BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Washington
Metropolitan Area Transit Authority

BZA Application No. 16726
Public Hearing: June 5, 2001

ANC 1B

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STATEMENT OF THE APPLICANT

I.
Nature Of Relief Sought

This is an application pursuant to 11 DCMR §3104 for special exceptions to allow more than one roof structure and roof structures of unequal height under §411.11 and to extend the provisions of a less restrictive district into a more restrictive district under §2514.2, and pursuant to §3103.2 for variance from the width of court requirements under §§406.1 and 638.1, residential recreation space requirements under §635, public space at ground level requirement under §633 and 75% street wall requirement under §1903.3. This relief is requested in order to permit construction of an apartment building in the R-5-B, A/CR and A/C-2-A Districts at the northwest corner of 13th and U Streets, N.W. (Square 236, Lots 37-39, 800-804, 828, 829, 832, and public alleys ordered closed pursuant to D.C. Law 13-247.) The proposed building has been approved by the Historic Preservation Review Board ("HPRB") and has the support of Advisory Neighborhood Commission ("ANC") 1B.

BZA
Case No. 16726
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16726
EXHIBIT NO.26

II.
Jurisdiction Of The Board

The Board has jurisdiction to grant the requested special exception and variance relief pursuant to §§3104.1 and 3103.2 of the Zoning Regulations.

III.
Background Of The Case

A. Description of the Subject Property

The subject property is located on the north side of U Street, N.W., extending west approximately 289 feet from the northwest corner of the intersection with 13th Street, N.W. Comprised of Lots 37-39, 800-804, 828, 829 and 832, and two public alleys ordered closed pursuant to D.C. Law 13-247, the subject property contains an area of approximately 44,341 square feet.

The property is unusually shaped, primarily consisting of a rectangular portion located mid-block along U Street with a lot depth from U Street of 145 feet, whose eastern property line steps down to a 60 foot depth from U Street at the intersection of 13th and U Streets. The property is currently vacant and is utilized as a parking lot.

B. Description of the Surrounding Area

The subject property is bounded by public space on three of its four sides -- by U Street, N.W. to its south, 13th Street on the east and by a public alley to the north (30 feet wide). Abutting the west side of the subject property, at 1351 U Street, N.W., is a

two-story brick retail building. Further west along the north side of U Street, N.W. are additional commercial buildings.

The subject property is split-zoned, with Lots 828, 804, 803, 39, 38, 37, 829, 832 and the western fifteen feet wide public alley that has been ordered closed zoned A/CR, Lots 800 and 801 zoned R-5-B and Lot 802 zoned A/C-2-A. The property is located within the Greater U Street Historic District. A map of the subject property and surrounding properties is included as Exhibit A. An excerpt of the Zoning Map, showing the zoning classifications for the subject property, is included as Exhibit B, and a plat of the subject property is attached as Exhibit C.

C. Description of the Proposal

As owner of the subject property, Washington Metropolitan Area Transit Authority ("WMATA") has designated Ellington Plaza-DG Limited Partnership ("Ellington Plaza" or "Developer") as the developer for the site and has entered into an Interim Agreement for the purchase and development of the subject property by Ellington Plaza. The property is intended to be developed as an eight-story residential building with ground floor retail and arts-related uses and two below-grade parking levels. Residential square footage for the project is anticipated to total approximately 196,000 square feet and number 186 units. Gross floor area for the project, including retail, arts-related and residential recreational uses, will total approximately 220,000 square feet.

In an effort to address the unusual site size and configuration, the surrounding streetscape and the historic context of the immediate vicinity, the proposed building reads very much as two distinct volumes: the first, an eight-story apartment building fronting along U Street and consisting of three "fingered" pavilions symmetrically arranged and separated by courtyards above the street level; the second, a smaller scale asymmetrically-arranged portion standing four stories in height, complete with corner tower embellishment and architectural detailing that is quite distinctive from the larger portion.

The proposal anticipates street level retail uses to be provided along the building's frontage on U Street, NW. One hundred seventy-seven parking spaces on two below-grade levels will be provided for residential and retail occupants of the building, accessible via a twenty-feet wide easement area created by covenant. The residential portion of the building would be entered through a lobby/reception area in the central pavilion along U Street.

Significantly, the proposed building complies with all applicable height, density and use provisions set forth in the Zoning Regulations for the combined A/CR, A/C-2-A, and R-5-B zoning for the property. Section 630.1 of the Regulations permits a height of 90 feet in the CR Zone, whereas the Uptown-Mixed Use Overlay/Arts ("A") District requires a setback with 1:1 ratio for any height above 65 feet. The proposed building measures approximately 82 feet for the portion of the property zoned A/CR, including the setback of 1:1 above 65 feet, that is, above the sixth floor. The portion of the building roughly corresponding to the A/C-2-A and R-

5-B zoning maintains a height of approximately 42 feet, in accordance with §§ 770.1 and 400.1 of the Regulations, respectively, which both permit a height of 50 feet and no limit on this number of stories. Likewise, the allowable combined gross floor area for the property is 254,693 square feet, whereas only 219,870 square feet is proposed for the project. Furthermore, the uses proposed for the project, predominantly residential, combined with street level retail, service and arts and related uses, are in keeping both with the letter and spirit of the Zoning Regulations, the Comprehensive Plan (in which the property is substantially designated medium density commercial and medium density residential) and the historic nature and fabric of the community.

As proposed and explained herein, the project is wholly consistent with the goals of the city and will make a substantial contribution to the District of Columbia and especially to the rejuvenating U Street community. However, because of the unusual physical and zoning configuration of the subject property, the nature and demands of the permitted residential development (egress, floorplate, public space requirements) and the design constraints and considerations imposed upon new construction within the historic district, the project requires certain zoning relief, including special exception relief from the roof structure requirements and extension of the zoning line, and area variances to accommodate slight deviations from the court width, residential recreation space, ground-level public space and street wall area requirements.

IV.
Exhibits In Support Of The Application

Exhibit A:	A portion of the Sanborn Atlas showing the Subject Property outlined in red.
Exhibit B:	A portion of the Zoning Map showing the Subject Square outlined in red.
Exhibit C:	Surveyor's Plat of the Subject Property.
Exhibit D:	Outline of testimony of Representative of Washington Metropolitan Area Transit Authority, Applicant.
Exhibit E:	Outline of testimony of Representatives of Ellington Plaza-DG, LP, Developer.
Exhibit F:	Outline of testimony of Architect Maurice Walters, Torti Gallas and Partners, CHK.
Exhibit G:	Outline of testimony of Steven E. Sher, Director of Zoning & Land Use Services, Holland & Knight LLP.
Exhibit H:	Architectural Plans.
Exhibit I:	Letter in support from ANC 1B.

V.
The Applicant Meets the Requirements for Special Exception Relief Under §§ 2514.2 and 411.11 of the Zoning Regulations

In order to proceed with the proposed mixed-use residential, retail, service and arts project, special exception relief is required from two provisions of the Zoning Regulations. The sections of the Regulations at issue are those regarding roof structures and zoning classification boundary lines, respectively. As the Board is aware, a special exception use is predeemed compatible with other uses permitted in a particular zoning classification provided that the specific regulatory requirements are

met. In reviewing applications for a special exception, the Board's discretion is limited to determining whether the proposed exception satisfies the requirements set forth in the appropriate section. If an applicant meets its burden, the Board must ordinarily grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695 (1981); *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (1973). Through the exhibits, testimony and other evidence before the Board, the Applicant will establish that it complies with all applicable provisions under the Zoning Regulations.

A. Special Exception from §411.11, Roof Structures

Under §411.11 of the Zoning Regulations, the Board of Zoning Adjustment may approve the location, design, number, or any other aspect of a roof structure even if it does not comply with the setback requirements of §630.4, where it would be impractical because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area that would make full compliance unduly restrictive, prohibitively costly or unreasonable. Pursuant to §639.1, the provisions of §411 shall apply to roof structures in the CR zone. The Board has the power to approve a roof structure under §411.11, provided that the intent and purpose of the chapter and title of the Zoning Regulations are not materially impaired by the structure, and the light and air of adjacent buildings are not affected adversely.

In order to accommodate rooftop mechanical equipment and stair access to and from the roof level, the project includes three enclosures – a stepped central mechanical penthouse containing an elevator core and related machinery and

measuring 18 feet 6 inches in height at its highest point and two matching structures containing stair wells and mechanical equipment, each measuring approximately 8 feet in height.

Section 411.3 provides that all penthouses and mechanical equipment shall be placed in one enclosure and shall harmonize with the main structure in architectural material, color and appearance. The Applicant, through the Developer, is not reasonably able to physically comply with the single enclosure restriction as a direct result of Construction Code compliance issues (specifically, the number and amount of distance required between emergency egresses) and design considerations based upon the proposed use of the roof level for residential recreation space, the E-shaped, or fingered, footprint of this portion of the building, and the importance of minimizing the roof structures for historic preservation purposes.

While the number of roof enclosures could possibly be reduced through connections measuring approximately 96 feet in length and 18 feet 6 inches in height, such connections would be a waste of resources in that they would serve no useful purpose for the building. Instead, they would add unnecessary bulk to the building, would diminish the amount of residential recreation space that is planned to be provided on the roof level, and would likely detract from the design of the building.

The Applicant contends that special exception relief to allow for the proposed increase in the number of allowed roof structures and unequal height of the roof structures shall not materially impair the intent and purpose of the Zoning Regulations and shall not adversely affect the light and air of adjacent buildings.

Importantly, all three proposed structures meet the required 1:1 setback ratio of §630.4(b) and the 18 feet 6 inches height limit of §630.4(c). Furthermore, pursuant to §411.3, all three enclosures harmonize with the main structure and with each other in terms of architectural character, material and color.

The Applicant's roof level plan likewise is in harmony with that of neighboring structures and is in keeping with the purpose and intent of the Zoning Regulations. For the above stated reasons, special exception relief from the roof setback requirement of §630.4 is appropriate in the instant case.

B. Special Exception from §2514.2, Boundary Line Crossing a Lot

As discussed above, the subject property is divided by three zoning district boundary lines, resulting in portions of the subject property having differing levels of restriction for zoning purposes. Of the three zoning classifications for the property, the R-5-B classification, accounting for approximately 3,268 square feet of land area and fronting on 13th Street, N.W., is the most restrictive. The Applicant seeks a special exception pursuant to §2514.2 in order to extend the lesser restrictive two zoning classifications, A/CR and A/C-2-A, into the existing R-5-B zoning district to the 35 feet depth allowed by the Regulations. The Applicant requests this extension in order to allow the project to provide a meaningful ground floor retail space with an ancillary open court at this important corner. The upper levels will be devoted to residential use and meet the R-5-B requirements. As shown below, these extensions created by special exception will enhance the desired ground floor retail, service and

arts and related uses proposed and will have no adverse impact upon the residential use of the building or the character of the neighborhood.

Section 2514.2 of the Zoning Regulations provides that, "[i]f approved by the Board of Zoning Adjustment, the regulations applicable to that portion of a lot located in a lesser restrictive use district that control the use, height and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use district ..." In order for the Board to approve such an extension of the zoning boundary, certain enumerated requirements must be met by the Applicant, as set forth in Section 2514.2 (a), (b) and (c).

The first of these requirements reads, "(a) [t]he extension shall be limited to that portion of the lot in the more restrictive use district but not exceeding thirty-five feet (35 ft.); ..." As set forth in the Sheet G002 of Exhibit H, along the four feet wide public alley ordered closed, the Applicant proposes to extend the A/CR zoning line 35 feet east across the portion of the property zoned R-5-B, towards 13th Street, N.W. In similar fashion, the Applicant proposes to extend the A/C-2-A zoned portion of the property north 35 feet into the remaining R-5-B zoned property.

Section 2514.2(b) further provides that, "[i]n authorizing an extension, the Board shall require compliance with §2514.1(d); ..."Section 2514.1(d), in turn, addresses density calculations and limits density for certain of the residential zones, none of which are applicable to the R-5-B zone.

Section 2514.2(c) requires demonstration that the extension will have "no adverse effect on the present character and future development of the neighborhood;

..." The proposed project satisfies this requirement by providing the U Street community with a residential building complete with important retail, service and arts and related uses on the property, the great bulk of which is zoned to permit office use as a matter of right. Likewise, the project is underbuilt with respect to both height (82 feet at its highest point in the A/CR portion, where 90 feet is permitted) and density (the gross floor area for the project is approximately 30,000 square feet less than permitted). Furthermore, the design has been approved by the HPRB as being compatible with the U Street Historic District. The purpose of the extension is two-fold: (1) without increasing the building height for the portion of the property currently zoned R-5-B (50 feet allowed of right, approximately 43 feet to be provided), the project allows for an efficient residential floorplate in the four-story segment of the proposed building; and (2) the extension of the A/C-2-A portion allows for the creation of a meaningful retail presence at the corner of the building and at the same time providing a court area to allow for outdoor gathering and possibly dining along U Street.

The Application thus satisfies the requirements for special exception relief pursuant to §2514.2 and merits approval.

VI.
The Applicant is Entitled to Variance Relief Under the Zoning Regulations

The Applicant is seeking variance relief from four sections of the Zoning Regulations: (1) from the requirement of §§406.1 and 638.1 regarding court

dimensions; (2) from the residential recreation space requirement of §635; (3) from ground level public space requirement of §633; and (4) from the 75% street wall requirement for the Arts overlay of §1903.3.

A. Variance Relief from §§406.1 and 638.1, Court Dimensions

The unusual configuration of the property is due in part to the existence of several rowhouses located along 13th Street which border the northeast portion of the property. In order to provide the owners of these rowhouses access to the rear of their properties, the proposed building has been designed in such a way as to step back from the property boundary line, resulting in the creation of two courts along this northeastern boundary that have non-conforming dimensions for zoning purposes.

Section 406.1 sets forth a table of minimum court dimensions for those courts provided in a residential (R) zone. For an apartment house in the R-5-B zone, the minimum open court dimension is calculated at 4 inches per foot of court height but not less than six feet. Similarly, §638.1 sets forth minimum court dimensions for open courts to be provided in the CR zone. For residential buildings, §638.1(a) requires a minimum open court dimension of three inches per foot of court height but not less than ten feet.

As shown on sheet G002 of the architectural drawings (Exhibit H) at Zoning Diagram (3), the project provides for open courts along the north and east of the property. The zoning tabulations for the project, also located on sheet G002, demonstrate that the north courts maintain widths well in excess of the minimum

required dimensions. However, as a result of the Applicant's setback from the neighboring rowhouse properties on 13th Street, the "east courtyard," that court with a north-south emphasis, is proposed to range from 10 to 12 feet in width, whereas a width of 12.2 feet is required. Likewise, the "pedestrian alley," that court which runs east-west immediately south of the "east courtyard," is required by §406.1 to provide 10.2 feet of court width, but, as a result of limitations discussed below, only approximately 4 feet can be provided.

1. The Subject Property is Unique and Affected by an Exceptional Situation or Condition.

The subject property is confronted with a number of exceptional conditions that qualify it for variance relief, including its size, configuration and context as well as its zoning history/status.

Exceptional Size and Configuration:

The subject property is exceptional in that is an unusually large development site for the dense U Street area, occupying over one acre of land. The subject property is also exceptional as a result of its shape. The eastern portion of the site is narrow and is split-zoned, which collectively cause significant difficulties in developing the site in a cohesive manner with the remainder of the U Street frontage.

Zoning History/Status:

As discussed above, the subject property is exceptional in that it is an unusually large vacant property within the neighborhood that contains portions subject to varying levels of restrictiveness for zoning purposes. In addition to the three zoning

classifications present on the property, namely commercial, residential and mixed use, a significant portion of the property, that portion fronting on U Street, is further subject to the Arts/Mixed Use Overlay.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

A strict application of §§ 406.1 and 638.1 of the Zoning Regulations would result in a practical difficulty for the Applicant's project. The unusual configuration of the subject property, combined with its exceptional size, provides very strict limitations upon the efficient development of the property. The small portion of the property that extends to the corner of U and 13th Streets, demands some form of development, further emphasized by the streetwall focus of the Arts overlay and the importance generally stressed upon the role of streetscape in urban historic districts.

The need for court width relief in this instance is particularly problematic because the Applicant is proposing the nonconforming courts largely in an attempt to provide its neighbors with sufficient access to the rear of their respective properties.

Furthermore, while the CR zoning classification permits office development on the property, the Applicant is choosing to develop the property as a residential project, with much demanded retail, service, arts and related uses. These uses are responsive to the needs of the community, but the residential nature of the development requires that a greater amount of court width be provided in the CR zone. (compare three inches per foot of height for residential uses in the CR zone (§638.2(a)) with two and one-half inches per foot of height for other uses in the same zone (§638.2(b)).

In addition, owing to the double-loaded corridor nature of the eight-story residential portion of the project and the central importance of the symmetry created in the design for this E-shaped portion, the Applicant simply cannot increase the width of the "east courtyard" without jeopardizing the design of the project and likewise the marketability of those residential units located immediately to the west of the proposed court. Likewise, with regard to the "pedestrian alley" court, any increase in court width beyond that currently proposed would essentially render any use of this portion of the building infeasible. As currently proposed, the residential units planned for the smaller corner portion of the building are located along a single-loaded corridor and enjoy an opening onto the open court facing U Street. Strict compliance with the court dimension regulations in this instance would essentially cut the footprint dimension of these units in half, rendering them unmarketable, if not uninhabitable.

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

The Applicant proposes to construct the subject building in a manner so as to comply with the spirit of the court dimension requirements without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. To that end, the Applicant notes the great emphasis on light and air throughout the project. Occupants of the building enjoy access to light and air through three significant open courts along U Street, a sizeable rear yard along the western boundary of the property, the alley courtyard and

presence of the park and open space on the property's north boundary, and the east courtyard and pedestrian alley addressed herein. Indeed, the residential units most impacted by these court dimension deficiencies, those units bounding the two deficient courts, either compensate for the slight deficiencies through access to other open courts or the playground to the north or through the provision of private balconies partially recessed into the building.

Of equal importance, the court spaces that the Applicant proposes as its "east courtyard" and "pedestrian alley," set forth in Exhibit H at Sheet G002, serve their primary purpose, namely, to allow access for neighboring property owners and access to 13th Street where none existed before.

B. Variance Relief from §635, Private Residential Recreation Space

Section 635 sets forth the private residential recreation space requirements for residential buildings within the CR zone. Private residential recreation space is that space suitably equipped and devoted to active or passive recreation for the residents of a particular residential building (§635.1). The space may be allocated at ground level, on or above the residential plane, on rooftop, or within the building or structure, or any combination thereof (§635.2). An area equal to 15 percent of the gross floor area devoted to residential purposes shall be provided as private residential recreation space (§635.3), and 70 percent of the total residential recreation space provided must be open to the sky (§635.2).

The proposed project provides private residential recreation space on the first level (through two small court spaces, health club, community room and lobby space) on the second level (also through court space as well as balcony space) , at the fifth and seventh levels (through balcony space) and at the roof level (via an approximately 8,000 square foot roof deck). As demonstrated by the zoning tabulations found on Sheet G002 of Exhibit H, for the A/CR portion of the project, the Applicant proposes 24,918 square feet of private residential recreation space for 197,762 square feet of residential gross floor area, constituting 12.6 percent of private residential recreation space for the project. For purposes of context, the amount of residential recreation space being proposed for the project is equivalent to 57 percent of the gross lot area for this exceptionally large urban site. This amount of recreation space is in addition to the 18,212 square feet of ground floor retail, service and arts space being provided, which itself accounts for approximately 41 percent of the total lot area. Approximately 80 percent of the residential recreation space proposed to be provided will be open to the sky. As set forth below, the Applicant is deserving of variance relief from the strict application of §635 of the Zoning Regulations.

1. The Subject Property is Unique and Affected by an Exceptional Situation or Condition.

As set forth above, the subject property is confronted with a number of exceptional conditions that qualify it for variance relief, including its size, configuration and context as well as its zoning history/status. The lot size and unusual configuration are particularly relevant with regard to the provision of

residential recreation space, as is the proportion of residential density proposed. The subject property is much larger than those properties typically conceived in the CR zone, and the Applicant is devoting 90 percent of the total development to residential use, compared to the 50 percent allowed and anticipated under the Regulations. These factors combine to produce an extensive amount of recreational space which cannot reasonably be provided.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

A strict application of §635 of the Zoning Regulations would result in a practical difficulty for the Applicant's project. As set forth above, the project proposes extensive recreation space for the use of residents of the building. The Applicant is unusually burdened by the private recreation space requirements in this matter because it is providing an amount of residential space on the subject property that, on a percentage basis, is arguably much larger than any considered by the framers of the Regulations for the CR zone, a zone that allows office uses as a matter of right. The project provides a generous array of public amenities, such as a health club, a community room, a billiard room, an extensive roof deck, sizeable court space and private balconies throughout. In addition to these residential recreation spaces, the project also is directly south of a public playground area with basketball courts that is approximately 44,000 square feet in size.

Nonetheless, as a product of its exceptional size and its multiple zoning classifications, especially its commercial and mixed use zoning, the project is handicapped for maximizing residential use. Were the Applicant to propose a commercial project, none of the amenities provided to its occupants would be required to be provided. Likewise, were this extensive residential project to be proposed in a residential zone, no such residential recreation space would be required.

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

The Applicant proposes to construct the subject building in a manner so as to comply with the spirit of the private residential recreation space requirements of §635 without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. In support of this argument, the Applicant notes that the amount of deviation from the requirement is comparatively very little. Section 635.3 requires 15 percent of gross floor area devoted to residential use be provided for private residential recreation space. The Applicant is proposing 12.6 percent. This requested deviation is especially minimal in light of the very extensive amount of recreation space that is being provided, a total of almost 25,000 square feet for a property with a lot area of approximately 44,000 square feet. This space being provided is meaningful space, including a sizeable roof deck, generous open courts and interior public spaces. These spaces are being provided at significant expense and in many cases are also the products of design considerations made in connection with the historic nature of the surrounding

neighborhood. Furthermore, §1900.2 of the Regulations, setting forth the purposes of the Arts Overlay District, repeatedly emphasizes the importance of encouraging the development of residential and retail uses and expanding the area's housing supply. The proposed project satisfies these policy goals.

C. Variance Relief from §633, Public Space at Ground Level

Section 633 of the Regulations requires that an area equivalent to 10 percent of the total lot area of property being developed shall be devoted to public use (§633.1), open to the sky (§633.3) and be suitably lighted and landscaped (§633.4). Furthermore, this area devoted to public space shall be located immediately adjacent to the main entrance to the principal building and serve as a transitional space between the street and the building (§633.3). While the Applicant's proposal does provide for such transitional space along through court spaces on U Street, approximately 4% of the gross lot area subject to the CR zoning, the Applicant is unable to fully comply with this provision without severely limiting the amount of important ground level retail space that it can provide. Further, this general CR provision is at odds with §1903, regarding streetwall presence and setbacks near entrance. The Applicant has attempted to reasonably balance these inconsistent provisions of the Regulations, along with the added design considerations placed by the HPRB. The Applicant's proposed solution provides for a reasonable mixture of both ground floor public space and streetwall presence, a mixture approved by the HPRB.

1. The Subject Property is Unique and Affected by an Exceptional Situation or Condition.

As set forth above, the subject property is confronted with a number of exceptional conditions that qualify it for variance relief, including its size, configuration and context as well as its zoning history/status.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

A strict application of §633 of the Zoning Regulations would result in a practical difficulty for the Applicant's project. As stated above, the Applicant cannot physically comply with both §633 and §1903 which, as set forth below, requires a minimum of 75% streetwall presence as part of the Arts Overlay. In addition, the Applicant is unable to provide any additional ground level public use space without diminishing the amount of ground level space that it has allocated to retail, service and arts and related uses.

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

The Applicant proposes to construct the subject building in a manner so as to comply with the spirit of the public space at ground level requirement of §633 without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. To that end, the

Applicant proposes to provide two important niche spaces, each approximately 300 square feet in area, immediately to either side of the main residential entrance, forming a natural transition space to the building and allowing for additional landscaping and / or outdoor seating. Likewise, a significant court space, measuring 1,200 square feet is proposed for the portion of the building nearest the intersection with 13th Street, a major focus of the retail portion of the project. This court space, starting at the ground level, will provide a gracious urban oasis in a dense streetscape, allowing for outdoor gathering and possibly dining. In so providing, the proposed project accomplishes the major goals set forth for the CR Zone by creating a diverse mixture of residential, retail, recreational and other preferred uses. It accomplishes this in an appropriate and planned fashion and in a manner that is sympathetic to the historic preservation goals of the community and the District.

D. Variance Relief from §1903.3, Street Frontage Design Requirements

Section 1903 sets forth the street frontage design requirements for the Uptown Arts-Mixed Use Overlay/Arts ("A") District. Importantly, §1903.3 states that "[e]ach new building on a lot that fronts on a pedestrian street shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than fifteen feet (15 ft.) shall be constructed to the property line between the subject lot and the abutting street right-of-way."

The Applicant proposes to provide approximately 62 percent streetwall in a careful balancing of ground level preferred uses, ground level public space requirements and historic preservation considerations. As a result of this balancing of

compelling issues, the Applicant is unable to comply fully with the 75 percent requirement. Nonetheless, the proposed project maintains a significant street presence on this commercially and historically important street. Furthermore, the three setbacks provided at grade level are only 8 feet and 17 feet deep, respectively, and have architectural design features supported by HPRB.

1. The Subject Property is Unique and Affected by an Exceptional Situation or Condition.

As set forth above, the subject property is confronted with a number of exceptional conditions that qualify it for variance relief, including its size, configuration and context as well as its zoning history/status.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

A strict application of §1903.3 of the Zoning Regulations would result in a practical difficulty for the Applicant's project. As set forth above in the discussion regarding ground level public space, the Applicant is forced to balance competing and inconsistent requirements of the Zoning Regulations, historic preservation considerations and marketability issues for ground level retail space.

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

The Applicant proposes to construct the subject building in a manner so as to comply with the spirit of the street wall frontage requirement of §1903.3 without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. Despite its nominal deficiency for calculation purposes, the proposed project goes far to accomplish the stated objectives of the Arts Overlay, including the provision of uses to include retail and arts. The proposed project also encourages pedestrian activity and significantly expands the area's housing supply. It provides all these important benefits while mindful of its historic surroundings.

As U Street experiences a renaissance as a social and cultural entertainment district, the need for "breathing room" in the sidewalks is evidenced by the congestion in front of some of the establishments on U Street opposite the subject property. The proposed project seeks to provide such "breathing room" without diminishing the important U Street streetscape. To that end, the project has been articulated with a series of retail bay windows, storefronts, entrance canopies and architectural features.

VII.
Witnesses

A. Representative of the Applicant, Washington Metropolitan Area Transit Authority.

B. Representatives of the Developer, Ellington Plaza-DG, LP.

C. Maurice Walters, Project Architect, Torti Gallas and Partners – CHK.

D. Steven E. Sher, Director of Zoning and Land Use Service, Holland & Knight, LLP.

VIII.
Conclusion

For the reasons stated above, the requested relief meets the applicable standards of special exception and variance relief under the Zoning Regulations. The Applicant therefore requests that the Board grant the Application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

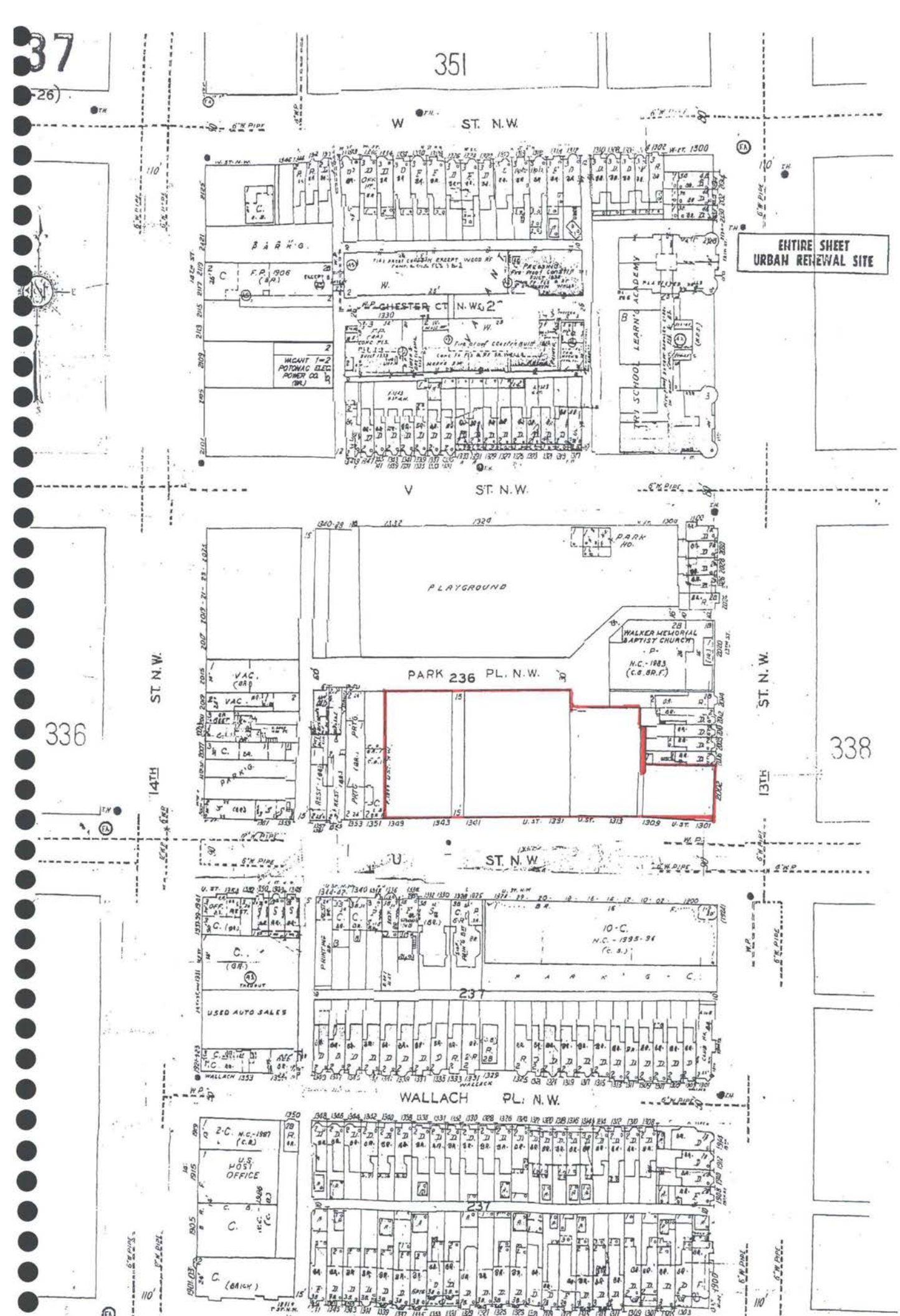
By _____
Norman M. Glasgow, Jr.

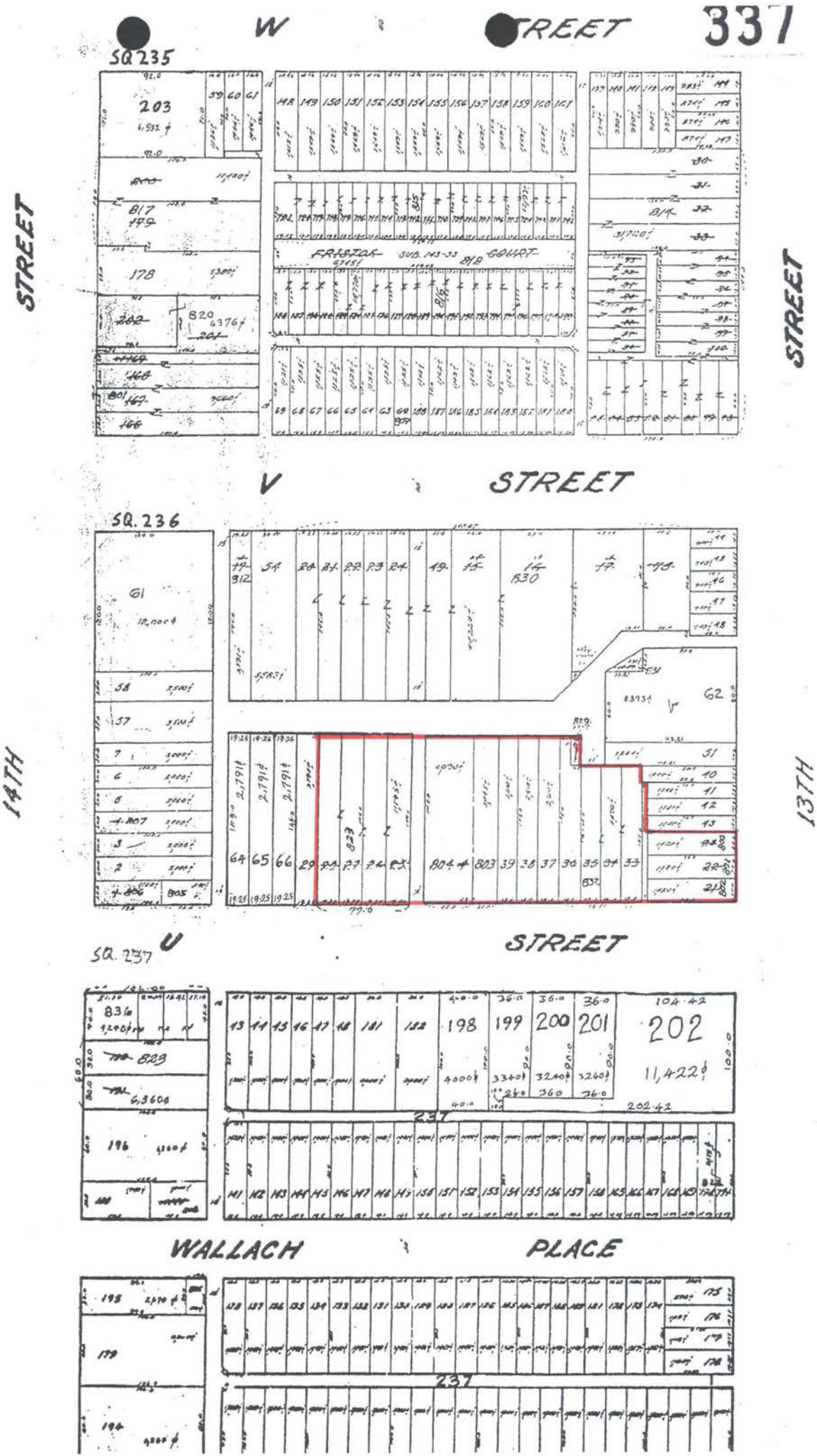
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Dennis R. Hughes

May, 2001

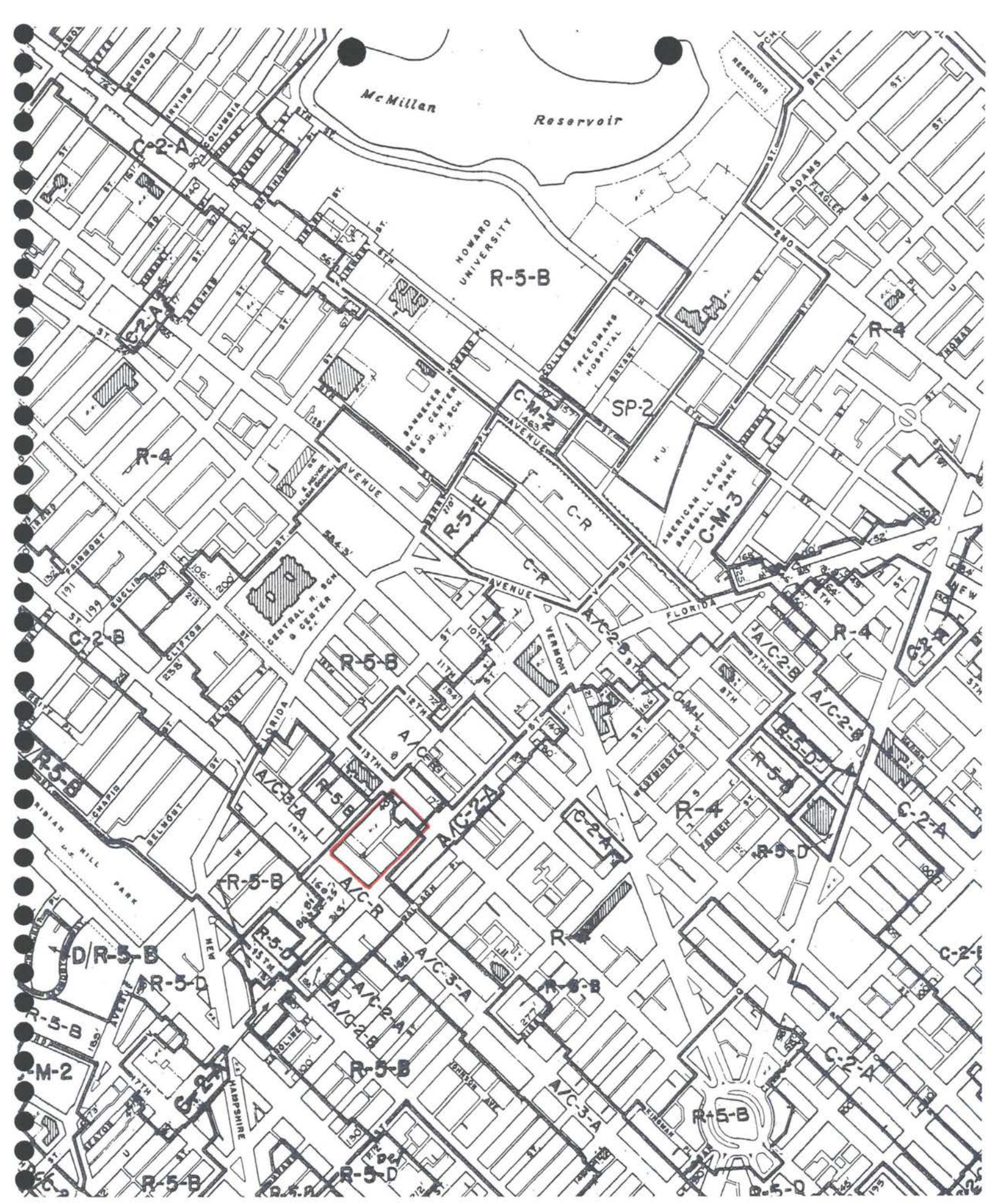
WAS1 #957934 v4

A


37
351
W ST. N.W.
ENTIRE SHEET
URBAN RENEWAL SITE
V ST. N.W.
PLAYGROUND
PARK 236 PL. N.W.
WALKER MEMORIAL BAPTIST CHURCH
336
338
14TH ST. N.W.
13TH ST. N.W.
U ST. N.W.
237
WALLACH PL. N.W.
U.S. POST OFFICE
USED AUTO SALES


W STREET
SQ235
203
4,532 ft
817
178
820
43764
STREET
STREET
V STREET
SQ. 236
61
12,000 ft
14TH
13TH
SQ. 237
U STREET
836
9,240 ft
823
6,360 ft
196
198
199
200
201
202
11,422 ft
237
WALLACH PLACE
179
194
237




McMillan Reservoir
RESERVOIR
HOWARD UNIVERSITY
R-5-B
FREEDMANS HOSPITAL
SP-2
C-M-2
AMERICAN LEAGUE BASEBALL PARK
C-M-3
R-4
C-R
R-5-E
C-2-A
C-2-B
A/C-2-A
A/C-2-B
A/C-3-A
R-5-D
D/R-5-B
M-2
BRYANT ST.
FLORIDA AVENUE
GEORGIA AVENUE
10TH ST.
11TH ST.
12TH ST.
13TH ST.
14TH ST.
15TH ST.
17TH ST.
HARVARD ST.
IRVING ST.
COLUMBIA RD.
FAIRMONT ST.
EUCLID ST.
CLIFTON ST.
CHAPIN ST.
BELMONT ST.
PARK RD.
NEW HAMPSHIRE AVE.
ADAMS MILL
FLAGLER
VERMONT
CENTRAL H. SCH & CENTER
BANNEKER REC. CENTER & JR. H. SCH.

C

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., 4/4/ 2001

Plat for Building Permit of SQR 236 LOTS 800 801 802 803 804 829 829 37 38 39

Scale: 1 inch = 40 feet Recorded in Book R1H Page 263

Receipt No. 2697

Furnished to: HOLLAND & KNIGHT

Surveyor, D.C.

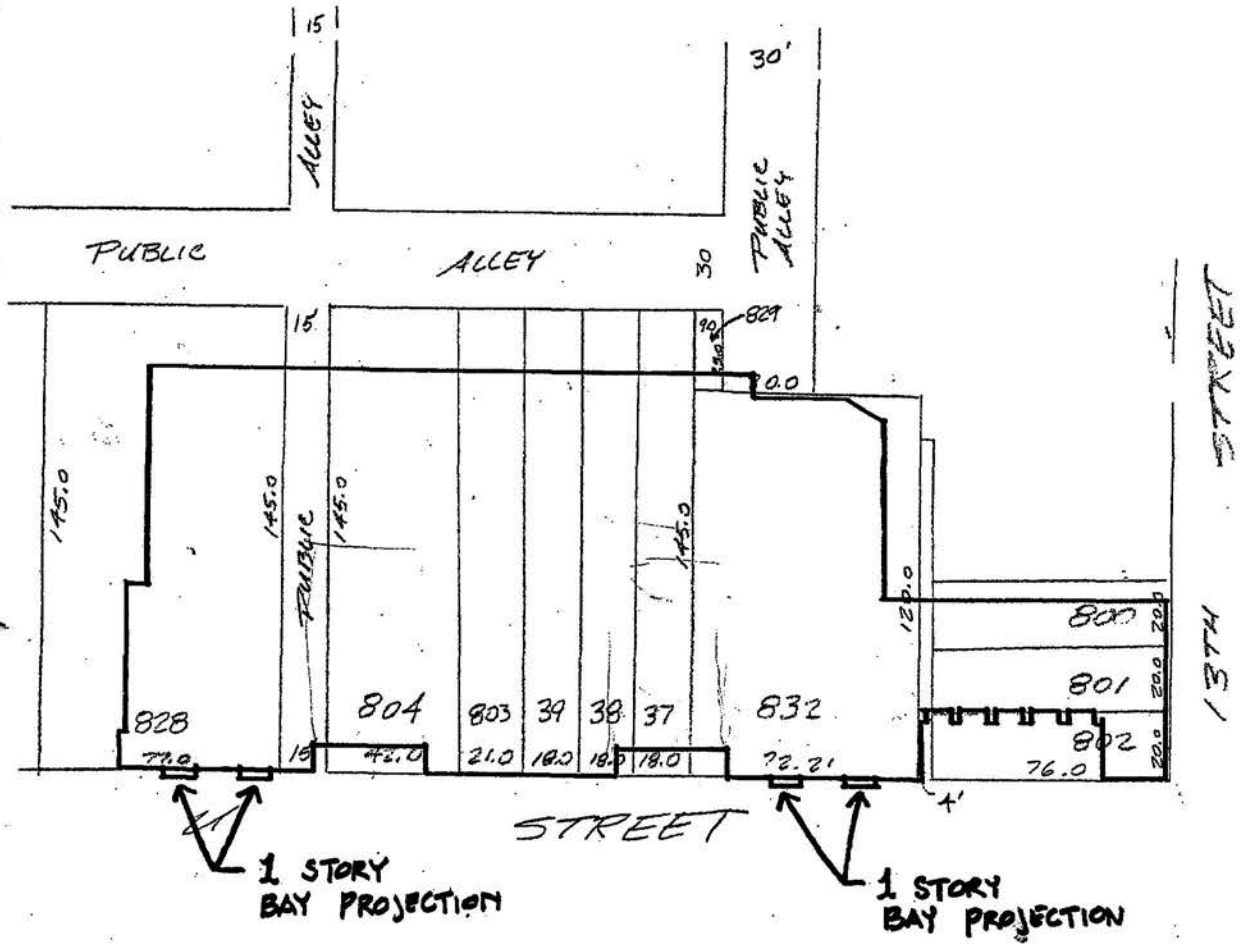
By: RFD

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.





BOARD OF ZONING ADJUSTMENT
APPLICATION No. 16726

Outline of Testimony of Representatives of Property Owner,
Washington Metropolitan Area Transit Authority

I. INTRODUCTION

II. BACKGROUND/ OWNERSHIP HISTORY OF SITE

III. DESIGNATION OF ELLINGTON-PLAZA-DG, LP AS SITE DEVELOPER

IV. CONCLUSION

WAS1 #976409 v1



BOARD OF ZONING ADJUSTMENT
APPLICATION No. 16726

Outline of Testimony of Representatives of Developer
Ellington Plaza – DG, LP

I. INTRODUCTION

II. DEVELOPMENT HISTORY IN THE DISTRICT OF COLUMBIA

III. DESCRIPTION OF SUBJECT PROPERTY AND VICINITY

IV. DESCRIPTION OF PROPOSED PROJECT – USES

A. Residential

B. Retail, Service and Arts and Related Uses

C. Below-Grade Parking

D. Recreational

V. VARIANCE AND SPECIAL EXCEPTION RELIEF NEEDED TO CONSTRUCT PROJECT

VI ANC AND COMMUNITY SUPPORT

VII. ALLEYS CLOSED.

VIII. CONCLUSION.

F

BOARD OF ZONING ADJUSTMENT
APPLICATION No. 16726

Outline of Testimony of
Architect Maurice Walters
Torti Gallas and Partners – CHK

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

A. Overview of Site, Surrounding Area and Land Use
Site Planning – size, configuration and zoning

III. PROJECT DESIGN

A. Review of Massing of Building
B. Floor Plans
   1. Ground level spaces
   2. Residential levels
   3. Roof Level
   4. Parking
C. Private Residential Recreation Space
D. Court Spaces
E. Roof Structures
F. Ground Level Public Space
G. Arts Overlay Street Design Requirements

IV. ZONING RELIEF REQUESTED

V. CONCLUSION

BOARD OF ZONING ADJUSTMENT
APPLICATION No. 16726

Outline of Testimony of
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP

I. INTRODUCTION

II. SITE AND LOCATION DESCRIPTION

A. Overview of Subject Property and Vicinity

B. Zoning Summary
1. Multiple Zoning Classifications
2. History of CR Zone
3. History of Uptown Mixed-Use Overlay/Arts District

III. SPECIAL EXCEPTIONS

A. Roof Structures, §§ 411.11, 639.1

B. Boundary Line Crossing a Lot, §2514.2

IV. VARIANCES

A. Variance Relief from §§ 406.1 and 638.l, Court Dimensions

B. Variance Relief from §635, Private Residential Recreation Space

C. Variance Relief from §633, Public Space at Ground Level

D. Variance Relief from §1903, Street Frontage Design Requirements

V. CONCLUSION

H

ORTI GALLAS AND PARTNERS - C[illegible], INC. JOB NO. 99206.00

SHEET INDEX

C001 COVER SHEET
G002 ZONING ANALYSIS

CIVIL DRAWING

C101 SIMULATION PLAN

ARCHITECTURAL DRAWINGS

A001 GARAGE PLAN LEVEL 01 & 02
A002 1ST & 2ND FLOOR PLANS
A003 3RD & 4TH FLOOR PLANS
A004 5TH & 6TH FLOOR PLANS
A005 7TH & 8TH FLOOR PLANS
A006 ROOF PLAN

A201 BUILDING SECTIONS

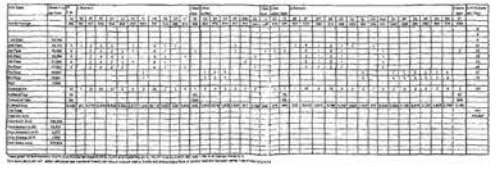
A301 BUILDING ELEVATIONS



ELLINGTON PLAZA

ZONING SUBMISSION

DONATELLI AND KLEIN	(301) 654-0770	OWNER
TORTI GALLAS AND PARTNERS-CHK, INC.	(301) 588-4800	ARCHITECTS
TADJER-COHEN-EDELSON ASSOCIATES, INC.	(301) 587-1820	STRUCTURAL ENGINEERS
SCHWARTZ ENGINEERING	(301) 215-7740	MEP ENGINEERS
BOWMAN CONSULTING GROUP	(703) 548-2188	CIVIL ENGINEERS
SCHNABEL ENGINEERING ASSOCIATES	(301) 564-9355	GEOTECHNICAL ENGINEER
RICHTER AND ASSOCIATES	(301) 548-7475	UTILITY COORDINATOR
DESIGN WORKS, INTERIORS	(703) 241-1441	INTERIOR DESIGN
LAND DESIGN, INC.	(703) 549-7784	LANDSCAPE ARCHITECT



Ellington Plaza

A

B

C

Key Plan

D

Revisions

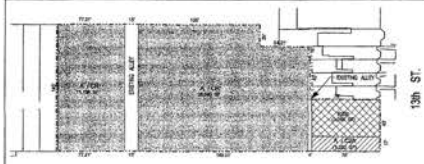
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Cover Sheet

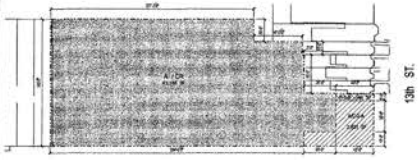
Zoning Submission

C001

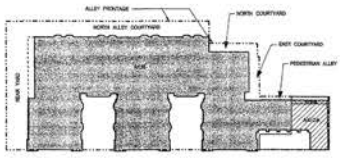
ZONING DIAGRAMS



1 NET LOT AREA & ZONING
TOTAL LOT AREA = 41,836 SF



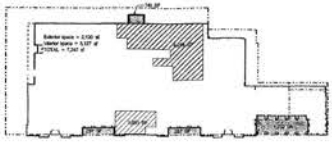
2 GROSS LOT AREA (W/ ALLEY CLOSINGS & PROPOSED ZONING LINE EXTENSIONS)
TOTAL LOT AREA = 44,341 SF



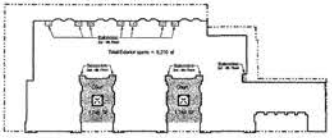
3 LOT OCCUPANCY
AT LOWEST RESIDENTIAL PLANE / 2ND FLOOR



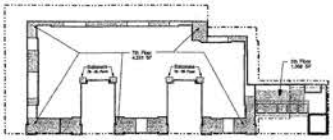
4 PUBLIC USE SPACE



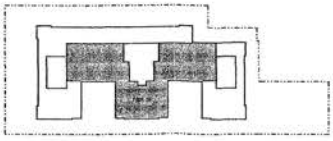
5 PRIVATE RESIDENTIAL RECREATION SPACE
AT 1ST FLOOR



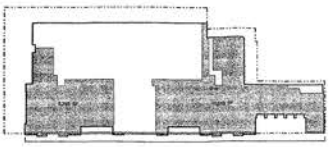
6 PRIVATE RESIDENTIAL RECREATION SPACE
AT 2ND FLOOR



7 PRIVATE RESIDENTIAL RECREATION SPACE
AT 5TH & 7TH FLOOR



8 PRIVATE RESIDENTIAL RECREATION SPACE
AT ROOF LEVEL



STREET WALL BUILT-TO PROPERTY LINE.
STREET WALL DEVOTED TO DISPLAY.
GROUND LEVEL SPECIFIED USES (RETAIL, SERVICE OR ARTS).

9 ARTS OVERLAY REQUIREMENTS



10 PROPOSED ZONING EXTENSION

ZONING REGULATIONS

DCMR Title 11: Zoning

Citations of Applicable Code

ZONING TABULATIONS

NET LOT AREA (N.L.A.): See Diagram 1

Zoning	Area(SF)
A/C/R - 1	11,196
A/C/R - 2	26,040
A/C - 2 - A	1,350
R - 5 - B	3,249
	41,836

GROSS LOT AREA* (G.L.A.): See Diagram 2

Zoning	Area(SF)
A/C/R	41,836
A/C - 2 - A	2,631
R - 5 - B	344
* With Alley Closing	44,341

ALLOWABLE GROSS FLOOR AREA (F.A.R.)

Zoning	G.L.A.(SF)	F.A.R	Allowable Area(SF)
A/C/R	41,196	6.0	246,996
A/C - 2 - A	2,631	3.5	7,019
R - 5 - B	344	1.8	619
	44,341		254,635
Provided			215,875

ALLOWABLE BUILDING HEIGHT

Zoning	Allowed Height (FT)	Proposed Height (FT)
A/C/R	90	90.0
A/C - 2 - A	50	43.2
R - 5 - B	50	43.2

* 1:1 setback above 65 FT (Arts Overlay)

PUBLIC USE SPACE AT GRADE: See Diagram 4

	Area(SF)
Small Courtyards	594
Large Courtyards	1,282
Total Provided in A/C/R & A/C-2-A	1,876
Gross Lot Area in A/C/R	41,196
Public Use Space Percent Provided	4%
Public Use Space Percent Required	10%

ARTS OVERLAY REQUIREMENTS: See Diagram 9

	Percent Required	Base*	Required	Provided	Percent Provided
Street Wall Built-To	75%	237 FT	252 FT	268 FT	80.0%
Display**	50%	4,096 SF	2,559 SF	3,141 SF	12.5%
Specified Uses	50%	13,193 SF	16,496 SF	19,202 SF	73.9%

* Total Building Length on 13 Street, Wall Surface Area, Ground Floor G.F.A.
** See Drawings D1/S101.

LOT OCCUPANCY: See Diagram 3

Zoning	Occupancy Permitted	G.L.A.(SF)	Lot Coverage at L.R.* G.F.A.(SF)	Percent Occupancy Provided
A/C/R	75%	41,196	37,359	90.5%
A/C - 2 - A	60%	2,631	1,899	60.0%
R - 5 - B	60%	344	167	48.5%

* Lowest Residential Plane (2nd Floor)

REAR YARD REQUIREMENTS

Property Edge	Bldg Height(FT)*	Setback per 1' of HT (IN)	Required (FT)	Yard Provided (FT)	Yard Provided (FT)
Wood Alley	69.34	3	17.3	22.4	

* Measured from Lowest Residential Plane (L.R.P.)

COURTYARD WIDTH REQUIREMENTS

Court Location/Zoning	Height(FT)*	Width per 1' of HT (IN)	Required (FT)	Provided (FT)
East Court: L2 - L5	69.34	3	17.3	50.8 / 52.5 **
East Court: L7 - L8	69.34	3	17.3	17.0
North Court: L2 - L5	69.34	3	17.3	64.3
North Alley Court: L2 - L5	69.34	3	17.3	257.2 ***
Pedestrian Alley*	40.66	4	10.2	4.0

* Measured from Lowest Residential Plane (L.R.P.)
** R-5-B requirement is most restrictive.
*** See Drawing C1/A302
**** See Drawing F2/A401.

RESIDENTIAL RECREATION SPACE: See Diagrams 5 - 8

Zoning	Percent Required	Residential G.F.A.(SF)	Proposed(SF)	A/C/R Interior	A/C/R Exterior	Proposed as Percent of G.F.A.
A/C/R	10%	192,668	11,281	5,157	15,360	12.1%
A/C-2/A	20%	5,229	1,857	0	1,857	31.3%
R - 5 - B	0%	455	0	NA	NA	0.0%
Total		198,418	20,918	5,157	23,360	12.9%

PARKING TABULATION

Space	Required Off.	Required CRA	Required Visitor	Required None	Required Total	Provided Total
Retail	17	0	0	17	17	17
Residential	59	1	4	94	158	
Total	76	1	4	91	175	

Space Types Breakdown

Standard	61	1	4	86	92
Compact**	0	0	0	0	0
Accessible*	15	0	0	15	28
Total	76	1	4	91	175

* Title 12 Requirement.
** 40% Permitted

Zoning Submission

Plaza

Key Plan

Revisions

No. Date

Zoning Analysis

Date
04/27/11

Principal In Charge
CC

Principal Designer
MW

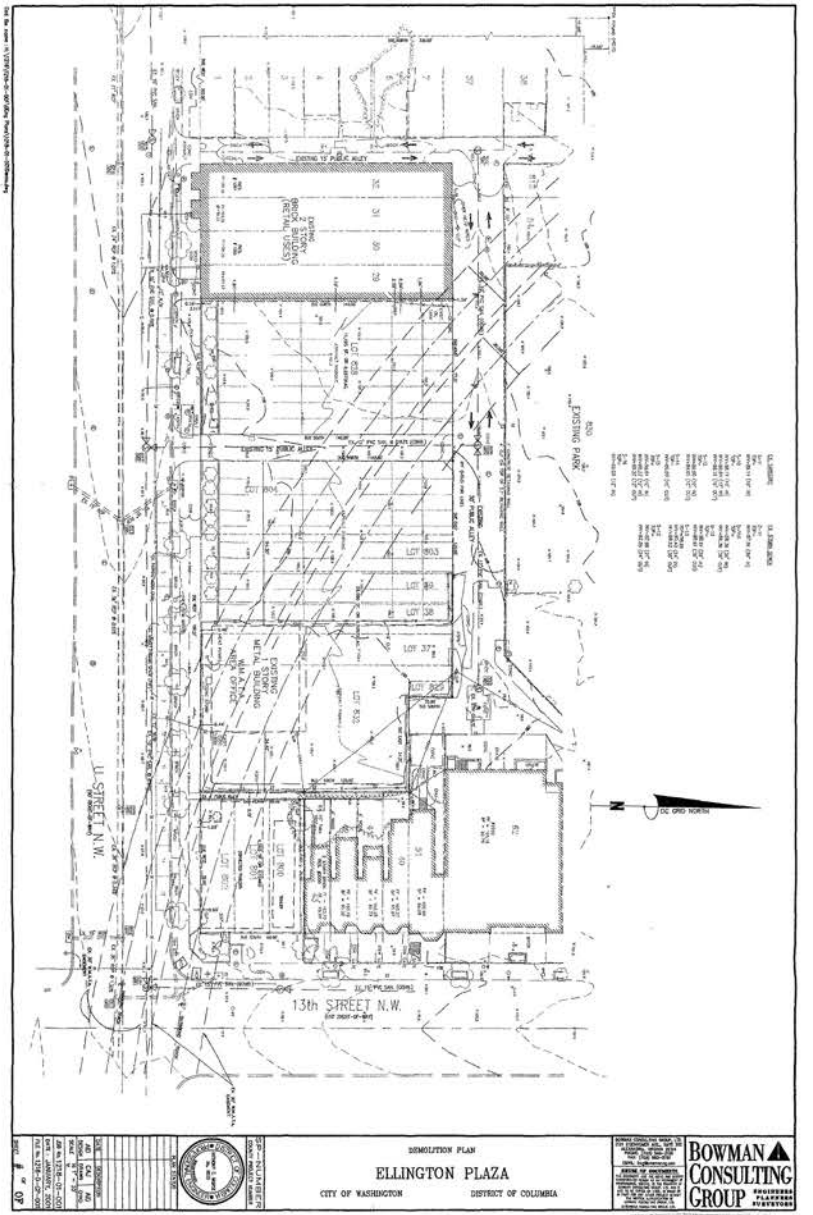
Approved
DS

Drawn
LB, SL, CF

Job No.
0920A.00

Scale
1" = 40'

Drawing No.
G002



DEMOLITION PLAN

ELLINGTON PLAZA

CITY OF WASHINGTON DISTRICT OF COLUMBIA

BOWMAN CONSULTING GROUP

Zoning Submission

C103

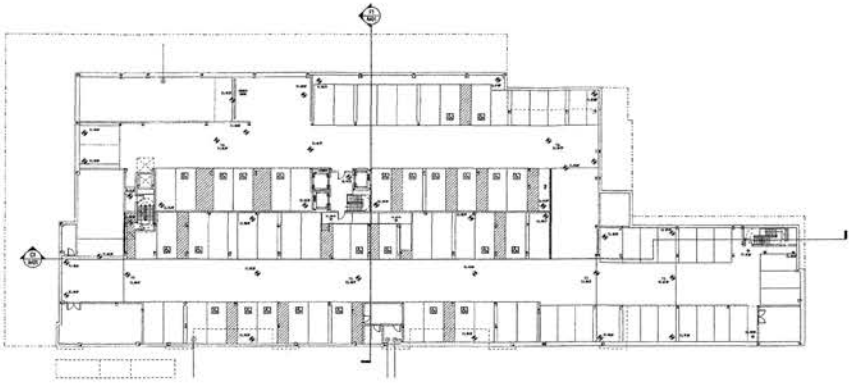
Civil Site Plan

Revisions

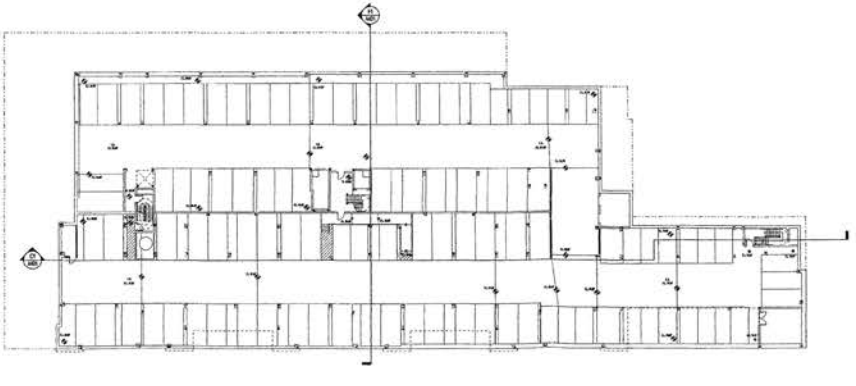
Key Plan

TORTI GALLAS AND PARTNERS · CHK

ELLINGTON PLAZA



C1 G1 LEVEL FLOOR PLAN



F1 G2 LEVEL FLOOR PLAN

Ellington Plaza

Key Plan

Revisions

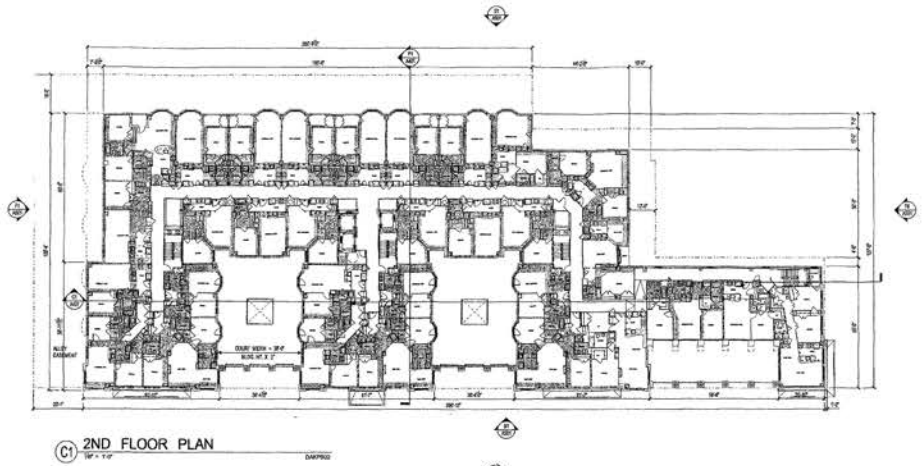
G1 & G2 LEVEL FLOOR PLANS

A001

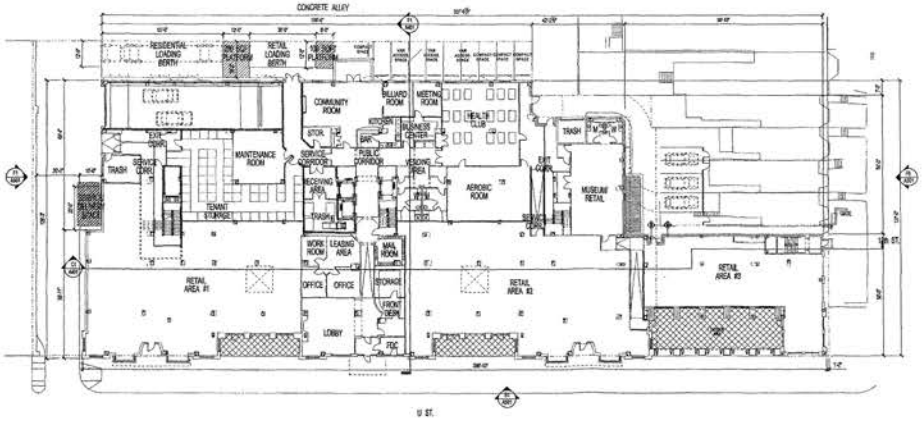
Zoning Submission

TORTI GALLAS AND PARTNERS · CHK

ELLINGTON PLAZA



C1 2ND FLOOR PLAN



F1 1ST FLOOR PLAN

Ellington Plaza

Key Plan

Revisions

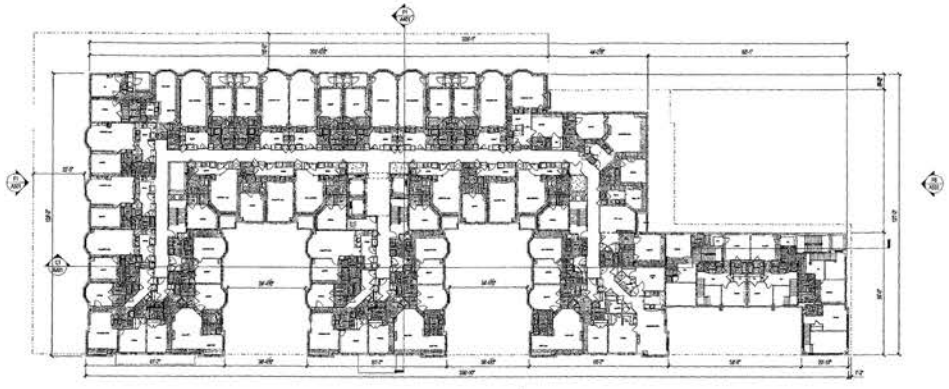
1st & 2nd Floor Plan

Zoning Submission

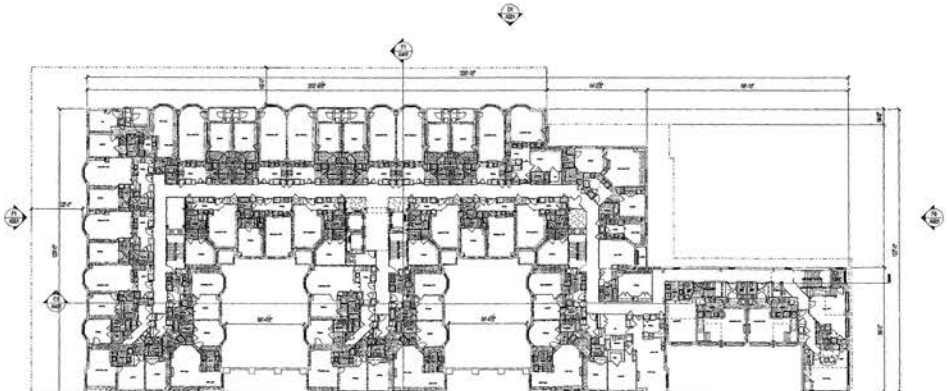
A002

TORTI GALLAS AND PARTNERS : CHK

ELLINGTON PLAZA



C1 4th FLOOR PLAN



F1 3rd FLOOR PLAN

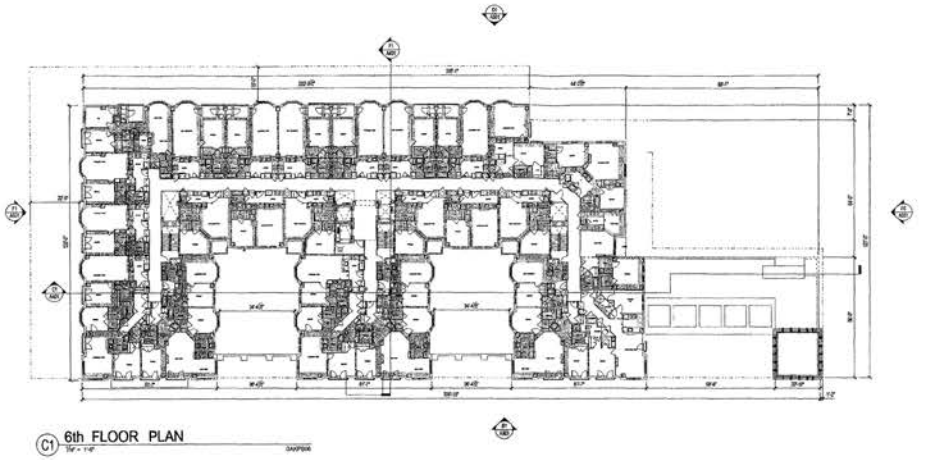
Ellington Plaza

Key Plan

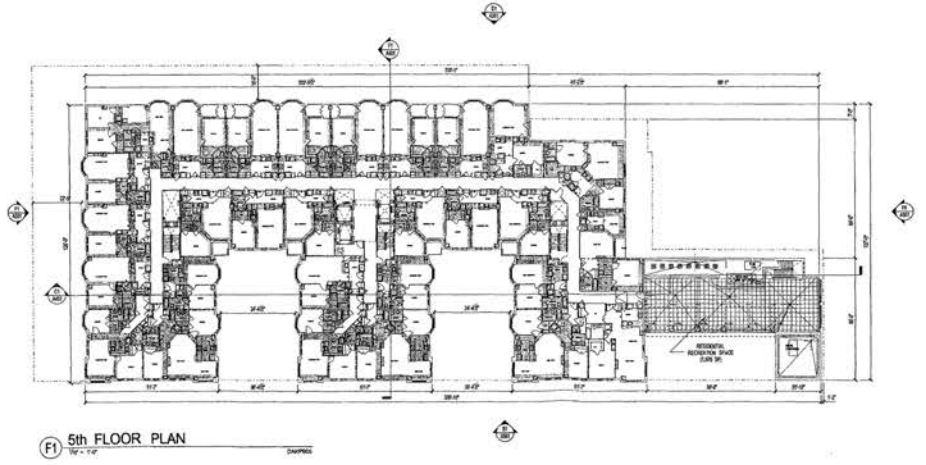
Revisions

3rd & 4th Floor Plans

oning Submission



C1 6th FLOOR PLAN



F1 5th FLOOR PLAN

Ellington Plaza

Key Plan

Revisions

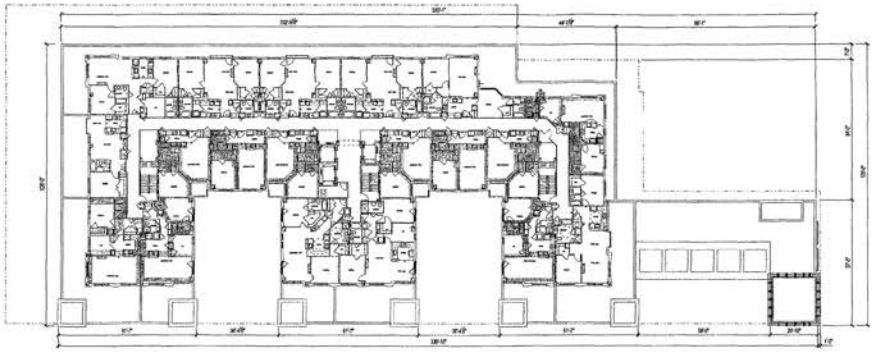
5th & 6th Floor Plans

Zoning Submission

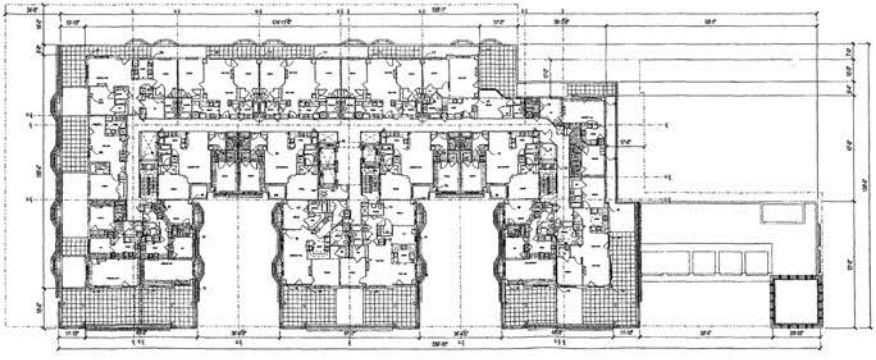
A004

TORTI GALLAS AND PARTNERS · CHK

ELLINGTON PLAZA



C1 8th FLOOR PLAN
1/8" = 1'-0"



F1 7th FLOOR PLAN
1/8" = 1'-0"

Ennigon Plaza

Key Plan

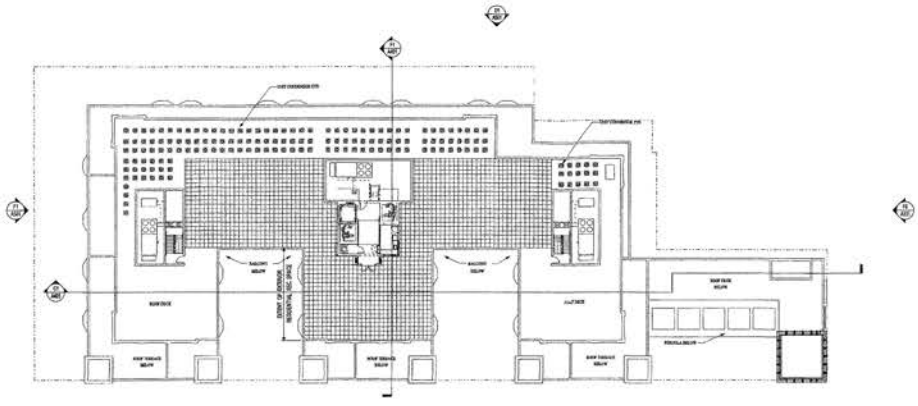
Revisions

No. Date

7th & 8th Floor Plans

Zoning Submission

A005



C1 ROOF PLAN
1/8" = 1'-0"

Ellington Plaza

11th and G Streets, N.W.
Washington, DC

Torti Gallas and Partners + CHK, Inc.
1300 Spring Street,
4th Floor
Silver Spring, MD 20910
301.588.4800
www.tortigallas.com

Owner
Edmund and Wife
301.654.3191

Structural Engineer
Taylor Cohen Clinton
Associates, Inc
301.467.1420

MEP Engineer
Schnabel Engineering
301.215.7710

Civil Engineer
Bowman Consulting Group
703.548.5108

Geotechnical Engineer
Schnabel Engineering Associates
301.565.4220

Utility Coordinator
Richter and Associates
301.540.7470

Interior Design
Design Work Matters
703.241.1441

Landscape Architect
Land Design, Inc
703.549.7784

Key Plan

Revisions
No. Date

Roof Plan

Date
06/01/01

Principal in Charge
DC

Principal Designer
MW

Approved
DK

Drawn
LS, SL, CF

Job No.
#0004.00

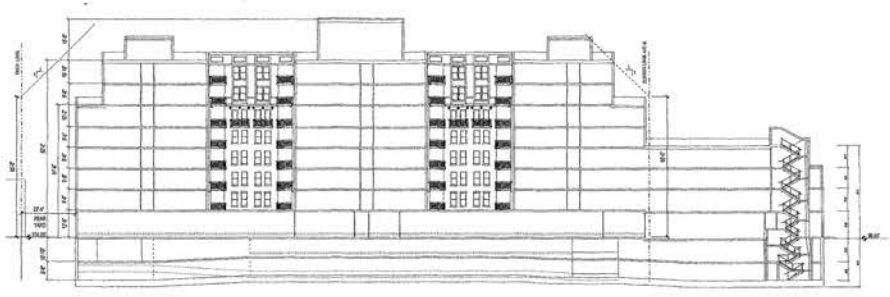
Scale
1/8" = 1'-0"

Drawing No.
A006

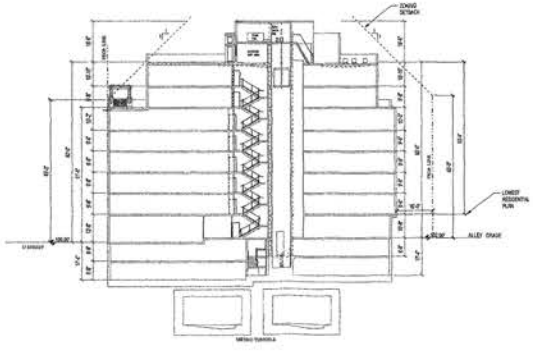
Zoning Submission

TORTI GALLAS AND PARTNERS + CHK

ELLINGTON PLAZA



C2 LONGITUDINAL SECTION



F2 TRANSVERSE SECTION

Ellington Plaza

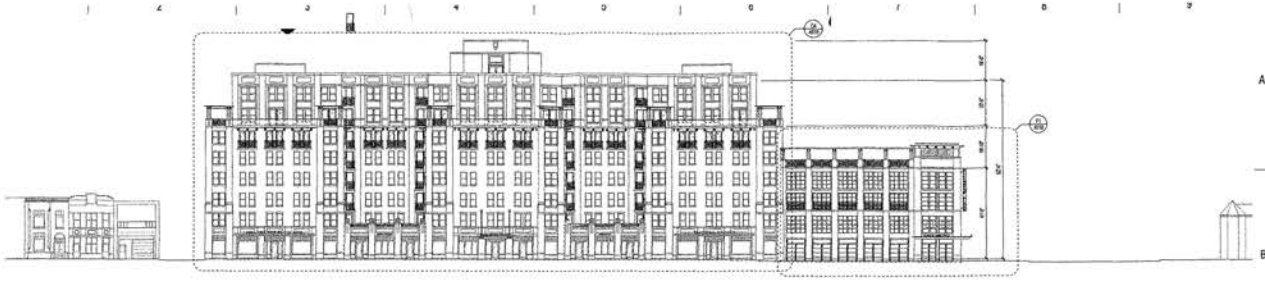
Key Plan

Revisions

Building Sections

Zoning Submission

A401



B1 SOUTH ELEVATION



D1 NORTH ELEVATION



F1 WEST ELEVATION



F6 EAST ELEVATION

Ellington Plaza

Key Plan

Revisions

BUILDING ELEV.'S

Zoning Submission

A501



ADVISORY NEIGHBORHOOD COMMISSION 1B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COLUMBIA HEIGHTS / LEDROIT PARK / SHAW / UNIVERSITY HEIGHTS

April 19, 2001

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

Re: BZA Application No. 16726, WMATA Site, Square 236

Dear Members of the Board:

This letter is to advise that ANC 1B, at its regularly scheduled April 5th public meeting at which a quorum was present, voted to support the request of Donatelli & Klein, the applicant in BZA Application No. 16726, for four variances and two special exceptions to permit the construction of an apartment building with ground floor retail at 13th and U Streets, N.W. in Square 236. This action is consistent with prior actions of the Commission in support of this project before the City Council and other DC agencies.

The Commission was advised that the subject property is unique and affected by several exceptional situations and conditions, including its large size being 44,341 square feet, its unusual shape and its being included in three different zoning categories.

In order to accommodate the building as previously supported by ANC 1B, we were advised that there is a need for variances from the provisions of required public space at grade level of Section 633 and the street frontage design requirements of Section 1903. We also were informed that a variance is needed from the court requirements of Section 638 in order for Donatelli & Klein to provide access to the rear of the properties for parking of the abutting property owners. Finally, we were advised that variance relief is required from the provisions of Section 635 for private residential recreation space.

The ANC further was informed that special exception relief is requested pursuant to Section 2514.2 and that special exception relief is required for the roof structures located on the proposed building.

ANC 1B supports these requests for variances and special exceptions which will allow Donatelli & Klein to construct the building as originally approved by ANC 1B, after consultation with the ANC and members of the community. ANC 1B urges the prompt approval by the Board of this important project so that it may proceed forward to the benefit of the community and the District as a whole.

Sincerely,

Glenn J. Melcher
Chairman