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December 5, 2000

MARY CAROLYN BROWN
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VIA HAND DELIVERY

Ms. Jerrily Kress
Director
District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

BZA
DEC 5 4:05 PM

Re: BZA Case No. 16641
JBG/Twelfth & Massachusetts, LLC
Special Exception and Variance Relief

Dear Ms. Kress:

On behalf of JBG/Twelfth & Massachusetts, LLC, we are submitting herewith an original and ten copies of its pre-hearing statement in connection with the above-reference application for special exception and variance relief. Two full-size sets and ten reduced sets of architectural drawings are also attached. An Affidavit of Posting Notice of the Public Hearing is included, as well.

Should you have any questions regarding this matter, please do not hesitate to contact me at (202) 862-5990.

Very truly yours,

Carolyn Brown

Carolyn Brown

cc: Stewart Bartley
Chris Todd
George Dove
Whayne S. Quin, Esq.
Steven E. Sher

BZA
Case No. 16641
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16641
EXHIBIT NO.23

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF
JBG/TWELFTH & MASSACHUSETTS, LLC
1210-1216 MASSACHUSETTS AVE., N.W.

BZA APPLICATION NO. 16641
HEARING DATE: DECEMBER 19, 2000
ANC 2F

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of JBG/Twelfth and Massachusetts, L.L.C. ("JBG"), in support of its application to the Board of Zoning Adjustment for the following special exception and variance relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3104.1 and 3103.2: (i) a special exception from the roof structure setback and enclosure requirements of section 411; (ii) a variance from the residential recreation space requirements of section 773.3; and (iii) a variance from the area of closed court requirements of section 776.4. The relief is necessary to construct an 116-unit apartment house at premises 1210-1216 Massachusetts Avenue, N.W., Square 283, Lot 50 ("Subject Property"), located in the DD/C-2-C Zone.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment ("BZA" or "Board") has jurisdiction to grant the special exception and variance relief requested pursuant to D.C. Code § 5-424 and sections 3103 and 3104 of the Zoning Regulations (11 DCMR).

III.
BACKGROUND

A. Description of the Subject Property

The Subject Property consists of Lot 50 in Square 283, the city block bounded by Massachusetts Avenue, N.W., to the north, L Street, N.W., to the south, 12th Street, N.W., to the east and 13th Street, N.W., to the west. Square 283 is almost triangular in shape by virtue of its location on the L'Enfant Plan for the city of Washington, a system of radiating avenues overlaid upon an orthogonal grid of streets. Lot 50 is an irregularly shaped through lot, with street frontage on both Massachusetts Avenue, N.W., to the north and L Street, N.W. to the south (see copy of site plan and building plat attached as Exhibits A and C, respectively). It is presently improved with a surface parking lot. The lot consists of two square shapes set at angles to one another and connected in the middle by a narrow hyphen. The hyphen marks a transition from the lower grade of the property along L Street to the higher grade at Massachusetts Avenue. Currently, the connection serves as a driveway between the upper and lower portions of the existing surface parking lot.

The property is located in the C-2-C District, a community business district designed to provide facilities for shopping and business needs, housing, and mixed uses. 11 DCMR § 720. The site is also overlaid by the Downtown Development ("DD") District, which is designed to promote the development of certain preferred uses, including housing, in areas often dominated by commercial office space. 11 DCMR 1700.3(b). It specifically targets the development of residential uses south of

Massachusetts Avenue, N.W. and offers development bonuses to encourage such development. 11 DCMR §§ 1706.1(c) and (d), and 1706.7(b).

B. Description of Surrounding Area

The Subject Property is located in the northern segment of Washington's downtown core, an area characterized by a mixture of commercial, office, retail and residential uses. The abutting property to the west is improved with the Massachusetts House, a 274-unit apartment building constructed in 1969. The ten-story building wraps around the western end of the block, with street frontage on Massachusetts Avenue, 13th Street and L Street.

Immediately to the east of the Subject Property along Massachusetts Avenue is a two-story Victorian rowhouse, currently occupied by the Swiss Inn Hotel. Immediately to the east along L Street is the American Health Care Association, a four-story office building with street frontage on both L and 12th streets.

To the north across Massachusetts Avenue is the Church of the Ascension and St. Agnes, an historic landmark, two small scale rowhouses, and the ten-story Cambridge Apartments. To the south across L Street is a twelve-story modern office building and the Strong-John Thompson School.

C. Project Description

In fulfillment of the plans for Downtown and the goals of the DD District, JBG proposes to construct an eleven-story apartment house with a small supporting retail/commercial component. Comprised of approximately 1,000 square feet of space, the supporting retail/commercial area will be located at the first level below grade at the L Street. The building will consist of 119,753 square feet of space, with

a floor area ratio ("FAR") of less than 8.5. The 116-unit building will contain a mixture of efficiencies, one and two-bedroom apartments, and two-bedroom duplexes. A three-level below grade garage will provide the required parking for the building, consisting of thirty-six full size and twenty-four compact spaces, and four handicapped space, for a total of sixty regulation spaces. The project will also provide another forty-six "non-regulation" spaces in vaults areas along Massachusetts Avenue and L Street, and in stacked spaces. All together, the project will accommodate 106 cars, more than three times the number required under the Zoning Regulations.

The primary façade of and main entrance to the building are located on Massachusetts Avenue. The service areas to the building for parking and loading are located at the L Street elevation. All sides of the building, however, are fully designed. The architectural treatment of the building reflects a Classical tripartite composition of base, shaft and cap. The first floor is articulated in granite and brick, floors two through nine are faced in brick and a synthetic stucco material known as exterior insulation finish system ("EIFS"), and the top two floors are likewise finished in synthetic stucco. A slightly projecting cornice caps the building. The verticality of the building is emphasized on all sides with projecting bays at the second through eleventh floors. Contrasting materials are used for these projecting bays to provide architectural interest to the building. Decorative grillwork, metal railings and other embellishments further enhance the appearance of the building and emphasize its residential character.

IV.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO ALLOW ADJUSTMENTS TO THE ROOF STRUCTURE REQUIREMENTS UNDER 11 DCMR § 411.

A. Standard for Approving Special Exception Relief

Because of the unusual shape and characteristics of the record building lot, the proposed apartment house cannot comply with the requirements for roof structures under section 411 of the Zoning Regulations. Consequently, JBG is requesting special exception relief to deviate from the strict compliance of these provisions as permitted under sections 411.11 and 3104.1 of the Zoning Regulations.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) *quoting Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Standard of Review for Roof Structure Special Exceptions

Under section 411.11, the Board may grant special exception relief from the strict requirements for roof structures where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to

the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." The Board may approve deviations from the roof structure requirements provided the intent and purpose of chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." 11 DCMR § 411.11.

As demonstrated below, and through exhibits, testimony and other information to be submitted into evidence before the Board, it is impracticable for JBG to comply fully with the roof structure requirements of section 411 because of the size, unusual shape, and configuration of the building lot and other conditions relating to the proposed apartment building. Full compliance with the requirements would be unduly restrictive, prohibitively costly and unreasonable. Additionally, the requested relief can be granted without materially impairing the intent and purpose of chapter 400 and the Zoning Regulations, and the light and air of adjacent buildings will not be adversely affected.

C. Relief from Section 411.3 to Place Penthouse and Mechanical Equipment in Multiple Enclosures.

Section 411.3 of the Zoning Regulations states that "[a]ll penthouses and mechanical equipment shall be placed in one (1) enclosure...." The purpose and intent of this requirement is to prevent the proliferation of multiple, unsightly roof elements that would detract from the skyline and block the light and air to adjacent buildings.

Because of the unusual shape of the project's building lot, and the operational difficulties and conditions related to the building, JBG proposes to construct three

separate roof structure enclosures: two to house mechanical equipment and stairway access to the roof, and a third to enclose the elevator core. The dual street frontage of the site dictates a building configuration that provides a strong presence both on L Street and Massachusetts Avenue, N.W. Given the constraints of the lot's unusual shape, the only way to accomplish this successfully and meet the urban design goals of the DD District is to create two distinct building masses set at angles to one another. These two masses are connected by a narrow public corridor to house the centrally located elevator service to both wings. This configuration, in turn, requires the construction of three separate roof structures. Each wing is equipped with its own stairway core, roof access and mechanical equipment penthouse, which provide greater fire safety protection to residents than is otherwise required under the building code and which help meet the operational needs of the building.

If the mechanical equipment and elevator core were housed in one enclosure, the resultant roof structure would be more intrusive to the skyline and block a greater amount of light and air than three smaller, separate ones. A single enclosure would extend in an irregular fashion across the entire roof of the building, disrupting the appearance of the two separate building masses, which were specifically designed to respond to their corresponding street frontage. The massive size of the enclosure would dominate the building and overshadow the adjacent rowhouse and office building to the east.

Three separate roof structures, on the other hand, would fulfill the purpose and intent of the roof structure requirements under chapter 400 and the Zoning

Regulations, in general, by providing greater light and air and a more successful design. The three roof structures have been sensitively designed to complement the massing and architectural quality of the residential building. Because of the site's dual street frontage, it would not be unusual for two separate buildings to be located along L Street and Massachusetts Avenue; thus, the two separate mechanical enclosures are in keeping with the character of the streetscape. The two roof structures have been embellished with cornices to disguise their utilitarian nature and to match the architectural character of the apartment building. The third enclosure for the elevator core is smaller and located between the two other roof structures, making it far less visible from the street. It nevertheless repeats the cornice line detail to provide a cohesive design element for the roof elements.

Because the three separate roof structures will not block the light and air of adjacent property, are not visibly intrusive and have been sensitively incorporated into the design of the building, the requested special exception is in harmony with the purpose and intent of the Zoning Regulations and meets the test for relief under section 411.3.

D. Relief from Section 411.2 to Deviate from Roof Structure Setback Requirements.

The proposed configuration of the roof structures will also require relief from the roof structure setback requirements under section 411.2 of the Zoning Regulations. That section requires roof structures to be set back in accordance with the provisions of the zone district in which the project is located. The C-2-C District requires a roof structure to be set back from the building's walls a distance at least

equal to the roof structure's height. *See* 11 DCMR § 770.6(b). Because the height of each roof structure on the proposed building equals 17.3 feet, they each must be set back at least 17.3 feet away from the exterior walls. The two proposed mechanical penthouses on the L Street and Massachusetts Avenue wings both meet this requirement. The center elevator enclosure, however, is flush with the exterior walls and thus does not meet the set back requirement.

The unusual shape of the building lot and the programmatic requirements of the building dictate this outcome. As noted above, the triangular shape of Square 283 creates a through lot "bent" in the middle that prevents the construction of a typical rectangular building. The problem is exacerbated by the fact that the narrowest point of the lot is at the center. Further, in order for the building to maintain a presence on both street frontages, a major portion of the required residential recreation space has been located in a central courtyard, and the connection between the two wings narrowed to accommodate this exterior space. The width of the connection averages only twenty-one feet, and is unsuitable for any other use except an elevator core. Yet, because of the mechanical equipment required for elevators, the height of the elevator penthouse must be 17.3 feet, and accordingly, it must also be set back a distance of 17.3 feet. This would only allow an elevator core averaging three feet in width, and thus compliance with the setback requirements is impossible at this narrow juncture.

The proposed elevator penthouse does comply, however, with the spirit and intent of the roof structure provisions and the Zoning Regulations. The purpose of

the setback requirement is to ensure adequate light and air to adjacent property and abutting streets. This purpose is still achieved because the elevator penthouse is located at the center of the site. It is located approximately sixty feet from the L Street elevation of the building and approximately seventy-five feet from the Massachusetts Avenue elevation. It is setback approximately fifty-five feet from the western property line. To the east, the penthouse is flush with the adjacent building lot. It will not, however, block the light and air to any windows on the adjoining four-story office building. Thus, the proposed elevator penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under section 411.2.

V.
THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCES FROM THE CLOSED COURT AREA REQUIREMENTS UNDER 11 DCMR § 776.4 AND AREA REQUIREMENTS FOR RESIDENTIAL RECREATIONAL SPACE UNDER 11 DCMR § 773.3.

A. Standards for Granting Area Variances

Under D.C. Code §5-424(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995), *quoting Roumel v District of Columbia Board of Zoning Adjustment*,

417 A.2d 405, 408 (D.C. 1980). *See, also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

The proposed apartment house meets all three prongs of this test. First, the property is unique by virtue of its irregular shape and topography. Second, the owner will encounter substantial practical difficulties if the Zoning Regulations are strictly enforced because it would lead to a highly undesirable configuration and location of residential recreation space on the site, thereby compromising the goals of residential development south of Massachusetts Avenue as contemplated in the Comprehensive Plan and the objectives of the DD District. Finally, the proposed variance relief will generate significant positive public good without substantially impairing the intent or purpose of the zoning laws.

B. Variance from the Closed Court Area Requirements

Section 776.4 of the Zoning Regulations states that any closed court of a building devoted to residential uses must have a land area consisting of twice the square of the width of the court (as calculated under the formula in section 776.3), but a minimum of 350 square feet. Based on this formula, the west courtyard must consist of at least 2,471.75 square feet of land area. The total amount of land area provided in this closed court, however, consists of only 1,960.5 square feet. Thus, the Applicant seeks a variance from the closed court area requirements. The variance will allow the Applicant to provide the most suitable and appropriate configuration for a residential building on this irregularly shaped site without compromising the purpose and intent of the Zoning Regulations.

C. **Variance from the Residential Recreational Space Requirements**

Section 773.3 of the Zoning Regulations requires that residential development in the C-2-C Zone provide not less than fifteen percent of the gross floor area of the building to recreation space. Based on the 118,753 square feet of residential gross floor area proposed for the apartment building, the project must include approximately 17,813 square feet of residential recreation space. The total amount of recreation space proposed, however, is only 6,528 square feet. Consequently, a variance from the area requirements of section 773.3 is requested.

D. **Exceptional and Unique Conditions Affecting the Property.**

The requested variance relief is supported by the practical difficulty inherent in the exceptional and unique configuration of the Lot 50. As noted above, the triangular shape of Square 283 causes this through lot to "bend" at an angle in order to provide street frontage on both the diagonal layout of Massachusetts Avenue and horizontal direction of L Street. The amount of property fronting on each street is significantly different: the lot is 111.46 feet wide along Massachusetts Avenue but only seventy-nine feet wide on L Street. The shape of the lot is further distorted as it narrows in the center to approximately fifty-four feet wide. There is also a significant difference in the elevation of the site. The grade rises 4.5 feet from Massachusetts Avenue to just inside the property line and then drops approximately ten feet to the rear of the property at L Street. The size of the lot is also relatively small, consisting of approximately 14,474 square feet of land area.

E. Strict Application of the Regulations Would Result in a Practical Difficulty.

These unique and exceptional conditions inherent to the property severely restrict the possible layout of the apartment house. In order for the building to maintain a presence on both street frontages, a major portion of the required residential recreation space has been located in the western courtyard, and the connection between the two wings narrowed to the greatest extend possible to accommodate the exterior space. If the applicant were required to comply with the strict application of the regulations, it would be necessary to eliminate the court altogether by expanding the building footprint. This, in turn, would require the residential recreation space to be relocated at the rear of the property near the parking garage and loading bays on L Street. Not only is it highly undesirable to place recreational spaces in such close proximity to the service areas of the building, it also creates significant access problems to these required areas. It likewise would create a void in the building line along L Street, in contravention of good urban design practices.

Alternatively, the size of the building could be reduced or several units could be converted to recreation space. Both these options, however, would reduce the number of possible dwelling units in the downtown core, thereby compromising the housing objectives of the DD District.

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

The proposed variances will trigger significant public good without substantially impairing the intent or purpose of the zoning laws. By allowing a reduction in the required area of a closed court, the project can maintain the outdoor residential recreation space in an area most suitable to the site, separate from the service areas of the building. The location of the western courtyard opens onto the required court area of the adjacent apartment house, which allows ample light and air to reach this portion of the project site. Consequently, the purpose and intent of the area requirements for closed courts will not be compromised under the current proposal.

A reduction in the amount of space devoted to residential recreation areas can also be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan. The Subject Property is fortuitously situated along a portion of Massachusetts Avenue that boasts a wide parking area between the sidewalk and building line. It will be maintained as a landscaped berm and act as a forecourt to the proposed apartment building. A nearby public "pocket park" formed by the intersection of Massachusetts Avenue with L Street between 11th and 12th Streets will also provides passive recreational space to the residents of the building.

Additionally, the goal of the DD District is the creation of a lively downtown with active pedestrian use. The downtown area has many recreational and entertainment activities unassociated with residential buildings that are available

to residents and that may, in fact, be underutilized. A reduction in the recreational component of the building will thus not cause a concomitant reduction in recreational opportunities for building residents.

The Office of Planning ("OP") has recognized the inherent difficulties in meeting the residential recreational objectives in the DD District south of Massachusetts Avenue because of the small and irregular shape of building lots that provide little opportunity for outdoor space on the ground floor. In response to these difficulties, OP has recommended that the residential recreation space requirements be reduced from fifteen to five percent in the DD/C-2-C Zone when the bonus density permitted under 1706.7 is devoted solely to residential use. Text amendments are now before the Zoning Commission and a hearing has been scheduled for January 29, 2001. A copy of the proposed regulations are attached as Exhibit F. If the amendments are adopted, the project as proposed would be in full compliance with section 773.3 and no variance relief would be required.

VI.
ADVISORY NEIGHBORHOOD COMMISSION SUPPORT

On October 24, 2000, JBG and its representatives met with Advisory Neighborhood Commission ("ANC") 2F to review the proposed project. At its December 2, 2000, meeting, the ANC voted unanimously to support the project and the related special exception and variance relief. A copy of its letter in support is attached as Exhibit G.

VII.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	Portions of the Sanborn Atlas showing the subject property highlighted in yellow;
Exhibit B:	A portion of the Zoning Map showing the subject property highlighted in yellow;
Exhibit C:	Surveyor's Plat of the Subject Property;
Exhibit D:	Architectural Drawings;
Exhibit E:	Photographs of the Subject Property;
Exhibit F:	Zoning Commission Notice of Filing, Case No. 00-30T, Proposed Text Amendments to the Downtown Development District Zoning Regulations recommended by the Mayor's Downtown Housing Task Force and the Downtown Action Plan, October 26, 2000;
Exhibit G:	Letter of Support from Advisory Neighborhood Commission 2F;
Exhibit H:	Outline of Testimony of Representative of the Applicant JBG/Twelfth and Massachusetts, L.L.C.; and
Exhibit I:	Outline of Testimony of Weihe Design Group, project architects.

VIII.
WITNESSES

A. Representative of JBG/Twelfth and Massachusetts, L.L.C.

B. Weihe Design Group, project architects.

IX.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for a special exception and area variances under the Zoning Regulations. JBG notes the pending amendments to the Regulations which would reduce the amount of required residential recreation space. Other amendments included in

that same case would increase the allowable density for apartment buildings in the DD/C-2-C District. JBG requests that the Board allow the applicant to revise its plans to take those amendments into account, such that the gross floor area of the building may be increased within the height and lot occupancy limitations otherwise applicable and, for which extra FAR, relief from the Board would not then be required.

Accordingly, JBG respectfully requests the Board to grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Whayne S. Quin, Esq.

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

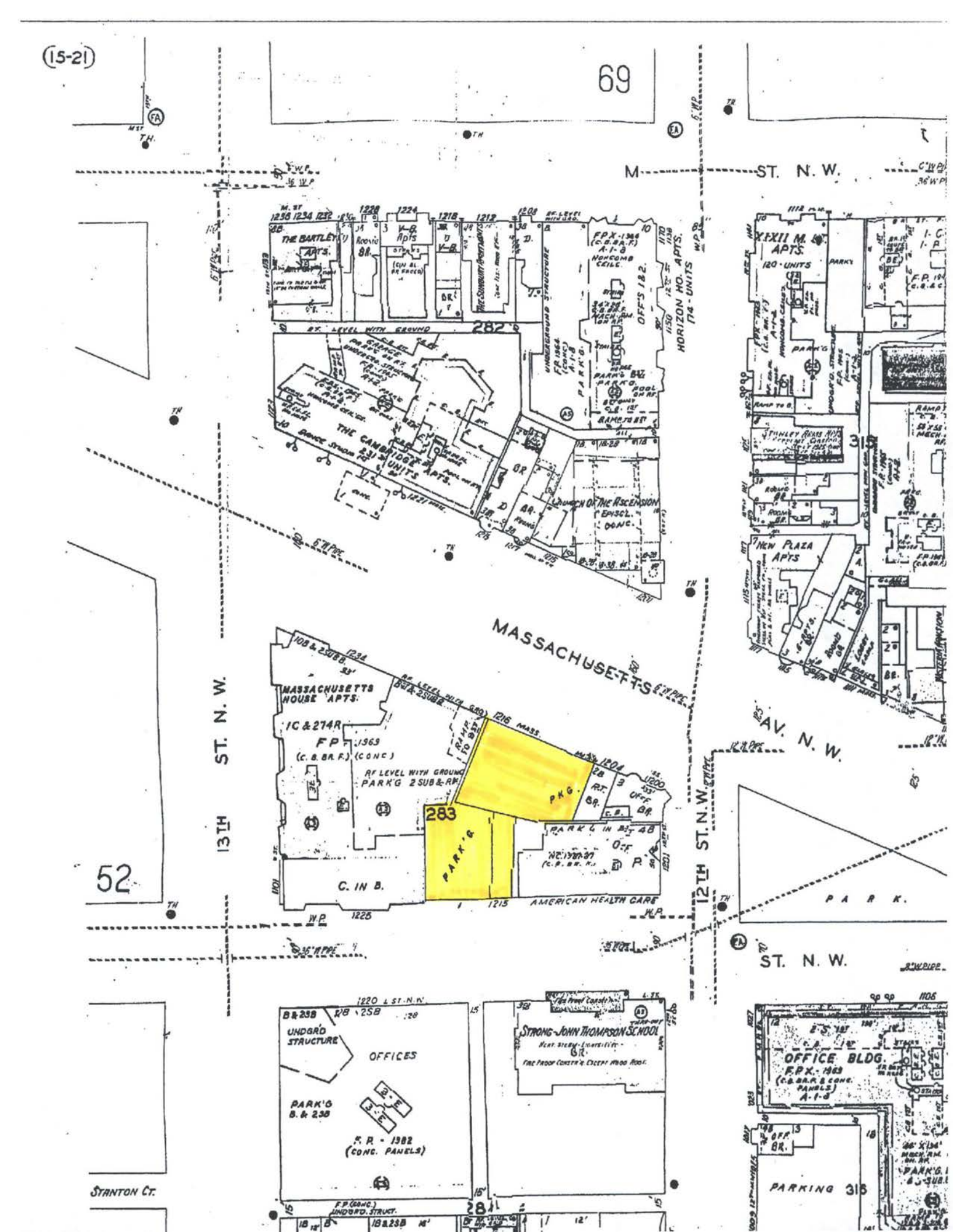
By: _____
Mary Carolyn Brown, Esq.

2100 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20037
(202) 955-3000

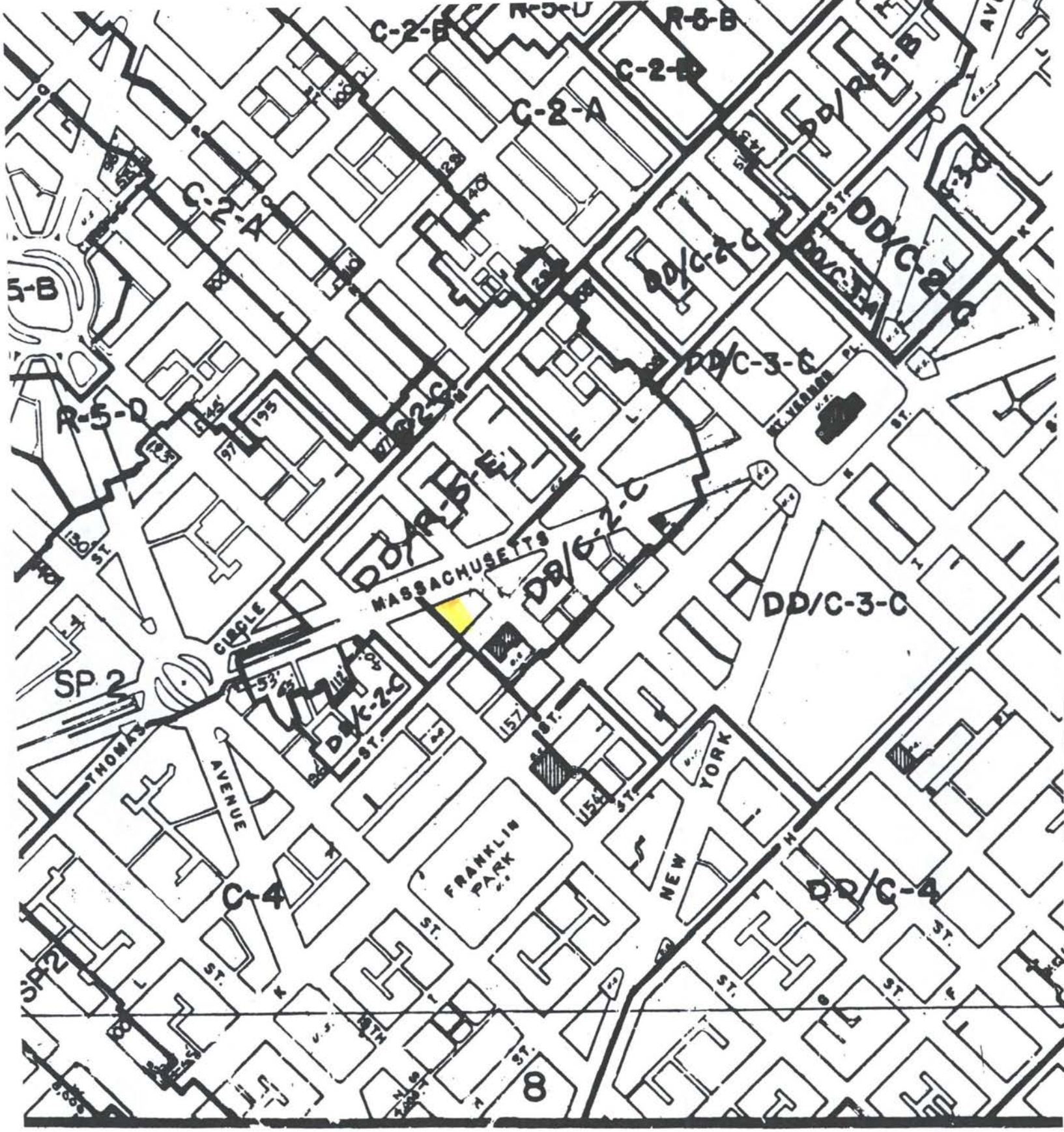
December 5, 2000

WAS1 #893353 v1

A


(15-21)
69
M ST. N. W.
THE BARTLEY APTS.
THE CAMBRIDGE 231 UNITS APTS.
282
HORIZON HO. APTS. 114 - UNITS
XXIII M. APTS. 120 UNITS
NEW PLAZA APTS
MASSACHUSETTS HOUSE APTS.
MASSACHUSE-TTS
13TH ST. N. W.
283
PKG.
PARK'G
C. IN B.
AMERICAN HEALTH CARE
12TH ST. N.W.
AV. N. W.
52
PARK.
ST. N. W.
STRONG-JOHN THOMPSON SCHOOL
OFFICE BLDG.
F.P.X. - 1969
PARKING 315
STANTON CT.
OFFICES
UNDGR'D STRUCTURE
PARK'G B. & 2SB
F. P. - 1982 (CONC. PANELS)





DISTRICT OF COLUMBIA

ZONING MAP

SECTION 5

EXHIBIT B



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C. AUG. 15 2000

Plat for Building Permit of SQUARE 289, LOT 50

Scale: 1 inch = 30 feet Recorded in Book 181 Page 28

Receipt No. 000023

Furnished to WILKES ARTIS

Surveyor, D.C.

By: W. H. GRAHAM JR

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

Date: .....

.....
(Signature of owner or his authorized agent)

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

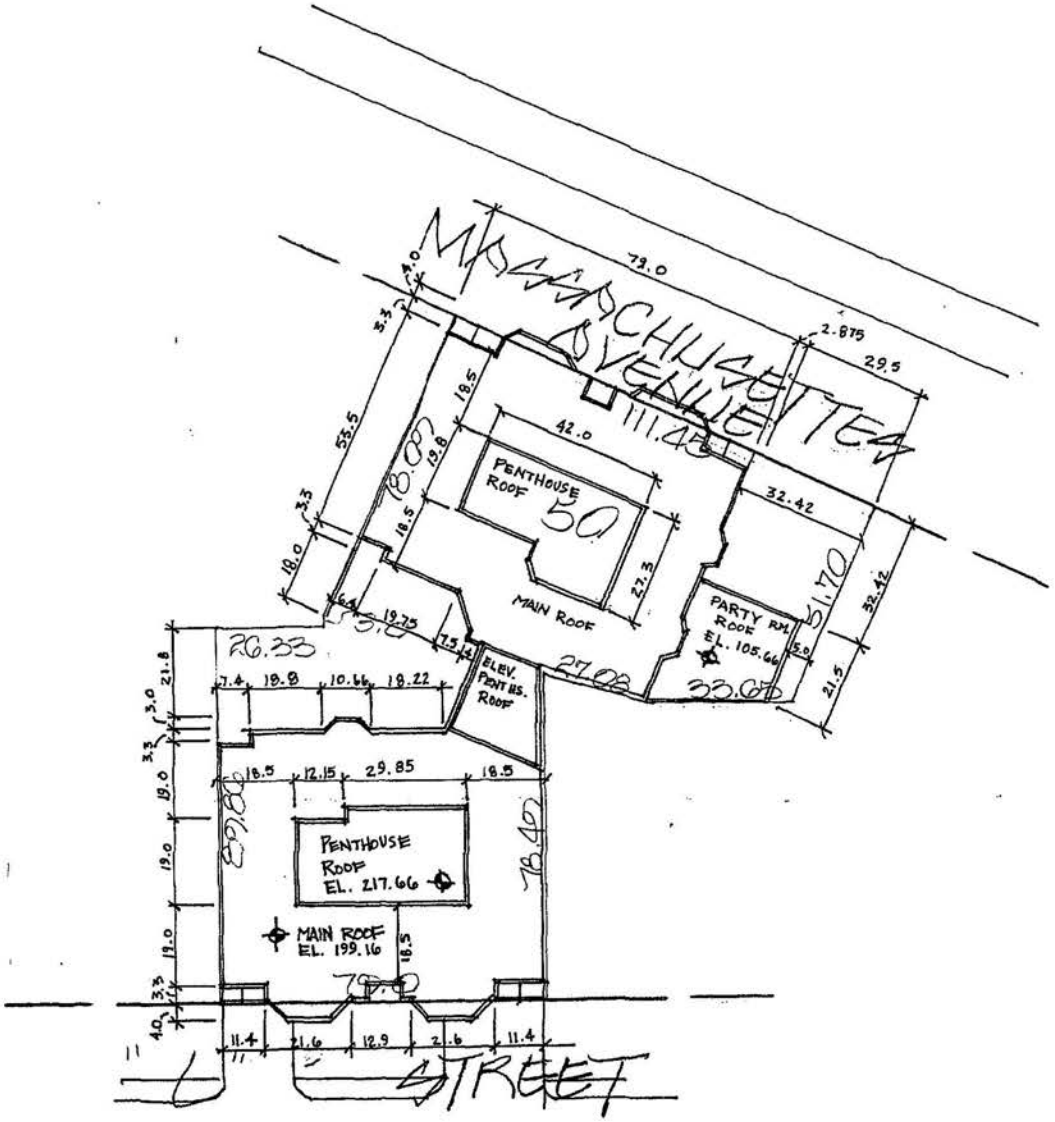


EXHIBIT C



ARCHITECTURAL DRAWINGS

Are

Submitted Under Separate Cover

Exhibit D



PHOTOGRAPHS OF THE SUBJECT SITE



View from Massachusetts Avenue, N.W.
looking south across existing parking lot to buildings on L Street

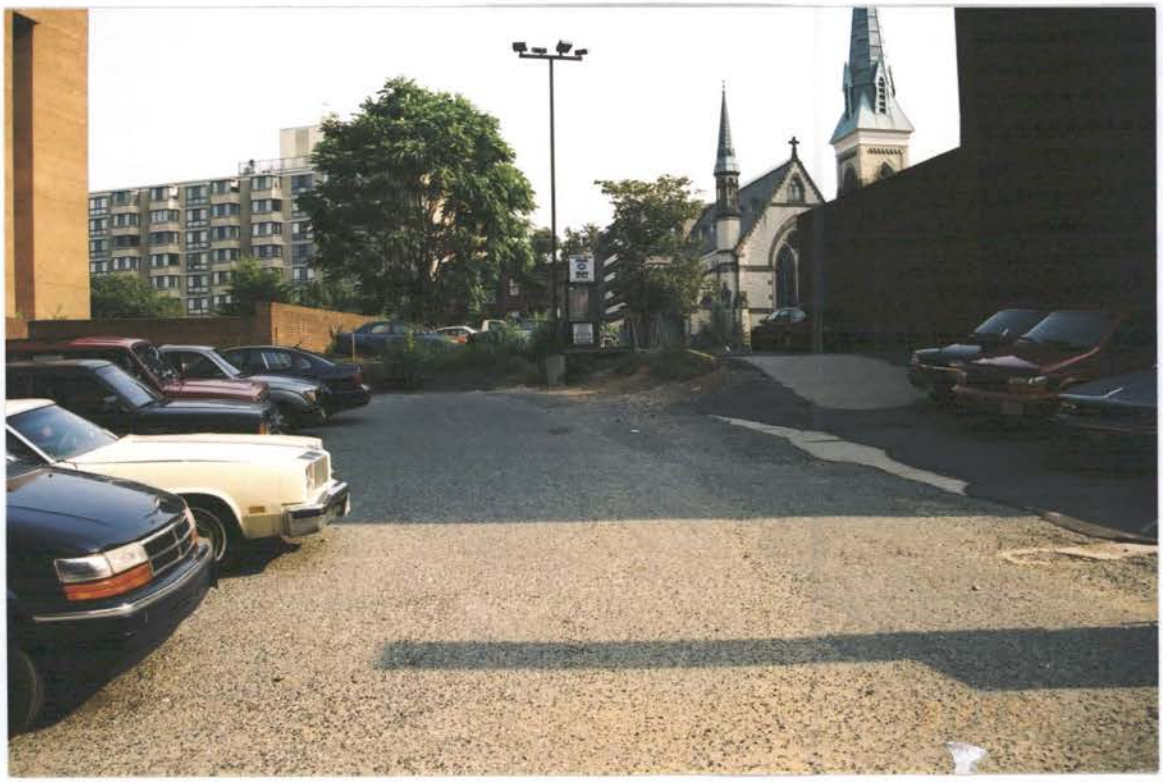


View looking south/southeast across existing parking lot
(Victorian rowhouse occupied by the Swiss Inn to the left in photo;
the American Health Care Alliance Building in center background)

PHOTOGRAPHS OF THE SUBJECT SITE



View from upper center portion of site looking southwest to lower parking area along L Street (Massachusetts House Apartments in background of photo)



View from L Street looking north across site depicting narrow connection between upper and lower portion of parking lot

Exhibit E-2

F

ZONING COMMISSION NOTICE OF FILING
Case No. 00-30T
(Downtown Development District Zoning Changes Set Down Report)
October 26, 2000

THIS CASE IS OF INTEREST TO ALL ADVISORY NEIGHBORHOOD COMMISSIONS

On October 10, 2000, the Office of Zoning received from the Office of Planning a set down report recommending amendments to the text of the District of Columbia Municipal Regulation (DCMR), Title 11, Zoning.

The set down report summarizes the Office of Planning's review of changes to the Downtown Development District Zoning Regulations recommended by the Mayor's Downtown Housing Task Force and the Downtown Action Plan.

The proposed language to amend the Zoning Regulations is as follows:

[Note: new language is indicated by bold print and underlining and deleted language is indicated by strike-through]

1706.4 In the DD/C-2-C zone the following residential and mixed use provisions shall apply:

(a) The maximum FAR shall be 8.0 as a matter-of-right, which FAR may be devoted to all residential use or may include commercial or nonresidential uses as provided in this subsection;

(b) Each lot shall provide on-site or account for off-site in a combined development no less than 4.5 FAR of residential use:

(c) On a lot that is south of Massachusetts Avenue, up to 1.8 FAR this residential requirement may be met by constructing or by financially assisting affordable housing as defined in this chapter and as governed further by the provisions of this section;

(d) On a lot that is north of Massachusetts Avenue, up to 1.35 FAR of this residential requirement may be met by constructing or by financially assisting affordable housing as defined in this chapter and as governed further by the provisions of this section; and

(e) If such affordable housing is provided off-site, commercial or nonresidential FAR may be substituted on-site or in a combined lot development by the same amount of gross floor area as the affordable housing up to the

maximum limit of 1.8 FAR south of Massachusetts Avenue or 1.35 FAR north of Massachusetts Avenue.

(f) **The area of residential recreation space required by §773 may be reduced to 5% of the gross floor area devoted to residential use provided the bonus granted by this provision is used for residential uses.**

1706.5 In the DD/C-3-C zone the following residential and mixed use provisions shall apply:

(a) The maximum FAR shall be 9.5 as a matter-of-right, which FAR may be devoted to all residential use or may include commercial or nonresidential uses as provided in this subsection;

(b) Each lot shall provide on-site or account for off-site in a combined lot development no less than 3.5 FAR of residential use;

(c) On a lot that is south of Massachusetts Avenue, up to 1.4 FAR of the residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by the provisions of this section;

(d) On a lot that is north of Massachusetts Avenue, up to 1.05 FAR of the residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by the provisions of this section; and

(e) If such affordable housing is provided off-site pursuant to paragraph (c) or (d) of this subsection, commercial or nonresidential FAR may be substituted on-site, or in a combined lot development, by the same amount of gross floor area as the affordable housing, up to the maximum limit of 1.4 FAR south of Massachusetts Avenue or 1.05 north of Massachusetts Avenue.

(f) **The area of residential recreation space required by §773 may be reduced to 5% of the gross floor area devoted to residential use provided the bonus granted by this provision is used for residential uses.**

1706.7 The maximum permitted gross floor area may be increased by 0.5 FAR up to a maximum of 8.5 FAR in the DD/C-2-C District, 10.0 FAR in the DD/C-3-C District, and 10.5 FAR in the DD/C-4 District; Provided, that the following occurs:

(a) The increase in gross floor area may be achieved by receiving transferable development rights as provided in § 1709, which floor area may be devoted to any permitted use on the receiving site;

(b) The increased gross floor area may be entirely devoted to residential use; and

(c) The increase may be earned by constructing or assisting affordable housing as defined in this chapter and as further governed by the provisions of this section, or by earning retail bonus density as provided in paragraph 1706.16.

(d) **Notwithstanding Sections 1706.4, 1706.5, or 1706.6, no maximum FAR shall be applicable to any building that is devoted solely to residential**

uses or to a combinations of residential uses and retail, service, arts and entertainment uses listed in Sections 1710.1 and 1711.1; Provided, that any such building shall comply with the maximum permitted building height requirements of Sections 1701.7 and 1703.15 and the yard and lot occupancy requirements of the applicable zone. This subsection shall be specifically inapplicable to any building that contains any uses specified in Section 1712.1.

(e) The increase in gross floor area provided by subsection 1706.7(d) may not be used to accept the transfer of residential use through a combined lot development.

1706.13 If a development project includes both required residential uses and nonresidential uses, ~~whether~~ on the same lot ~~or in a combined lot development~~, no Certificate of Occupancy shall be issued for the nonresidential space until a Certificate of Occupancy has been issued for the residential space: Provided, that, the following requirements are met:

(a) A mixed residential-commercial project for which the Pennsylvania Avenue Development Corporation and a private developer have executed a contract requiring commencement of construction of the residential portion of the project by a date certain, may comply with the timing requirements of §1708.1(f) instead of the timing requirements of this subsection; and

(b) At least seventy-five percent (75%) of the commercial development that triggers the residential use requirement shall comply with the timing requirements of this subsection.

1708 COMBINED LOT DEVELOPMENT

1708.1 Two or more lots may be combined for the purpose of achieving the required FAR equivalent for preferred uses or to transfer bonus density from one lot to one or more other lots; Provided, that the following occurs:

(a) The lots may be located in the same square or in different squares;

(b) A combined lot development shall be eligible for the density and area allowances permitted in §§1703, 1704, 1705 and 1706;

(c) When combined lot development involves only linkage, i.e., the allocation of gross floor area required by this chapter to be devoted to preferred uses (hereinafter "linkage project"), such combined lot developments shall be limited to lots located within the same subarea as defined in §§1703, 1704, 1705, and 1706, except as provided in §1708.1(d);

(d) Notwithstanding the requirements of paragraph (c) of this subsection and of §1706.9 of this chapter, a historic property that is identified and governed by §1707.4 of this chapter, is eligible to serve as the location of required residential uses within a combined lot development, even if the historic properties are located outside the Housing Priority Area as established in §1706.2.

(e) In a linkage project, the required floor area to be devoted to preferred uses may be transferred from the sending lot to a receiving lot, on which the required space for preferred uses shall be incorporated into the building

design and occupied: Provided, that any applicable ground level uses required on any affected lot shall not be transferred, but shall be provided on each sending lot and receiving lot;

(f) In a linkage project, the certificate of occupancy for the development sending FAR for preferred uses to another development may be revoked, if no building permit for the receiving site has been issued to the developer within three (3) years after the issuance of the certificate of occupancy for the sending site, or if no certificate of occupancy for the receiving site has been issued within five (5) years after the issuance of the certificate of occupancy for the sending site;

(g) If a development project includes both required residential uses and nonresidential uses in a combined lot development, no building permit for the development of the nonresidential uses shall be issued until the following requirements are met:

(i) A declaration of covenants running with the land in form satisfactory to the Zoning Administrator shall be recorded against the property of the receiving lot that requires the receiving lot to be developed only in accordance with the preferred use requirements of this chapter;

(ii) The declaration of covenants shall name as a beneficiary the District of Columbia and at least one nonprofit housing advocate organization that is satisfactory to the Zoning Administrator and the Director of the Office of Planning. The declaration of covenants shall require that the instrument shall not be amended or terminated without the consent of the beneficiaries and on substantial change in circumstances. The covenant shall require the declarant to pay such fees as are reasonably necessary to pay the expenses of the beneficiaries.

(iii) The owner of the sending site shall deliver to the Zoning Administrator a certification prepared by a generally recognized title company that all monetary consideration paid or to be paid to the owner of the receiving site has been placed in an escrow account and will be available to the owner of the receiving site only upon (i) the issuance of a building permit for the construction of a building containing the preferred uses and (ii) 50% completion of the residential project (as certified to the Zoning Administrator by the architect for the residential property.

(iv) At a minimum the escrow should equal the combined lot transfer price, where the combined lot transfer price is calculated in the by the following formula:

CLTP = E*(RTDC / FAR)*TFAR + FMP.

1. **CLTP = Combined Lot Transfer Price**
2. **E = minimum 5% equity equivalent**

3. **RTDC = Average Total Development Cost of Residential Construction in Development District (reevaluated every 3 years) per FAR = Floor Area Ratio**
4. **TFAR = SF amount of preferred use transferred to receiving site.**
5. **FMP = premium defined by the fair market value of the transfer.**

(v) If a certificate of occupancy for residential project has not been issued within 5 years of the date of occupancy for the sending site, the escrow and any accrued interest shall be released to the DC Housing Production Trust Fund; at the request of the owner of the receiving site a 3-year extension may be granted if the Zoning Administrator determines that the receiver has acted in good faith and best effort.

(h) When combined lot development involves a transfer of bonus density to another lot or lots, by itself or in addition to a linkage project, such density transfer may occur to any lot or lots within the DD District or in a receiving zone as provided in §1709 of this chapter, except as excluded by other provisions of this chapter and title;

(i) The maximum permitted floor area for all uses, the minimum required floor area for preferred uses, and bonus density, if applicable, shall each be calculated as if the combined lots were one lot, and the total project shall conform with the maximum and minimum floor area requirements;

(j) A building that has been constructed or that is under construction as of January 18, 1991 is not eligible to utilize the combined lot development provisions, nor to earn bonus density or transferable development rights pursuant to §1709;

(k) No transfer of required gross floor area for preferred uses shall be effective under this section unless an instrument, approved by the Corporation Counsel to be legally sufficient to effect such a transfer and approved in content by the Director, Office of Planning and the Zoning Administrator, has been entered into among all of the parties concerned, including the District of Columbia:

(l) A certified copy of the instrument of transfer shall be filed with the Zoning Administrator, Department of Consumer and Regulatory Affairs, prior to approval by said Department of any building permit application affected by such transfer;

(m) The document shall be recorded in the office of the Recorder of Deeds, serving as a notice both to the receiving lot and to the sending lot by virtue of this arrangement for transfer of required floor area or bonus area; and

(n) The notice of restrictions and transfer shall run with the title and deed to each affected lot.

For additional information, please contact, the Secretary to the Zoning Commission at (202) 727-6311.

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ANC 2F ADVISORY NEIGHBORHOOD COMMISSION 2F
GOVERNMENT OF THE DISTRICT OF COLUMBIA
P.O. Box 9348, Mid-City Station, Washington, DC 20005
Telephone: (202) 667-0052 Fax: (202) 667-0053

Commissioners:
2F01 David Stephens, *Vice Chair*
2F02 Jim Brandon
2F03 Barbara Asare-Bediako, *Treasurer*
2F04 Helen M. Kramer, *Secretary*
2F05 Leslie Miles, *Chair*
2F06 Rodney Foxworth

December 2, 2000

Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 20001

Re: 1210-1216 Massachusetts Avenue, NW, The JBG Companies, Applicant
BZA Case No. 16641

Dear Chairperson and Members of the Board:

At its regularly scheduled and publicly advertised meeting on November 1, 2000, at which a quorum of five out of six commissioners was present, ANC 2F voted 5-0 to support this application for a special exception from the roof structure setback requirements of Section 411 and variances from the residential recreation space requirement of 15 percent of gross floor area provided for in Section 773.3 and the area of closed court requirements of Section 776.4 of 11 DCMR.

This matter was considered in detail at the October 24, 2000, meeting of the ANC's Community Development Committee (CDC), at which JGC Companies presented detailed elevations of the proposed apartment building development and explained the nature of the relief sought from the zoning regulations. The CDC welcomed the proposed residential development replacing a long-vacant lot, and recognized the difficulties posed by the odd shape of the lot. The proposed design was well received by members of the community, and the general opinion was that the minor departures from the zoning requirements would not have an adverse effect on neighboring buildings and residents.

We therefore urge the Board to grant the relief sought in this case.

Sincerely,

Leslie Miles
Chair

EXHIBIT G



OUTLINE OF TESTIMONY
JBG/TWELFTH & MASSACHUSETTS, LLC

I. Introduction

A. Description of JBG/Twelfth & Massachusetts, LLC

B. History and Experience of JBG in Development of Washington

II. Background and Description of Project

A. The Constricted Housing Market

B. Fulfillment of Comprehensive Plan Housing Objectives

C. Fulfillment of Downtown Development District Goals

III. Special Exception and Variance Relief

A. Relief Necessary to Provide High Quality Residential Development

B. Brief Description of Relief Requested

1. Special Exception Relief

a. Number of Roof Structures
b. Roof Structure Setback Requirements

2. Variance Relief

a. Recreational Space Requirements
b. Closed Court Area Requirements

3. Architects to Provide Detailed Description

III. Meetings with Community and Government Officials

A. Support from Advisory Neighborhood Commission 2F

B. Consultation with the Office of Planning

IV. Conclusion

Exhibit H



OUTLINE OF TESTIMONY
WEIHE DESIGN GROUP, PROJECT ARCHITECTS

I. Introduction

A. Description of Weihe Design Group

B. History and Experience in Washington

II. Description of Project

A. General Description

1. Description of Area
2. Description of Building Design
3. Compatibility with Surrounding Area
4. Number and Type of Units
5. Amount of Parking Spaces

B. Unusual and Exceptional Conditions Affecting Site

1. Irregular Shape of Building Lot
2. Topography and Changes in Grade
3. Small Size of Lot
4. Variation in Street Frontage

III. Special Exception Relief Requested

A. Increase in Number of Roof Structures
B. Deviation from Roof Structure Setback Requirements
C. Standard for Special Exception Relief Met

IV. Variance Relief Requested

A. Deviation from the Required Residential Recreation Space
B. Deviation from the Closed Court Area Requirement
C. Standard for Variance Relief Met

V. Conclusions

EXHIBIT I