GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: May 7, 2001

SUBJECT: Waiver of Rules for Late Submittal of the Report on a Request from the Grace H. Murray Foundation et al for zoning relief pursuant to Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, for a mixed-use development at 300 Massachusetts Avenue, N.W. - Board of Zoning Adjustment Case BZA 16700

The attached report from the Office of Planning, concerning a request for variances from Section 773.3, Section 772.1, Section 771.2 or an alternative, Section 199.1 and Section 3202.3 pursuant to Section 3103.2, and for a special exception under Section 411.3 pursuant to Section 3104.1, for a proposed mixed-use apartment development with first floor commercial uses, is being submitted less than 7 days prior to the Board of Adjustment (BZA) Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

Attachment: A/S

BZA
Case No. 16700
Exhibit No. 30

Board of Zoning Adjustment
District of Columbia
CASE NO.16700
EXHIBIT NO.30

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: May 7, 2001

SUBJECT: BZA Application 16700

APPLICATION

The Grace H. Murray Foundation, et al, is requesting the following zoning relief pursuant to Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, for a proposed mixed-use apartment development with first floor commercial uses:

- A variance from the residential recreation space requirement under Section 773.3;
- A variance from the lot occupancy requirement under Section 772.1
- A variance from the FAR requirement under Section 771.2 or, in the alternative, a variance from the floor area ratio definition under Section 199.1 to allow two unconnected phases of this project on two separate lots, to be considered as one for FAR purposes;
- A variance from the requirement under Section 3202.3 for individual buildings to be located on separate lots-of-record (all these variances pursuant to Section 3103.2); and
- A special exception under Section 411.3 (pursuant to Section 3104.1) to allow more than two mechanical equipment enclosures (penthouses).

SUMMARY RECOMMENDATION

The Office of Planning recommends the following:

1. If the subject properties and intervening Brook Alley right-of-way are consolidated into one tract (with the alley becoming private), then OP recommends conditional approval of:

   a. A variance under Section 773.3 to reduce the required residential recreation space to 5%.
   b. A variance under Section 771.2 to increase the allowable FAR 0.5 to 9.0 FAR.

c. A variance under Section 770.6 (b) to allow the northwest penthouse to be set back from the western property line less than twelve feet, as depicted on the conceptual building plans referenced in (3)(c) below.
d. A special exception under Sections 411.11 to allow two penthouses on the roof level in the northwest corner of the building.

2. If the subject properties are combined into two lots separated by the Brook Alley right-of-way then:

a. Approval of a variance under Section 3202.3 to allow the building addition to occupy two lots-of-record.

b. For the lot north of Brook Alley, created by the consolidation of Square 529 Lots 22-25, 31-33, 814, 816, 817, 820, 821, 829, 835, 836 and 844, staff recommends approval of:

(1) A variance under Section 772.1 to increase the maximum lot occupancy 5.0% to 85.0%.
(2) A variance under Section 771.2 to increase the allowable floor area ratio 0.5 FAR to 9.0 FAR.
(3) A variance under Section 773.3 to reduce the required residential recreation space to 5%.
(4) A variance under Section 770.6 (b) to allow the northwest penthouse to set back from the western property line less than twelve feet, as depicted on the conceptual building plans referenced in (3)(c) below.
(5) A special exception under Section 411.11 to allow two penthouses on the roof level in the northwest corner of the building.

c. For the lot south of Brook Alley, resulting from the consolidation of Square 529 Lots 9, 811-815, and 840-841, staff recommends approval of:

(1) A variance under Section 771.2 to increase the allowable FAR 0.1 to 8.6.
(2) A variance under Section 773.3 to reduce the recreation space requirement to 5.0% and allow credit for any recreation space provided, in excess of 5%, on the associated lot north of the alley.
(3) A variance under Section 776 to allow an exterior court that does not meet the minimum width requirement.
(4) A variance from Section 2203.1 to allow the use of off-site loading berths and delivery spaces.

3. The recommendations should be subject to the following conditions:

a. That the entire proposed mixed-used residential and commercial development be constructed on the subject properties in one phase.

b. That subsequent expansion of the site by subdivision, to include adjacent lots 28, 29 and 818, and the associated expansion of the mixed-use development onto these lots would not require recalculation of the modified zoning requirements approved under this application.

c. That the revised site and building plans entitled "Massachusetts Courts, Square 529 - Mass. Ave. & Street, Washington, D.C.", prepared by SKG Architects & Planners LLC for Clark Realty Capital, LLC and dated April 20, 2001, would become part of this approval.

SITE AND AREA DESCRIPTION

The proposed development site consists of 27 lots on Square 529, immediately south of H Street, N.W. (300 block) and north of Ford Alley, between the Third Street and Fourth Street, N.W. The site forms a "J" extending further south along Fourth Street (across the existing Brook Alley) than along Third Street, N.W. (refer to Exhibit 1). Both alleys cross the square from Third and Fourth Streets, N.W. Existing uses include:

- On properties south of H Street N.W. and north of Brook Alley:
  - A commercial building and an apartment building of three-story masonry construction on lots 30 and 21, respectively (in the southeast corner of the Fourth Street, N.W. intersection with H Street, N.W.).
  - A former corner drug store with corner apartments built in 1890 on lot 838 in the northeast corner of the site (fronting Massachusetts Avenue). On adjacent lot 821 to the west is a two-story masonry row house constructed in 1888 (fronting H Street, N.W.). These two buildings, along with a similar row house immediately south of the drug store constructed in 1891on lot 837 (fronting Third Street, N.W.) form "Germuiller Row", a local historic landmark.
  - Lots 22-25, 31-33, 814, 816, 817, 820, 821, 829, 835, 836 and 844 are collectively used as a commercial parking lot.
- Properties located south of Brook Alley and north of Ford Alley, lots 9, 811-815, 840 and 841, are also being used for commercial parking.

According to District of Columbia Surveyor plats, the entire development site is approximately 37,500 square feet (0.86 acres): 26,800 square feet north of Brook Alley and 10,700 square feet south of the alley. Together, the northern properties front H, Massachusetts, Third and Fourth Streets, N.W. The southern properties generally front Fourth Street, N.W. Three lots along Fourth Street, N.W. (lots 28, 29 and 818) are not part of the development site. The applicant is continuing negotiations to acquire these properties. The entire square is zoned Downtown Development District (DD)/C-2-C. Square 529 is also in Housing Priority Area B.

Surrounding land uses consist of: H Street and Massachusetts Avenue, N.W., right-of-way to the north; a commercial parking area and the five-story masonry Best Western Hotel to the south across Brook Alley; further south and west, across Ford Alley, is the two-story store Fraternal Order of Police building; to the east, across Third Street, N.W., is a metal frame structure and entrance ramp onto Interstate 395 South; and to the west, across Fourth Street, N.W., is the four-

and seven-story General Accounting Office building (listed on the National Register of Historic Places). Properties to the north, south and west are zoned DD/C-2-C while properties across Third Street, N.W., are zoned Hotel Residential Incentive District (HR)/C-3-C.

APPLICANT'S PROPOSAL

The Grace H. Murray Foundation and Clark Realty Capital LLC originally proposed to develop a 316-unit high-rise apartment building with first floor commercial uses in two phases:

- Phase I (north of Brook Alley):
  - Restoration of "Germuiller Row" building exteriors to Secretary of the Interior Standards and renovation of the interiors for retail and commercial uses.
  - Construction of a "U"-shaped thirteen- and fourteen-story addition around the historic properties on the corner. It would have included 282 one- and two-bedroom units with an underground parking garage with 163 parking spaces. Ramp access was to have been provided from Third Street, N.W., immediately north of Brook Alley.
  - Commercial and office space (an accessory for the building management) was to have been provided in the first floor of the addition along H Street, N.W.
  - Two loading docks would have been provided immediately north of Brook Alley with access from Fourth Street, N.W.
  - Construction would have approximated 277,600 square feet of above-ground floor area.
- Phase II (south of the alley):
  - Construction of a separate six-story apartment tower with 34 apartments and a 24-space underground garage with ramp access from Ford Alley.
  - First floor apartments would have been two-story units with "English" basements.
  - Construction would have totaled 42,600 square feet of floor area above-ground.

Landscaped courts would have been provided behind both buildings, and the buildings would have shared loading and service facilities. The first building would have had two penthouses to service two separate elevator cores. One objective of the architectural design was to break-up the massing of the building elevation to make the large addition appear to be a series of smaller building forms. The applicant had not planned to request closing the intervening alley because of the anticipated time required to complete this process.

If the three lots along Fourth Street, N.W., were acquired, they would have been combined into the site and the addition seamlessly expanded to provide additional apartment units.

The Commission of Fine Arts approved that overall development concept. The Office of Planning generally supported this proposal, however the specific design raised a number of concerns including: "English" basement apartments that would be located along H and Fourth Streets, N.W., two very busy streets; placement of the loading dock and service areas required deliver vehicles (including tractor trailers) to back onto Fourth Street, N.W.; the amount of zoning relief required for the project in general; and the overall massing and design of the Phase I construction. The Historic Preservation Review Board (HPRB) raised other concerns including: a proposal to extend part of the addition (glass enclosed hallways on the upper floors)

over "Germuiller Row" buildings; and the impact of the fourteen-story wing of the addition on remaining two-to-six story historic buildings along Third Street, N.W.

The applicant was encouraged to: shift building density toward Fourth Street, N.W., possibly by enlarging the new apartment building south of Brook Alley; shift the addition mass away from the historic corner; and provide one-way access though the loading dock and service area. Closing the alley was recommended to allow the development to be constructed at one time, reduce the extent of zoning relief required (particularly with regard to Phase II development), and allow construction of one continuous (and larger) underground garage.

In response, the applicant made a number of changes. The project would now be developed in one phase. Building density shifted toward Fourth Street, N.W. The architecture is more consistent with the stated design objective and the addition no longer extends over the historic buildings (Exhibit 2). Specifically, the development would consist of:

- Renovating the existing historic buildings as stated.
- A single residential addition that would "bridge" the alley on the western portion of the site above the second floor level (refer to Exhibit 2).
- A total of 360 apartments: 66 studios (twenty studio units in the "bridge"), 148 one-bedroom units, 81 two-bedroom units, 47 one-bedroom units with a den, and 182 two-bedroom units with a den.
- A single underground garage with 315 total parking spaces that continues under the alley with a single ingress/egress ramp from Ford Alley.
- A tandem loading dock arranged so that service vehicles would enter from Third Street, N.W., along Ford Alley, and exit onto Fourth Street, N.W. (refer to Exhibit 3).
- Recreation space, consisting of a rooftop pool, a landscaped open courtyard, a fitness center, an internal gathering space and a library/meeting room would total 15,238 square feet.
- The building would have different exterior wall treatments and roof heights.
- Three rooftop penthouses 18.5 feet tall (two on one roof level).

The penthouses would generally be set back from the property line a distance equal to their height. However, one penthouse in the northwest corner is less than twelve feet away from one of the Fourth Street, N.W., properties that has not been acquired (property acquisition and subdivision would eliminate this inconsistency). Roof heights would now vary from: 86.5 feet along Third Street, N.W.; 130 feet along H Street (and Massachusetts Avenue, N.W.) to Fourth Street, N.W.; and 114 feet along Fourth Street, N.W., south of the bridge (alley).

Construction over Brook Alley would require approval of the District Public Space Committee. However, the applicant has decided to pursue closing the alley (refer to Exhibit 4). Due to the uncertainty about when a final decision would be reached, OP was requested to also consider what zoning relief would be required if the alley is not closed, or not closed before building permits are issued.

The applicant still plans to expand the addition onto the three adjacent lots (if they are acquired). The expanded addition would then provide more first-floor commercial space and upstairs apartments (one per floor).

The applicant provided a revised site plan, architectural plans and elevations with this application.

EXISTING ZONING AND RELIEF REQUESTED

The northern properties (twenty lots) occupy an area approximately 185 feet wide (along H Street, N.W.) and 150 feet deep and total 26,887 square feet. Combining the seven properties south of the Brook Alley amount to 10,780 square feet. The adjacent section of Brook Alley right-of-way (extending from Third Street, N.W.) is 20 feet wide and 93 feet long with an area of 1,860 square feet. Based on a District Surveyor's plat, the consolidation of all property (including the public right-of-way) would create a 39,527 square-foot development tract (refer to Exhibit 5). There are no minimum lot size requirements in DD/C-2-C.

Section 411.3 of the Zoning Regulations requires that penthouses be located a distance equal to their height from the property lines.

"Multiple dwellings ... apartment house" and a variety of commercial uses are permitted in DD/C-2-C zoning under Section 720 of the Zoning Regulations. The applicant would also provide office space for the building managers. DD regulations specifically limit office uses however this office would be permitted as an accessory use.

Under Section 1706.4, the maximum FAR is 8.0 for residential and commercial uses, with no less than 4.5 FAR of residential uses provided on or off-site. Section 1706.7 also allows an increase of up to 0.5 FAR entirely devoted to residential uses.

As noted above, the applicant proposed two options for developing this site. Both options will be considered for zoning relief.

Option retaining the alley

- Northern lot: This property would be a corner lot per the definition under Section 199 of the Zoning Regulations. The proposed building would be constructed to the existing street frontages and there would be no required rear yard set back.

  A central "court" 52.5 feet wide and 84 feet deep would be formed between the exterior walls and the rear property line. It would be open at the property line. The property and building is also subject to the following requirements:

Standard	DD/C-2-C Requirement	Proposed Building	Required Relief
Lot Area	---	26,887 s.f.	N/A
Lot Width	---	150 feet	N/A

Standard	DD/C-2-C Requirement	Proposed Building	Required Relief
Floor Area	---	243,227 s.f. (13,128 s.f. commercial/ 230,099 s.f. residential)	
Floor Area Ratio	8.5 (4.5 min. residential)	9.05 (0.49 commercial/ 8.56 residential)	Variance
Lot Occupancy (max.)	80%	83.7% (22,515 s.f.)	Variance
Side Yard	None	None	N/A
Height	130 feet (max.)	130/110 feet	N/A
Court (open)	4 inch/foot wall height (43.3 feet required)	52.8 feet	N/A
Recreation space	15% of residential floor area (34,515 s.f.)	6.1% (14,015 s.f.)	Variance
Parking spaces (combined)	1/300 s.f. over 3,000 s.f. (34 min.) 1space/2 apt. (175 min.)	375	N/A
Loading Berths (combined)	1 at 30 ft. deep 1 at 55 ft. deep	1 at 30 ft. deep 1 at 55 ft. deep (tandem)	Variance
Front Yard	0 feet	0 feet	N/A
Rear Yard	0 feet	0 feet	N/A

- Southern lot: This property and the proposed construction would be subject to a rear yard requirement of 15 feet and the following zoning requirements:

Lot Area	---	10,780 s.f.	N/A
Lot Width	---	115 feet	N/A
Floor Area	---	92,568 s.f. (residential)	N/A
Floor Area Ratio	8.5 (4.5 min. residential)	8.58 (residential)	Variance
Lot Occupancy (max.)	80%	71.5% (7,714 s.f.)	N/A

Standard	DD/C-2-C Requirement	Proposed Building	Required Relief
Side Yard	None	None	N/A
Height	90 feet (max.)	86 feet	N/A
Court (open)	4 inch wide/ foot of wall height (38 feet required)	21-25 feet	Variance
Recreation space	15% of residential floor area (13,885 s.f.)	1.3% (1,238 s.f.)	Variance
Front Yard	0 feet	0 feet	N/A
Rear Yard	0 feet	0 feet	N/A

Option closing the alley

The consolidated property would be a corner lot with no rear or side yard requirement. The property and building would be subject to the following requirements:

Lot Area	---	39,527 s.f.	N/A
Lot Width	---	150 feet	N/A
Floor Area	---	348,595 s.f. (13,128 s.f. commercial/ 335,467 s.f. residential)	N/A
Floor Area Ratio	8.5 (4.5 min. residential)	8.82 (0.33 commercial/ 8.49 residential)	Variance
Lot Occupancy (max.)	80%	76.5% (30,229 s.f.)	N/A
Side Yard	None	None	N/A
Height	130 feet (max.)	130/110/86 feet	N/A
Court (open)	4 inch/foot wall height (43.3 feet required)	52.8 feet (maximum)	N/A
Recreation space	15% of residential floor area (50,320 s.f.)	4.5% (15,253 s.f.)	Variance
Parking spaces	1/300 s.f. over 3,000 s.f. (34 min.) 1space/2 apt. (175 min.)	375	N/A

Standard	DD/C-2-C Requirement	Proposed Building	Required Relief
Loading Berths	1 at 30 ft. deep 1 at 55 ft. deep	1 at 30 ft. deep 1 at 55 ft. deep (tandem)	N/A
Front Yard	0 feet	0 feet	N/A
Rear Yard	0 feet	0 feet	N/A

Based on this information, it was determined that:

- The option creating two separate lots (and retaining the alley) would require:
  - Variances from the allowable floor area ratio on both lots.
  - A variance from the lot occupancy limits on the northern lot.
  - A variance from the court requirements on the southern lot.
  - Variances from the recreation space requirements on both lots.
  - A variance to allow the portion of the building on the southern lot to utilize (off-site) loading berths and delivery facilities on the northern lot.
  - A variance for a penthouse too close to a property line.
  - A special exception for the two penthouses on the Phase I construction.
- The option privatizing the alley (creating one lot) would require:
  - A variance from the FAR limitation.
  - A variance from the residential recreation space requirement.
  - A variance for a penthouse too close to a property line.
  - A special exception for the two penthouses on the roof level in the northwest corner of the building.

In their Statement of Justification dated April 24, 2001, the applicant noted "the Zoning Commission had orally approved an amendment to the DD District which would reduce the required residential recreation space to 5%" (Zoning Case No. 00-30T). The reduction proposed by the applicant would be identical. They stated that increasing the allowable FAR and lot occupancy and decreasing the recreation space "will not materially effect" the exterior of the building, "thereby having little or no effect on the surrounding area". They stated that decreasing the recreation space would "encourage the desired street activity and the use of the existing cultural and retail uses in downtown."

In addition, they described the development site as "burdened by the existence of historic landmarks, its adjacency to the Expressway" and a very unattractive interchange. On this basis, they suggested that the requested relief should be granted.

ANALYSIS

The applicant's proposal is subject to the following provisions of the Zoning Regulations.

Section 3103.2 grants the Board of Zoning Adjustment (BZA) the power to grant variances from regulations set forth under the Zoning Act "[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations,

or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §§5-413 to 5-432 (1981) would result in peculiar and extraordinary practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided the relief can be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

The zoning relief requested consists of "area" variances, requiring that circumstances surrounding each request are "unique" and that the usual application of the referenced zoning regulations would result in "peculiar and extraordinary practical difficulties."

Section 3104.1 grants the Board of Zoning Appeals (BZA) the authority "to grant special exceptions where in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps."

Staff is of the opinion that the requested special exception should also meet the standards listed under Section 411.11 instead of Section 411.3. Section 411.11 empowers the BZA to "improve the location, design, number … and other aspects of such structures" when current requirements are "impracticable because of … size of building … or other conditions related to the building." Ultimately, "the intent and purpose of this chapter … shall not be materially impaired by the structure, and the light and air of the adjacent building shall not be affected adversely."

Compliance with Section 3103.2:
There are several characteristics that make this development proposal unique. Historic buildings in a prominent corner must be preserved. Largely due to the presence of the historic buildings, the applicant has been required by historic review bodies to make significant changes to building and site that otherwise would not be necessary. These changes include modifying the elevations, heights and overall architecture to be compatible with and supportive of surrounding (and differing) urban environments around the site. The proposed addition would either occupy two separate lots by spanning an existing public (alley) right-of-way or (preferably) be constructed on a continuous "J"-shaped lot.

The difficulties faced under the current regulations vary between the two development alternatives. Analysis of the required relief for the consolidated tract is as follows:

- Residential recreation space: As noted by the applicant, OP has introduced legislation reducing this requirement from 15% to 5% in DD/C-2-C zoning. Given the general access to cultural amenities in the downtown (but not in the immediate vicinity), OP supports the applicant's request.
- Floor area ratio: The applicant stipulated that the additional FAR would be required to make this project economically feasible. The majority of the additional FAR would be used to

maximize the additional residential opportunities being provided. Since this is consistent with the housing objectives of the referenced DD legislation, OP supports this request.

- Penthouse set back: Overall, the proposed penthouses would be set back consistent with zoning requirements. The inconsistent set back along the irregular western property boundary is a unique circumstance resulting for the shape of the site. The addition will actually wrap around the remaining properties along Fourth Street, N.W. The close proximity of the penthouse to the property boundary would also not impact the adjacent property's access to air and light, since the property would be surrounded on three sides by walls 130 feet tall. Based on these facts, OP supports this request.

The zoning relief required for the two separate development lots is as follows:

- Residential recreation space: OP supports the 5%, for the reasons stated, on both lots. It was noted that it would be more difficult to achieve this standard on the southern lot due to its size. Therefore, since the lots are part of the same development, it is further recommended that the applicant be allowed to credit to the lot south of the alley any residential recreation space on the lot north of the alley in excess of the 5% requirement.
- Floor area ratio: OP supports the referenced increase in FAR shared between both lots. However, for ease of enforcement, an actual FAR should be allocated to each lot instead of proposed alternative of changing the applicable zoning definition.
- Penthouse set back: OP supports this request for the reasons stated above.
- Off-site loading berths and delivery spaces: Although the proposed structure would function as one building, the loading berths and delivery spaces that serve the southern lot would be located "off-site" on the northern lot. Since these facilities appear adequate to serve the entire building, OP supports this request.
- Minimum width of the court: The width of the rear court is the result of the proposed double-loaded apartment corridor in the new apartment building. This arrangement makes economic use of the site while maintaining the required rear yard setback. The court is also adjacent to the rear property lines of adjacent developed and vacant properties. Rear yards on the adjacent properties are anticipated to remain open to allow adequate air and light into the court. Based on these circumstances, OP supports this request.

Therefore, strict application of the referenced regulations, as adopted, would result in "peculiar and extraordinary practical difficulties" with regard to the proposed addition. In this unique situation, the listed variances could be granted "without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

Compliance with Section 411.11

The proposed number of penthouses is the result of the mechanical and architectural requirements of the building due to its size and configuration. Having two penthouses would not in itself impact the neighboring property in terms of receiving air and light. Consistent with this section of the zoning regulations, increasing the number of penthouses " … shall not be materially impaired by the structure, and the light and air of the adjacent building shall not be affected adversely."

Compliance with Section 3104.1
Based on the compliance with Section 411.11, OP staff determined the approving the requested special exception would be "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property".

COMPREHENSIVE PLAN
The Generalized Land Use Map designates the subject properties as "Mixed-Use", with a combination of "High Density" residential characterized primarily by "high density apartments", and "Medium Density" commercial characterized by "shopping and services that provide the largest concentration and variety of goods and services outside the Central Employment Area".

Section 101, Major Themes of the Comprehensive Plan, include:

> "...
> (b) Increasing the quantity and quality of employment opportunities in the District;
> (c) Developing a living downtown;
> (d) Preserving and promoting cultural and natural amenities;
> ...
> (g) Preserving the historic character of the District; ..."

In additional, Section 104.1, "Developing a Living Downtown", explains that "The Mayor's Downtown Committee worked for over a year to develop policies to strengthen (the District's) Downtown as the region's retail and cultural center, *to re-establish a residential community in the heart of the District*, to increase the number of hotels for business and tourists alike, *to increase the number of jobs* for District residents, and to promote easy access to downtown from outlying parts of the region."

Section 903 includes the following policies in support of the residential goal:

> "(a) Undertake a variety of public and private programs to achieve a major increase in residential units in Downtown;
> ...
> (c) Facilitate mixed-use developments along Massachusetts Avenue, N.W., that emphasize the residential component of that mix, primarily in high-rise apartment buildings, and coordinate development to avoid substantial time lag between residential and nonresidential development; and
> (d) Encourage residential use as part of mixed use projects *south of Massachusetts Avenue, N.W."*

Section 911 includes the following historic preservation objectives for Downtown:

> "(a) Preserve individual historic buildings and districts;
> ...

(c) Require that renovation of historic buildings and new construction affecting historic districts be sensitive to the character of those buildings and districts; ..."

Based on this information, this proposal is consistent with the Comprehensive Plan.

COMMUNITY COMMENTS

A presentation was made to the Land Use and Zoning Committee of Advisory Neighborhood Commission (ANC) 6A. The applicant was scheduled to discuss this proposal at the regularly scheduled meeting in April 2001 ANC but was unable to do so. No written comments have been received.

AGENCY COMMENTS

This proposal was distributed to the Metropolitan Police and Fire Departments, and Departments of Public Works (DPW) for comment. No written responses have been received.

Different DPW divisions met with the applicant on May 1, 2000 to discuss the proposal to close the western half of Brook Avenue. There was a general consensus that this proposal could be accommodated if an alternative public ingress/egress were provided. Two options discussed were providing a turn-around at the end of remaining public right-of-way and retaining a vehicular-access easement after the alley is closed to allow vehicles entering by mistake to continue through the site.

The applicant will continue to work with DPW, the other affected public agencies and utilities to resolve issues related to the alley closing. DPW is also considering a request from the applicant to locate a drop-off lane along Fourth Street, N.W.

The revised proposal was reviewed and approved by the Historic Preservation Review Board (refer to Exhibit 6). The U.S. Commission on Fine Arts will review the revised proposal in May 2000.

RECOMMENDATION

The Office of Planning recommends approval of the requested variances and special exception subject to conditions requiring that: the development be constructed as one building in one phase; no additional BZA action would be required if the anticipated acquisition of the remaining lots along Fourth Street, N.W. occurs; and the referenced site and building plans be made part of this approval.

Therefore, if the subject properties and intervening Brook Alley right-of-way are consolidated into one tract (with the alley becoming private), then OP recommends conditional approval of:

- A variance reducing the residential recreation space requirement to 5%.
- A variance increasing the allowable FAR to 9.0.
- A variance allowing the northwest penthouse to be set back from the western property line less than twelve feet, as depicted on the revised plans.

- A special exception to allow two penthouses on the roof level in the northwest corner of the building.

However, if the alley closing is not approved or closure is not completed by the time the applicant submits for building permits, then adequate zoning relief should be provided to achieve the same result. To that end:

- If the subject properties are combined into two lots separated by the Brook Alley right-of-way then staff conditionally recommends:
  - Approval of a variance to allow the proposed building addition to be located on two record lots separated by the alley.
  - For the lot created north of Brook Alley, approval of:
    - A variance increasing the maximum lot occupancy to 85%.
    - A variance increasing the allowable floor area ratio to 9.0 FAR.
    - A variance reducing the residential recreation space requirement to 5%.
    - A variance to allow the northwest penthouse to be set back less than twelve feet from the western property line.
    - A special exception to allow two penthouses on the roof level in the northwest corner of the building.
  - For the lot created south of Brook Alley, approval of:
    - A variance increasing the allowable FAR to 8.6.
    - A variance decreasing the recreation space requirement to 5.0%, with credit for any residential recreation space provided in excess of 5.0% on the associated lot north of the alley.
    - A variance to allow an exterior court that does not meet the minimum width requirement.
    - A variance to allow building sections on both lots to share the same loading berths and delivery facilities.

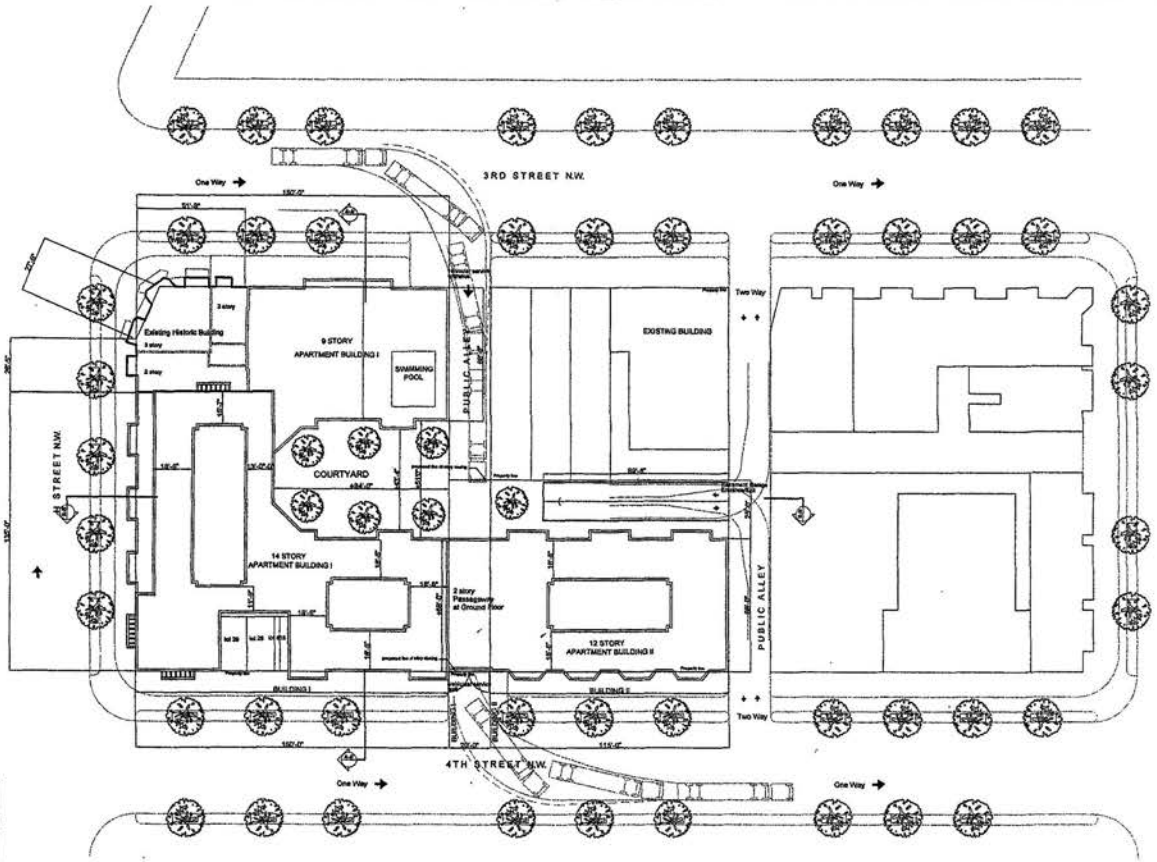
These approvals would be subject to the stated conditions.

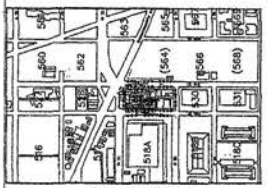
Attachment:

Exhibit 1	Aerial Photograph of Development Site
Exhibit 2	Roof Plan
Exhibit 3	Site Plan (First Floor)
Exhibit 4	Application to Close a Portion of Brook Alley
Exhibit 5	District of Columbia Surveyor Plat
Exhibit 6	Historic Preservation Review Board staff report for April 26, 2001

AA/afj

Exhibit 2





Area Plan

SITE DEVELOPMENT PLAN

AREA SUMMARY

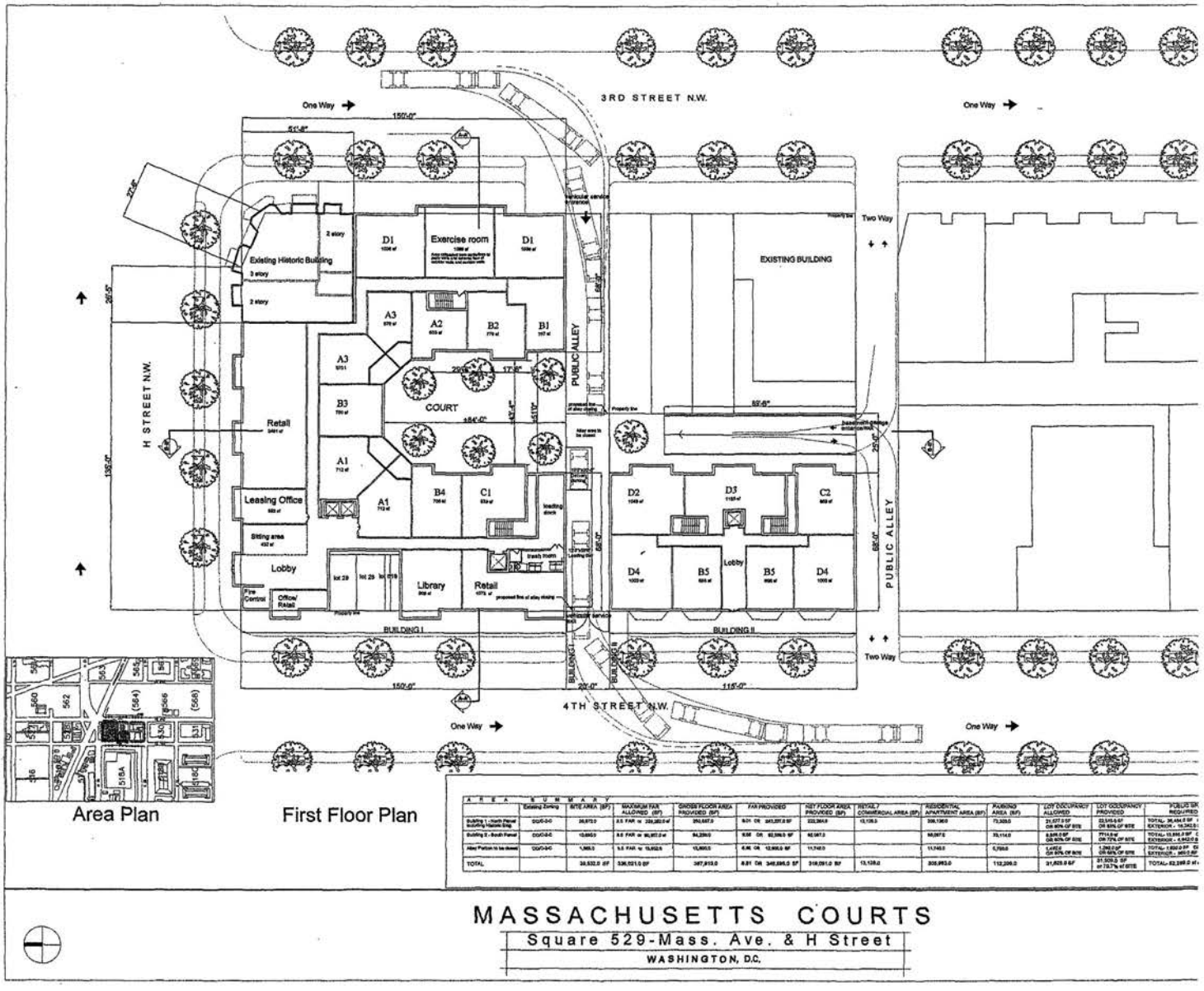
	Existing Zoning	SITE AREA (SF)	MAXIMUM FAR ALLOWED (SF)	GROSS FLOOR AREA PROVIDED (SF)	FAR PROVIDED	KEY FLOOR AREA PROVIDED (SF)	RETAIL / COMMERCIAL AREA (SF)	RESIDENTIAL APARTMENT AREA (SF)	PARKING AREA (SF)	LOT OCCUPANCY ALLOWED	LOT OCCUPANCY PROVIDED	PUBLIC SPACE REQUIRED
Building 1 - North Parcel including Historic Bldg.	DD/C-3-C	39,872.0	6.5 FAR or 259,268.0 sf	260,667.0	6.51 OR 243,227.0 SF	222,264.0	19,128.0	208,136.0	73,165.0	21,577.0 SF OR 80% OF SITE	22,515.0 SF OR 83% OF SITE	TOTAL- 39,464.0 SF OR 10% OF SITE EXTERIOR - 19,242.0 SF OR 50% C
Building 2 - South Parcel	DD/C-3-C	15,995.0	6.5 FAR or 99,967.5 sf	94,258.0	5.89 OR 93,996.5 SF	80,267.0		80,267.0	33,114.0	8,598.0 SF OR 80% OF SITE	7714.0 sf OR 72% OF SITE	TOTAL- 15,995.0 SF OR 10% OF SITE EXTERIOR - 6,242.0 SF OR 50% OF
Alley Portion to be closed	DD/C-3-C	1,868.0	6.5 FAR or 15,622.0	12,800.0	6.85 OR 12,800.0 SF	11,740.0		11,740.0	5,788.0	1,402.0 OR 80% OF SITE	1,395.0 SF OR 75% OF SITE	TOTAL- 1,868.0 SF OR 10% OF SITE EXTERIOR - 960.0 SF OR 50% OF
TOTAL		59,532.0 SF	336,521.0 SF	367,513.0	6.61 OR 349,555.0 SF	314,091.0 SF	19,128.0	303,943.0	112,306.0	31,577.0 SF	31,626.0 SF or 78.2% of SITE	TOTAL- 62,205.0 sf or 10% of tot

MASSACHUSETTS COURTS

Square 529-Mass. Ave. & H Street

WASHINGTON, D.C.

Exhibit 3



AREA SUMMARY	Existing Zoning	SITE AREA (SF)	MAXIMUM FAR ALLOWED (SF)	GROSS FLOOR AREA PROVIDED (SF)	FAR PROVIDED	NET FLOOR AREA PROVIDED (SF)	RETAIL / COMMERCIAL AREA (SF)	RESIDENTIAL APARTMENT AREA (SF)	PARKING AREA (SF)	LOT OCCUPANCY ALLOWED	LOT OCCUPANCY PROVIDED	PUBLIC SPACE REQUIRED
Building I - North Parcel Building II - Historic Bldg	DD/D-3-C	26,872.0	2.5 FAR = 239,280.0 sf	250,587.0	9.01 OR 243,201.0 SF	222,364.0	13,126.0	209,238.0	73,323.0	21,577.0 SF OR 80% OF SITE	22,545.0 SF OR 84% OF SITE	TOTAL- 34,454.0 SF EXTERIOR - 16,742.0
Building II - South Parcel	DD/D-3-C	13,895.0	2.5 FAR = 86,857.0 sf	94,339.0	9.56 OR 82,966.0 SF	82,967.0		82,967.0	29,114.0	8,896.0 SF OR 80% OF SITE	7714.0 sf OR 72% OF SITE	TOTAL- 13,896.0 SF EXTERIOR - 6,943.0 S
Alley Portion to be closed	DD/D-3-C	1,565.0	3.5 FAR = 13,652.5	13,600.5	8.46 OR 12,966.0 SF	11,740.0		11,740.0	5,700.0	1,252.0 SF OR 80% OF SITE	1,252.0 SF OR 80% OF SITE	TOTAL- 1,600.0 SF EXTERIOR - 800.0 SF
TOTAL		38,532.0 SF	336,921.0 SF	357,913.0	9.01 OR 340,896.0 SF	316,091.0 SF	13,126.0	302,965.0	112,209.0	31,825.0 SF	31,509.0 SF or 79.7% of SITE	TOTAL- 62,299.0 sf

MASSACHUSETTS COURTS

Square 529-Mass. Ave. & H Street

WASHINGTON, D.C.

Exhibit 4

S.O. 01-1183

ShawPittman

A Law Partnership Including Professional Corporations

April 2, 2001

Hand Delivery

Mr. Roland Dreist, Jr.
Office of the Surveyor
941 N. Capitol Street, N.E.
Room 2700
Washington, D.C. 20002

Re: Closing of a Portion of a Public Alley in Square 529

Dear Mr. Dreist:

Attached please find an application for the closing of a portion of the twenty foot wide east-west public alley abutting Lots 816, 841 and 844 in Square 529. C.R.C. Acquisitions L.L.C. is the Applicant.

The area of the site, including the proposed closed alley that will revert to the Applicant, consists of approximately 37,667 square feet. This alley closing will permit the construction of a two phase 316 unit residential apartment building with a gross floor area of approximately 343,829 square feet. The project will also include underground parking spaces for approximately 269 cars.

Access to the parking garage will be from the existing 20 foot wide alley to the south of the subject site. Deliveries to the project will be made by accessing the 12 foot by 55 foot loading bay area from 3rd Street, N.W. The project will also include a 10 foot by 20 foot delivery parking area also accessed from 3rd Street, N.W.

This application is being filed for processing under the new procedures for street closings set forth in the Omnibus Regulatory Reform Act of 1998, effective April 29, 1998.

Included with the street closing application form are the following:

1. A sketch of the proposed closing;

2. A filing fee of $1,435.00;

3. A completed retail tenant displacement form;

4. Six copies of a vehicular tracking diagram drawn to scale of one inch equals 20 feet pursuant to Section 1400.8(j); and

5. Six sets of the site development plan for the project which includes:

   (a) A key location sketch showing the development and its relationship to the square and surrounding streets (with the streets identified), pursuant to Section 1400.8(b) and (d);

   (b) A footprint or outline of the proposed building, pursuant to Section 1400.8(c);

   (c) The depiction of the alley proposed to be closed, pursuant to Section 1400.8(e);

   (d) The approximate gross floor area for the residential and retail components of the project, pursuant to Section 1400.8(f);

   (e) Points of ingress and egress that vehicles will use for parking and loading purposes, pursuant to Section 1400.8(g);

   (f) Location of off-street parking spaces, the amount and size of the parking spaces, and the location and size of the loading and unloading facilities, pursuant to Section 1400.8(h) and (i); and

   (g) Elevation views for each side of the building proposed for the site, pursuant to Section 1400.8(k).

We would appreciate your initiating the processing of the above-referenced application. If you have any questions, please do not hesitate to call.

Sincerely yours,

Phil T. Feola

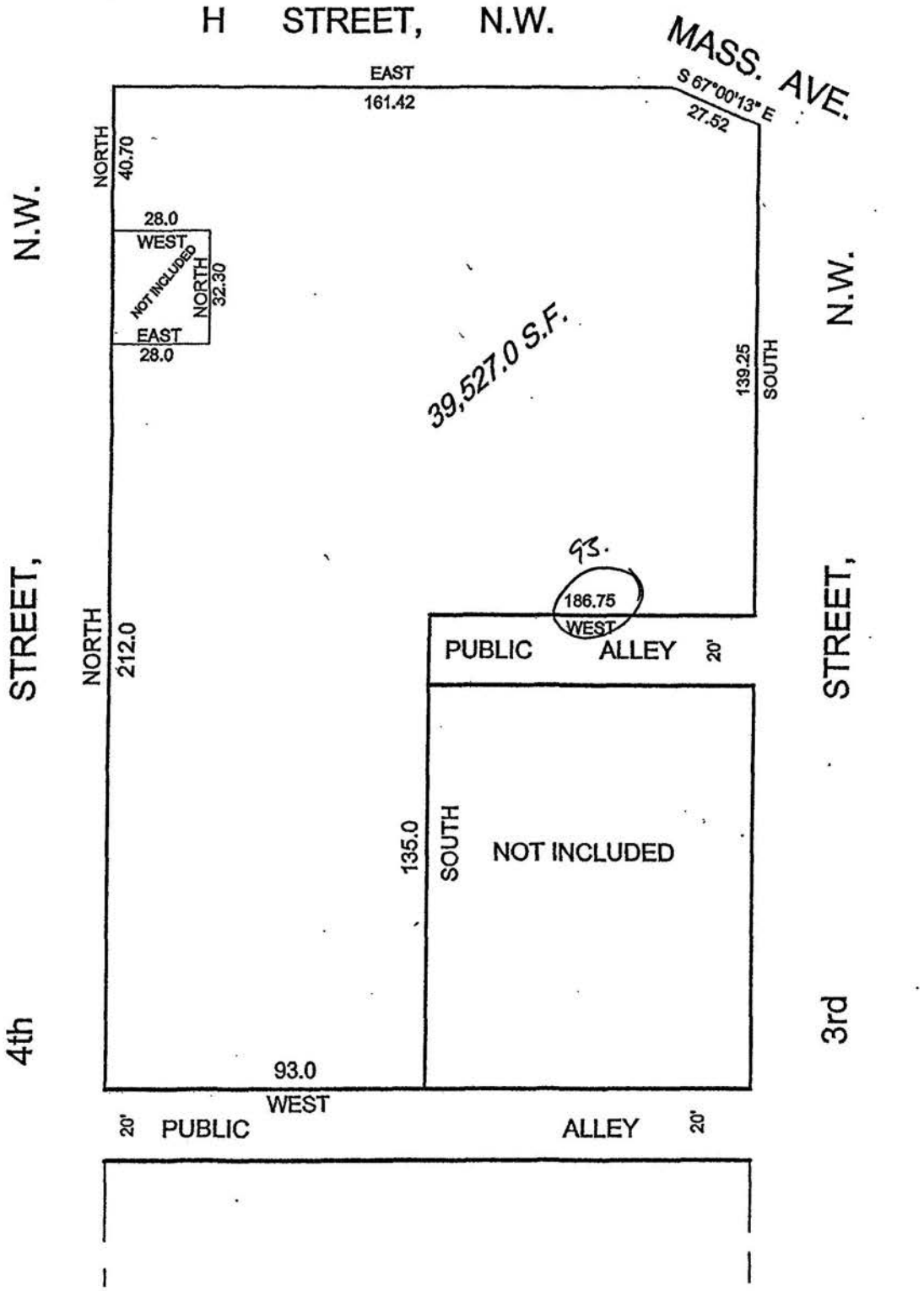
Enclosures

cc: John Sunter w/o enclosures
Ellen McCarthy, OP w/o enclosures

Document #: 1098031 v.1

Exhibit 5

SUBDIVISION
SQUARE 529



HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/District:	**Germuiller Row**	(x) Agenda
Address:	**748 3rd Street, NW; 300-02 H Street, NW**	( ) Consent Calendar
Meeting Date:	**April 26, 2001**	( ) Alteration
H.P.A. Number:	**01-144 (revised)**	(x) New Construction
Date Received:	**3/26/01**	(x) Conceptual Design
Staff Reviewer:	**David Maloney**	(x) Subdivision
	Nancy Kassner	

Clark Realty Capital and Sami Kirkdil of SKG Architects return to the Board for conceptual review of development plans for Germuiller Row and the adjacent properties on 3rd, 4th, and H Streets, NW. The project involves rehabilitation of Germuiller Row, subdivision of the properties to create a single developable lot, and construction of more than 300 apartments in interconnected buildings.

In February, the Board requested that the applicant study the massing, vehicular entrances, and façades of the new buildings in order to improve their relationship to the landmarks and the streetscape. The Board also recommended that archaeological research and testing be conducted prior to construction on the site.

Germuiller Row and Adjacent Context
Germuiller Row is composed of three buildings at the corner of 3rd and H Streets, NW—a large corner building built in 1890 as a corner drug store with apartments, and two flanking bay-fronted houses. The corner building is three stories and rises to 40 feet. The H Street rowhouse, built in 1888, is two stories and 29 feet high, and the 3rd Street rowhouse, built in 1891, is two stories and 23 feet high.

To the south of the project is a mixture of 19th and early-20th century buildings. Proceeding south on 3rd Street, there is a 6-story 1928 apartment house at 65-1/2 feet, and measuring about the same height, the five-story Harrison Apartments (the city's oldest extant apartment house, constructed beginning in 1888, and a historic landmark). The landmark Old Adas Israel temple, at two stories, sits opposite the Harrison. On 4th Street, the most notable of a collection of smaller buildings is the four-story El Caser apartments from 1926. The massive General Accounting Office (a National Register property) occupies the west side of 4th Street.

Revised Conceptual Plans
Clark Realty has made significant revisions to the plans in response to the Board's comments. As before, the new apartment house would be a maximum of 14 stories and 130 feet in height, in a U-shaped configuration, with frontages on all three streets. The 3rd Street wing, however, has been reduced to nine stories (or about 83 feet), and the cylindrical element rising behind Germuiller Row has been eliminated. The Germuiller Row buildings would still be rehabilitated as separate structures. The nine-story wing to their south is designed to give the illusion of a separate building.

On 4th Street, the new apartment buildings have been connected by a bridge across the alley, and the wing south of the alley has been raised to nine stories (although not reflected in the submitted plans, this may be revised). As on 3rd Street, the component sections of the project are designed to give the illusion of separate buildings. The main entrance would remain at the corner of 4th and H Streets, with a secondary entrance on 4th Street south of the alley.

While this new layout involves closing a portion of the bridged alley, the closed section is to remain as vehicular space for service to the buildings. Parking ramps are also reconfigured so that all vehicles enter from the second alley at the south end of the project.

Facades are similar to those shown previously to the Board, with some adjustments particularly at the ground level, where the floors are brought to grade to allow for storefronts. Fenestration patterns, trim, and coloration have also been refined.

Evaluation

The revised project represents a successful response to the Board's previous comments. Most importantly, the changes in massing make the new construction far more compatible with the landmark structures. Germuiller Row now appears to be a component part of a varied streetscape, rather than an appendage to a single large complex. The 83-foot building on 3rd Street establishes a context not dissimilar to the combination of Victorian rowhouses and early-20th century apartment houses (typically 85 or 90 feet high) that is common in historic neighborhoods like Dupont Circle or Kalorama. This 83-foot building also establishes an intermediate scale between the smaller landmarks and the apartment tower.

The changes in vehicular access are also improvements, taking advantage of the existing alley network to accommodate cars and trucks discreetly. The façade refinements are also welcome and establish a firm basis for further development. Façade designs can be easily extended to include the lots not yet acquired on 4th Street.

Archaeological Investigations

In response to the Board's request for archaeological research and testing, the applicant contacted staff for a list of archaeological consultants to perform that work. After receiving two scopes of work, staff met with the applicant to review them, make suggestions, and to discuss the archaeological process as a whole. The applicant has submitted a revised scope of work based on our discussions and, at this time it is up to the applicant to hire a consultant.

Staff would like to commend the applicant for being very responsive to the HPRB's recommendation, and for consulting with staff to ensure that the archaeological work will be conducted according to the Guidelines for Archaeological Investigations in the District of Columbia, 1998.

Recommendations

The staff recommends that the Board find the subdivision appropriate, and the conceptual plans compatible with the character of Germuiller Row in terms of massing, layout, and general architectural direction.

The staff recommends that the applicant continue archaeological investigations pursuant to staff consultation.

The staff also recommends that the applicant continue to develop the facades for review in the design development stage, along with plans to rehabilitate the landmark buildings in accordance with the Secretary of the Interior's Standards for Rehabilitation.