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February 27, 2001

MARY CAROLYN BROWN
202-862-5990

Internet Address:
mcbrown@hklaw.com

VIA HAND DELIVERY

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

Re: BZA Case No. 16681
Special Exception and Variance Relief

Dear Ms. Kress:

On behalf of Galapagos II, LLC, we are submitting herewith an original and ten copies of its pre-hearing statement in connection with the above-referenced application for special exception and variance relief. Eleven reduced sets of architectural drawings are also attached.

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: ANC 2C
Arthur Jackson, OP
Robert Carr
Judy Renfrew
John Murphey
Norman M. Glasgow, Jr.
Steven E. Sher

WAS1 #920141 v1

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D.C. OFFICE OF ZONING
2001 FEB 27 PM 3:58

BZA
Case No. 16681
Exhibit No. 18

Board of Zoning Adjustment
District of Columbia
CASE NO.16681
EXHIBIT NO.18

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF
GALAPAGOS II, LLC
501-507 7th Street, N.W.

BZA APPLICATION NO. 16681
HEARING DATE: MARCH 13, 2001
ANC 2C

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STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Galapagos II, LLC ("Galapagos" or "Applicant")[1] 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 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 a 33-unit residential building with arts retail space at premises 501-507 7th Street, N.W., Square 456, Lots 37 and 39 (the "Subject Property"), located in the DD/C-4 Zone. Lots 37 and 39 are to be subdivided into a single lot of record.

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).

---

[1] Lots 37 and 39 in Square 456 were formerly owned by Square 456 Associates. Galapagos II,

III.
BACKGROUND

A. Description of the Subject Property

The Subject Property consists of Lots 37 and 39 in Square 456, the city block bounded by F Street, N.W., to the north, E Street, N.W., to the south, 6th Street, N.W., to the east and 7th Street, N.W., to the west. Lot 39 is a corner lot consisting of 6,179 square feet of land area, with street frontage on both 7th and E streets, N.W. Lot 37 fronts on E Street, N.W., with half of the lot extending approximately 20 feet deeper than the other half, creating a "handle" to this otherwise rectangular site. Lot 37 is half the size of Lot 39, consisting of only 3,182 square feet of space. A copy of the site plan and building plat depicting the configuration of the Subject Property are attached as Exhibits A and C, respectively, to this statement.

Lot 39 is presently improved with the "Murray Building," a four-story vacant office building, with the exception of retail space on the ground floor, constructed in 1868. A second building is also located on Lot 39 at premise address 629 E Street, N.W. Lot 37 is improved with two small-scale buildings dating from the mid-nineteenth and early twentieth centuries. All buildings were constructed prior to the enactment of the zoning regulation that prohibits more than one building on a single lot of record. *See* 11 DCMR 3202.3.

The Subject Property is located within the Downtown Historic District, a locally designated area listed in the D.C. Inventory of Historic Sites and determined eligible for listing in the National Register of Historic Places. The Historic Preservation Review Board ("HPRB") has determined that the Murray Building and

---

LLC is the current owner. CarrAmerica Urban Development, Inc. is the contract purchaser.

the small-scale structures located at 625-627 E Street, N.W., contribute to the character of the historic district. These buildings will be incorporated into the new project. The structure at 629 E Street, N.W., is "non-contributing" and will be demolished in accordance with plans approved by the Mayor's Agent for historic preservation.

The property is located in the C-4 District, a high density commercial district designed for the downtown core that comprises the retail and office centers for both the District and the metropolitan area. 11 DCMR § 750. 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 in the Downtown Core area, and Square 456 in particular, and offers development bonuses to encourage such development. 11 DCMR §§ 1706.1(d) and (e), 1706.8(c), and 1706.7.

B. Description of Surrounding Area

The Subject Property is located in the central portion of Washington's downtown core, an area characterized by a mixture of high density commercial, office, retail, arts and residential uses. The abutting property to the north is occupied by the Chop House Restaurant and the former Hecht Company Department Store, which is intended for redevelopment in the near future and is part of an overall scheme for the revitalization of Square 456 and the 7th Street corridor. To the east of the Subject Property is the headquarters building for the American Association of Retired Persons, a ten-story office structure completed in

1991. The remainder of Square 456 is improved with a surface parking lot along F Street and the OBA Federal building, a small-scale structure at the corner of 6th and F Streets, N.W.

Immediately to the north of the Subject Property across F Street, N.W., is the MCI Center, one of the principal catalysts for redevelopment in the downtown core. To the south across E Street, N.W., is the large parcel transferred from the Pennsylvania Avenue Development Corporation to the Government Services Administration for a high density residential development. To the west across 7th Street is the former U.S. Tariff Commission Building, an early nineteenth century landmark designed by the celebrated American architect, Robert Mills. The Lansburgh Building, located at the southwest corner of 7th and E Streets, N.W., consists of a mixture of residential, retail and arts uses.

C. Project Description

1. Building Design.

In fulfillment of the plans for Downtown and the housing goals of the DD District, Galapagos proposes to construct a ten-story residential building with arts/retail uses on the ground floor and cellar level. The residential component will consist of approximately 56,240 square feet of gross floor area. Approximately 8,979 square feet of space will be devoted to the arts/retail use on the cellar and ground floor levels. The 33-unit building will contain a mixture of one and two-bedroom apartments.

The design of the project is dictated by the presence of the historic buildings on the site. The new structure will incorporate the facades of the four-story Murray

Building and the facades and structures of the two smaller contributing buildings on E Street. The new construction behind the facades of the Murray Building will rise to a height of approximately 110 feet at the roof level. The two E Street buildings will also be altered and additions will be constructed at the rear of the building and above part of the structure at 625 E Street, N.W.

The main organizing element to the three buildings is the common elevator core. Because of the constraints of the site due to its small size and the presence of historic buildings that must be treated deferentially, the main entrance to the building is located at the site of 629 E Street, N.W., where the "non-contributing" building will be demolished. The one-story lobby extends from E Street a depth of approximately forty feet with the elevator core at the rear of the lobby. The elevator core rises to a height of 110 feet and is capped with a tower element to serve as an architectural embellishment. The recessed location for the elevator core allows the historic facades to dominate the composition. It further allows the project to maximize the floor plate area of the Murray Building footprint for use as uninterrupted residential unit space.

2. Historic Preservation Approvals.

By virtue of its location in the Downtown Historic District, the proposed project has been reviewed by the HPRB and the Mayor's Agent for historic preservation. By order dated September 12, 1996, the Mayor's Agent approved the basic outline of the project as one of special merit because of its significant preservation elements and special features of land planning having a high priority for the city, namely, housing and arts uses.

The project as now designed and as approved by the HPRB at its February 22, 2001, public meeting reflects further refinements necessary to actualize the building concept. A copy of the HPRB staff report is attached as Exhibit F. The most significant change is the creation of the common elevator core and a one-story lobby in place of the ground level courtyard as originally proposed. The architectural treatment and fenestration of the new construction reflects the early twentieth century designs of the existing historic buildings. The lobby wing and elevator tower, however, are executed in a contemporary style with facades of metal, clear glass, and translucent glass, and stone at the lobby entrance to provide a contrasting backdrop for the historic elements of the project.

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 unusually small site, the configuration of the existing buildings on the site, and the constraints imposed on the redevelopment under the 1996 Mayor's Agent order with respect to the historic structures, the proposed building cannot comply with the requirements for roof structures under section 411 of the Zoning Regulations. Consequently, Galapagos 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 Square 456 to comply fully with the roof structure requirements of section 411 because of the undersized building site and operational difficulties related to the retention of the historic facades and buildings on the Subject Property, and other conditions relating to the proposed residential component. 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 411.2 to Deviate from Roof Structure Setback Requirements

The proposed configuration of the roof structure will 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-4 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 the roof structure equals approximately fifteen feet, it must be set back at least fifteen feet away from the exterior walls. The proposed mechanical penthouse meets this requirement along all exterior walls except for a small portion.

The unusually small building site, the design constraints imposed by the Mayor's Agent order for the historic buildings, and the programmatic requirements of the residential building dictate this outcome. As noted above, the combined land area for Lots 37 and 39 is only 9,361 square feet, creating a very limited area for the building layout. Additionally, in order to respect the historic facades and buildings on the property, the HPRB endorsed the recommendation of its staff that the elevator and mechanical equipment be located away from the existing structures in order to protect their historic character.

Moreover, because the area of elevator core is only 21.5 feet by 22.5 feet, there is no room to create a setback. The other alternative – to extend roof edges for the sole purpose of creating the fiction of compliance – is equally untenable and results in undesirable roof profiles.

The proposed 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 situated at the center of the site. It is located approximately sixty feet from the 7th Street elevation of the building and approximately forty-two feet from the E Street elevation. Moreover, it is setback approximately fifteen feet from the north property line in an area of the roof that has been pulled back to create a court area beginning at the second floor level. Thus, it will not block the light and air to the adjoining property. Accordingly, 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 REQUIREMENTS FOR A CLOSED COURT AREA AND RESIDENTIAL RECREATIONAL SPACE.

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 extremely small size and the existing buildings on the site. 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, as well as awkward and inefficient apartment layouts, thereby compromising the goals of residential development of the Chinatown area and Seventh Street corridor 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. <u>Variance from the Closed Court Area Requirements</u>

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 north courtyard must consist of at least 450 square feet of land area.[2] The total amount of land area

[2] 2 x 15 ft. wide^2 = 2 x 225 s.f. = 450 s.f.

provided in this court, however, consists of only 322.5 square feet. Thus, the Applicant seeks a variance from the closed court area requirements. The area variance will allow the Applicant to provide the most suitable and appropriate configuration for a residential building on this extremely small site without compromising the purpose and intent of the Zoning Regulations, as described in sections D and E below.

C. Variance from the Residential Recreational Space Requirements

Section 773.3 of the Zoning Regulations requires that residential development in the C-4 Zone provide not less than five percent of the gross floor area of the building to recreation space. Based on the 56,240 square feet of residential gross floor area proposed for the building, the project must include approximately 2,812 square feet of residential recreation space. Because of the extremely small footprint of the building, the project will not provide any recreational space. Consequently, a variance from the area requirements of section 773.3 is also requested.

D. Exceptional and Unique Conditions Affecting the Property

The requested variance relief is supported by the practical difficulty inherent in the exceptionally small configuration of the Subject Property. As noted above, the total land area for Lots 37 and 39 is only 9,361 square feet of space, severely limiting the possible layouts for the new construction and the location of mechanical equipment and the elevator core. In contrast, other lots in Square 456 contain land areas of 65,807 square feet (Lot 865), 51,239 square feet (Lot 869) and 28,775 square feet (Lot 868). The shape of the lot is also distorted by an elongated "handle"

at the rear of Lot 37. Additionally, the site is peculiarly constrained by the development parameters for Lots 37 and 39 set forth in the Mayor's Agent order dated September 12, 1996, which requires the retention of the Murray Building facades and the facades and structure of the E Street buildings.

By BZA Order No. 16387 dated December 3, 1998, the Board already found that the site is affected by an exceptional or extraordinary situation or condition related to Lots 37 and 39 that creates a practical difficulty for the owner in complying with the Zoning Regulations. The exceptional or extraordinary situation or condition recognized by the Board continues to exist at this site. That order also places certain development restrictions on the site. Condition No. 2 requires that no less than 56,240 square feet of gross floor area be devoted to on-site housing, which was designated for Lots 37 and 39 on the plans submitted to the Board in that case. A copy of BZA Order No. 16387 is attached to this statement at Exhibit G. Under *Monaco v. District of Columbia Bd. of Zoning Adjustment*, the Board can take into account this zoning history of the site when evaluating the uniqueness facet of the variance test. *Monaco*, 407 A.2d 1091 (D.C. 1979).

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 maximize light and air to dwelling units, a court has been provided on the northern property line. If the Applicant were required to comply with the strict application of the regulations, it would be necessary to either eliminate the court altogether, by

expanding the building footprint and creating substantial building depth without windows, or to enlarge the courts and create shallow units with marginal layouts.

The exceptionally small size of the site, as well as the conditions imposed by BZA Order No. 16387 also create practical difficulties in meeting the residential recreation spacer requirement. That order requires 56,240 gross square feet of residential space to be provided on site, which, together with the retail/arts requirements under the DD District, uses all the reasonably available space on the site. The roof areas are not conducive for recreational space due to access issues, roof slopes, the limited rooftop space, and other constraints which make this location impracticable. The use of interior space for recreational purposes would reduce the space needed for the successful functioning and configuration of the building.

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 provide light and air to the rear elevations of the northern units that would otherwise be left blank and without any source of natural light. Consequently, the purpose and intent of the width and 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 in the Seventh Street corridor which boasts a wide variety of recreational activities for residents. Museums, theaters, sports facilities, shops and restaurants are located in the several blocks immediately surrounding the site. The lack of recreational space in the building will thus not cause a concomitant reduction in recreational opportunities for building residents.

VI.
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:	HPRB Staff Report dated February 22, 2001;
Exhibit G:	BZA Order No. 15387 dated December 3, 1998;
Exhibit H:	Outline of Testimony of Representative of the Applicant Galapagos II, LLC; and
Exhibit I:	Outline of Testimony of SmithGroup, project architects.

VIII.
WITNESSES

A. Representative of Galapagos II, LLC

B. SmithGroup, 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. Accordingly, Galapagos respectfully requests the Board to grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Norman M. Glasgow, Jr., Esq.

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

By: _____
Mary Carolyn Brown, Esq.

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Washington, D.C. 20006
(202) 955-3000

February 27, 2001

WAS1 #919505 v1

A

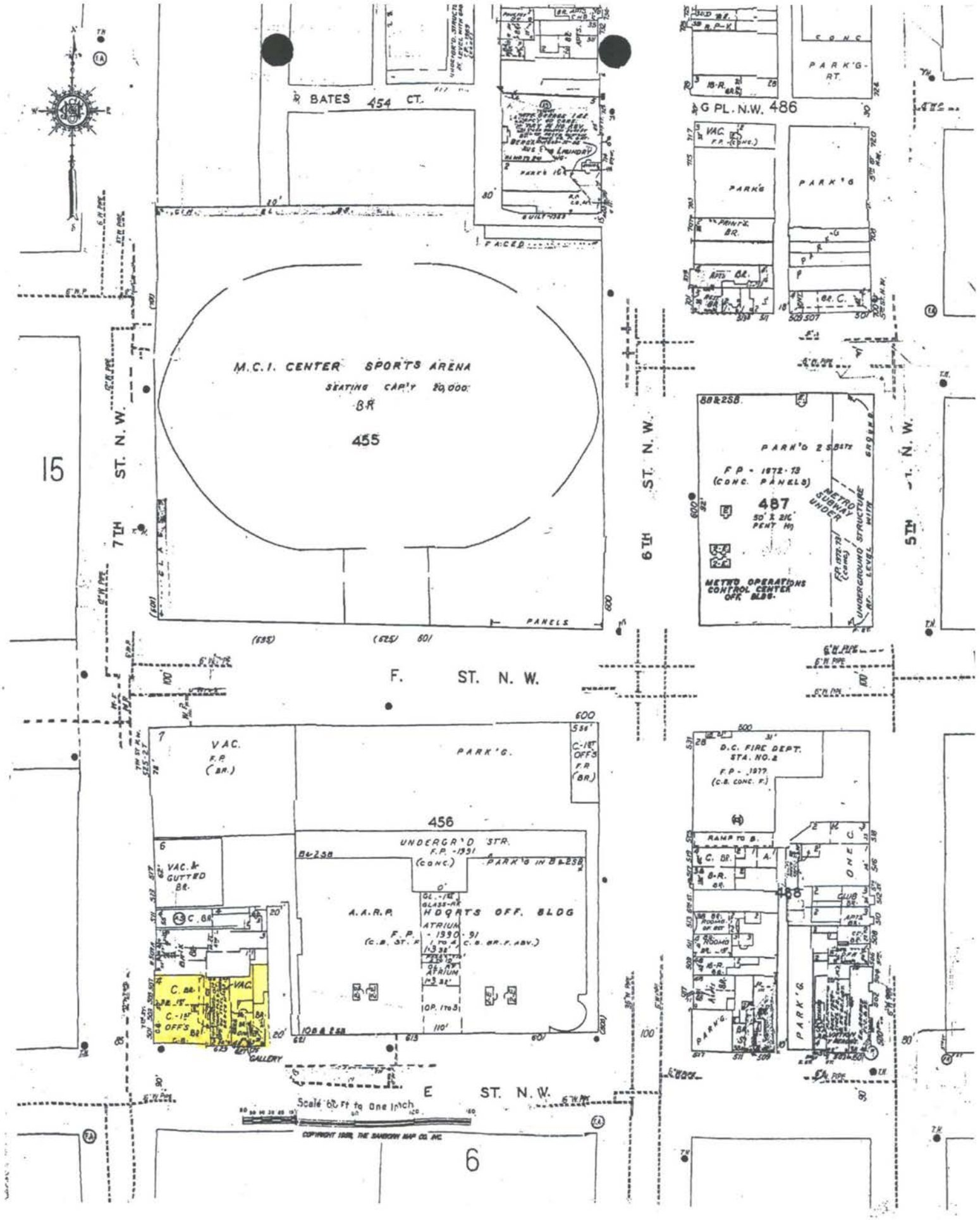
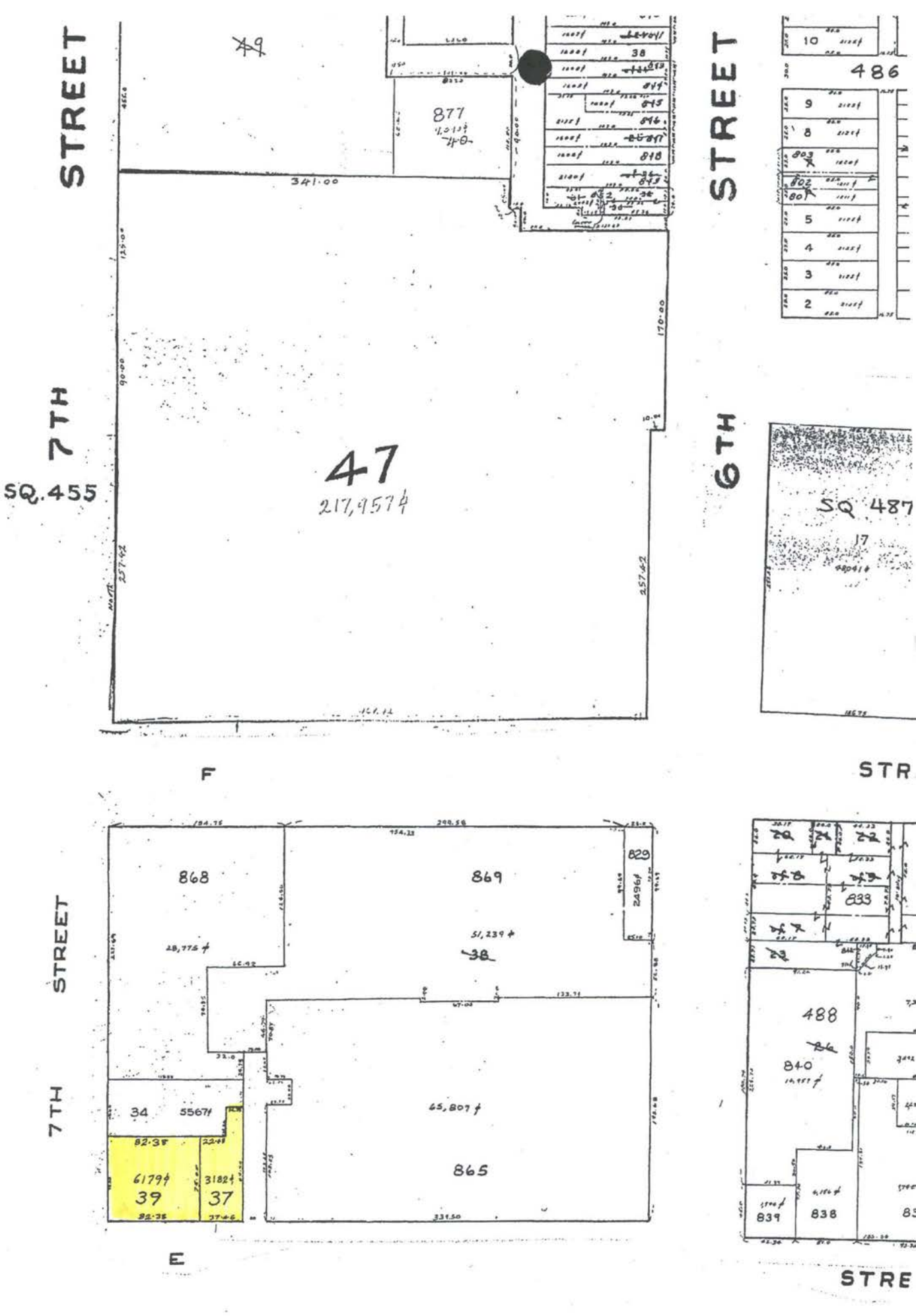

BATES CT.
454
G PL. N.W.
486
M.C.I. CENTER SPORTS ARENA
SEATING CAP'Y 20,000
B-R
455
7TH ST. N. W.
6TH ST. N. W.
5TH
15
F. ST. N. W.
E ST. N.W.
PARK'G
PARK'G 2 SUBTS
F.P. - 1972-73
(CONC. PANELS)
487
50' X 21'
PENT HO
METRO SUBWAY UNDER
METRO OPERATIONS CONTROL CENTER OFF. BLDG.
UNDERGROUND STRUCTURE
VAC.
F.P.
(BR.)
456
UNDERGR'D STR.
F.P. -1991
(CONC.)
A.A.R.P. HDQRTS OFF. BLDG
ATRIUM
F.P. - 1990-91
D.C. FIRE DEPT. STA. NO. 2
F.P. - 1977
(C.B. CONC. F.)
RAMP TO B.
466
Scale 60 ft to one inch
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6

Exhibit A


STREET
7TH
SQ. 455
47
217,957 ±
341.00
257.62
170.00
90.00
877
4,013 ±
STREET
6TH
SQ 487
486
F
STR
868
869
829
2496 ±
28,775 ±
51,239 ±
38
833
488
840
14,991 ±
STREET
7TH
34
5567 ±
82.38
22.48
61794
39
31824
37
45,807 ±
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E
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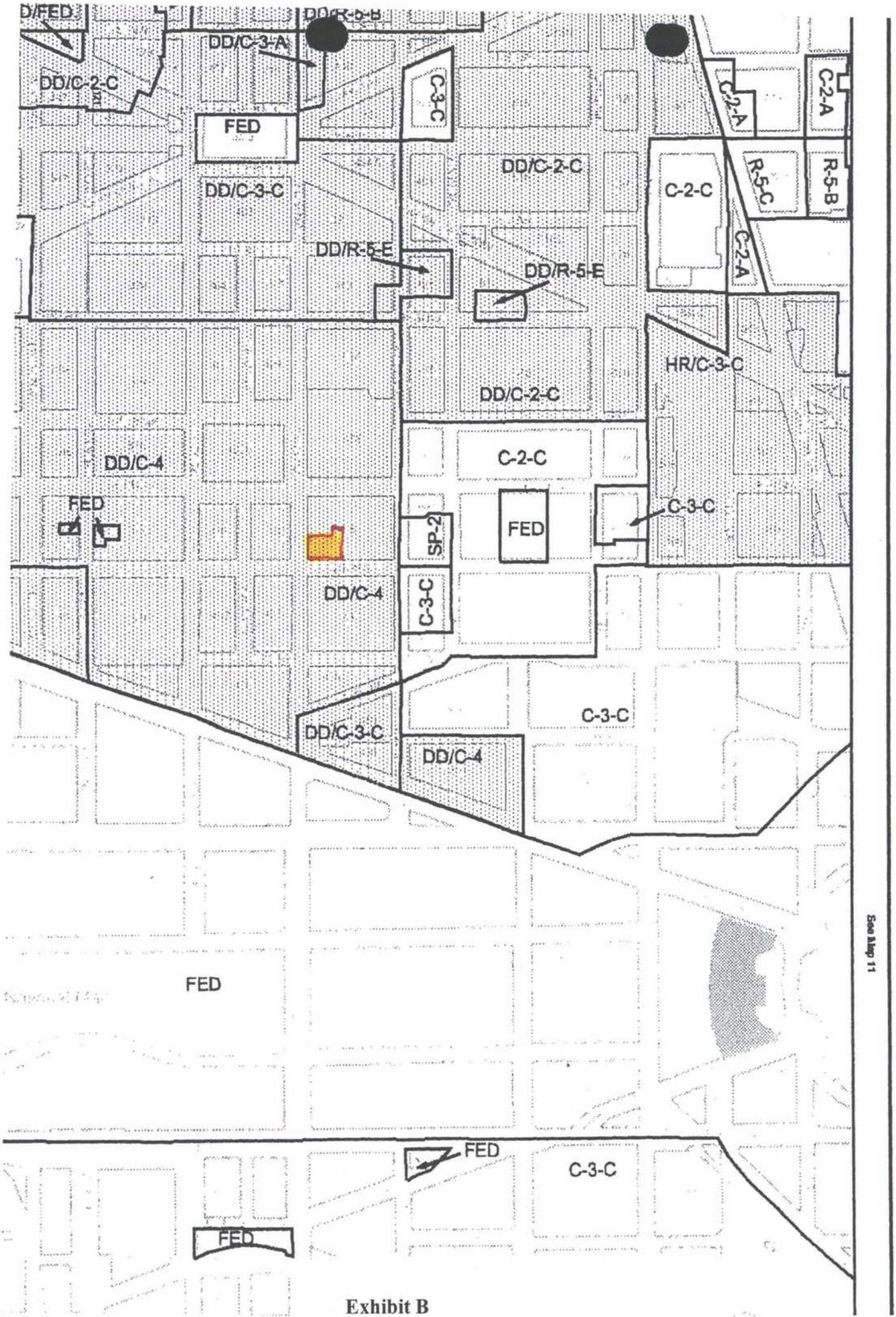

D/FED
DD/R-5-B
DD/C-3-A
DD/C-2-C
C-3-C
C-2-A
C-2-A
FED
DD/C-2-C
R-5-C
R-5-B
DD/C-3-C
C-2-C
C-2-A
DD/R-5-E
DD/R-5-E
HR/C-3-C
DD/C-2-C
DD/C-4
C-2-C
FED
C-3-C
SP-2
FED
DD/C-4
C-3-C
C-3-C
DD/C-3-C
DD/C-4
FED
See Map 11
FED
C-3-C
FED

Exhibit B



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., DEC 6, 2000

Plat for Building Permit of SQUARE 456 LOT 37 & 39 (187 166)

Scale: 1 inch = 20 feet Recorded in Book 172 Page 140

Receipt No. 1598

Furnished to: WILKES ARTIS

Surveyor, D.C.

By: MTO

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.

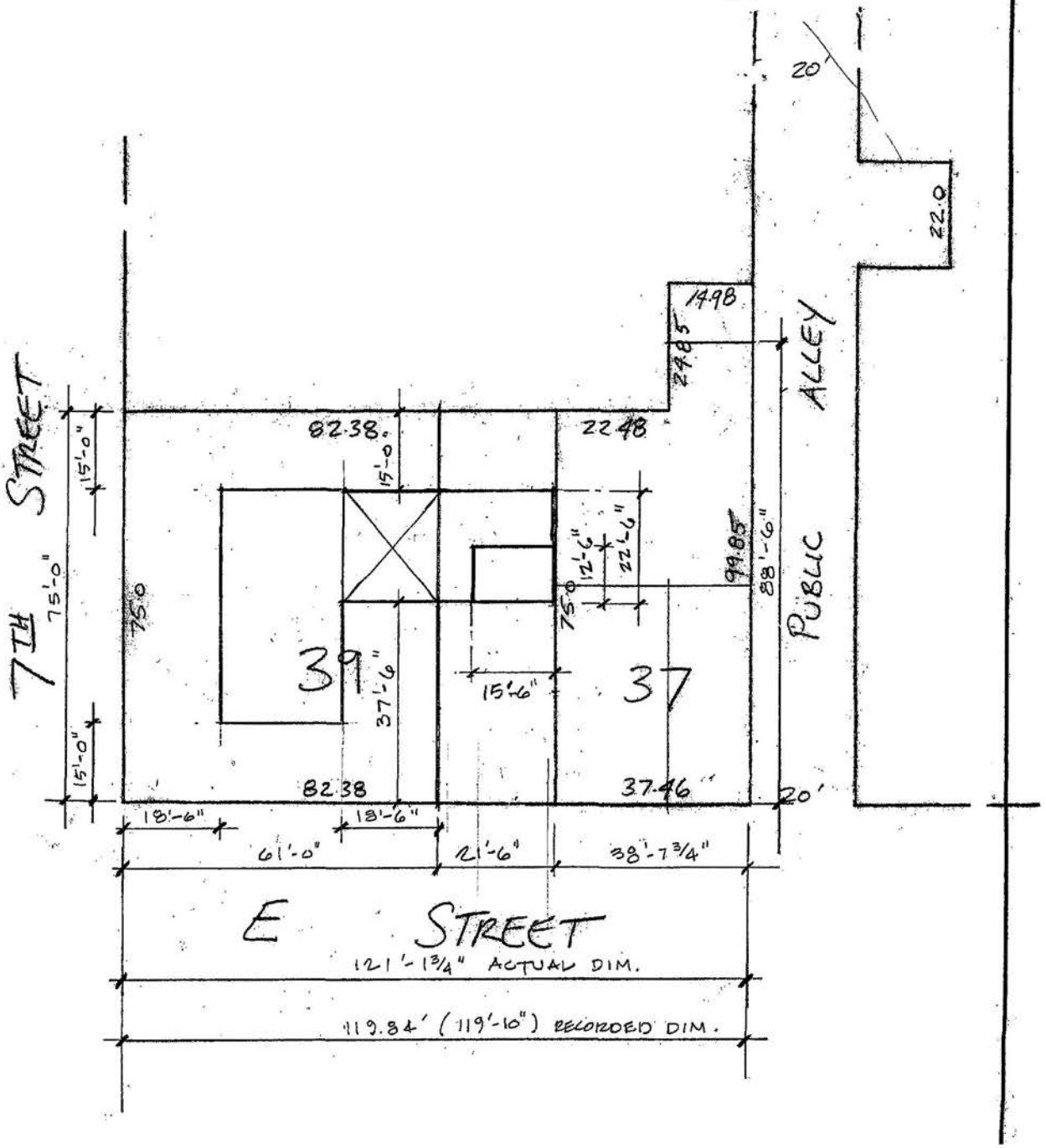




EXHIBIT D

ARCHITECTURAL PLANS

SUBMITTED UNDER SEPARATE COVER



PHOTOGRAPHS OF THE SUBJECT PROPERTY





EXHIBIT E

PHOTOGRAPHS OF THE SURROUNDING AREA





EXHIBIT E 2

F

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/District:	**Downtown Historic District**	(x) Agenda
Address:	**501-07 7th Street, NW; 625-27 E Street, NW**	( ) Consent Calendar
Meeting Date:	**February 22, 2001**	(x) Subdivision
H.P.A. Number:	**00-174, 00-175**	(x) Alteration
Date Received:	**1/25/01**	(x) New Construction
Staff Reviewer:	**David Maloney**	(x) Conceptual Design

CarrAmerica and SmithGroup architects return for additional conceptual review of plans for the residential component of the Hecht's Department Store project. Though planned in conjunction with the Hecht's project and linked through approvals by the Mayor's Agent, the residential component is located on a separate site at the corner of 7th and E Street, and involves buildings not historically related to Hecht's.

Approval by the Mayor's Agent
The Mayor's Agent approved the basic outlines of the Hecht's project, including its residential component, in her order of September 1996. The order provides for the construction of a residential apartment building incorporating the restored façade of the May (or Murray) Building at the corner of 7th and E Streets, as well as the rehabilitation of two smaller buildings on E Street for additional apartments.

The four-story May Building dates from the 1870s, and is distinguished by a cast iron façade that was classicized in the early 20th century. The two E Street buildings, formerly occupied by the Insect Club, include a four-story rowhouse with an unusual but eroded brownstone façade in Renaissance Revival style, circa 1860, and a smaller adjacent building with a modest classical revival façade from the 1930s. Between the May and Insect Club buildings is a non-contributing structure that will be demolished.

Proposed Modifications to the Approved Concept
CarrAmerica is now proceeding with the project approved in basic outline in 1996, and has identified various revisions and refinements that have been found appropriate in carrying forward the concept designs. These include:

- Creating a common elevator core to serve all three buildings;
- Adding a one-story lobby on the site of the non-contributing building, in place of the courtyard formerly proposed;
- Removing one floor of the addition above the May Building, adding instead one mezzanine floor;
- Reworking all the apartment layouts; and
- Creating a single lot of record.

The most visible change in the design is the addition of the new lobby wing and elevator core, which would be designed in a contemporary style with facades of metal, clear glass, and translucent glass. The lobby façade would meet the street wall, but the elevator core would be set back nearly forty feet from the street. There would also be various changes to the secondary facades and mechanical penthouse. In other respects, the plans remain the same, including restoration of the historic facades and the addition above the May Building facade.

Evaluation and Recommendation

The proposed changes represent significant improvements to the project design. Not only do the changes ensure a much better residential layout, but they also reduce the degree of alteration to the Insect Club buildings and enhance the continuity of the historic street wall. The designs are executed with considerable flair in a style that adds to the architectural variety that characterizes the historic downtown. The historic facades still continue to dominate the composition because the lobby façade is small and the elevator tower is recessed.

Additional refinements to the secondary elevations continue to be made. On the May Building, the staff recommends that the party wall façades be treated in a more neutral fashion, with simpler window patterns more consistent with the vertical proportions of the street facades.

The staff recommends that the Board approve the revised concept plans, and delegate final approval to the staff, with the understanding that developed façade designs should return to the Board if appropriate.

EXHIBIT
67174/004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16387 of Square 456 Associates, pursuant to 11 DCMR 3108.1 and 3107.2 for a special exception under Subsection 411.11 for a roof structure and a variance from Subsection 1706.22(g) to permit commercial development to proceed prior to the issuance of a certificate of occupancy for nonresidential development within the DD District until a certificate of occupancy is issued for affordable housing in a DD/C-4 District at premises 625-627 E Street, and 620 and 626 F Street, 501-507 and 511-517 7th Street, NW (Square 456, Lots 37, 39, 868 and 869).

HEARING DATE: September 2, 1998
DECISION DATE: September 2, 1998(Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commissions (ANC) 2C and 6A and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2C. ANC 2C which is automatically a party to this application, did not file a written statement regarding the application. However, three Commission members filed a joint letter in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 411.11 and a variance from the strict application of the requirements of 11 DCMR 1706.22(g). No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR 3108.1, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map, and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes

that the applicant has met the requirements of Section 1706.22 pertaining to the provision of off-site housing, that the applicant may meet the preferred use requirements of the DD Regulations and utilize any of its incentives and bonuses in any manner permitted by said DD Regulations so long as the on-site housing is not decreased. It is therefore **ORDERED** that the application be **GRANTED** subject to the following **CONDITIONS:**

1. Within thirty days after the issuance of the Board's order, the applicant shall place $500,000 in an escrow account for the benefit of Golden Rule Plaza, Inc., to be made available to Golden Rule Plaza, Inc., at the time of settlement on the financing for the low and moderate income housing project to be constructed on the west side of New Jersey Avenue between New York Avenue and K Street. After placing the $500,000 in escrow, the applicant may proceed to construct and occupy the development in Square 456. In the event that the Golden Rule Plaza project has not settled on its financing and drawn down the funds in the escrow account within two years of the date of the Board's order, the applicant shall consult with the Office of Planning to determine an appropriate alternative plan as to how the funds will be used for affordable housing, and shall submit that plan to the Board in an appropriate motion. The submission of such an alternative plan in no manner affects the rights granted by this order enabling the applicant to proceed with the mixed-use development on the subject site.

2. The applicant may modify the design of the building subject to approval under D.C. Law 2-144, provided that those changes do not diminish the roof structure setbacks shown on the plans for which special exception relief is required, and may otherwise comply with the provision of preferred uses so long as all the requirements of the Zoning Regulations are met, provided that the applicant shall not reduce the amount of on-site housing which comprises 56,240 square feet of gross floor area as shown on the plans submitted to the Board.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **3-0** (Sheila Cross Reid, Betty King, and Anthony J. Hood to grant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Tracey W. Rose
for **SHERI M. PRUITT-WILLIAMS**
Interim Director

FINAL DATE OF ORDER: DEC - 3 1998

PURSUANT TO D.C. CODE § 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

SO/16387/POH

H

OUTLINE OF TESTIMONY
SQUARE 456 ASSOCIATES

I. Introduction

II. Background and Description of Project

A. Brief Overview of Development History

1. BZA Reviews for Square 456
2. HPRB and Mayor's Agent Reviews
3. Settlement Agreements

B. The Constricted Housing Market

C. Fulfillment of Comprehensive Plan Housing Objectives

D. 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 (Roof Structure Setbacks)

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. Advisory Neighborhood Commission 2C

B. Consultation with the Office of Planning

IV. Conclusion

WAS1 #919939 v1

Exhibit H



OUTLINE OF TESTIMONY
SMITHGROUP, PROJECT ARCHITECTS

I. Introduction

A. Description of SmithGroup

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

B. Unusual and Exceptional Conditions Affecting Site

1. Unusually Small Size of Lot
2. BZA Finding of Unusual and Exceptional Conditions in BZA Order No. 16387

III. Special Exception Relief Requested

A. Deviation from Roof Structure Setback Requirements
B. 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
C. Standard for Variance Relief Met

V. Conclusions

EXHIBIT I

EXHIBIT 18A

FROM

CASE 16681

IS AN OVERSIZED DOCUMENT

PLEASE SEE AT OFFICE