BEFORE THE FOREIGN MISSIONS ACT
BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of the Republic of Azerbaijan	* * * * * *	**BZA Application No. 16620** **Hearing Date: Oct. 17, 2000** **ANC 3C**

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STATEMENT OF THE APPLICANT

I. Nature of Relief Sought

This is an application pursuant to Section 206 of the Foreign Missions Act (hereinafter the "Foreign Missions Act") and Chapter 10 of the Zoning Regulations for review of a proposal by the Republic of Azerbaijan to establish a chancery at 2741 34th Street, N.W. (Square 2122, Lot 27) ("subject site" or "subject property"). The subject site is located in a R-1-A District.[1]

II. Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to Section 206 of the Foreign Missions Act. The proposed chancery use is permitted pursuant to §206(b)(2)(B) of the Foreign Missions Act in areas "determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose" (emphasis added), subject only to the disapproval of the Board in accordance with the criteria set forth in Section 206 of the Foreign Missions Act.

[1] The "NO" Naval Observation and "TSP" Tree and Slope Protection overlay also apply but are not discussed herein because they are operative given the improved condition of the property.

BZA
Case No. 16620
Exhibit No. 30

Board of Zoning Adjustment
District of Columbia
CASE NO.16620
EXHIBIT NO.30

In interpreting what areas are eligible for chancery uses, the National Capital Planning Commission (NCPC") has applied the standard that at least one-third of the affected area must be devoted to the existing office and institutional uses. This was the standard used by NCPC in advising the Zoning Commission as to the areas of the City which should be included in Diplomatic ("D") overlay zone. The NCPC recently advised the State Department with respect to the subject chancery application that the subject property was not originally located in the D overlay zone because the land use conditions in existence in the early 1980's when NCPC first surveyed the area for purpose mapping the zone, did not support a finding of an adequate concentration of office and institutional uses. However, based upon NCPC's recent investigation of existing land uses, NCPC has determined "the area in which the chancery use is proposed meets the original standards used by the Commission to determine areas eligible for chancery locations under Section 206 (b)(2)(B) of the Foreign Missions Act." (A copy of above-quoted NCPC's June 21, 2000 letter to the State Department is attached hereto as Exhibit "A".)

The BZA has also provided an interpretation as to the land use character of the Section 206 (b)(2)(B) areas eligible for chancery uses. The interpretation was made in Application No. 14820 wherein the BZA disapproved an application for a chancery use in an R-5-B zone district with no D overlay. In that case, the BZA determined that the residentially zoned portion of the subject square was the relevant "area" to be considered and the standard was whether one-third of the total square footage of the improvements in the square were devoted to office and/or institutional uses.

Clearly, the subject application meets the standard previously established by the BZA. Square 2122, in which the subject property is located, is zoned R-1-A in its entirety. It contains ten lots and 4 major buildings which are used as follows:

(1) 3300 Massachusetts Ave., N.W. (Lot13) -unimproved lot owned by the Federal government (Normanstone Park);

(2) 3301 Massachusetts Avenue, N.W. (Lot29) - improved with a 35,000 square building which is devoted entirely to chancery use and occupied by the Embassy of Finland;

(3) 3339 Massachusetts Avenue (Lots 804, 16, 17, 6, 20 and 21) - improved with the offices and residences of the Apostolic Nunciature. The 50,000 square foot building is roughly one- third residential and two-thirds office use; and

(4) 2735 34th Street, N.W. (Lot 89) - an improved lot with a 3,139 square foot single family house in residential use.

The office and chancery uses in the subject square substantially exceed the one-third standard set by the BZA and thereby establish that the proposed chancery is eligible for consideration under the criteria established in Section 206 (b)(2)(B).

III. **Description of the Site and Vicinity**

The subject property is a 13,386 square foot improved lot located on the south side of 34th Street, N.W. (Reno Road) one-half block from Massachusetts Avenue, N.W. (See Exhibit "B", Map of Subject Site and Vicinity attached hereto). The site is zoned R-1-A. It is one lot removed from a Diplomatic Overlay zone which includes all of the properties in Square 2122 except the subject property and the house located immediately to the west of the subject property which is owned by the Holy See, (see Exhibit "C", Zoning Map). The Diplomatic zone is also mapped in Square 1939, located directly across 34th Street from the subject property. The immediate area within which the subject property is located includes several other chanceries, institutional uses and single family residences.

The Apostolic Nunciature, (also known as the Vatican Embassy) which contains both the chancery offices of the Vatican and the residences of several Vatican officials, is located to the west of the subject site at the corner of 34th Street and Massachusetts Avenue. On the east, the site is bordered by Fulton Street. To the southeast, is Normanstone Park, which is federal parkland. Across Fulton Street is additional parkland and the Belgium Chancery which faces the corner of 34th and Garfield Streets, N.W. Further west, across Massachusetts Avenue is the Vice-President's residence and the Naval Observatory.

The site is currently improved with a single-family house which has been vacant for over one year. Access to the property is available from both 34th Street and Fulton Street. On 34th Street, two existing curb cuts access an existing semi-circular driveway. Access is also provided to the rear of the property from Fulton Street via driveway which leads to a two-car garage and adjacent parking pad. The property is beautifully landscaped and in excellent condition.

IV. **Background of the Case**

The Government of the Republic of Azerbaijan purchased the subject property earlier this year to relocate its chancery operation to the site from currently leased office space located at 927 15th Street, N.W. Azerbaijan's objective is to relocate from its leased space in a high-rise Downtown office building to a free-standing, signature building which will provide more presence for its diplomatic mission in the United States. Azerbaijan considered several sites for the possible location of a new chancery before ultimately selecting the subject site. The small

size of the subject property, its affordability, and its location near other diplomatic missions and Massachusetts Avenue's "Embassy Row" were key factors in choosing the subject property.

V. **The Proposed Use**

The Applicant is proposing to use the existing structure on the property for its chancery offices with very few changes to the exterior of the building. Only a small brass plaque and the national flag of Azerbaijan will indicate the presence of the chancery. No additional exterior lighting or large antennas will be installed. Portions of the interior of the existing building, which contains approximately 52,00 square feet, will be remodeled and refurbished for office use.

The proposed chancery use is a small diplomatic mission, which is expected to grow to no more than 15 persons. The proposed chancery will keep normal business hours from approximately 8:00 a.m. to 6:00 p.m. Monday-Friday. For the most part, there will be no activity at the site on the weekends or in the evening.

VI. **Points in Support of Application**

Exhibit "A". Letter from NCPC to State Department regarding existing use analysis of subject property area.

Exhibit "B": Portion of the Sanborn Map showing the subject site outlined in red

Exhibit "C": Portion of the Zoning Map showing the subject site outlined in red

Exhibit "D": Portion of Sanborn Map colored to depict existing land uses in the area

Exhibit "E": Outline of Testimony of Ambassador Hafiz Pashayev

VI. **The Applicant Meets All of the Criteria Under Section 206(d) of the Foreign Missions Act.**

As noted above, the proposed chancery use is permitted under § 206(b)(2)(B) of the Foreign Missions Act which provides that a chancery is permitted to locate in any area "determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose". Its location in such areas is permitted subject only to the disapproval of the Board in accordance with the criteria set forth in Section 206(d) of the Act which are set forth below. In considering the application, the FMBZA must balance the interests set forth in the criteria. As will be demonstrated herein and through testimony at the hearing, the subject proposal meets the criteria set forth in § 206(d) as follows:

A. The International Obligation of the United States to Facilitate the Provision of Adequate and Secure Facilities for Foreign Missions in the Nation's Capital - Section 206(d)(1)

The Director of the Office of Foreign Mission will be submitting a letter to the FMBZA regarding the international obligation of the United States to facilitate the acquisition of adequate and secure facilities for the Republic of Azerbaijan.

B. The Application for Chancery Use Substantially Complies with District and Federal Regulations Governing Historic Preservation - Section 206(d)(3)

The subject site is not located in an historic district and it is not an historic landmark. As a result, District and Federal regulations governing historic preservation have no applicability in this case.

C. The Subject Site Provides Adequate Off-Street Parking and the Area is Well Served by Public Transportation - Section 206(d)(3)

Up to seven parking spaces can be provided on the subject property. Fire parking spaces can be provided in the rear of the subject property (i.e., 2 in the garage and 3 on the parking pad located outside the garage). And an additional 2 spaces can be provided in the semi-circular driveway located in front of the building. This number of spaces can more than satisfy the requirements of the employees and visitors of the proposed chancery. Azerbaijan is seeking permission for a maximum of 15 persons to occupy the proposed chancery. The Chancery currently has 10 employees and projects an increase to a maximum of 15 employees for the foreseeable future.

The Chancery arranges for housing accommodations for its employees, and it clusters these accommodations so that the chancery can conveniently provide transportation to and from work for its employees. Currently, the Chancery maintains a small fleet of four vehicles including two minivans, a Sedan and a Lincoln Towncar. The minivans and the sedan are used to bring their employees to and from work, and to meetings outside the office. The Town Car is used by the Ambassador and his driver. The two minivans pick up the Chancery employees from their homes each morning and transport them to work and return them home each evening. The employees homes are currently clustered in two locations: the Van Ness area of the District and Crystal City.

The Chancery is expected to have very few visitors during the day and very little demand for parking is expected to be created by visitors. Visa and passport business is primarily conducted by fax, mail and delivery services. Most visitors to the site are other diplomats and businesspersons who are dropped off and picked up by professional drives or by taxi.

The driveway parking will be used only for the drop off and/or short term parking of visitors to the Chancery. The chancery plans to use Fulton Street as the main point of access for its employees and deliveries. Fulton Street provides access to a two car garage and adjacent paved parking area, which together can accommodate 5 vehicles. Shifting the majority of the parking and drop off activity to Fulton Street, as opposed to Massachusetts Avenue, will have the least impact on the residences located across 34th Street.

The hours of operation for the proposed Chancery will be approximately 8:00 a.m. to 6:00 p.m. Monday - Friday. The proposed property will be used after-hours and on weekends only on a very occasional basis. The Chancery currently holds its large social functions, like its Independence Day celebration in May, at area hotels. This practice will not change upon relocation to the subject property. The subject property is simply too small for large social events. Only two spaces on the ground floor (i.e. the small reception area and a dining conference room) can comfortably be utilized for such purposes. The remaining rooms will be equipped and furnished for office use. The Chancery estimates that large social functions for approximately 15-50 guests will occur, on average, four times per year.

In an effort to be sensitive to neighborhood concerns about the impact of the proposed chancery on the availability of street parking in the immediate area, the Chancery will not avail itself of the opportunity to reserve diplomatic parking on the street in front of its property. The

Chancery will also assist in any efforts on the part of its neighbors to extend the existing parking restrictions on the block. Currently, the subject block and the adjacent block of 34th Street are restricted to two-hour visitor parking until 6:30 p.m. Monday-Friday. Some of the side streets, such as the 3400 block of Fulton Street have extended these restrictions to 8:30 p.m. Further extensions until 10:00 p.m. can be obtained upon application to the City. The purpose of these restrictions is to discourage nonresident parking on the street.

Further, the site and area are well-served by public transportation, particularly Metrobus. The bus routes on Massachusetts Avenue which serve the site are the "N" routes (1-6) and Route 37 which connects between the Tenley Circle and Dupont Metrorail stations on the Red Line. The closest Metrorail station is on Connecticut Avenue at Woodley Road. This is a distance of approximately 1.2 miles via the most logical path on the street system.

D. The Area is Capable of Being Adequately Protected - Section 206(d)(4)

The Office of Foreign Missions will report on the security requirements for the proposed chancery.

E. Approval of the Proposed Chancery Will be in the Municipal Interest - Section 206(d)(5)-

The proposed chancery use by the Republic of Azerbaijan is compatible with surrounding uses and will not have an adverse impact on the surrounding area. The 2700 and 2800 blocks of 34th Street contain several chancery and institutional uses and are in close proximity to a number of other chanceries including the Apostolic Nunciature, Finland, Norway, and Belgium. Although not an official chancery, the property located directly across 34th Street from the subject property contains the headquarters of the Orthodox Church of the Americas. The site is also in close proximity to a number of other institutional uses including the Naval Observatory,

the official residence of the Vice President of the United States, and the National Cathedral and associated schools including Beavoir, St. Albans and the National Cathedral School.

Further, the proposed chancery location will not have an adverse impact on nearby residential uses. The proposed chancery abuts only one single-family residence, the adjacent house to the west which is under the same ownership as the Apostolic Nunciature compound. There are only two single family houses located across 34th Street from the subject property are more likely to be impacted by the Norwegian Chancery and the Embassy of the Orthodox Church of Americas which abut them than the proposed property. The proposed chancery use will provide adequate parking for its employees and visitors. It will not compete with its neighbors for available street parking. In fact, in the evenings and on weekends it is likely to have a lesser impact on traffic and parking in the area than a single-family residence.

F. Approval of the Proposed Chancery will be in Federal Interest, As Determined by The Secretary of State

In accordance with the Foreign Mission and International Organizations Element of the Comprehensive Plan and the Foreign Mission Act, the location of foreign missions should be in reasonable proximity to other foreign missions and it is particularly appropriate for a chancery to locate an area containing other chanceries. The Department of State will further elaborate on the federal interest in this case.

VIII. Witnesses

1. Ambassador Hafiz Pashayev, Chancery of the Republic of Azerbaijan

VIII. Conclusion

For the above-stated reasons, the Applicant requests that the Board not disapprove this application.

Respectfully submitted,

LINOWES AND BLOCHER LLP

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Washington, D.C. 20036

Counsel for Applicant

Dated: 10/9/00

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EXHIBIT A

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

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Washington, DC 20576
tel 202 482-7200
fax 202 482-7272
www.ncpc.gov

Commission Members

Appointed by the
President of the United States
Harvey B. Gantt, Chairman
Robert A. Gaines
Margaret G. Vanderhye

Appointed by the Mayor of the
District of Columbia
Arrington Dixon
Dr. Patricia Elwood

Secretary of Defense
The Honorable William S. Cohen

Secretary of the Interior
The Honorable Bruce Babbitt

Administrator of General Services
The Honorable David J. Barram

Chairman, Committee on
Governmental Affairs
United States Senate
The Honorable Fred Thompson

Chairman, Committee on
Government Reform
U.S. House of Representatives
The Honorable Dan Burton

Mayor, District of Columbia
The Honorable Anthony A. Williams

Chairman, Council of the
District of Columbia
The Honorable Linda W. Cropp

Executive Director
Reginald W. Griffith

IN REPLY REFER TO:
NCPC File No. 5206

JUN 21 2000

Mr. Richard C. Massey
Office Director, Real Estate
U. S. Department of State
Office of Foreign Missions
Washington, DC 20520

Dear Mr. Massey:

The purpose of this letter is to provide clarification regarding our letter to you dated February 22, 2000, relating to a request by the **Embassy of the Republic of Azarbaijan** to purchase the property located at 2741 34th Street, NW, for use as a chancery. The Foreign Missions and International Organizations Element of the Comprehensive Plan for the National Capital (Foreign Missions Element) incorporates Diagram 1 entitled "Chancery Facility Locations Permitted Pursuant to Section 206 (b)(2)(B) of the Foreign Missions Act". Criterion No. 2 of the section in the same element applying to Chancery Facilities states that, "[t]he areas described in Section 206 (b)2(B) of the Foreign Missions Act are generally indicated on Diagram 1...". The areas shown as "permitted chancery facility locations" on Diagram 1 are based upon the land use conditions existing when the diagram was produced in the early 1980s.

As indicated in the February 22 letter, the location of the proposed chancery use is outside of the "permitted locations" as shown on Diagram 1. A staff field investigation shows, however, that the area in which the chancery use is proposed meets the original standards used by the Commission to determine areas eligible for chancery locations under Section 206 (b)(2)(B) of the Foreign Missions Act.

I hope that this information proves helpful to you and your staff and we look forward to working together as we launch the process to update the Foreign

Missions Element of the Comprehensive Plan for the National Capital. If you have questions, please contact Mr. Jerry Gilreath in the Office of Long Range Planning on (202) 482-7200.

Sincerely,



Connie M. Harshaw
Acting Executive Director

EXHIBIT B

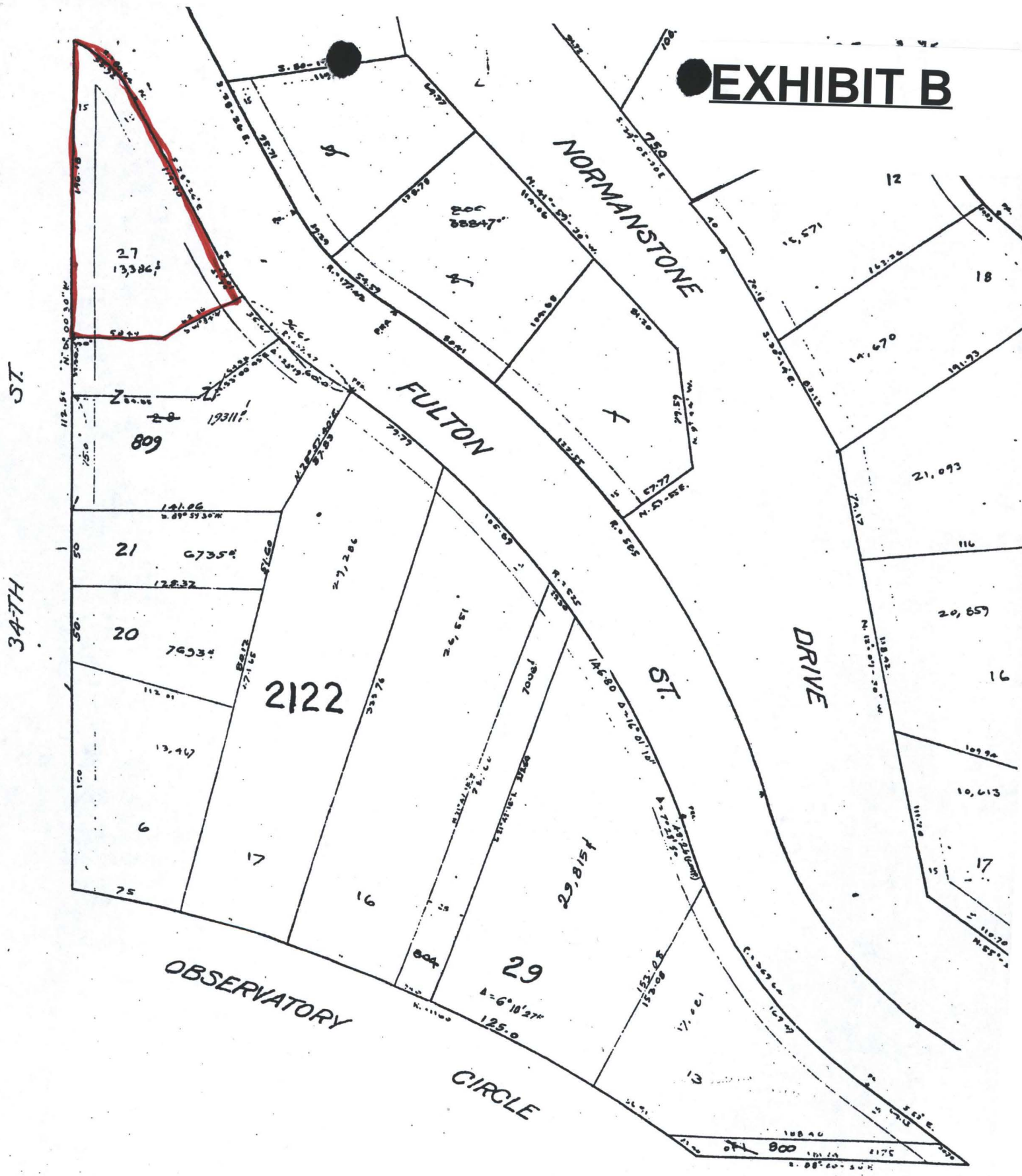
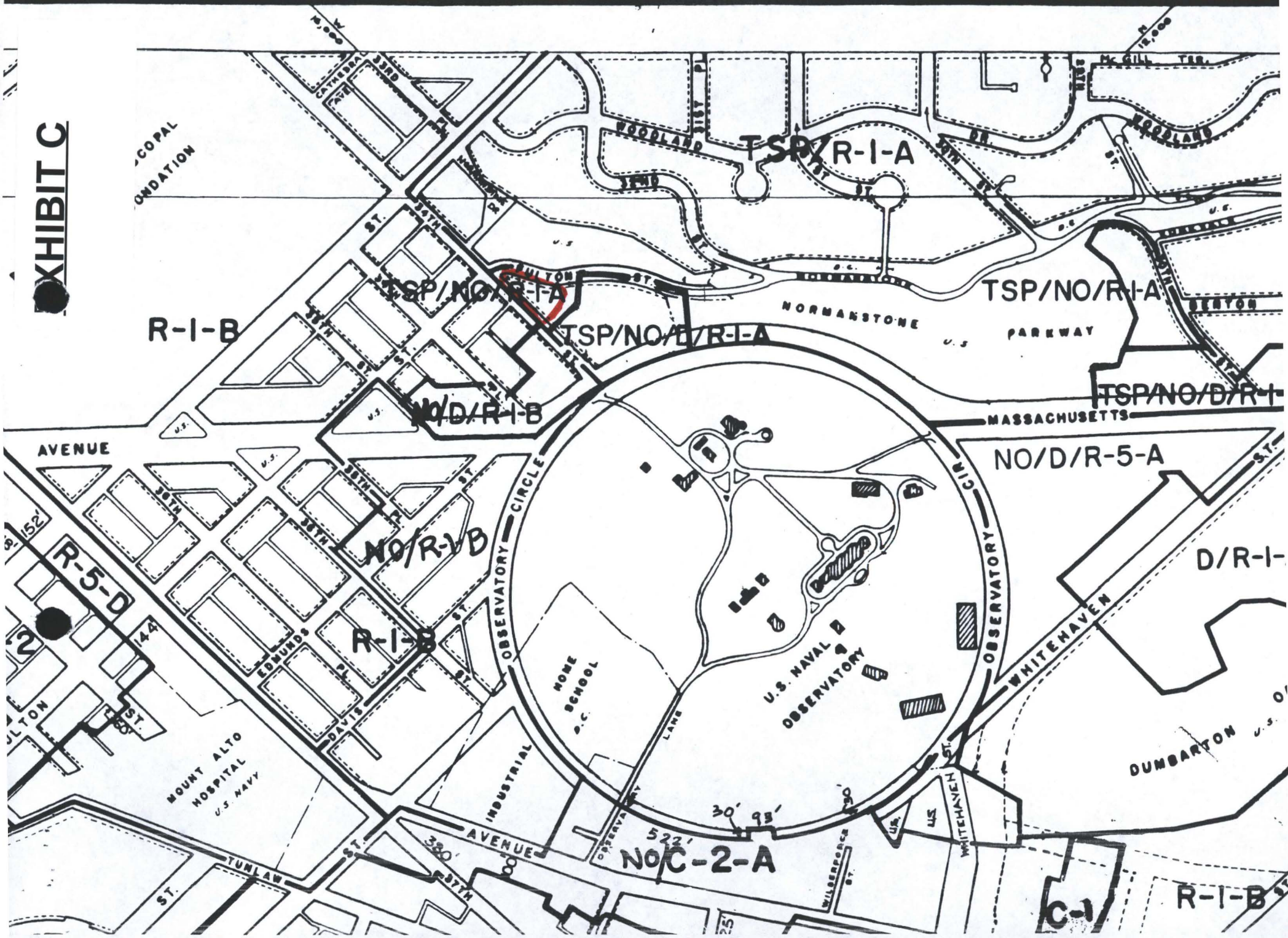

NORMANSTONE
FULTON
DRIVE
ST.
34-TH
ST.
OBSERVATORY
CIRCLE
2122
809
27
13,386±
21
6735±
20
7693±
17
16
29
29,815±
6
13,447
12
15,571
18
14,670
21,093
20,857
16
10,613
17
13
800

EXHIBIT C


TSP/R-1-A
TSP/NO/R-1-A
R-1-B
TSP/NO/D/R-1-A
NO/D/R-1-B
NO/D/R-5-A
NO/R-1-B
R-1-B
R-5-D
NO/C-2-A
C-1
R-1-B
OBSERVATORY CIRCLE
OBSERVATORY
U.S. NAVAL OBSERVATORY
HOME SCHOOL D.C.
INDUSTRIAL
MOUNT ALTO HOSPITAL U.S. NAVY
DUMBARTON
NORMANSTONE PARKWAY
MASSACHUSETTS AVENUE
WHITEHAVEN
WOODLAND DR.
TUNLAW ST.
EDMUNDS PL.
DAVIS PL.
WILLARD PL.
OBSERVATORY LANE
WISCONSIN AVENUE
522'
380'
30'
95'

North

Subject

Office Institutional

Residential

Parkland

