtown Plan calls for a general target of 5,400 housing units in Downtown, south of Massachusetts Avenue. This would require approximately 4,100 new housing units above the number of units in 1980 (allowing for some housing units which have been lost since that time). Since 1980, 1,237 new housing units have been built in Downtown, mostly in the Pennsylvania Quarter area. The new Downtown Action Plan, now being completed, stresses the need for additional housing in Downtown, south of Massachusetts Avenue, and in the Mount Vernon Triangle north of Massachusetts Avenue. Square 517 is an opportunity for additional housing units.

The continuity of housing along Seventh Street was interrupted by the MCI Center, but it is still important to obtain as much housing as possible in Chinatown and Judiciary Square and to connect north across Massachusetts Avenue to new housing. Today, two major housing projects in Chinatown are ready to move into construction. These are Gallery Place at 7th and H streets, with a major housing component (173 units), and the Avalon Bay apartment building at 770 Fifth Street (209 units).

Square 517 is an important "hinge" or connector location between the housing south of Massachusetts Avenue and housing north of Massachusetts Avenue. Housing on Square 517 is, of course, consistent with the text and land use map of the Comprehensive Plan. Development of housing north of Massachusetts Avenue is

currently being addressed in the Downtown Action Plan and the NoMa (North of Massachusetts Avenue) planning work. Several developers are currently working on housing developments or considering housing developments north of Massachusetts Avenue. **Housing development on Square 517 should be encouraged.** Housing on Square 517 will help spur housing in adjacent areas north and south of Massachusetts Avenue and lead to a critical mass of housing in this area. As previously noted, Square 517 is also important in the effort to upgrade Massachusetts Avenue to first class status.

OFFICE OF PLANNING RECOMMENDATION

Two main points have been made in this background review of Square 517. First, if the previous PUD had not been in effect, the Zoning Commission would have undoubtedly rezoned Lot 17 of Square 517 to DD/C-2-C in late 1990. Second, in terms of housing strategy and the evolving pattern of housing today, development of new housing on Square 517 is very important.

In view of this background, and current policies and conditions, the Office of Planning recommends that the Zoning Commission rezone Lot 17 of Square 517 from HR/S-P-2 to DD/C-2-C as requested by the Applicant and the contract purchaser.

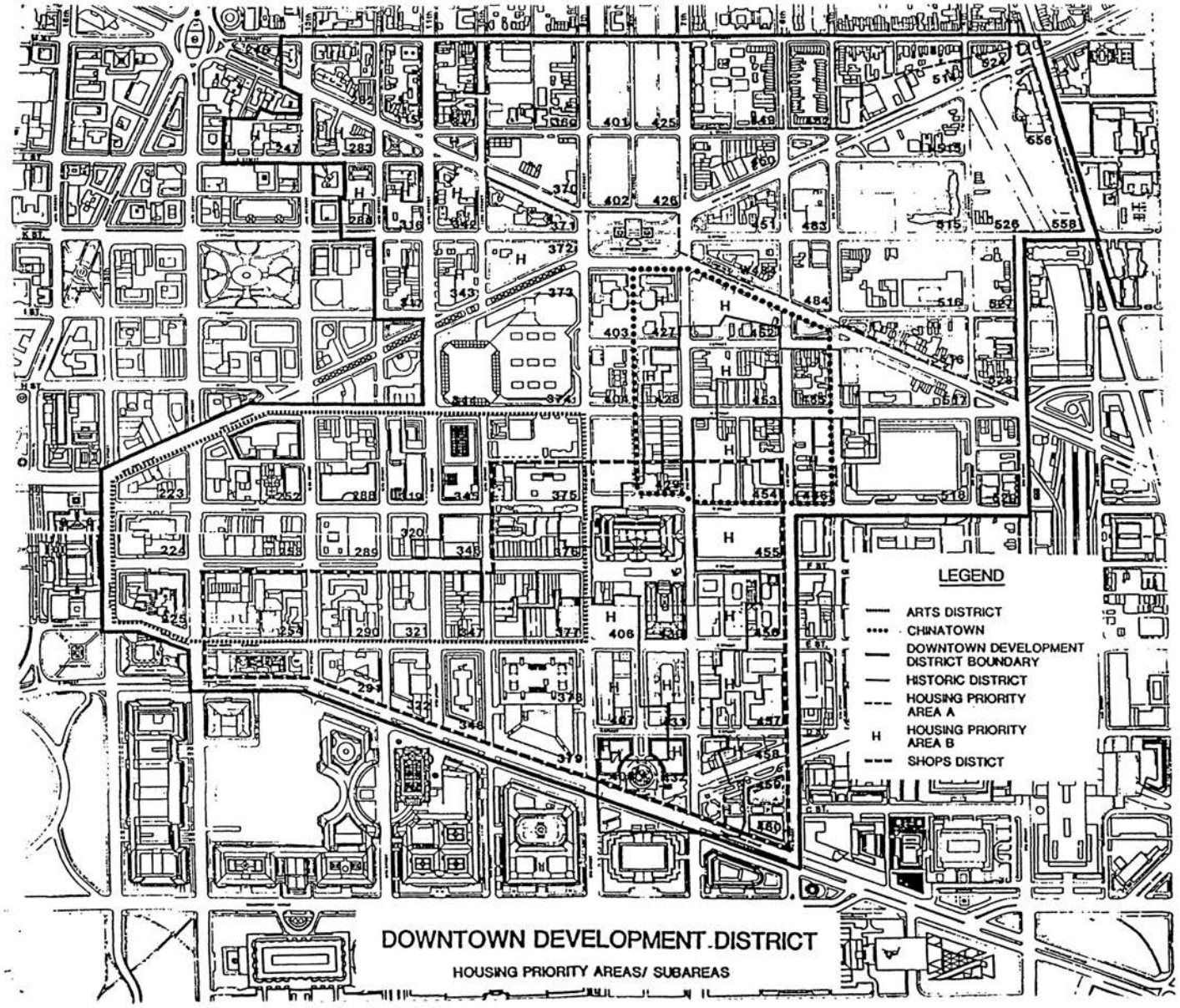
AA/jf



Rezoning for A Living Downtown



Government of the District of Columbia Marion Barry Jr., Mayor February 1990


LEGEND
ARTS DISTRICT
CHINATOWN
DOWNTOWN DEVELOPMENT DISTRICT BOUNDARY
HISTORIC DISTRICT
HOUSING PRIORITY AREA A
H HOUSING PRIORITY AREA B
SHOPS DISTICT
DOWNTOWN DEVELOPMENT DISTRICT
HOUSING PRIORITY AREAS/ SUBAREAS

REZONING FOR A LIVING DOWNTOWN

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future rejuvenation and redevelopment. Three major department stores continued to operate, but other major stores, such as Kanns, Lansburgh's and Morton's, went out of business. Many historic buildings were retained, partly because of the lack of economic development pressure that would have caused their demolition. National tourist destinations such as Ford's Theater, the FBI Building and the museums on the Mall attracted visitors, but they generally did not linger Downtown for food, shopping or entertainment.

In the 1970s, District of Columbia planners and the development community repeatedly discussed two questions:

- When, if ever, will office development stop moving northward towards Dupont Circle and westward towards Rock Creek and instead turn back east of 15th Street and help rejuvenate the traditional Downtown area?

- How can the city link the tourist destinations on the Mall to the Downtown area north of Pennsylvania Avenue so that the nation's visitors can enjoy a revitalized Downtown and become part of the market support needed to bring it back?

In the early 1980s, answers to both of these important questions began to unfold. Office development moved eastward into the Franklin Square area and, more rapidly, down Pennsylvania Avenue, a prime location long suffering from decline. The opening of the Metrorail system, with the Metro Center and Gallery Place stations at the focal point of all the Metrorail lines, gave the area a major boost due to rapid and convenient access from all over the region. Economic and political conditions fueled the efforts of the Pennsylvania Avenue Development Corporation to redevelop Pennsylvania Avenue.

Under the authority of the District's strong Historic Preservation Act of 1978, a growing number of historic buildings were preserved and adapted to new uses. Frequently, preservation of historic buildings occurred in combination with new high density development that provided the financial support for high-quality renovation of historic buildings.

Several developments began to create pedestrian movement across Pennsylvania from the Mall: the increased use of Metrorail by tourists to get Downtown, the attractive mixed use redevelopment of Pennsylvania Avenue, the reopening of the National Theater and the development of two major

festival marketplaces in strategic locations -- the Post Office Pavillion and the Shops at National Place. The construction of the Convention Center was another major initiative of the District government that began revitalizing the Downtown area.

Downtown was, therefore, on the verge of a rebirth, but the type of future development and the activity pattern remained in question. Would new potentials be realized or would the same "K Street" pattern be repeated? Recognizing that Downtown faced an extended period of redevelopment and needed a visionary plan to guide the area's future, Mayor Marion Barry called for the creation of a "Living Downtown" and appointed the Mayor's Downtown Committee in 1981. The committee included business people, community representatives, developers, attorneys, labor representatives, planners, architects and others. The result was a highly sophisticated, idealistic but pragmatic plan carefully laid out in a 1982 report, Downtown, D.C: Recommendations for the Downtown Plan. This Plan, in turn, was the basis for the detailed Downtown Element of the Comprehensive Plan, proposed by the Mayor and adopted in 1984 by the D.C. Council.

The critical elements in achieving a "Living Downtown" include: a balanced mix of uses including retail, hotel, office, residential, arts and culture; preservation and adaptive reuse of historic buildings; strengthened and distinctive Chinatown; development of distinct and diverse subareas referred to in the plan as the Retail Core, Gallery Place, the Arts District, Pennsylvania Avenue West, Market Square, Convention Center, Chinatown, Mount Vernon Square, Franklin Square, Judiciary Square and Downtown East; and an enhanced pedestrian environment in the area. Together, these elements are intended to make Downtown a people place that is active in the evening and on weekends as well as during work hours. Downtown would accommodate the most concentrated economic activity and generate substantial tax revenues for the city. The area would achieve an exciting and high quality living and working environment that would also be attractive to millions of visitors for the future.

Subsection 900.3 of the Comprehensive Plan provides a brief summary of the land use objective for Downtown:
"The key land use concept for Downtown is a balanced mixture of uses to attract a variety of persons, such as District residents, suburban residents, and out-of-town visitors. The most important uses are retail, hotel, residential, and arts

and culture. Although private office space will also be important, the concept of the "Living Downtown" recognizes that special efforts will be needed to attract the other desired uses."

The Home Rule Act requires zoning in the city to be "not inconsistent" with the Comprehensive Plan. Hence, an important aspect of this zoning case is to achieve zoning that is generally consistent with the Comprehensive Plan, based in turn on the vision of the Mayor's Downtown Committee. A variety of nonzoning actions have been and will continue to be undertaken to implement the Downtown Plan. The proposed zoning actions summarized in this report, "Rezoning for a Living Downtown," are a crucial part of a broad strategy to sustain a vibrant Downtown. Zoning is not the complete answer, but the critical land use mix will not be achieved without revised zoning regulations. The major rebuilding now occurring in Downtown will shape the area's future for decades to come. It is important to secure the optimum physical development pattern, with the lively mix of uses, urban design quality and distinct subareas as called for in the plan.

The natural and powerful urge of the marketplace is universally large-scale office development, like the K Street pattern. Several negative trends may follow a policy of continuing the existing office zoning and granting piecemeal rezonings over a period of years. They include:

-- the loss of distinctive subareas with special character and interest for vistors other than commuters, e.g., Chinatown

-- a missed opportunity to achieve geographic concentrations of uses such as arts-related uses in the Arts District

-- very little residential development and demolition of remaining housing

-- greater demolition pressure on historic buildings, and large scale development in the historic districts as well as elsewhere, resulting in a monotonous pattern of boxy office buildings throughout the area

-- a large, sprawling office development area, accompanied by escalating land prices making nonoffice development infeasible, a land clearance area extending northward from the expanding office area and creating a "no man's land"

moving northward in advance of office development, and an eight-hour Downtown that does not achieve its economic potential for evening activity or its potential to attract visitors, shoppers, tourists and others on evenings and weekends

The challenge is to accommodate major office development in proper locations while also protecting, enhancing and adding to the phenomenal array of assets enjoyed by this relatively small area. These assets include:

-- a location between the White House and the U.S. Capitol, flanked by the Federal Triangle and the Mall with its museums, galleries, open space and monuments along the entire southern boundary

-- the greatest access by Metrorail of any location in the entire region, in that all Metro lines intersect at Metro Center or Gallery Place

-- numerous active and diverse uses well-dispersed throughout the area: hotels, the Convention Center, three department stores, retail uses concentrated along F and G streets, six or eight active churches, several performing-arts theaters plus proposed movie theaters and two major festival marketplaces -- the Old Post Office Pavillion and the Shops at National Place

-- major museums in Downtown, including the National Portrait Gallery, National Museum of American Art, the National Building Museum and the National Museum of Women in the Arts

-- a distinctive Chinatown neighborhood with special uses and design features

-- a large number of historic buildings with diverse architectural design and scale -- a natural home for active uses on multiple floors and a magnet of character and interest to draw people to Downtown

-- an attractive pattern of streets, avenues and open spaces based on the L'Enfant Plan

Downtown is in the midst of a huge rebuilding cycle that will be completed in 10 to 20 years. The physical character of the area for the next 50 years and beyond, and much of its potential to achieve a vibrant mix of uses, will be determined by this construction of buildings designed to last

for many years. An opportunity exists to achieve one of the great downtowns of the world, or to let it slide by in the interest of short-term economic development and tax revenues. Both economic development and tax revenues were fully accounted for by the preparers and adopters of the Comprehensive Plan. In the long run, a vibrant, mixed use Downtown will be more economically productive than a single-purpose Downtown.

The District government is working with the private sector and federal and regional agencies to create a Living Downtown. This cooperative effort was formalized in 1984 when the Downtown Partnership was created.

Zoning is one important part of the range of actions that are needed. Zoning changes cannot accomplish the entire job, but zoning changes are needed to prevent negative trends and to make possible some of the more exciting potentials of Downtown D.C.: a Downtown with exciting diversity of precincts and activities; with old and new buildings at varying scales; with daytime, evening and weekend shopping, cultural and entertainment activities; and residential areas that provide additional pedestrians who help humanize the area. In short, we can achieve a Downtown that will become recognized as an attractive, interesting and educational place to visit, live and work -- a "Living Downtown."

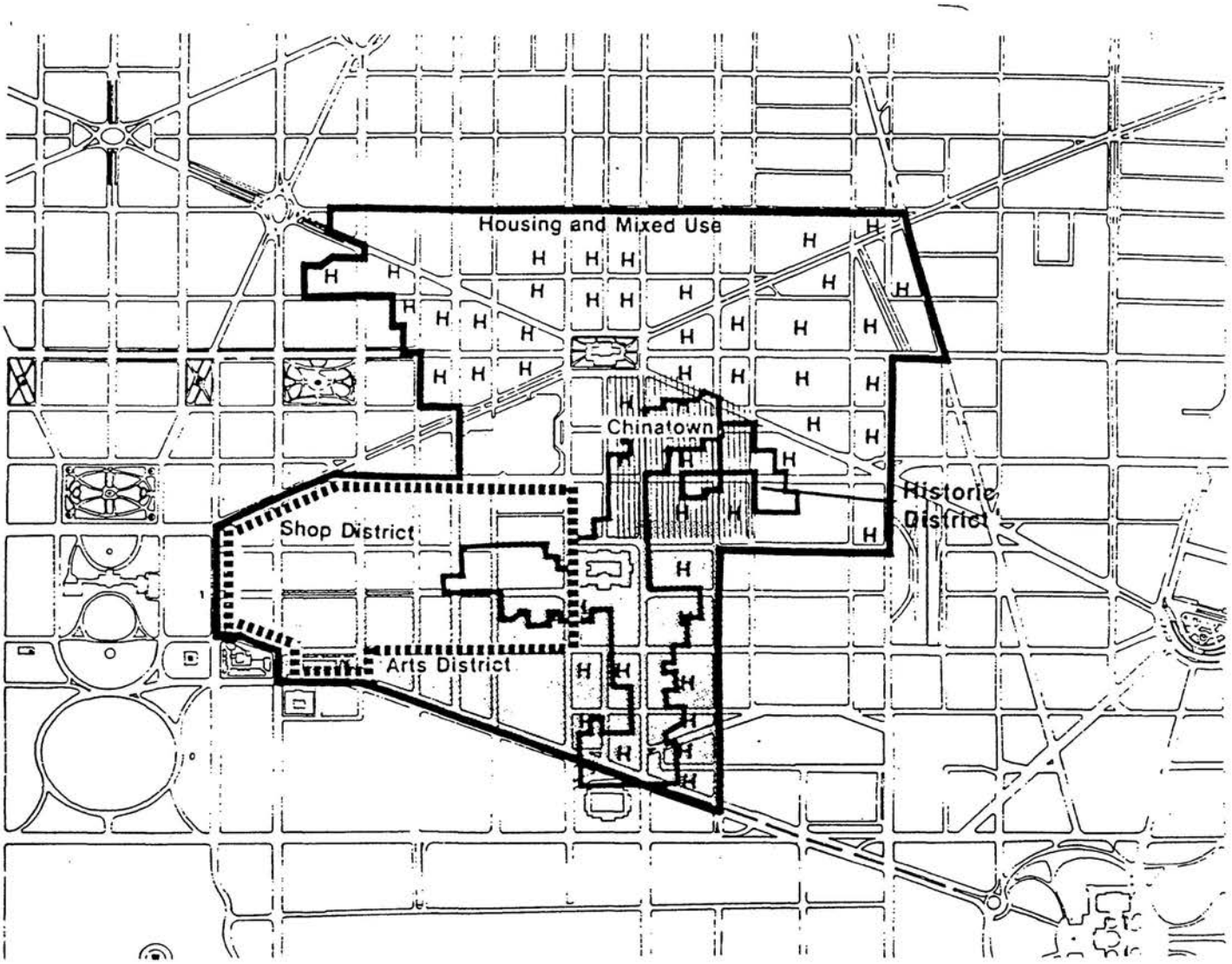
The remainder of this report is a summary and explanation, with maps, of the key elements of this major zoning action.

II. SUMMARY OF ZONING METHODS

A combination of a zoning overlay and some rezoning of existing districts is proposed.

- o **Boundaries**

  The area proposed for the Downtown Development (DD) Overlay zone includes the mixed use areas specified in the Comprehensive Plan, e.g., the Shopping District (Retail Core); Arts District (including Gallery Place, Market Square, parts of Chinatown and the SHOP District); Chinatown, the Downtown Historic District and other historic sites, and housing/mixed uses areas, such as Mt. Vernon Square. However, it excludes precincts designated for predominantly office development, e.g., Judiciary Square (south), Franklin Square and Downtown East.



Downtown Development District -- Major Subareas

- **Space Requirement for Preferred Uses**

  The proposed DD Overlay zone includes a floor area requirement for each building to provide preferred uses according to the location. This requirement acts on the supply side of the market to

  -- assure geographic concentrations of desired uses, e.g., arts, housing, retail, to achieve a critical mass in the desired subarea character

  -- restrict competing uses that would either price-out the desired uses or simply dilute their geographic concentration

  -- encourage retention of existing preferred uses

  -- create the opportunity for subsidies to be provided to achieve important but less-than-profitable uses. (The requirement is a hurdle that may create a delay while negotiations, including potential subsidies, occur. If matter-of-right development proceeds without such requirements, there may not be an opportunity to provide subsidies, even if money is available.)

  -- ensure proper design of spaces in buildings to accommodate preferred uses so that they can be successful

- **Linkage/Combined Lot Development**

  Two or more lots are permitted to combine their development rights and obligations to

  -- provide locational flexibility regarding the preferred uses (a varying mixture of preferred and other uses are permitted on the sites in a flexible way, but the total quantity desired in the subarea is achieved)

  -- permit a horizontal mix of uses (especially offices and apartments), that often is more efficient and more marketable than a vertical mix

  -- create the legal framework for two or more sites to be linked for purposes of sharing or transferring bonus density

-- achieve housing by linkage (It is an important mechanism to enable one or more office buildings to underwrite an apartment house.)

o Bonus Density

Additional office density is granted in exchange for providing pivotal uses, excess amounts of preferred uses or for historic preservation.

-- Our very strong office market makes this an important and powerful tool, although our height limits constrain the quantity of bonus density per site, and relatively few sites have the physical potential to develop the bonus space.

-- The concept of using the Downtown office development economic engine to help subsidize the desired mix of uses is a basic concept from the Comprehensive Plan.

-- The bonus office space is a powerful subsidy not only because of current value, but because of the universally-held expectation that office space will continue to escalate in value over a long period of time and will be reappraised at higher values as rents increase. Consequently, if the use being subsidized is linked financially and legally to the bonus office component, an effective long-term subsidy mechanism is created.

o Transferable Development Rights (TDRs)

TDR provisions permit bonus density to be transferred from a sending site -- where bonus density is earned -- to a receiving site, where additional office density can be built and will be consistent with land use plans.

-- Bonuses are earned by either preserving historic buildings or partial preservation, together with compatible new development at less than normal density; or by providing critically important uses ("anchor" uses) specified by Downtown subarea, e.g., department store in the SHOP District, theater or art school in the arts district, apartments in the housing/mixed uses areas, etc.

-- Two receiving zones are in the process of being adopted Downtown East and New Downtown.

-- Sites in the Central Employment Area zoned C-3-C and C-4 are proposed in the DD zone as major additional receiving areas, provided that a Planned Unit Development (PUD) or design review is processed on the receiving site. These are predominately office precincts with good transportation access. There are a few underused sites able to receive bonus density as part of new construction. A large number of sites are developed with older buildings or even relatively new buildings (15 to 20 years old) that suffer from an obsolete design or functional layout and a low rent schedule. Some of these buildings may be rehabilitated with new, high quality exterior design and materials, with a minor addition of built floor area, by filling in the required setback area in pre-1980, C-4 buildings. In other cases an older building may be demolished and rebuilt. In either renovation or redevelopment, the driving forces are the very high rents currently being achieved relative to older rent schedules, the corollary trend of using higher quality materials and design, and some increases in density made possible by TDR. Several policy factors should be noted:

(a) Even a limited number of TDR connections can make a major difference in achieving a "Living Downtown."

(b) The bonus density can be earned in the near future in the DD District and constructed much later on the receiving site.

(c) The attractiveness of all of the potential receiving zones and sites will increase steadily as Downtown approaches office build-out in the next 10 years.

(d) These scattered infill sites and the adopted receiving zones are in higher quality office locations than other receiving areas that could be considered. North Capitol Street and Buzzard Point have not been ruled out as future receiving zones. However, there are some inherent planning constraints in both areas, and both areas will command significantly lower office rents than the Central Employment Area during the most important time period for TDRs.

o Rezoning: Rationale for Changes in Underlying Base Zones

Sound base zoning is needed for the overlay to work effectively. Limited but important rezoning actions are recommended, principally to increase permitted housing density, to conserve existing housing, to permit retail where it is not now permitted and to reduce the scale of new development on critical historic frontages. The proposed map changes and the reasons for making them are summarized below.

(1) Delete HR Overlay from Map in DD area: The Hotel-Residential (HR) Overlay zone provides only voluntary incentives for residential development. These incentives will rarely be used in today's strong office market. HR does not permit linkage or transferable development rights, important tools for achieving housing. The HR would be left in place in Downtown East, providing the alternative of mixed use development rather than solely commercial development (with or without TDRs). One mixed use project including residential development for Georgetown University is in the final planning stages in Downtown East.

(2) Replace Existing SP-2 Zones: Special Purpose designation (SP) does not permit retail in key locations (including part of Chinatown), has obsolete office controls (including nominal Board of Zoning Adjustment (BZA) review) and has a limited range of office tenants. It is mapped in some locations that are developed with good quality medium and high density apartments, and implies a policy of conversion for office use or demolition for office development. The latter areas are proposed for rezoning from SP-2 to R-5-D.

(3) R-5-D, SP-2 and C-2-C to DD/C-2-C: This rezoning would apply to much of the northern, mixed use sector (Judiciary North, Mt. Vernon Square subareas especially), where Comprehensive Plan policies emphasize the residential component. C-2-C permits upzoning of height and density in the present R-5-D area (precluded by Height Act if property remains in a residential zone). An 8.5 FAR and the maximum height allowed under the Height Act are permitted for residential, mixed use developments and commercial developments linked with housing.

(4) R-5-D to C-3-A: This historic landmark group of buildings on the east frontage of Seventh Street between New York Avenue and L Street should not have high density residential or high density mixed use zoning. The C-3-A zoning will permit these moderate scale, historic commercial buildings to be restored with a mix of commercial uses. The upper floors are not realistically suited for conversion to residential uses.

(5) Retain C-2-A: This location is the west frontage of Ninth Street from L to M streets. It is a largely intact group of late nineteenth to early-twentieth century commercial buildings substantially occupied today by small businesses. The commercial row is isolated by large land areas available for redevelopment that will take a number of years to complete. Continuation of business activity and building fabric on this frontage is preferable to premature demolition. In the future, after most redevelopment has occurred, a change in policy could be considered.

(6) C-3-C and C-4 to DD/C-3-C and DD/C-4: The underlying zone boundaries are retained, but the DD Overlay adds numerous incentives and requirements.

o Special Provisions for Small Buildings

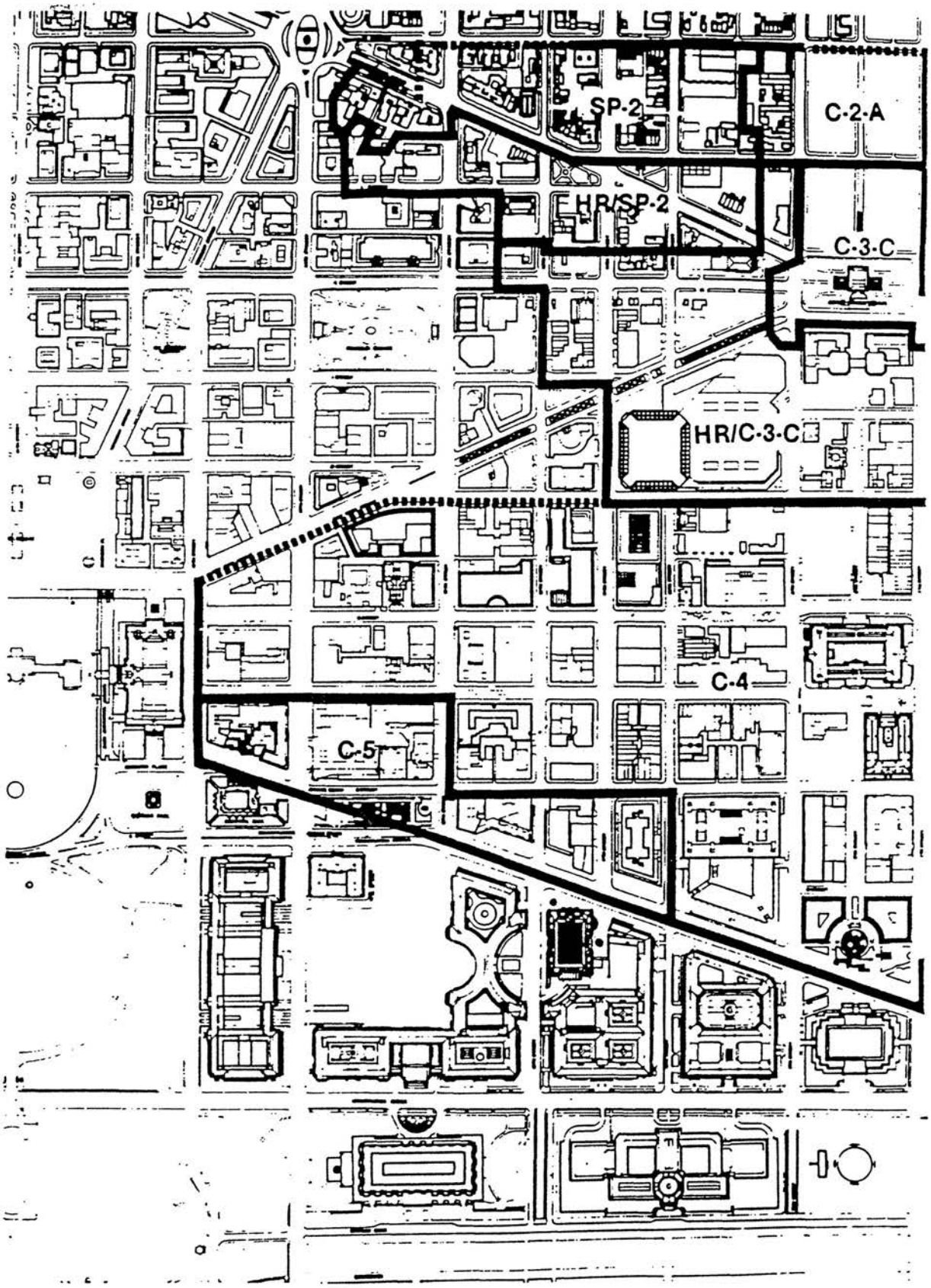
The DD overlay zone has several provisions for small buildings of six stories or less including

-- reduced requirements for commercial preferred uses

-- waiver from required housing component where applicable

-- transferable development rights for buildings in designated historic frontages

These provisions are intended to encourage continuation of small buildings and occupancy by active uses. We do not want to exempt small buildings from the zone because of the importance of continuity of preferred uses at ground level. The small buildings are also well-suited to take advantage of linkage provisions because the upper floors are better suited for active uses than for office space. Under the provisions indicated above, the burdens of being subject to the zone are limited and the opportunities are


SP-2
C-2-A
HR/SP-2
C-3-C
HR/C-3-C
C-4
C-5