ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
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JEANNINE RUSTAD ZIGNER
(202) 736-2718

April 24, 2001

BY HAND

Ms. Jerrily R. Kress, FAIA
Director
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 201
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2001 APR 24 PM 4:24

Re: BZA Application No. 16688

Dear Ms. Kress:

I have enclosed for consideration by the Board of Zoning Adjustment an original and eight (8) copies of the prehearing statement of the applicant in the above-referenced matter. With a copy of this letter, we are sending a copy of the prehearing statement to the Office of Planning and ANC 2B.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Jeannine Rustad Zigner

cc: Office of Planning (by hand)
Advisory Neighborhood Commission 2B

Enclosures

BZA
Case No. 16688
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.16688
EXHIBIT NO.29

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

BZA Application of
Michael R. Kain

Application No.: 16688
Hearing Date: May 8, 2001

PRE-HEARING STATEMENT OF THE APPLICANT

I.

Introduction

This is an application pursuant to 11 DCMR § 3103.2. Michael R. Kain, President & General Partner, Kain Family Limited Partnership (hereinafter "Kain"), is the owner of property at 1619 Connecticut Avenue, Square 111, Lots 815 (the "Property"). Kain seeks a special exception under Section 774.9(a) to permit the use, for retail purposes, of an existing two-story structure adjacent to an alley which runs parallel to Connecticut Avenue, N.W. The relief is required, as the structure is over twenty feet (20') tall and does not have the required set-backs.

II.

Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to 11 DCMR § 3103.2.

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D.C. ZONING
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III.

Background Information

The Property. The Property is located on the north side of Connecticut Avenue, N.W. between Q and R Streets, N.W. Improvements to the Property include a main building, which is a one-story building abutting Connecticut Avenue, N.W., and a two-story historic carriage house (the "carriage house") at the rear of the Property. The carriage house abuts a ten foot (10') public alley which runs parallel to Connecticut Avenue, NW. The carriage house is over twenty

feet (20') tall. The Property is located in the Dupont Circle Historic District.

The main building is currently used for retail purposes and the carriage house is currently vacant, but is under lease to be used as storage and/or retail in conjunction with the retail in the main building on an adjacent lot which is to be combined with the present lot on which the carriage house is located.

Zoning. The Property is in the DC/C-3-B zone district. Generally, a rear yard of two and a half (2.5) inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall is required. 11 DCMR §774.1. Section 774.9(a), with regard to the measurement of the depth of rear yards, provides that:

> Where a lot abuts an alley, the depth of rear yard may be measured from the center line of the alley, to the rear wall of the building or other structure. A rear yard on the lot need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the twenty foot (20 ft.) plane.

11 DCMR §774.9(a).

The BZA may waive these rear yard requirements, so long as the requirements of the following sections 774.3 through 774.5 are met. These sections require that:

774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.

774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.

774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

Proposed use of the Property. In addition to owning the Property, Kain owns the adjacent property, Lot 85, Square 111, which has a street address of 1611 – 1617 Connecticut Avenue. Kain intends to subdivide Lots 85 and 815 and, subsequently, to attach the carriage house to the principle structure on Lot 85, an addition to which is currently under construction. The proposed use for the carriage house is for storage and retail purposes. Whether used as a stand-alone building or attached to the principle structure on Lot 85, a variance from the rear yard requirements is necessary, as the carriage house is over twenty feet (20') tall and the second story of the carriage house is not set back from the rear property line. Because of the historic nature of the carriage house, Kain has received a waiver from parking and loading requirements from the Historic Preservation Division of the D.C. Department of Consumer and Regulatory Affairs.

IV.

The Application Meets the Criteria for a Special Exception

As for the criteria for a special exception, 11 DCMR § 3108.1 permits the Board to grant special exceptions, pursuant to the following:

> Pursuant to authority contained in the Zoning Act of June 20, 1938 (52 Stat. 797), as amended, the Board is authorized to grant special exceptions, as provided in this title where, in the judgement of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title . . .

In short, the Board is empowered to grant a special exception where it finds

(1) The proposed use is in harmony with the Zone Plan and Zone Maps;

(2) The proposed use is not likely to adversely affect the use of

neighboring property

The Board's discretion in reviewing an application for a special exception is limited to a determination of whether the Applicant has complied with requirements of the section. If the applicant meets this burden, the Board ordinarily must grant the application. First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment, 432 A.2d 695, 698 (D.C. 1981); Stewart v. District of Columbia Board of Zoning Adjustment, 305 A.2d 516, 518 (D.C. 1973).

Based on the attached information, and the testimony and evidence which will be presented at the public hearing, Kain has met his burden.

The project is not expected to have any adverse impact on the uses of neighboring property. The surrounding area on Connecticut Avenue, N.W. is characterized by retail uses on the first and second floors and offices above. The alley on which the carriage house is located contains several alley structures on the south side which are used for commercial purposes, including an alley structure to the immediate north of the carriage house, which is currently used for offices and a studio. Uses across the alley, which buildings front on 19th Street, are primarily residential, with several commercial users. Clearly, use of the carriage house for storage in conjunction with the retail use in the main building will not adversely affect the surrounding uses. Even if used for general retail purposes, such use will not have an adverse impact on the surrounding uses. To the east side of the alley directly across from the carriage house, there is a parking area, which is approximately twenty-two feet (22') wide. Consequently, the total distance between the carriage house and residential units is approximately thirty-two feet (32'). Additionally, the first floor of the carriage house approximately two (2) to three (3) feet below grade. The resulting distance and angle of the windows between the

carriage house and the buildings located across the alley provide adequate light and privacy to the rooms of the residences and businesses across the alley. Likewise, as the distance between the carriage house and the alley structure to its north is approximately thirty feet (30'), ample light and privacy is provided to the carriage house and the neighboring office users to the north.

There are adequate provisions for parking and loading. As mentioned above, because the carriage house is a contributing building to the Dupont Circle Historic District, it has received a waiver from the parking and loading requirements. Additionally, ample street parking is provided in the surrounding area, and the Property is located one (1) block from the Dupont Circle Metro. Loading for the main building on the Property, as well as the carriage house, is provided at the rear of the Property from the alley.

The Project Will Not Impair the Integrity of the Zone Plan. The C-3 zone district is designed to accommodate important sub-centers supplementary to the Central Business district and is to include substantial amounts of employment, housing and mixed uses. 11 DCMR §§ 740.1 and 740.2. The C-3-B zone district permits medium density development, including mixed-uses, and is intended for uptown locations, where the largest component of development will be office-retail and other non-residential uses. 11 DCMR § 740.6.

The Property is located approximately four (4) blocks north of the Center Business district. It is characterized by retail and office along Connecticut, with mixed uses of residential, hotel, retail and office along the side streets. The alley upon which Property is located contains several alley structures which are used for commercial and/or retail purposes.

The property is also located in Dupont Circle ("DC") overlay district. The purposes of the DC district include the protection of the integrity of "contributing buildings" and the preclusion of

demolitions or partial demolitions of such buildings, which would lead to an increase in height and floor area ratio inappropriate to the area. 11 DCMR § 15014(6). The requested relief is consistent with the DC overlay in that it will further the protection of a contributing building in the district. No alterations or demolitions are proposed for the carriage house.

Given the dynamics of the surrounding properties and the underlying zoning, retail use of the carriage house is consistent with the Zone Plan for the neighborhood. Additionally, as the Property is located in the Dupont Circle area, it is governed by the restrictions and design guidelines of the Strivers' Section Historic District. Because the carriage house is a contributing building to the historic district, the it may not be demolished or otherwise substantially altered without extraordinary measures.

VII.

Exhibits In Support of The Application

Exhibit A. Self-Certification Form.

Exhibit B. Site Map for Lots 815 and 85.

Exhibit C. Architectural Plans for Lots 815 and 85.

Exhibit D. Waiver from parking and loading requirements from the Historic Preservation Division of the D.C. Department of Consumer and Regulatory Affairs.

Exhibit E. Photographs depicting the distance between the carriage house and neighboring alley structures and of Street Scape of 1600 block of Connecticut Avenue, N.W.

VIII.

Witnesses

1. Michael Kain

2. Mr. John Wiebenson, Wiebenson & Dorman Architects

IX.

Conclusion

As the Applicant has met the tests for a special exception under 11 DCMR §774, the requested relief should be granted.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler

Jeannine Rustad Zigner

1801 K Street, N.W.
Suite 1200
Washington, D.C. 20006
(202) 775-0725

OUTLINE OF TESTIMONY OF ARCHITECT

I. Introduction

A. Qualifications
B. Summary of Project

II. Consistency with requirements for special exception

A. Criteria for special exception from rear yard requirements
   1. Distance between windows of carriage house and facing windows
   2. Sight lines between windows of carriage house and facing windows
   3. Parking/Loading Exception

B. Zone Plan

C. Lack of Adverse Impact on Neighborhood

A

BZA Certification Form 1 (Revised 03/30/00

ZONING SELF-CERTIFICATION FORM

Project Address(es)			
1619 Connecticut Avenue, N.W.			
Square 111	Lot(s) 815	Zone District(s) DC/C-3-B	Case No. 16688

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

☐	Use Variance DCMR 11 3103	☐	Area Variance DCMR 11 3103	☒	Special Exception DCMR 11 3104

which is provided for by DCMR Title 11 Section No(s).: 774.2 and 774.9(a)

Pursuant to 11 DCMR 3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia;
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print)
	Michael R. Kain, President & General Partner, Kain Family Limited Partnership
Agents Signature	Agent's Name (Please Print)
	Richard B. Nettler

D.C. Bar No. 929471 or Architect Registration No.

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 3113.2)

Based upon review of the application and self-certification, this application is

☐ Accepted for filing.

☐ Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.

☐ Rejected for failure to comply with the provisions of

- ☐ DCMR Title 11 - 3113.2; or
- ☐ DCMR Title 11 Zoning Regulations.

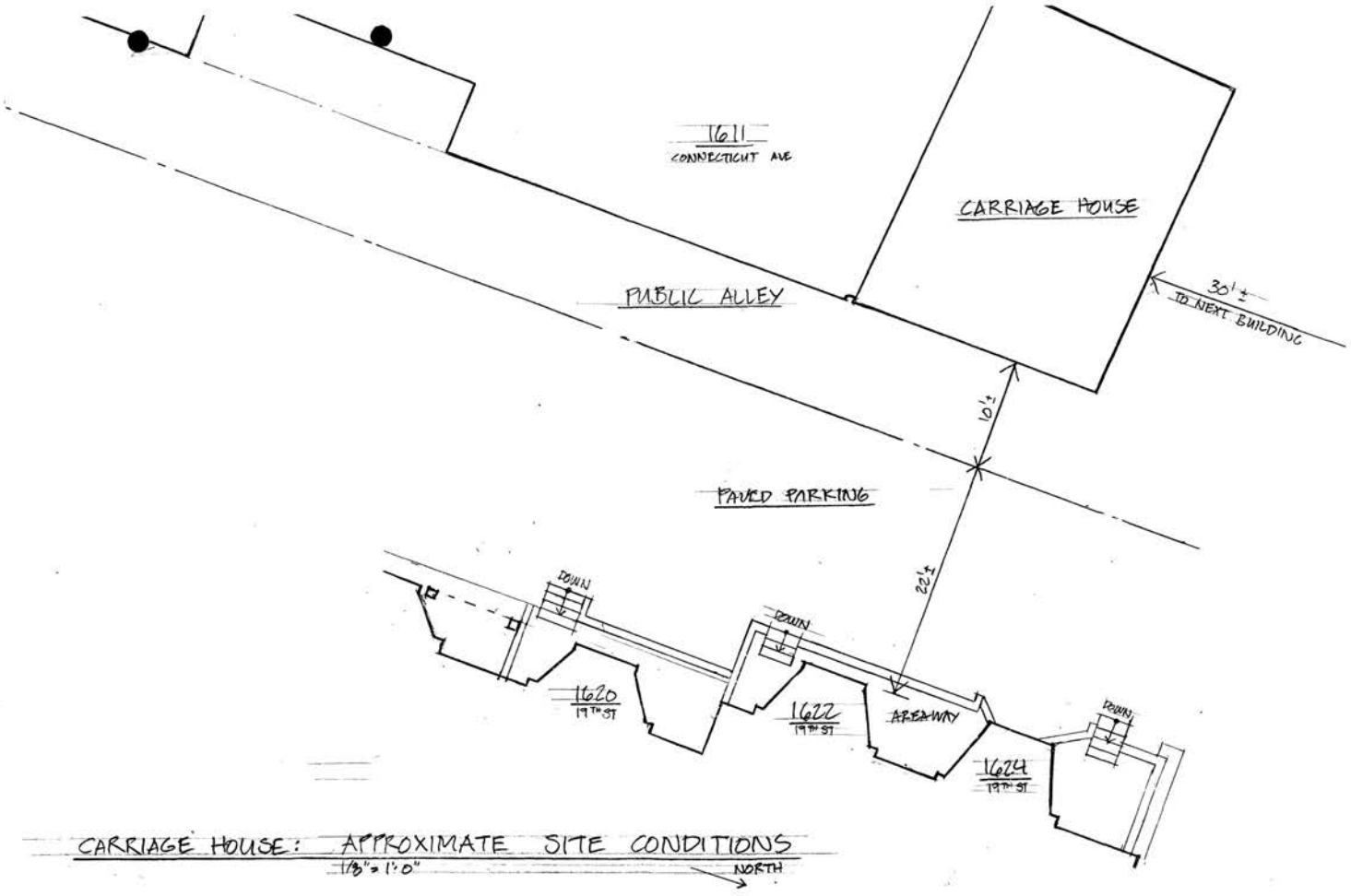
Explanation _____

Date _____ Signature _____

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001

Jerrily R. Kress, FAIA - Director of the Office of Zoning





CARRIAGE HOUSE: APPROXIMATE SITE CONDITIONS

1/8" = 1'-0"

NORTH

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., 11-14, 2000

Plat for Building Permit of SQ-111 LOTS 85, 86, 815

Scale: 1 inch = 20 feet Recorded in Book 192 Page 150 208

Receipt No. 1253

Furnished to: WIEBENSON + DORMAN

Surveyor, D.C.

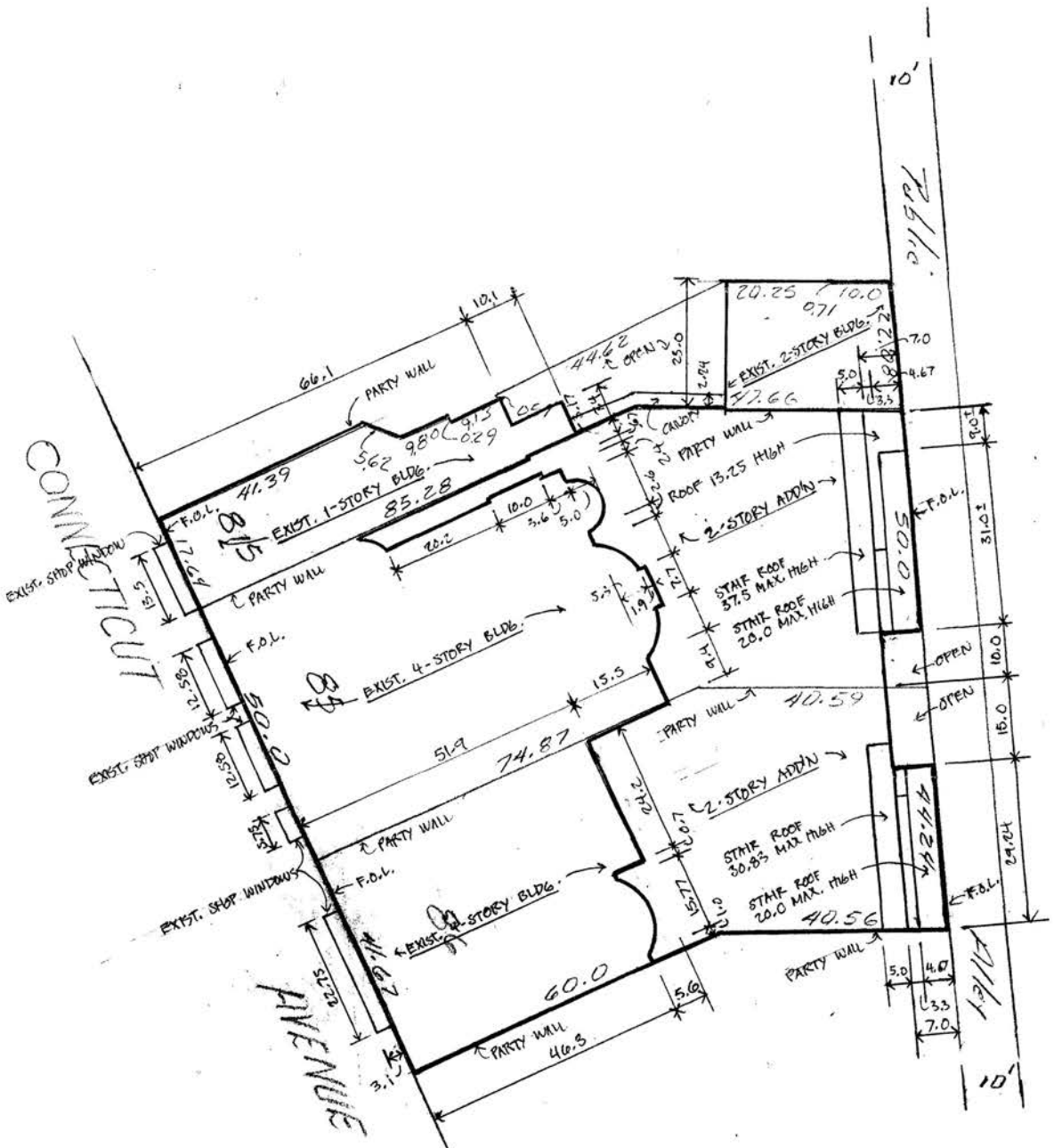
By: DA VMA

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.)

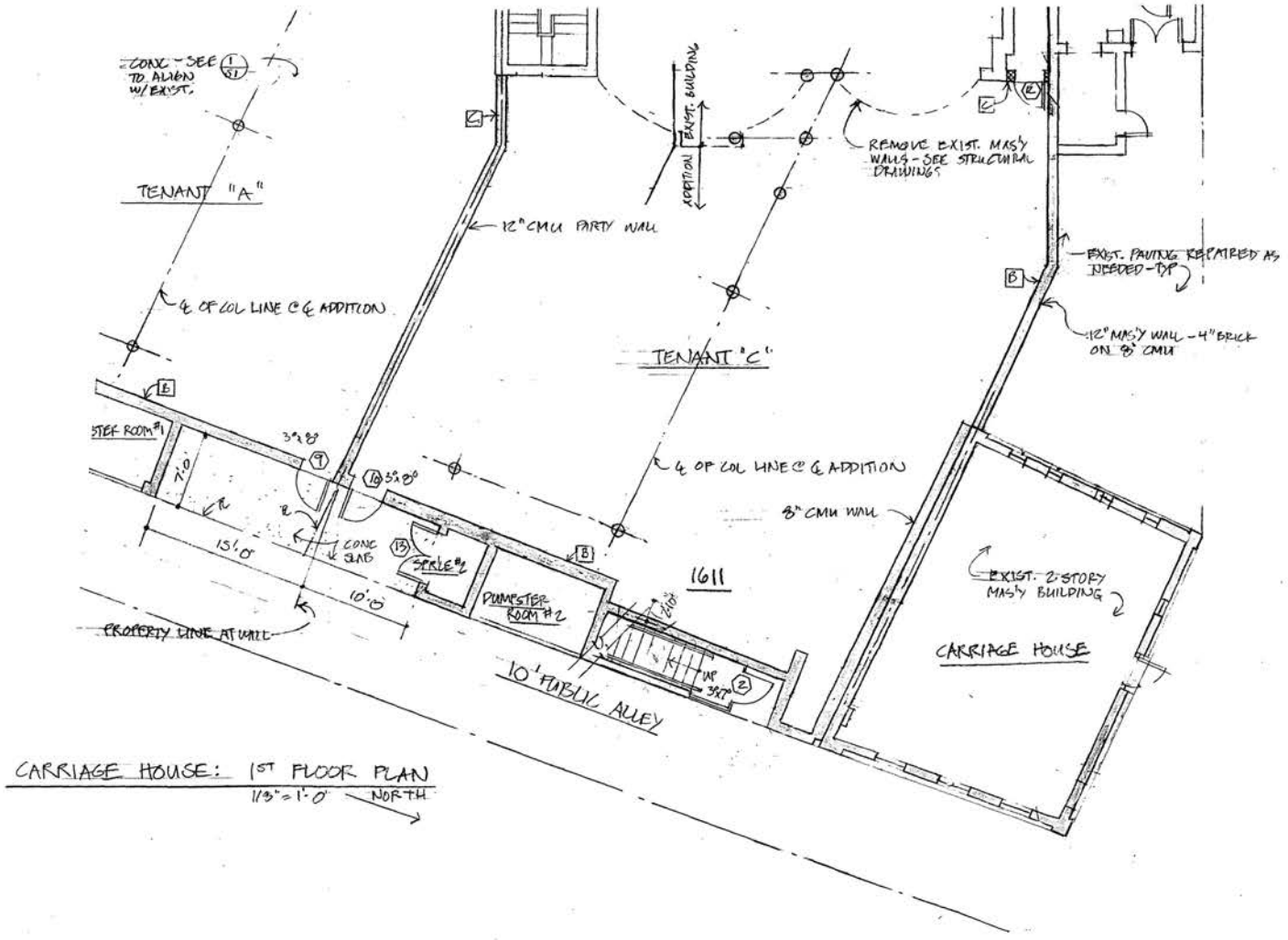
Date: 11.16.00

(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.

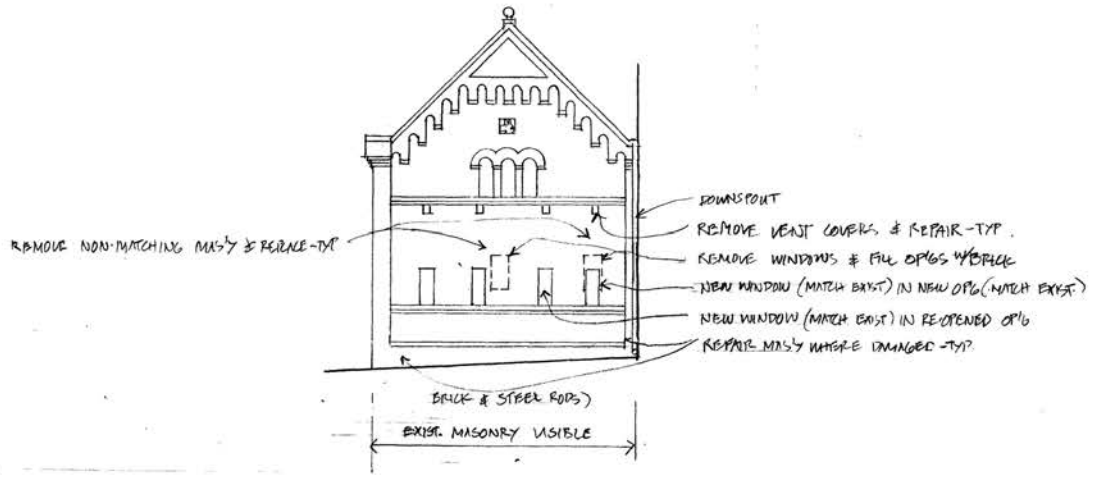






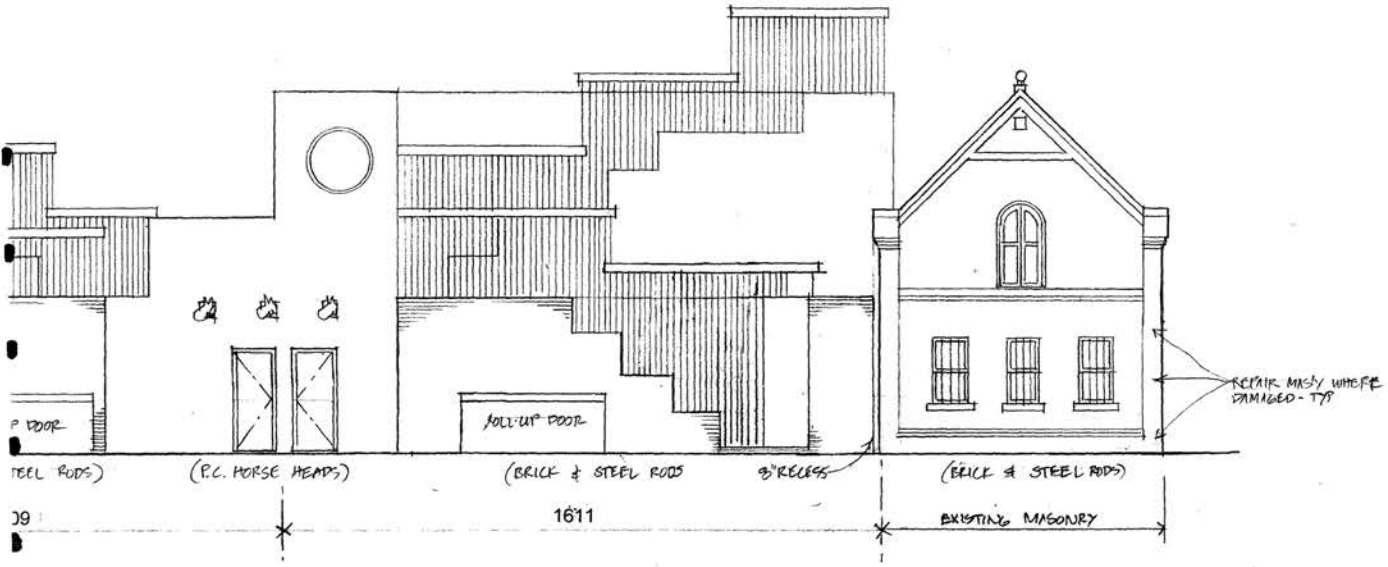
CARRIAGE HOUSE: 1ST FLOOR PLAN

1/8" = 1'-0" NORTH



CARRIAGE HOUSE WEST ELEVATION

1/8"=1'-0"



1611 # CARRIAGE HOUSE EAST ELEVATION

1/8"=1'-0"



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

APPLICATION TO CERTIFY A HISTORIC BUILDING FOR D.C. ZONING REGULATIONS OR CONSTRUCTION CODES

I hereby request certification that the following property is a historic landmark or a building or structure contributing to the character of a historic district in the D.C. Inventory of Historic Sites, for the purpose of D.C. Zoning Regulations or the D.C. Construction Code. A photograph of the front of the building is attached.

Address: 1609 CONNECTICUT AVE, NW

Square: 111 Lot: 86

PURPOSE OF REQUEST:

X Waiver of Additional Off-Street Parking Spaces (Section 2100.5)

____ Waiver of Additional Off-Street Loading Spaces (Section 2200.5)

____ Increase in Number of Sleeping Rooms in a Bed-and-Breakfast Facility (Section 203.8)

____ Non-Mandatory Compliance with Code Provisions (BOCA Section 3406.1)

____ Alternative Compliance Provisions for Existing Buildings (Chapter 34, DC Construction Code Supplement of 1999)

JOHN WIEBENSON — 234-4200
Applicant — Telephone

1711 CONN AVE. NW, DC 20009
Address

Signature — 12-8-00
Date

HISTORIC PRESERVATION DIVISION USE ONLY
I hereby certify that this property is either a historic landmark or a building or structure contributing to the character of a historic district listed in the D.C. Inventory of Historic Sites.

State Historic Preservation Officer — 12-8-00
Date



1609 CONNECTICUT AVENUE, NW

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

APPLICATION TO CERTIFY A HISTORIC BUILDING FOR D.C. ZONING REGULATIONS OR CONSTRUCTION CODES

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Address: 1611 CONNECTICUT AVE, NW

Square: 111 Lot: 85

PURPOSE OF REQUEST:

X Waiver of Additional Off-Street Parking Spaces (Section 2100.5)

_____ Waiver of Additional Off-Street Loading Spaces (Section 2200.5)

_____ Increase in Number of Sleeping Rooms in a Bed-and-Breakfast Facility (Section 203.8)

_____ Non-Mandatory Compliance with Code Provisions (BOCA Section 3406.1)

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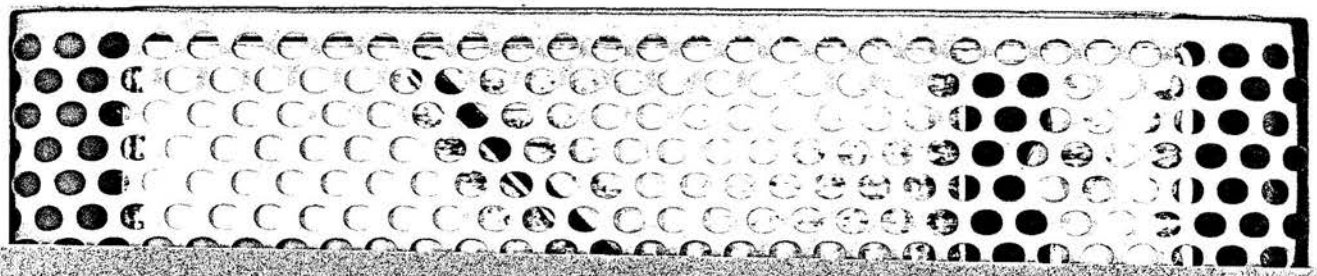
JOHN WIEBENSON — 234.4200
Applicant — Telephone

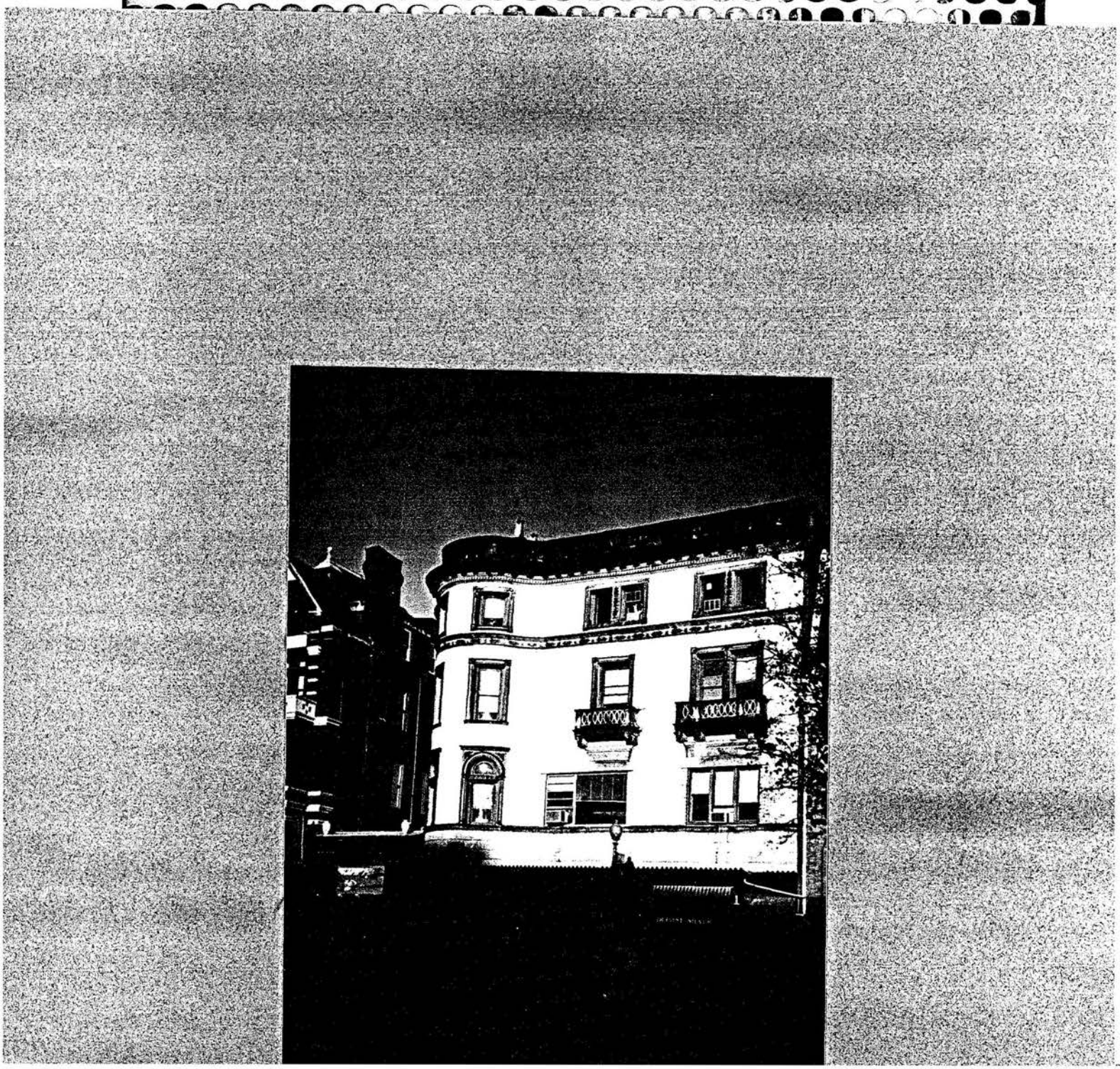
1711 CONN. AVE. NW, DC 20009
Address

[signature] — 12.8.00
Signature — Date

HISTORIC PRESERVATION DIVISION USE ONLY
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[signature] — 12-8-00
State Historic Preservation Officer — Date





GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

APPLICATION TO CERTIFY A HISTORIC BUILDING FOR D.C. ZONING REGULATIONS OR CONSTRUCTION CODES

I hereby request certification that the following property is a historic landmark or a building or structure contributing to the character of a historic district in the D.C. Inventory of Historic Sites, for the purpose of D.C. Zoning Regulations or the D.C. Construction Code. A photograph of the front of the building is attached.

Address: REAR OF 1619 CONNECTICUT AVE, NW

Square: 111 Lot: 815

PURPOSE OF REQUEST:

X Waiver of Additional Off-Street Parking Spaces (Section 2100.5)

_____ Waiver of Additional Off-Street Loading Spaces (Section 2200.5)

_____ Increase in Number of Sleeping Rooms in a Bed-and-Breakfast Facility (Section 203.8)

_____ Non-Mandatory Compliance with Code Provisions (BOCA Section 3406.1)

_____ Alternative Compliance Provisions for Existing Buildings (Chapter 34, DC Construction Code Supplement of 1999)

JOHN WIEBENSON — Applicant

234-4200 — Telephone

1711 CONN. AVE. NW, DC 20009 — Address

J. Wieb — Signature

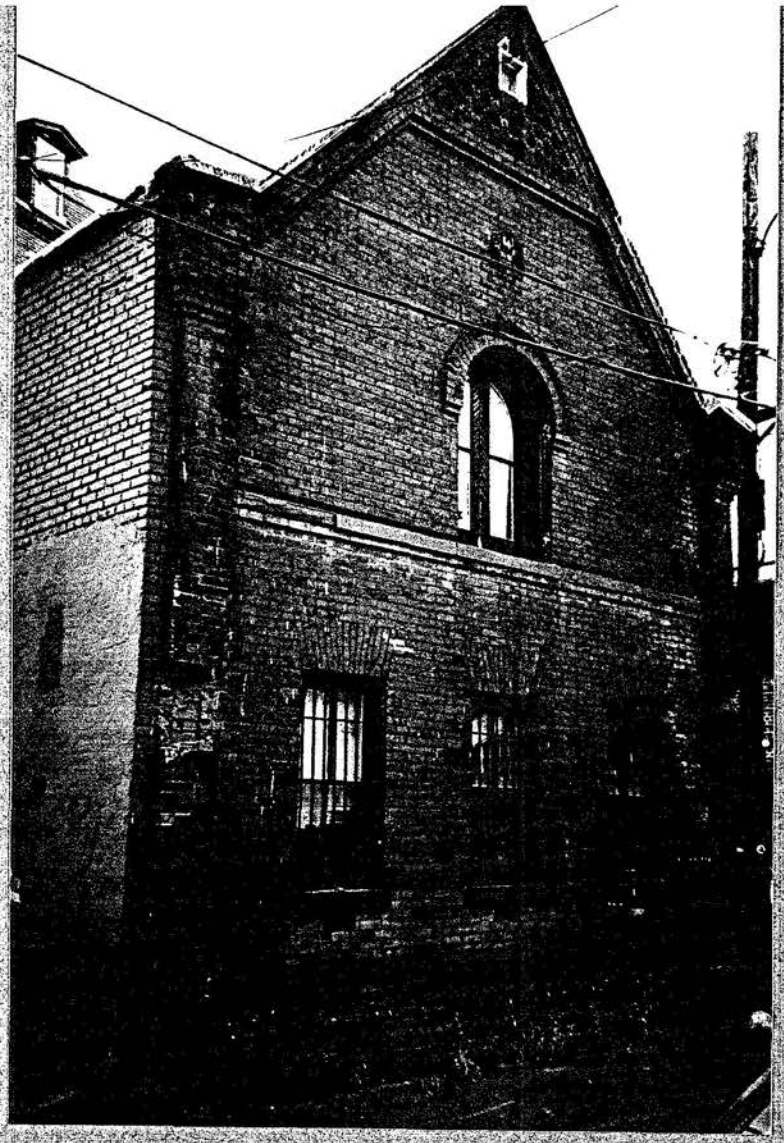
_____ — Date

HISTORIC PRESERVATION DIVISION USE ONLY

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[signature] — State Historic Preservation Officer

12-8-00 — Date



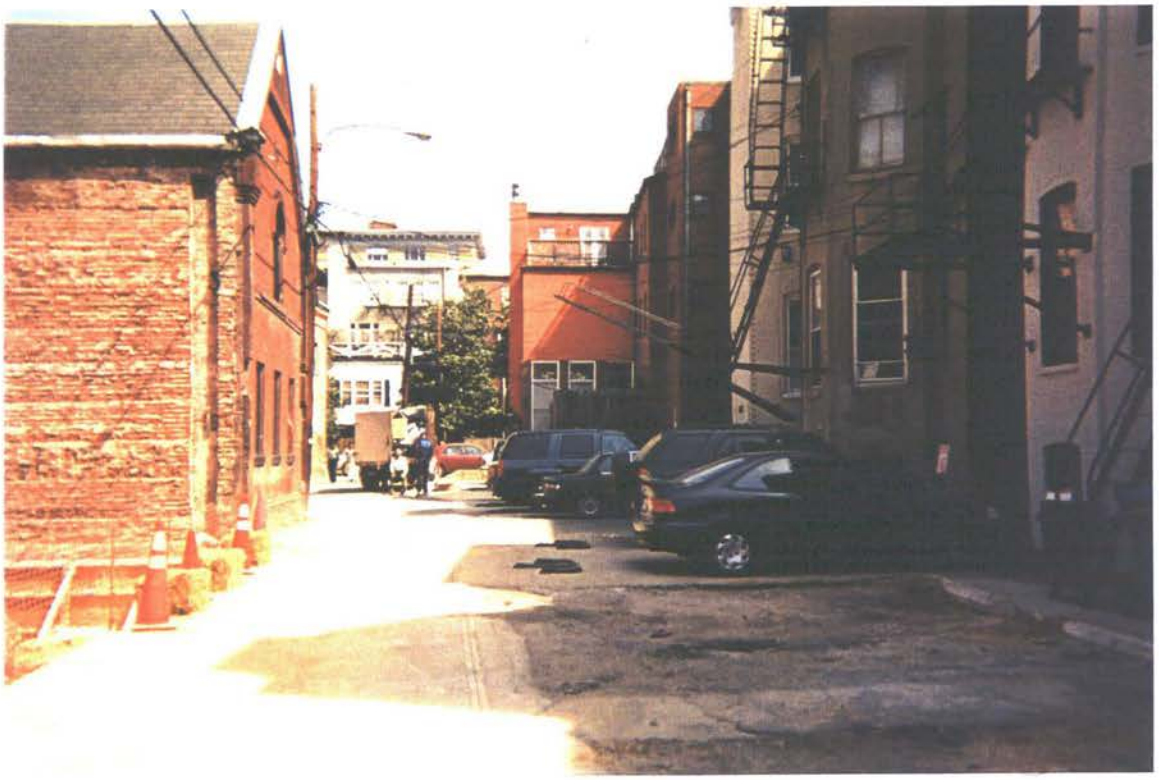
CARRIAGE HOUSE AT REAR OF
1614 CONNECTICUT AVENUE, NW




NO
PUBLIC


HON






COMFORT ONE SHOES