GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman, Director
Office of Planning

DATE: September 6, 2001

SUBJECT: Waiver of Rules for Late Submittal of a Revised Report concerning BZA Application 16743 requesting a variance for building addition on property located at 1140 Connecticut Avenue N.W.

The attached report concerning an application from the Charles E. Smith Companies, for a variance to increase the allowable floor area ratio (FAR) limitation of 10.0 under in Section 3103 of Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, by 0.061 FAR., is submitted less than 7 days prior to the Board of Zoning Adjustment's Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

BZA
Case No. 16743
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16743
EXHIBIT NO.25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: September 6, 2001

SUBJECT: BZA Application 16743

APPLICATION

In this application, the Charles E. Smith Companies requests a variance to increase the allowable floor area ratio (FAR) limitation of 10.0 under in Section 3103 of Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, by 0.061 FAR.

SUMMARY RECOMMENDATION

The Office of Planning supports approval of a lesser variance that would allow the first-floor commercial space to encompass only the interior arcade floor area, as recommended in the Comprehensive Plan, thereby increasing the total building floor area by 657 square feet to 179,887 square feet (approximately a 10.04 FAR).

SITE AND AREA DESCRIPTION

The subject property at 1134-1140 Connecticut Avenue, N.W., is a through-lot that extends to 18th Street, N.W. A twelve-story office building with first floor retail is constructed on the property with four underground levels occupied by a PMI commercial parking operation and the Improv Comedy Club. Each first-floor retail space has its own exterior entrance, while the principal pedestrian access to the central elevator core and office space on the upper floors is along the Connecticut Avenue frontage.

The construction permit for the building "envelope" was approved in 1965. Along Connecticut Avenue, the building frontage is approximately 125' wide (refer to Exhibit 1). According to a plat prepared by the District of Columbia Surveyor, the eastern building façade is generally set-back 10' from the Connecticut Avenue, N.W., right-of-way. In the right-of-way, immediately adjacent to the property boundary, is a wide sidewalk. Portions of the building façade, approximately 14.5'-wide in the northeast and southeast corners, are set back an additional five feet for a total of fifteen feet. The façade is divided into five structural bays: two end bays

EXISTING ZONING AND RELIEF REQUESTED

Section 199 of the Zoning Regulations includes the following definition:

> "Open arcade - a continuous area, located along the perimeter of a building, designed for pedestrian uses, and which adjoins a street for its entire length, and, except for structural piers, columns or arches, is open to the street."

Under Section 770.1 of the Zoning Regulations, property zoned C-4 is limited to an FAR of 8.5. Section 770.4 also states that:

> "In the C-4 district, a building or other structure may be erected to a height not exceeding one hundred and thirty feet (130 ft.); Provided, that the building or other structure shall face or abut a street not less than one hundred and ten feet (110 ft.) wide between building lines."

The adjacent Connecticut Avenue right-of-way is 130 feet wide. As a result, Section 771.5 provides that:

> "In the C-4 district, a building or structure that is erected to a height in excess of one hundred and ten feet (110 ft.) as permitted in §770.4 may have a floor area ratio not exceeding ten (10.0) ..."

As a result, the maximum FAR allowed on the subject property is 10.0. The property and development are also subject to the following requirements:

Standard	**C-4 Requirement**	**Existing Building**	**First Floor Extension**	**Required Relief**
Lot Area	17,924 s.f.	Same	Same	None
Lot Width	120 feet (eastern frontage)	120 feet	Same	None
Floor Area	---	180,203 s.f.	181,593 s.f.	N/A
Floor Area Ratio	10.0	10.05 (includes "credit")	10.13	Variance
Lot Occupancy (max.)	100%	<100%	<100%	None
Side Yard	0 feet	0 feet	Same	None
Court (closed)	20 feet 5 inches	25 feet 8 inches	None	None
Height	130 feet (maximum)	Same	Same	None
Parking spaces	None	236	236	None
Front Yard	0 feet	0 feet	Same	None
Rear Yard	27 feet 2 inches	25 feet	25 feet	None

According to the Zoning Computation Sheet prepared for the "shell" building permit (Exhibit 5), the subject property totals 17,923.63 square feet. Based on the allowable FAR of 10.0, the maximum gross building floor area allowed on-site is 179,236 square feet. Sheet notes indicate that providing the Connecticut Avenue arcade entitled the developer to an additional floor area "credit" (bonus) up to 4,481 square feet. However, the existing building was described as having a floor area of 179,230 square feet, 973 square-feet of arcade and 4,481 square feet of penthouse floor area. Since arcade "credit" and the penthouse floor areas are not included in the FAR calculation, the property was essentially developed to the allowable FAR limit.

As discussed above, the existing storefronts are recessed into the building envelope, so it appears that a portion of the proposed expansion would "fill in" arcade floor area within the building perimeter. Based on this information, staff calculated that the building floor area after the proposed expansion would be as follows:

Existing above-ground floor area	179,230 square feet
+ Floor area between storefronts & perimeter[1]	657 square feet
+ New retail addition beyond envelope to right-of-way	1,394 square feet
+ Canopied driveway area in line with storefronts	114 square feet
+ Canopy extension to right-of-way	327 square feet
Resulting Total Above-ground Floor Area	181,722 square feet (10.14 FAR)

Based on this information, it has been determined that, although the existing building and proposed expansion would generally meet the requirements of the Zoning Regulations:

- Expanding the retail floor area by eliminating the arcade would cause the existing building FAR to become nonconforming with the C-4 FAR limitation of 10.0.
- Extending first floor storefronts and the driveway canopy to the right-of-way would increase the nonconforming FAR to approximately 10.14.

In the Statement of Justification, the applicant indicates that this proposal meets the standards for a variance because:

- The subject property presents "exceptional conditions": (1) the setback from the property line places the existing retail space at a "competitive disadvantage" to space abutting the right-of-way; (2) the lot's irregular shape and central mechanical core result in the inefficient use of space inside the building; (3) driveway ramps on both sides limit the available retail space; (4) renovation without the variance would result in "an unattractive indentation in the alignment of the adjacent retail storefronts"; and (5) "the economic infeasibility of meaningful renovation without the ... variance."
- Strict application of the zoning regulations would result in a "practical difficulty" because property owners cannot attract and retain quality retail tenants unless the storefronts can be extended as described.
- Increasing the allowable FAR on the subject property as requested could be approved

[1] Floor areas based on dimensions shown on Exhibits 1 & 2

"without substantial detriment to the public good".

It was also observed that:

- removal of the arcade is in accordance with the Comprehensive Plan; and
- extending the retail storefronts to the street would provide "uniformity to that block's retail configuration" that would "contribute to the success of retail on the entire block."

The applicant provided architectural elevations and schematic plans with this application.

ANALYSIS

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

Sections 770.4 and 771.5 limit the allowable FAR in C-4 to 10.0. This proposal would increase the FAR on-site beyond 10.0. Therefore, a variance is needed from this regulation.

Section 3103.2 grants the Board of Zoning Appeals (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 type of zoning relief needed is an "area" variance, requiring that the circumstances surrounding this request are "unique" and that the usual application of the referenced regulations would result in "peculiar and extraordinary practical difficulties."

Compliance with Section 3103.2:

The subject property and development have several characteristics that make them unique. The property is a through-lot with a very irregular shape and driveway ramps along the entirety of its northern boundary. The building elevator core and hall arrangement limit the flexibility of the interior spaces. The existing open arcade also cannot be extended to the north and south beyond the property (even if the Brookstone Store was not extended) so its usefulness as a mechanism to attract pedestrians into the site is diminished. It is also one of the few arcades left along Connecticut Avenue.

The principal reason for this request, to extend the remaining first-floor storefronts to the sidewalk edge (in line with the Brookstone Store extension), is not affected by these circumstances. Rather, the applicant is limited by the fact that this building was designed and

constructed at a time when retail shops with open arcades were encouraged by the District, even to the point of granting additional floor area for this pedestrian amenity. The applicant was able to construct a development that exceeded the allowable FAR by taking advantage of a related floor area "credit". No more FAR is available as a matter-of-right. The existing condition is the result of deliberate actions by the applicant, although these actions were taken in 1965 under a different set of retail marketing practices.

The core of the applicant's justification is that the existing conditions put this site at a competitive disadvantage and, although there is area for some retail expansion within the building envelope, any proposed expansion is only economically feasible if it can be continued to the right-of-way. Strict application of the zoning regulations would result in a "practical difficulty" because the property owners cannot "attract and retain quality retail tenants" unless the storefronts can be extended as described. However, staff does not think that the inability to "attract and retain quality retail tenants" constitutes an "exceptional or extraordinary practical difficulty".

However, the Comprehensive Plan, as amended in 1998, includes a statement that supports revising the Zoning Regulations to allow "arcade space *in* existing buildings to be converted as a matter of right to retail, entertainment, arts or services uses" (refer to the Comprehensive Plan below). If adopted, this change would allow the applicant to expand retail operations to the building perimeter, *but not beyond to the right-of-way.* Using the interior arcade for the proposed uses, as recommended in the Comprehensive Plan does present a practical difficulty under the current Zoning Regulations. Since this arcade is not continuous and only serves the subject property, staff would agree that a variance to enclose the arcade space could be granted "without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map designates the general surrounding area for high density development including a mix of employment, retail, office, cultural and entertainment centers.

Chapter 11, the Land Use Element of the Comprehensive Plan, includes the following policies in support of commercial area objectives.

> "1108.1 The policies established in support of the commercial areas objectives are as follows: ...
>
> (a) Promote appropriate commercial development, including centers for retail and office uses, to serve the needs of the economy of the District and its neighborhoods, to provide a focus for the expansion of housing and employment that the District will have to accommodate the future because of its urban center role within the region, and to expand employment opportunities in the region for District residents;

(s) Support modification of the Zoning Regulations to encourage the success of ground floor retail and entertainment uses in the Central Employment Area by *allowing arcade space in existing buildings to be converted as a matter of right to retail, entertainment, arts or services uses; ...*"

COMMUNITY COMMENTS

Advisory Neighborhood Commission (ANC) 2B (The Dupont Circle ANC) reviewed this proposal during their August 2001 meeting. The ANC is supportive of this application.

AGENCY COMMENTS

The Metropolitan Police Department (MPD), Fire Department, Departments of Public Works (DPW) and Health were contacted concerning this proposal. The MPD Second Police District indicated that this proposal "would not adversely affect public safety and will not create additional demands in police services" (Exhibit 6). The DPW Transportation Planning Division determined that the proposed extension "would not translate into additional vehicular trips" or "impact the public space in terms of pedestrian movements." In conclusion, DPW did not express any objections (Exhibit 7). No other comments have been received.

RECOMMENDATION

The Office of Planning finds that the applicant's request, for a FAR variance to extend the existing storefronts to the Connecticut Avenue, N.W., right-of-way meets two of the requirements for a variance. However, staff determined that the inability to "attract and retain quality retail tenants" by extending the existing storefronts beyond the building perimeter does not create "peculiar and extraordinary practical difficulties" as required under Section 3103.2 of the Zoning Regulations. As a result, OP recommends denial of the requested variance.

OP does support approval of a lesser variance to allow the first-floor commercial space to encompass the interior arcade floor area, as recommended in the Comprehensive Plan.

OP recognizes the inconsistency between the Comprehensive Plan amendment and the current zoning regulations regarding arcade enclosures and anticipates initiating the text amendment within the next several months that will address the arcade issue. It is not clear at this time however, how the issue of non-conforming FAR will be addressed.

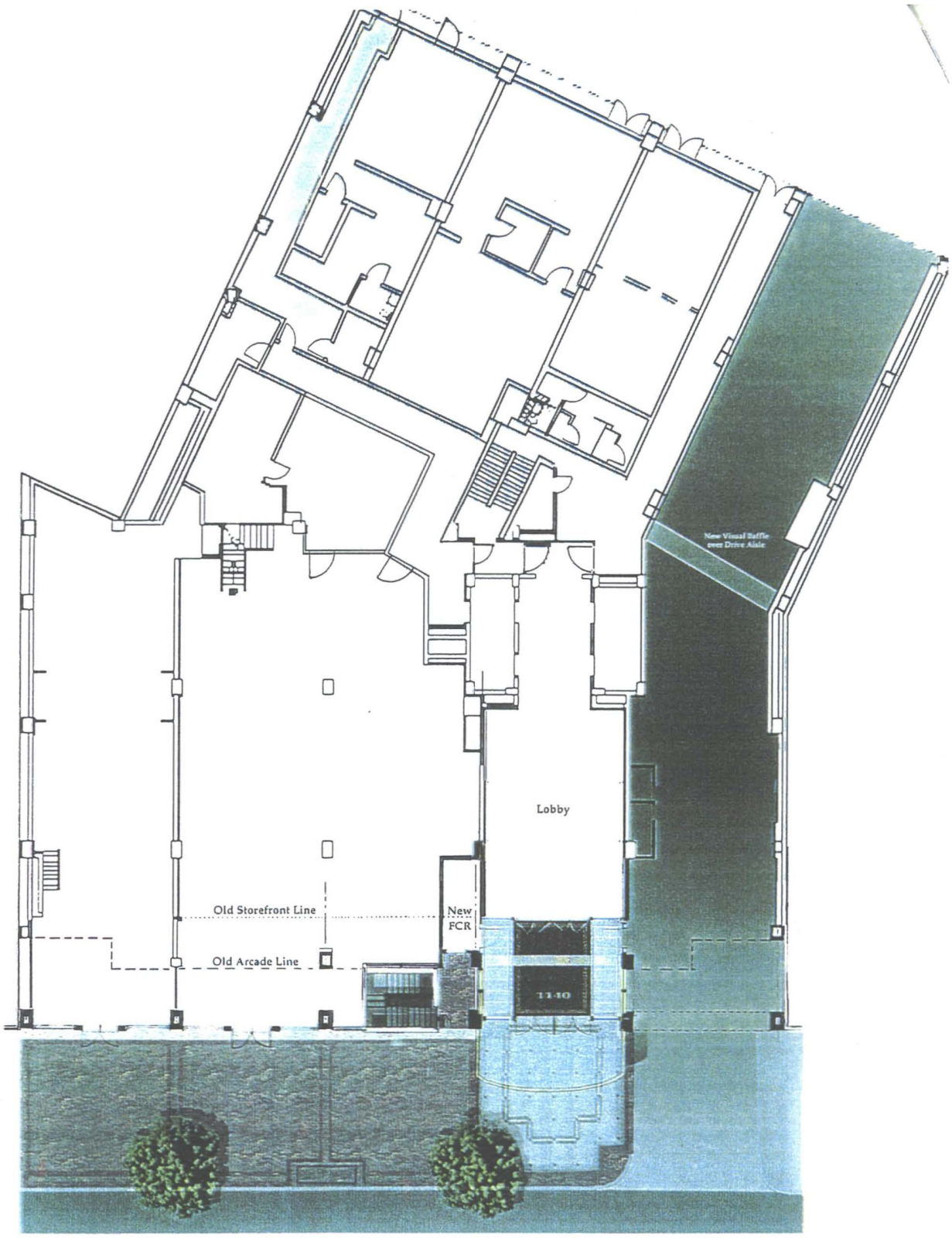
Attachment: Exhibit 1 Existing and Proposed Building First Floor Plan
Exhibit 2 Connecticut Avenue Expansion Detail
Exhibit 3 District of Columbia Surveyor's Plat for Lot 7, 26, 815 & 817/Sq. 161 dated April 29, 1965
Exhibit 4 Aerial Map with Existing Zoning
Exhibit 5 Zoning Computation Sheet for 1140 Connecticut Avenue, N.W. with notation dated November 12, 1965

Exhibit 6 Letter from Kenneth G. Laden, Associate Director for Transportation Planning (Department of Public Works), to Andrew Altman, Planning Director dated August 21, 2001

Exhibit 7 Letter from Peter Newsham, Commander, Metropolitan Police Department Second, to Andrew Altman, Planning Director dated June 15, 2001

AA/afj

Exhibit 1



Max. Area, needing Zoning Adjustment
Scale: NTS

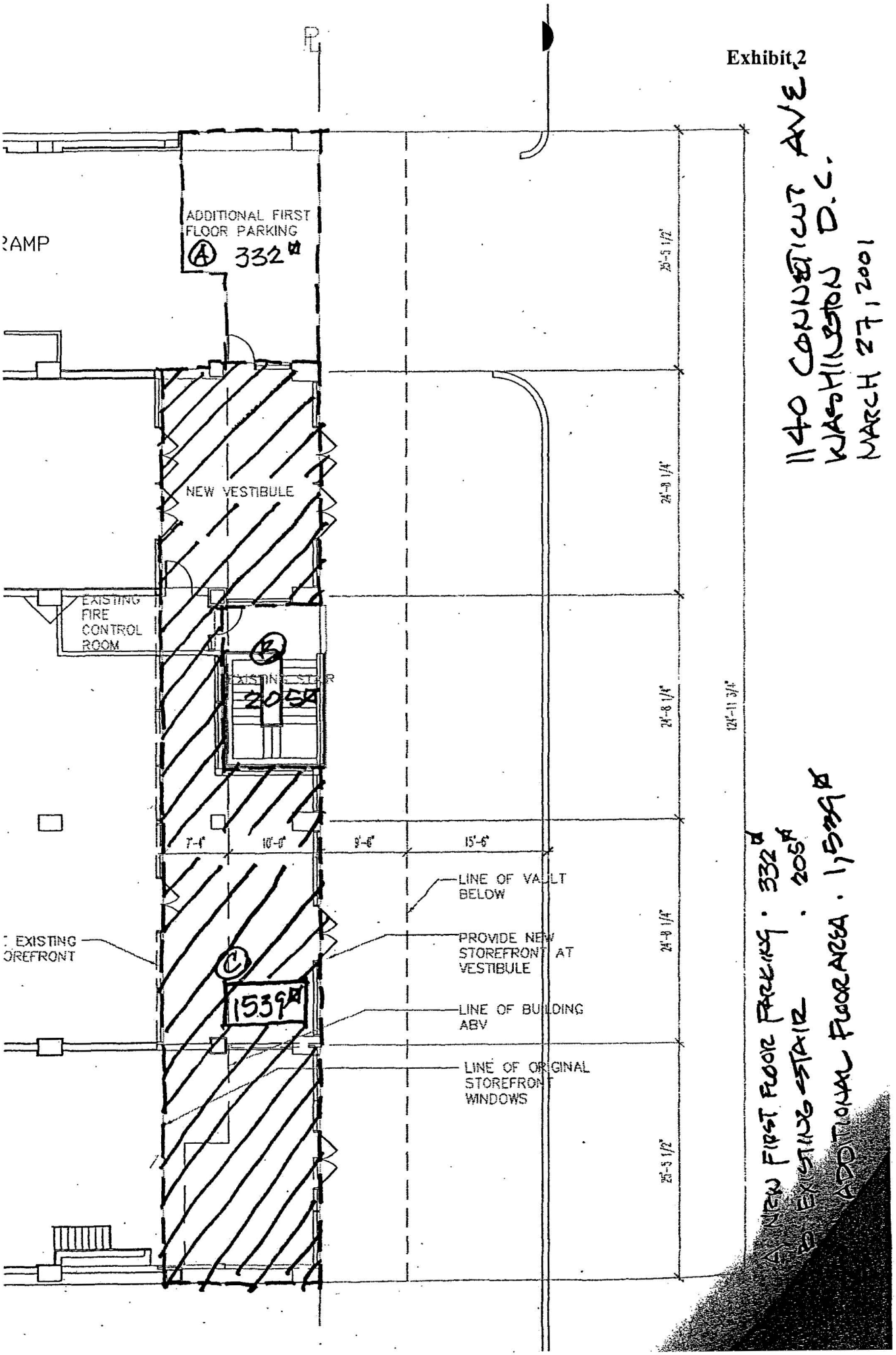
BBGM

1140 Connecticut Avenue
Washington, D.C.

CHARLES E. SMITH REALTY COMPANIES
1345 CRYSTAL DRIVE
CRYSTAL CITY
ARLINGTON, VA 22202

BRENNAN BEER GORMAN MONK / ARCHITECTS & INTERIORS

Exhibit 2



1140 CONNECTICUT AVE.
WASHINGTON D.C.
MARCH 27, 2001

A NEW FIRST FLOOR PARKING · 332 □'
B EXISTING STAIR · 205 □'
C ADDITIONAL FLOOR AREA · 1,539 □'

Exhibit 3

Surveyor's Office
DISTRICT OF COLUMBIA

Washington, D. C. 4-29-65, 19

Plat for Building Permit of Lot 7, Sq. 815+817 30 16th

Scale: 1 inch = 20 feet Recorded in Book A+T page Tracing

S.O. 86852

Furnished to James R. Kerr

R. E. Hogle
Surveyor, District of Columbia

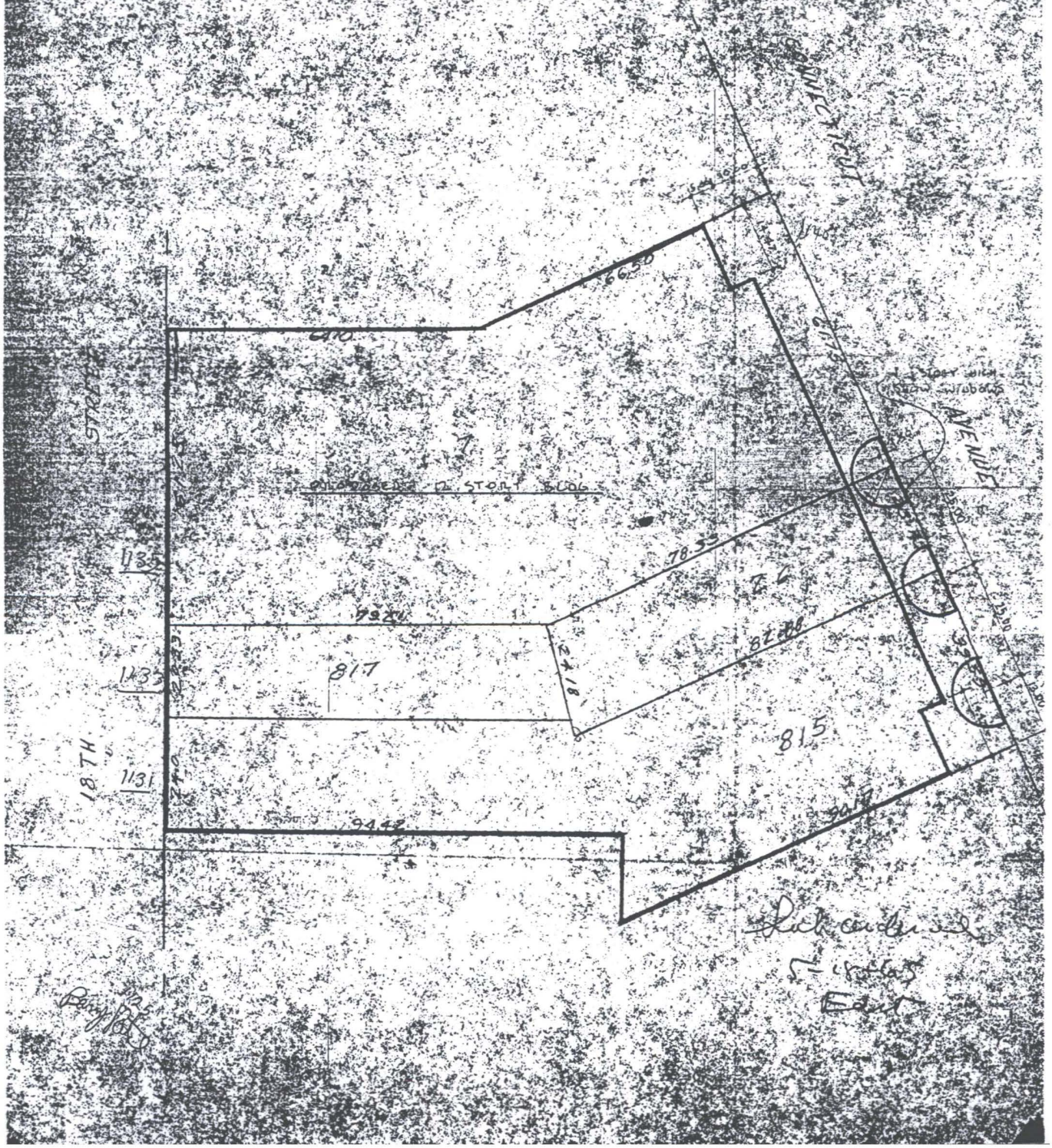
By JHP

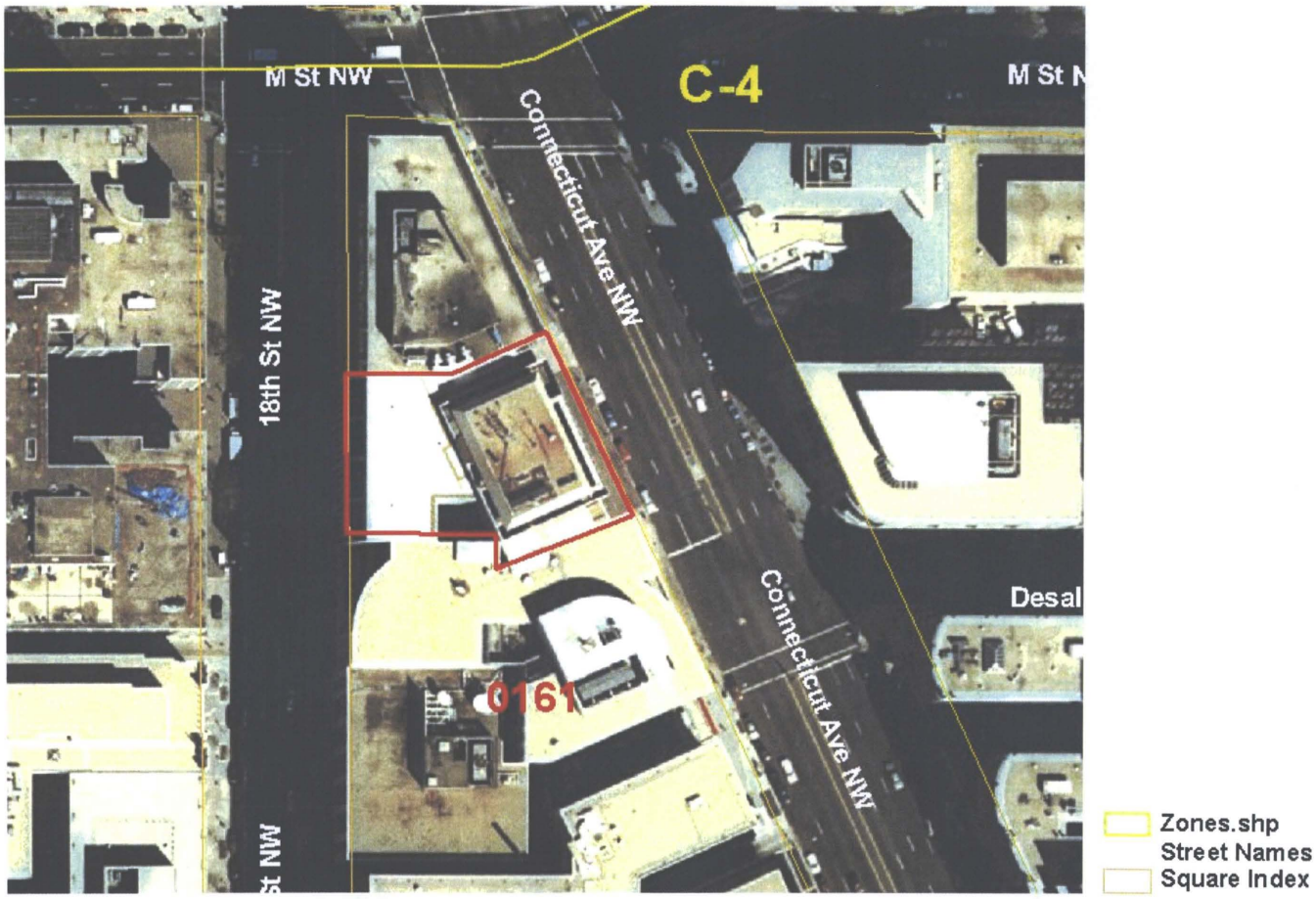
I hereby certify that the dimensions and measurements shown hereon are correct, the property and the proposed building or construction is staked out on the ground as shown hereon, that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned, located and plotted and agree with those accompanying the application; that the foundation plan 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 area 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 the 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 or alley grade will not result in a rate of grade slope exceeding of (minus) at any point on private property in excess of 20% for single family dwellings or flats, or in excess of 10% at any point for other buildings. (The setting of the Highway Department permit for maximum driveway grade of 12% across the public parking and the private residential property.)

Date

(Signature of owner or his authorized agent)

NOTE: DATA SHOWN ON ASSESSMENT AND TAXATION LOTS OR PARCELS ARE PER RECORDS OF ASSESSOR, D. C. BUT DO NOT NECESSARILY AGREE WITH DEED DESCRIPTION!





Aerial of 1140 Connecticut Ave. N.W. with Zoning

0 80 160 Feet

Exhibit 4

JOB # 65-316

Exhibit 5

DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS - ZONING DIVISION

ZONING COMPUTATION SHEET - COMMERCIAL USE

1. Owner: 1140 CONN AVE VENTURE	2. Location: 1140 CONN AVE NW (1136 1138 1134)		3. Square: 161
4. Lot: ~~4-26-815~~ ~~4+7~~ ~~S-8 DEDGED~~ 32	5. Zone: C-4	6. Use of Building or Structure: OFFICE - STORE GARAGE	7. New ✓ Addition to Alter existing
8. Type of Structure: Conforming ✓ Nonconforming	9. Use of Structure: Conforming ✓ Nonconforming	10. Width of Adjacent Streets, CONN AVE 130' 18TH ST 90'	11. Width of Adjacent Alleys: NONE
12. Width of Restriction Lines: NONE	13. Application of Act of June 1, 1910: MAX Height of Bldg. — 130' Excess Height — 24'	14. Type of Lot: Corner Through ✓ Triangular Alley Interior	15. Number of Dwelling Units: NONE
16. Lot Area: N/P Required — Provided 17,923.634#	17. Lot Occupancy: N/P Allowed — Provided —	18. Gross Floor Area: Total 184,690 #	19. Cellar Area: Total ✓
			20. Floor Area Ratio: [illegible] 177,236 # Allowed 158198 # Provided — 179,230#
21. Number of Residential Parking Spaces: Required — Provided —NONE Open Area — Within Bldg. —	22. Number of Commercial Parking Spaces: Required NONE Provided 236 ~~Open Area —~~ Within Bldg. ✓		23. Number of Loading Berths: Required 3 — Provided 3
24. Height of Bldg: Allowed — 130' Curb, to first floor — 9 1/2" to high point of roof — 130'-6" Grade, to first floor — 0" to ceiling top story — 128' to high point of roof 129'-2" To penthouse - 154'	25. Number of Stories: Allowed — N/P Provided — 12 Basement — Cellar — ✓		Rear Yard Depth — Required 27'-2 — 284 182 Side Yard Width — NONE — NONE Open Court Width — NONE — NONE Closed Court Width — 20'-5" — 75'-(84 Closed Court Area — 836#

REMARKS:

1. ~~Change Loading Berths~~
2. ~~Excess Height 6" at roof level or~~
3. ~~BZA for roof structure~~

COMPLIES W/ REDIT OF ZONING REMS 11-12-65

Exhibit 6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DIVISION OF TRANSPORTATION

Transportation Policy and Planning Administration

Memorandum

TO: Andrew Altman
Director Office of Planning

FROM: Kenneth G. Laden
Associate Director for Transportation Planning

DATE: August 21, 2001

SUBJECT: BZA Application No. 16743 – Seeks variance for the floor area ratio limitation in C- 4 for property located at 1134-1140 Connecticut Avenue, NW

The Department of Public Works, District Division of Transportation (DDOT), has reviewed the subject application and other material accompanying your memorandum. This report addresses the transportation elements of the proposal.

The applicant seeks a variance for the floor area ratio requirement to allow the construction of 2,076 square feet of additional gross floor area. The proposal calls for the removal of the existing open arcade along Connecticut Avenue, extend the store front windows to the property line, enclose the existing stairs to the below-grade space and cover an additional area of the garage ramp to the below-grade parking structure.

The proposed variance, which would add approximately 1,097 square feet of gross floor area, will not translate into any additional vehicular trips to and from the site. The proposed work will not impact the public space in terms of pedestrian movements, nor will it require any new curb cut adjacent to the site. Accordingly, DDOT has no objection to the proposal.

Exhibit 7

Second Police District

3320 Idaho Avenue, NW, Washington D.C., 20016 (202) 282-0042 FAX (202) 282-0196

June 15, 2001

MEMORANDUM

TO: Senior Executive Director
Organizational Development

SUBJECT: Comments Concerning Application No. 16743

Per your request, I have reviewed the above subject and conclude this development will not adversely affect public safety and will not create additional demands in police service.

Peter Newsham
Commander