BEFORE THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

Jermar, LLC

BZA Application No. 16691
Public Hearing: March 1, 2001
ANC 5C

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STATEMENT OF THE APPLICANT

I.
Nature of Relief Sought

Jermar, LLC. (the "Applicant") hereby requests the Zoning Commission of the District of Columbia (the "Commission") to approve a special exception under Section 802A.2 to allow the use of a two vacant warehouse buildings in the C-M-2 zone for an electronic equipment facility ("EEF"). The existing buildings are located at 705 and 707 Edgewood Street, NE (Square 3636, Lots 802, 803 and 810). They were constructed and used as warehouses for decades and have been vacant for the past 10 years.

The buildings have been vacant in recent years due to an inability to lease them for typical warehouse purposes. The relatively low floor to ceiling heights that reach a maximum of 15 feet (they are lower on some floors) are not ideal by current warehouse standards which dictate a 20 feet ceiling height. Recently, however, long haul fiber-optic cable has been installed in the immediate vicinity of the site. As a result, the site is now ideal for use as an EEF. The Applicant is an entity consisting of the ground owner and Fowler Flanagan Technology Partners, LLC, the leading owner/operator of telecom space in the country. In the absence of this opportunity, it is likely the buildings would remain vacant.

Under the Emergency Regulations adopted by the Zoning Commission on November 16, 2000, and amended on November 17, 2000, EEF use is permitted on the subject site only with special exception approval.[1] Accordingly, the Applicant seeks such approval to allow for the conversion of the existing building to EEF use. In connection with the conversion, the appearance of the building will be improved significantly. The Applicant has proposed several changes to the property that will improve its appearance including the repainting of the entire façade, and installation of new fencing.

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[1] It should be noted that under the most recently proposed version of the regulations, EEF use would be permitted as a matter of right in the CM zone as long as the site is more than 1,250 feet from a Metrorail station. The measured distance of the Subject Site from the closest Metro is approximately 1,100 feet. The pedestrian route is a significantly greater distance.

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Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16691
EXHIBIT NO.22

The application was filed on January 10, 2001. The application, as advertised, includes relief from the parking and loading requirements. The standards provide that parking and loading may be reduced by the Zoning Commission in connection with the special exception application. Since the existing building does not contain sufficient parking to comply with the requirements set forth in the recently adopted standards for EEFs, a reduction in the amount of required parking is required. Loading is being provided consistent with the standards set forth in the most recently proposed version of the regulations with the exception that the berths are only 28 feet deep and, therefore, fall slightly short of the 30 foot depth requirement.

II.
Background of the Applicant

FowlerFlanagan Technology Partners (FFTP), LLC, a division of FowlerFlanagan Partners, LLC (F&F), was launched in 1999 in order to satisfy the demand for mission-critical facilities for the telecommunication industry. The company embarked on a national roll-out and soon became the leading owner/operator of telecom space in the country with over 2 million square feet in ten cities.

F&F is an extremely experienced building owner and operator managing properties valued at approximately $1.5 billion. F&F was started in 1985 and is currently the 49th largest owner of real estate in the U.S. according to the February 1, 2000, issue of Commercial Property News. As of January 1, 2000, F&F was ranked the 30th largest owner of apartments with a portfolio of over 29,000 units by the National Multi-Family Housing Council. The company is headquartered in San Francisco and has offices in Los Angeles, San Diego, Denver, Kansas City, Dallas and Washington, D.C.

III.
Description of Property and Surrounding Area

The property is located in the C-M-2 Zone District in Square 3636. It is located adjacent to railroad tracks and in the immediate vicinity of other warehouse and industrial buildings. The buildings have no street frontage. They are accessible only by an alley off Franklin Street, N.E. There is a residential apartment complex to the west known as Edgewood Terrace Apartments. The warehouses are at a lower elevation than the apartment complex. The roof level of the buildings is at the same level as the parking lot serving Edgewood Terrace. For that reason, they are largely out of view from the apartment complex.

The buildings in their current condition are highly industrial in nature. In the past, they have only been used for warehouse purposes. Given the lack of street frontage, the buildings are suitable for only the most narrow range of purposes.

IV.
Proposed Use

The Applicant proposes EEF use. The use will involve a complete renovation and upgrading of the building including replacement of the existing fencing and the modernization of the entire façade. The building is ideal for such use because of its proximity to long haul fiber and the floor to ceiling heights that are inadequate for modern warehouse use but ideal for EEF use. If the building cannot be used for EEF use, it is highly likely that it will remain vacant given past difficulties in securing tenants. As described herein, the proposed use will have a minimal impact on the residential community to the west and will have no effect on the surrounding industrial uses. As an EEF, the site can serve to buffer the more intensive industrial uses in the area from the residential uses to the west. The conversion of the building from years of vacancy to a viable use is highly desirable from a crime and security standpoint.

V.
The Applicant is Entitled to Special
Exception Relief under the Zoning Regulations

Uses that are allowed by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for special exception relief under the Zoning Regulations, this Commission's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the regulations are satisfied, the Commission ordinarily must grant the application. See, e.g., Bakers Local Union No. 118 v. District of Columbia Board of Zoning Adjustment, 437 A.2d 176, 178 (D.C. 1981)

As set forth in greater detail below, approval of special exception relief in this case is in harmony with the general purpose and intent the Zoning Regulations and Map and will not affect adversely the use of nearby properties.

VI.
The Applicant meets the Standards for use
of the Property as an Electronic Equipment Facility

Section 802A of the Zoning Regulations provides that an EEF shall be permitted in the C-M-2 zone district if the Zoning Commission finds that several requirements are met. In

summary, the Commission must find that the proposed use will not preclude the future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement. In considering these standards, the Commission is required to evaluate the potential for retail use, the presence of security features that could impair street life and pedestrian flow, the potential disruption of existing or the elimination of officially proposed pedestrian or vehicular routes, and the ability of the EEF to be adapted to a permitted use in the future. The Commission must also consider the effect of the EEF on the economic development potential of the area and the proximity of the site to Metro. Finally, the Commission may consider the potential economic benefits of the EEF on adjacent properties. The Commission is permitted to impose requirements pertaining to design, appearance, landscaping, parking and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe and vibrant street life.

The proposed parking and loading are adequate to handle the operation of the buildings. The two buildings will include a total of 30 parking spaces, three loading berths and two service/ delivery spaces.

A. Section 802A.2

An applicant seeking a special exception for an EEF shall demonstrate, in addition to the other elements required for obtaining a special exception, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, preclude future revitalization of the neighborhood, reduce the potential for a vibrant streetscape, deplete street life, or inhibit pedestrian or vehicular movement.

The conversion of the existing vacant warehouse to an EEF will not preclude future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life or inhibit the pedestrian or vehicular movement. To the contrary, the proposed use will greatly enhance the exterior appearance of the building. The proposed use will involve a significantly diminished amount of vehicular traffic to and from the site when compared to typical warehouse use.

The proposed use does not include any retail use; and given the lack of street frontage, retail use could not be sustained. The limited access to the site makes future retail or street activity very unlikely.

As modified for the EEF use, the building will not contain security or other elements in the design that will impair street life or pedestrian flow. In fact, the replacement of the existing fencing and security features associated with the current use will benefit the immediate neighborhood. (Section 802A.3(b)) The use will have only positive effects on existing pedestrian and vehicular routes because the amount of traffic associated with the building will be reduced significantly. (Section 802A.3(c)) In addition, the EEF could be adapted to a permitted use in the future if market conditions warrant such a conversion.

Under Section 802A.5, the Commission may give positive weight to any positive economic benefits that the proposed EEF will have on adjacent properties. The proposed EEF will have substantial positive economic benefits on the District of Columbia and the immediate neighborhood because the use will increase significantly the value of the property. In addition, the costly equipment in the building will result in substantial taxes. Further, the employees will generate income tax revenues. In addition, the use will enhance the exterior appearance of the building and involve a substantial capital investment in a neglected part of city. The site is not located in proximity to an existing proposed Metro station and will have no effect on established pedestrian corridors. The nearest Metrorail station, Rhode Island Avenue, is a considerable distance from the site (approximately 1100 feet). Given this distance, the Metrorail station should have no effect on the Commission's review of this application.

Under Section 802A.6, the Zoning Commission may impose requirements pertaining to design, landscaping, parking and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe and vibrant street life. The Applicant has proposed several changes to the property that will improve its appearance including the repainting of the entire façade, the replacement of the existing fencing and the creation of a single unified use on the property. Further, the proposed building security will greatly benefit the area.

B. EEF Parking and Loading Requirements

The current version of Emergency Regulations affecting EEFs includes an amendment to Section 2101.1 to require parking for EEFs at a ratio of one space for each 3000 square feet for new buildings. There is a recognition that additional parking is not required for existing warehouse buildings. The subject buildings at 72,000 square feet (705 Edgewood) and 46,500 square feet (707 Edgewood) square feet generate a requirement for more than 30 spaces.

There is no plan to increase the 30 parking spaces on the site. Almost all of the vacant area on the site is used for parking; therefore, it would be difficult to locate new parking spaces on the site. Further, given the low intensity of the proposed use, the additional parking spaces will not be needed.

The Applicant will provide loading consistent with the requirements of the regulations except that berths measure only 28 feet rather than the required 30 feet. A total of three berths will be provided along with two service delivery spaces. The Applicant requests the required relief from the Commission to provide less than the required amount of parking and to provide loading berths that fall slightly short of the 30 feet depth requirement.

VII.
Community

The Applicant has contacted ANC 5C on numerous occasions and has received no response. The Applicant has met with representatives of Edgewood Terrace Apartments to discuss the ways in which the project can benefit the neighborhood. The Applicant will be meeting with these representatives again prior to the hearing.

VIII.
Witness

A. Jerry Gallagher, FowlerFlanagan Technology Partners, LLC

IX.
Exhibits in Support of the Application

The Applicant hereby submits the following exhibits in support of the application.

Exhibit A: Portion of the Sanborn Atlas showing the property.

Exhibit B: Portion of Zoning Map showing the Subject Site.

Exhibit C: Outline of testimony of Gerald Gallagher for the Applicant.

Exhibit D: Site Plan

Exhibit E: Photographs of the building in its existing condition

X.
Conclusion

For the above reasons, the Applicant meets the criteria set forth in Section 802A for special exception approval for an EEF and is therefore in harmony with the general purpose and

Respectfully submitted,

SHAW PITTMAN

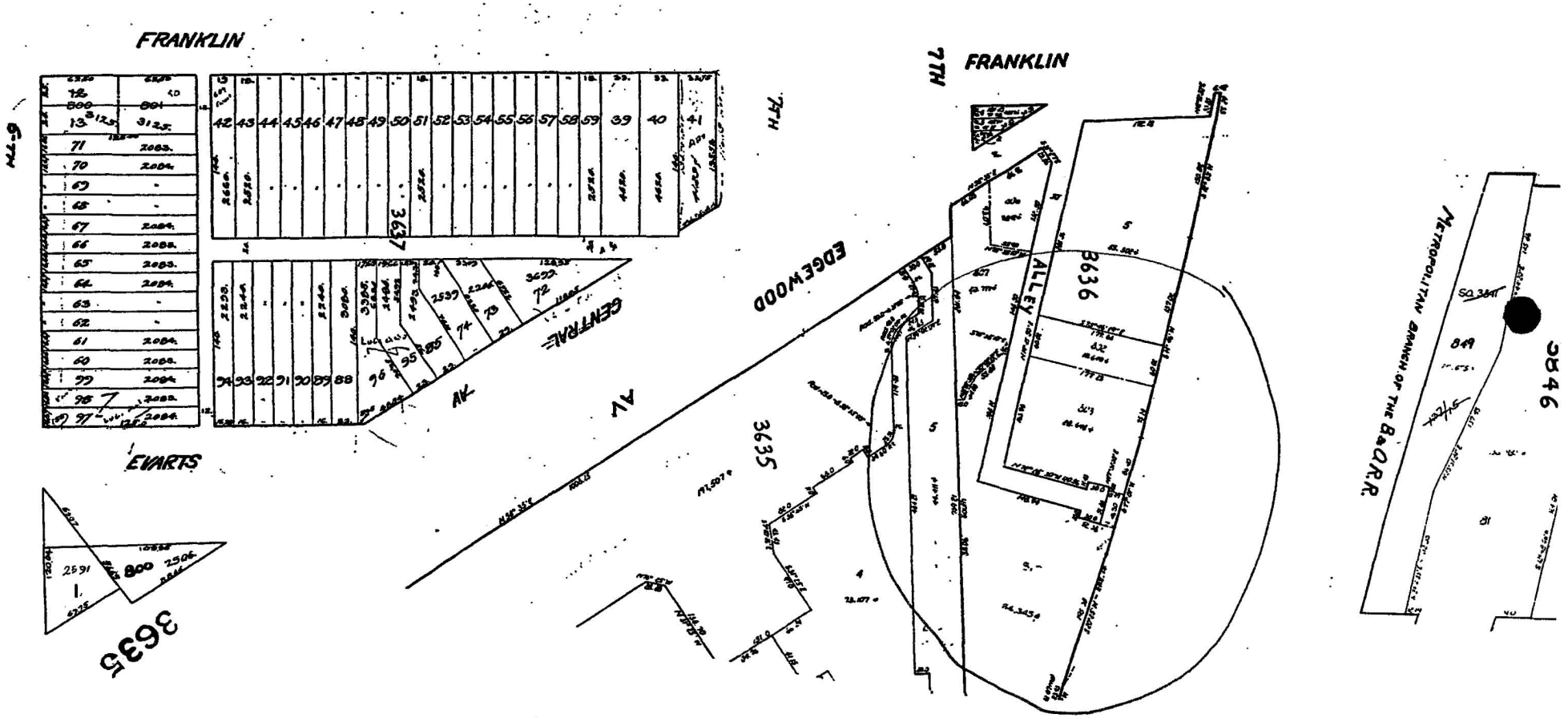
By: _____ 2/15/01
Allison C. Prince

By: _____
Martin P. Sullivan

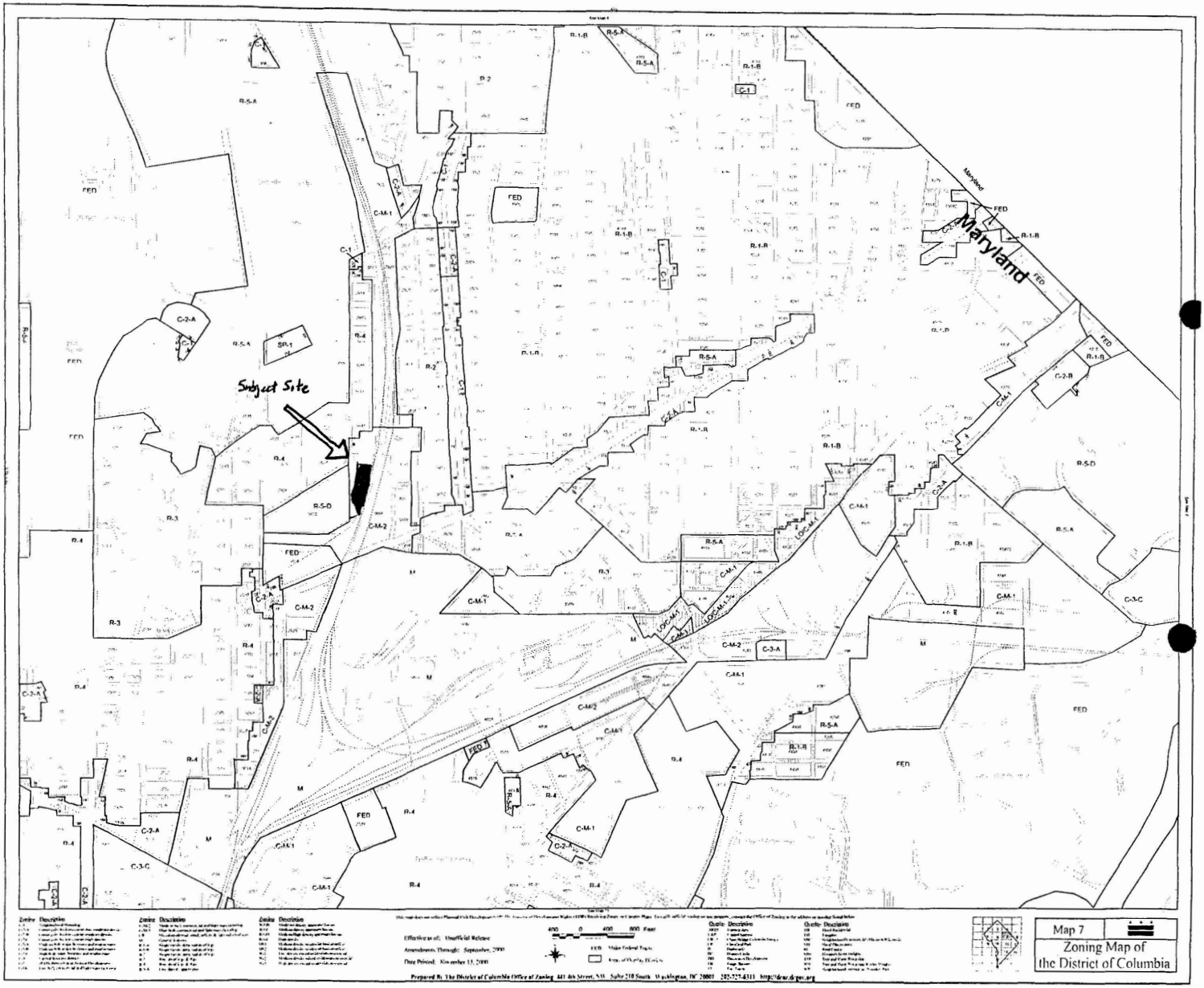
Attorneys for the Applicant

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A


FRANKLIN
6TH
7TH
FRANKLIN
EDGEWOOD
CENTRAL
ALLEY
B636
3637
3635
3635
EVARTS
METROPOLITAN BRANCH OF THE B&O.R.R.
SQ 384
849
3946




Subject Site
Maryland
Map 7
Zoning Map of
the District of Columbia

C

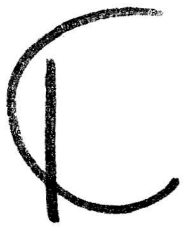
Testimony of Gerald Gallagher, on behalf of the Applicant

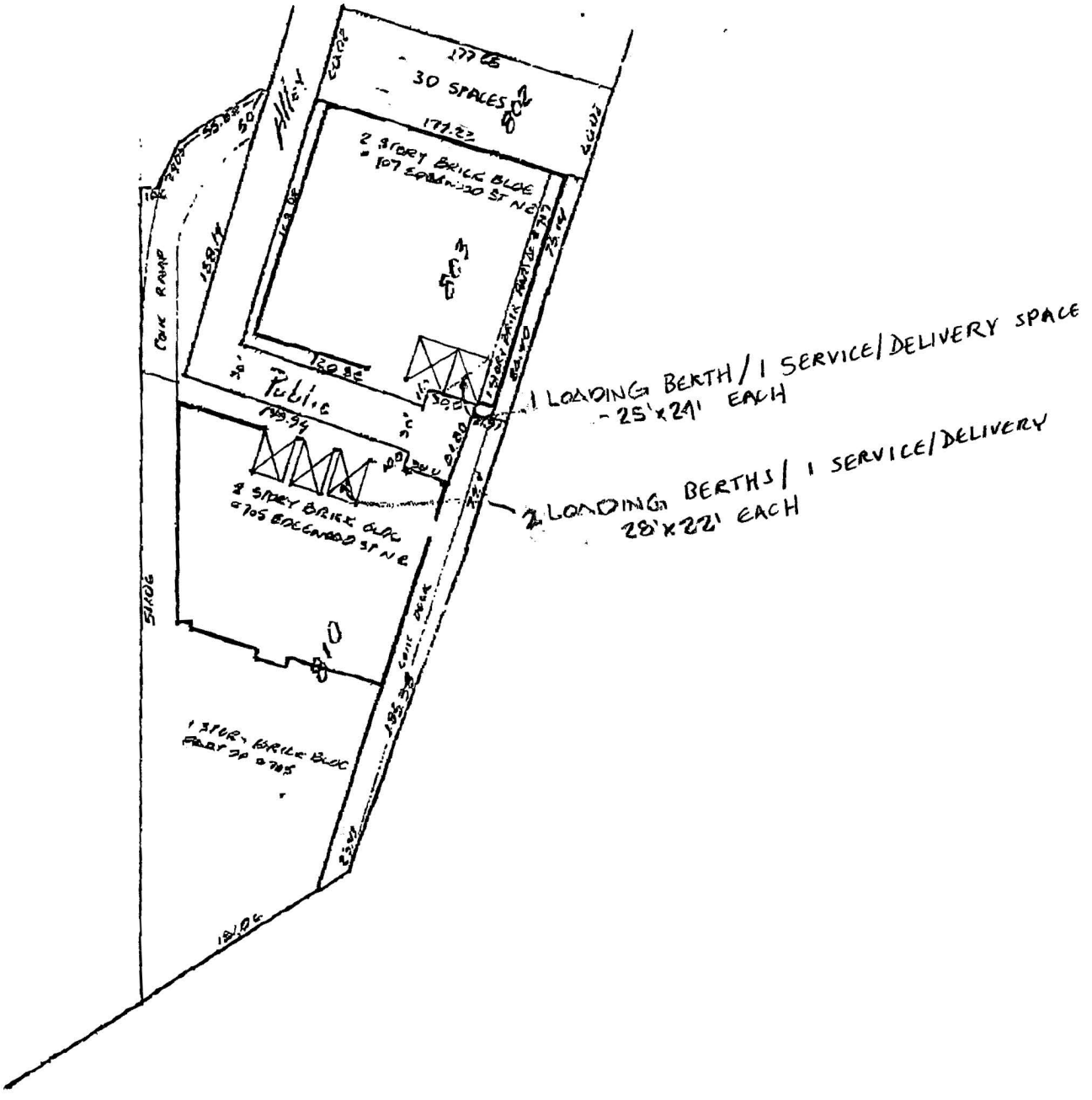
I. Introduction/Identification

II. Description of Use

III. Review of Standards under Regulators

IV. Conclusion




177.65
30 SPACES
177.22
2 STORY BRICK BLDG
107 EDGEWOOD ST N.E.
CURB
CURB
CURB RAMP
158.14
Public
195.34
20' U BLDG
2 STORY BRICK BLDG
@ 705 EDGEWOOD ST N.E.
SIDE
10
1 STORY BRICK BLDG
REAR OF @ 705
195.34
CURB BACK
18.06
1 LOADING BERTH / 1 SERVICE/DELIVERY SPACE
- 25' x 24' EACH
2 LOADING BERTHS / 1 SERVICE/DELIVERY
28' x 22' EACH



PHOTOGRAPHS OF THE SUBJECT SITE



North - south 30-foot-wide alley servicing the two buildings



Parking area at the south end of the site



Warehouse with view of Edgewood Terrace to the west of the site



Railroad tracks to the east of the site



View of east-west alley between the two buildings, looking east toward railroad tracks