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September 6, 2001

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Hand Delivery

Board of Zoning Adjustment
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: BZA Application No. 16754, 1615 LLL LP

Dear Members of the Board:

Enclosed please find an original and 10 copies of the Applicant's Statement in Support of the above-referenced application, scheduled for public hearing on September 20, 2001.

Please do not hesitate to contact us should you have any questions or require further information.

Very truly yours,

HOLLAND & KNIGHT LLP

Dennis R. Hughes

Enclosures

WAS1 #919995 v2

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2001 SEP -6 PM 3:02
RECEIVED

BZA
Case No. 16754
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16754
EXHIBIT NO.25A1

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of 1615 LLL LP

BZA Application No. 16754
Public Hearing: September 20, 2001
ANC 2B

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STATEMENT OF THE APPLICANT

I.
Nature Of Relief Sought

This is an application pursuant to 11 DCMR §3103.2, for variances from the floor area ratio requirements under §531, building height limitations under §530, loading berth requirements under §2201, stacked garage parking space limitations under §2115.9, to allow a nonconforming addition to a hotel under §2001.3 in the SP-1 District at premises 1615 Rhode Island Avenue, NW (Square 182N, Lot 11).

II.
Jurisdiction Of The Board

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief pursuant to §3103.2 of the Zoning Regulations.

III.
Background Of The Case

A. Site and Vicinity Characteristics

The Subject Property occupies the entirety of Square 182N, a small, virtually triangular square bounded to the west by 17th Street, NW, to the north by N Street,

NW, to the east by Bataan Street, NW, and to the south by Rhode Island Avenue, NW. The Subject Square measures less than 12,000 square feet.

The northern portion of the Subject Property is improved with a nine-story hotel. Constructed in 1963, the hotel measures 90 feet tall and is generally rectangular in shape, measuring approximately 154 feet along N Street, NW, and 58 feet along 17th and Bataan Streets, NW, respectively. The southern portion of the Subject Property, essentially triangular in shape, contains a swimming pool, patio, canopy extension and porte cochere. Below-grade parking occupies the entire footprint of the Subject Property as well as vaults under adjacent public space.

The Subject Square is located within the SP-1 Zoning District and is also subject to the Dupont Circle ("DC") zoning overlay. The Subject Property is located within the Central Employment Area, as defined in §199 of the Zoning Regulations and the Comprehensive Plan.

There is a balance of office, hotel, foreign mission and residential uses in the vicinity of the Subject Property. Directly east of the Subject Square are a series of federal reservations that comprise Scott Circle. To the immediate south across Rhode Island Avenue, NW, a portion of Square 182 is zoned DC/SP-2, including the nine-story B'nai B'rith International Headquarters (constructed 1956). The property located mid-block in Square 182, along the southern side of the 1600 block of Rhode Island Avenue, NW, has been approved for development as two buildings in a planned unit development ("PUD") for an extended stay residential for use by Homestead Village and for combination of residential and office uses by the University of California, respectively, with each building measuring 11 stories and

106 feet in height. The Zoning Commission is currently reviewing a further request to modify that PUD in order to permit the extended stay residential use to be replaced with offices for the Human Rights Campaign. (Please see D.C. Register Notice attached as Exhibit O). The proposed modification will not alter the proposal for the building to measure 11 stories and 106 feet in height. The northeastern corner of Square 182, located at the southwest corner of the intersection of 16th Street and Rhode Island Avenue, NW, is also zoned DC/SP-2 and is improved with an eight-story Marriott Courtyard Hotel.

Immediately west of the Subject Square, across 17th Street, NW, also zoned DC/SP-1, is a 90-foot tall YMCA facility fronting Rhode Island Avenue, NW, along with office buildings and hotels. Northwest of the Subject Square, in the southeastern portion of Square 158, also zoned DC/SP-1, are a variety of foreign missions and office buildings. The Embassy of the Philippines occupies the entirety of the small square (Square 181S) directly north of the Subject Property. North of the Philippine Embassy, along the north side of the 1600 block of Massachusetts Avenue, NW, are a number of eight and nine-story office buildings and foreign missions, including the Johns Hopkins University Building at 1619 Massachusetts Avenue, NW, and the Embassy of Australia at 1601 Massachusetts Avenue, NW.(Please see photographs at Exhibit I).

B. **Project Description**

The Applicant proposes to construct an addition to the existing hotel in order to add approximately 50 guest rooms, for a new total of 199 guest rooms. The addition

would occupy the small southern portion of the Subject Property that is currently utilized as a patio and pool area. The existing building contains gross floor area of approximately 68,450 square feet, resulting in an FAR of 5.7. The proposed addition would increase the hotel's total gross floor area by 25,591 square feet, or 1.9 FAR, for a total gross floor area of 92,041 square feet and 7.7 FAR. Exhibit space and function rooms provided for the hotel are adequate to serve the hotel's guests and do not exceed 15 percent of the hotel's total gross floor area. The proposed addition would match the 90-foot height of the existing hotel building and, like the existing building, would stand nine stories tall.

The existing building has sufficient parking capacity to accommodate almost 90 spaces under a valet parking regime. The parking levels provide 44 standard-sized parking spaces for purposes of the Zoning Regulations. With valet parking, the Applicant can provide 63 spaces on site. The additional 27 spaces can be accommodated through use of existing vault space within the parking garage. Valet parking is the exclusive system used by the hotel, and the Applicant has had no problems or complaints in accommodating traffic from the hotel. The Applicant has no ability or practical need to increase the amount of parking provided on the site beyond what is currently provided.

As proposed and explained herein, the proposed height, bulk and design of the proposal harmonize with existing uses on neighboring properties. Furthermore, this project is wholly consistent with the goals of the city and will be a substantial contribution to the District of Columbia, especially as the new Convention Center is expected to attract unprecedented numbers of visitors to the District.

C. **Zoning and Planning Considerations**

The Zoning Regulations in effect when the building was constructed in 1963 included the Subject Square within the SP Zoning District. As such, the building was permitted to be utilized by right as a hotel and to be constructed to a height of 90 feet and with a maximum density of 6.0 FAR. Parking was to be provided at a ratio of 1 space for every 4 sleeping rooms (translating to 37 required spaces for the existing hotel). A single loading berth was required.

In 1978, the SP District was divided into two districts, the SP-1 (medium density) and SP-2 (medium-high density), as part of Zoning Commission Case No. 235. (Exhibit F). At that time, all properties that had been zoned SP were reclassified to SP-2, pending future re-mapping action by the Zoning Commission. The SP-2 zoning retained the permitted height of 90 feet and left the total permitted FAR at 6.0. However, the SP-2 zoning reduced the amount of non-residential FAR permitted to 3.5. SP-1 zoning permitted a lesser height (65 feet) and density (4.0 FAR total) than the original SP zoning.

A subsequent Zoning Commission case, No. 282, rezoned several squares, including the Subject Square from SP-2 to SP-1. (Exhibit G).

The Comprehensive Plan for the District of Columbia contemplates high density commercial use for the Subject Square, as demonstrated through the Generalized Land Use Map. (Exhibit H). In addition, the Ward 2 Plan of the Comprehensive Plan acknowledges that "hotels are a key element in the economic development of Washington and are important activity generators."(10 DCMR

§1331.1) "Over the long term (2000-2020), additional hotels will be needed to fulfill increased demand from visitors, tourists, business people and conventioneers." (§1331.2). Consequently, the Ward 2 Plan sets as an objective "a major increase in rooms in new hotels at appropriate locations in Ward 2, adding approximately 3,400 additional hotel rooms by the year 2000 (or early in the 21st century).(§1332.1). To accomplish this objective, the Ward 2 Plan directs the District to, among other things, "encourage continued improvement of existing hotels."(§1333.1(a)(1)).

IV.
Exhibits In Support Of The Application

Before proceeding with the discussion of the merits of this application, the following additional materials are submitted:

Exhibit A:	A portion of the Baist Map showing the Subject Property outlined in red ink.
Exhibit B:	A portion of the Sanborn Atlas showing the Subject Property outlined in red ink.
Exhibit C:	A portion of the 1995 Zoning Map showing the Subject Square outlined in red ink, with zoning designation of SP-1.
Exhibit D:	A portion of the 1960 Zoning Map showing the Subject Square outlined in red ink, with zoning designation of SP.
Exhibit E:	Relevant excerpts from 1960 Zoning Regulations (effective as of date of construction of existing building on Subject Property).
Exhibit F:	Zoning Commission Order No. 235, Case No. 78-2, September 14, 1978.
Exhibit G:	Zoning Commission Order No. 282, Case No. 76-24 June 14, 1979.

Exhibit H:	A portion of the District of Columbia Generalized Land Use Map.
Exhibit I:	Photographs of the Subject Property and surrounding properties.
Exhibit J:	Outline of testimony of Representative of 1615 LLL LP.
Exhibit K:	Outline of testimony of Eric Morrison, Architect.
Exhibit L:	Outline of testimony of Ted Seale, Hotel Market Expert.
Exhibit M:	Outline of testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.
Exhibit N:	Architectural drawings.
Exhibit O:	PUD Modification – Zoning Commission Order No. 871 (5/18/01 DC Register Notice of Public Hearing).
Exhibit P:	Letter of Support from Ward 2 Councilmember, Jack Evans.

V.
The Application Meets the Requirements for Variance Relief from §531 of the Zoning Regulations

Section 531 of the Zoning Regulations establishes the maximum building density permitted in the SP zoning districts. Subsection 531.1 provides that the maximum total FAR permitted in the SP-1 District is 4.0, all of which may be utilized for apartment house or other residential use, including the guest rooms and service areas of a hotel pursuant to §531.3.

The existing hotel building on the site occupies approximately 5.7 FAR. With the proposed hotel addition, the building's total FAR would increase to 7.7 FAR. Thus, pursuant to §3103.2 of the Zoning Regulations, the Applicant requests

variance relief from §531. As set forth below, the application meets the three-part test for area variance relief from §531.1 of the Regulations.

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

The existing conditions and constraints of the project site are exceptional among properties in the DC/SP-1 Zone. Having a total lot area of only 11,938 square feet, the Subject Property is a comparatively small urban development site, especially among those areas designated by the Comprehensive Plan for "high density commercial" uses in the downtown area. The small size of the Subject Property is further complicated for efficient development by its unusual, almost triangular shape. In addition to the exceptional size and shape of the Subject Property, the site has the unusual circumstance of fronting public streets on all four sides.

The Subject Square is one of four such exceptionally situated, sized and configured squares formed at Scott Circle, creations of the L'Enfant Plan's overlay of diagonal avenues upon a grid of streets, with intersections of the two punctuated by circles and squares, forming small urban parks. All four such sites share the DC/SP-1 of the Subject Square, however, unlike the two squares located east of Scott Circle which are designated by the Generalized Land Use Map for high density residential uses, the Subject Square and the square to its north are designated for high density commercial uses. Similarly, unlike the square to its north, which abuts the high density residential classification, the Subject Square does not abut said residential classification.

The zoning history of the Subject Property also results in an exceptional condition. Whereas, Square 181S, to the immediate north of the Subject Square, was improved in 1993 with a five-story foreign mission, requiring FMBZA approval (BZA Application No. 15465) in order to be sited at its location, the Subject Square is improved with a building which, when constructed, was permitted as a matter of right use and conformed to the zoning envelope provided. The rezoning of the Subject Square in 1979 diminished the permissible height and density for new construction on the site, as well as placing a restriction upon hotel use, rendering the building on the Subject Property a nonconforming structure. In placing the Subject Square within the high density commercial classification of the Generalized Land Use Map, the City Council has indicated that the Subject Property is appropriate for higher density development than the SP-1 zoning might otherwise allow. The zoning history of a site may constitute an exceptional condition in a variance application. *Monaco v. District of Columbia Board of Zoning Adjustment*, 407 A.2d 1091 (1979).

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

The strict application of §531.1 would render a practical difficulty upon the Applicant in that it effectively prohibits the Applicant from modernizing and expanding its operations on the Subject Property. This prohibition contravenes the classification given to the property by the Comprehensive Plan as well as the directives for hotel land use as set forth in the Ward 2 Plan, it is inconsistent with the pattern of development in the immediate vicinity of the Subject Property, and it

renders the Applicant's continuing productive use of the Subject Property as a mid-sized hotel infeasible.

[a] Comprehensive Plan

The strict application of §531.1 renders the practical difficulty of preventing the Applicant from developing the Subject Property as set forth in the comprehensive planning process undertaken for the District. As set forth above, the Generalized Land Use Map classifies the Subject Property as high density commercial property, which is the highest density commercial use classification in the Comprehensive Plan. This is likewise consistent with the pattern of development all around the Subject Property, as detailed below.

The Comprehensive Plan is also clear in its emphasis upon expanding hotel capacity in the District, including in Ward 2 and especially in the Central Employment Area. This need has been the subject of much recent community discussion as the new convention center is under construction and promises to lure to the District an unprecedented number of visitors.

[b] Pattern of Surrounding Development

The strict application of §531.1 of the Zoning Regulations burdens the Applicant to comply with a more restrictive density threshold than is needed given the existing hotel use and level of building density surrounding the Subject Property. A land use survey of the area surrounding the Subject Property indicates that the 4.0

FAR limitation of the SP-1 District is significantly lower than virtually every development in the immediate vicinity.

[c] Hotel Program Requirements

The operating requirements for mid-sized hotels in the District generally dictate a need for a minimum of approximately 200 guest rooms. The existing hotel currently provides 149 rooms and the Applicant is proposing an additional 50 guest rooms, for a total of 199 guest rooms at the Subject Property. Without relief from the strict application of §531.1, the Applicant will be unable to undertake this necessary addition to bring the hotel up to a minimally feasible operation. More importantly and more urgently, the Applicant cannot continue to make the investments necessary in the facility to keep the hotel competitive and therefore booked at acceptable occupancy rates. Continued operation of the hotel may become infeasible without the ability to establish a critical mass of rooms.

In sum, the exceptional conditions confronting the Applicant at the Subject Property combine to create a significant practical difficulty for the Applicant's hotel program, both physical and economic.

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 relief requested from the strict application of §531.1 can be granted by the Board without substantial detriment to the public good and with significant impairment to the intent, purpose and plan of the Zoning Regulations.

[a] Public Good

The stated purpose of the Zoning Commission in rezoning the Subject Property, and, in fact, the entire area bounded by Rhode Island Avenue, Massachusetts Avenue, 15th and 17th Streets, NW, was to "insure the continued mixture of embassy, chancery, residential and office uses, to reflect existing development, and to keep any new development to levels appropriate in scale to the existing development." (Exhibit G, at pg. 7). The Applicant is not proposing new development but rather to continue, on a slightly expanded basis, a use that has existed on the Subject Property for almost 40 years. The Applicant's proposal involves a contextual addition to a portion of the Subject Property that is closest to a more dense urban area, will not be evident from the north side, or Massachusetts Avenue side, of the Subject Property, and will have absolutely no negative impact, including no diminution of light or air, upon any existing residential uses. There would be no change in use nor any significant intensification of use as a result of the approval of this variance request.

The Applicant has been engaged in discussions with its Advisory Neighborhood Commission ("ANC"), ANC 2B, regarding the proposed expansion. At its August 8, 2001 regularly scheduled public meeting, the ANC voted unanimously (5-0) to support the Application. The ANC supports the Applicant's proposed expansion of the hotel building on the south side of the property and found that the additional FAR that will be generated would be located exclusively on the southern portion of the Subject Property, fronting more intense commercial and mixed uses across Rhode Island Avenue. For these reasons, ANC 2B determined that the Applicant's

proposal would have no adverse impact on the neighborhood. It is our understanding that a copy of the ANC 2B letter of support for the Application will be provided prior to the date of the public hearing.

The Application also has the support of Ward 2 Councilmember, Jack Evans. A copy of the Councilmember's letter of support is attached as Exhibit P.

[b] No Impairment to Zoning.

Likewise, the requested variance from §531.1 would not work any significant detriment to the intent, purpose or integrity of the Zoning Regulations. As stated above, the Zoning Commission explicitly set forth its reasons for rezoning certain properties in the Scott Circle from SP-2 to SP-1. The Commission undertook the rezoning in an effort to "insure the continued mixture of embassy, chancery, residential and office uses, to reflect existing development, and to keep any new development to levels appropriate in scale to the existing development." In the present case, variance relief can be granted from §531.1 without resulting in development that would frustrate the Commission's intentions in the rezoning. There is no change in use proposed. The Applicant proposes only to continue the same use that has occupied the Subject Property for almost 40 years. Nor is there any threat to the scale of existing development as the Applicant simply proposes to match the height and floor plate of the existing hotel. Likewise, the only portion of the Subject Property that is the subject of the proposed redevelopment is that portion which fronts more intense commercial and mixed uses across Rhode Island Avenue, NW.

For all the above reasons, variance relief can be granted without

substantial detriment to the public good and without substantially impairing the intent of the zone plan.

VI.
The Application Meets the Requirements for Variance Relief from §530 of the Zoning Regulations

Section 530 of the Zoning Regulations applies to the permitted height of buildings and structures in the SP District. Subsection 530.1 provides that the height of buildings or structures shall not exceed 65 feet in the SP-1 District and 90 feet in the SP-2 District.

The existing was constructed prior to the Subject Property's rezoning in 1979. Under the SP zoning in effect at the time of construction, 90 feet was permitted. The existing hotel is 90 feet in height. Because the SP-1 zoning for the Subject Square now limits building height to 65 feet, the Applicant requests variance relief from §530 of the Zoning Regulations. As set forth below, the application meets the three-part test for area variance relief from §530.1 of the Regulations.

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

As discussed above, the Subject Property is affected by exceptional conditions involving its size, shape, location and zoning history.

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

As with its request for variance relief from the density restrictions of the SP-1 District, the Applicant contends that the strict application of the building height

restrictions of §530.1 will render a practical difficulty upon the Applicant's use of the Subject Property. This difficulty upon the Applicant is the direct result of the Applicant's inability to develop its property in furtherance of the directives and stated goals of the District through its Comprehensive Plan and the Applicant's comparative disadvantage to identical hotel uses in operation elsewhere, especially those located in the immediate vicinity, as a direct result of the zoning history of the Subject Square.

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

Again, as set forth in support of its argument for variance relief from the building density restrictions of §531, the Applicant contends that relief can be granted from the building height restrictions of §530 without detriment to the public good and with no impairment to the District's zone plan. To this end, the Applicant reminds that at the time of construction of the existing building, and for some 15 years thereafter, the Zoning Regulations permitted a building height on the Subject Property of 90 feet. The existing building complies with that limitation, as would the proposed building addition.

As described above, the new construction would be located at the southern end of the Subject Property near properties of similar or greater height, including the 90-foot tall B'Nai B'rith, the 80/90-foot tall YMCA, the 100-foot tall Sumner-Magruder Schools redevelopment, the 106-foot tall PUD buildings under construction next to B'Nai B'rith and directly opposite the Subject Property. Likewise, one block to the

west along Rhode Island Avenue, NW, a PUD has been approved to rehabilitate the St. Matthews Cathedral and adjacent properties into a mixed use development measuring 114 feet in height.

There will be no impact upon any properties to the north of the Subject Property as the new construction would be screened by the existing building. Nonetheless, there are a number of buildings north of the Subject Property, also zoned SP in the past and now either SP-1 of SP-2, which possess an equivalent height to the existing hotel and the proposed addition. These buildings include the Embassy of Australia and the Johns Hopkins University Building. Likewise, the Brookings Institute, in the 1700 block of Massachusetts Avenue, NW, and zoned R-5-D, has constructed a 80-foot building pursuant to at PUD. For all these reasons, and the support of the application by ANC 2B, the Applicant contends that approval of the proposed variance will serve no detriment to the public good.

Despite the Subject Square's inclusion within the blanket rezoning actions taken for the Dupont Circle area in 1979, none of the stated reasons for rezoning presented by the Dupont Circle Coalition, and approved by the Zoning Commission, would be negatively affected by approval of this variance. The Coalition's objectives focused upon the creation and retention of housing options and maintaining definition between the Dupont Circle neighborhood and the central business district. The proposed building addition neither diminishes or threatens the housing options within the neighborhood. Simply, the proposed building site is too small to develop anything but an addition to the existing hotel. Nor does the Subject Square have a recent history as a residential site as it has continued its use as a hotel for nearly four

decades. Finally, with regard to the Coalition's, and presumably the Commission's, intention of maintaining a clear division between residential and business uses, the Applicant's proposal would be virtually imperceptible to the residents of the neighborhood owing to its location on the Subject Property.

For all the above reasons, variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent of the zone plan.

VII.
The Application Meets the Requirements for Variance Relief from §2201 of the Zoning Regulations

Section 2201 applies to required loading berths, platforms and spaces required to be provided with various types of construction. Subsection 2201.1 provides that hotels in all zoning districts with between 30 and 200 guest rooms must provide at least one loading berth of 30-foot depth. When the existing hotel was constructed in 1963, the Zoning Regulations then in effect, at §7302.1, also required a single loading berth.(Exhibit E). Nonetheless, at the time that the current owners and operators acquired the hotel, there was no loading berth on the site. Nor does the Applicant have knowledge under what circumstances the loading berth was not provided. The Applicant is unable to provide such a loading berth as part of the proposed addition to the building. The Applicant therefore requests variance relief from §2201 of the Zoning Regulations.

As set forth below, the application meets the three-part test for area variance relief from §2201.1 of the Regulations.

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

The exceptional conditions affecting the Subject Property have been described above. Particularly relevant to the request for variance from §2201 is the size and configuration of the Subject Property. The building's comparatively small footprint, coupled with its very unusual shape and the fact that the lot is completely surrounded by public streets, creates an exceptional condition for development of the Subject Property.

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

The strict application of §2201 would render a practical difficulty upon the Applicant, especially where, as here, the hotel on the Subject Property has operated for almost 40 years without a required loading berth. Furthermore, the Subject Property is so exceptionally situated as a result of the streets and avenues that intersect at Scott Circle that the Applicant has public space and street frontage on each of its four sides. Unlike a very large development project which might occupy an entire District square, the Subject Property, very small for any development project, let alone one surrounded by public space, is left without any available location to site a loading berth.

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

Variance relief from the requirement to provide a loading berth at the Subject Property can be granted without detriment to the public good or impairment to the

zone plan. This position is supported by the fact that the hotel has operated successfully for nearly four decades without the loading berth. The absence of required loading also has not had a negative impact upon the neighborhood. The loading functions have occurred from N Street, NW, which separates the hotel from the Embassy of the Philippines and which experiences comparatively light traffic flow.

With regard to the potential impact of the variance upon the zone plan, the Applicant contends that the Subject Property is so exceptionally situated that the grant of variance in the present case is unlikely to establish support for any larger movement to lessen the required loading for hotels in the District.

For all the above reasons, variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent of the zone plan.

VIII.
The Application Meets the Requirements for Variance Relief from §2115.9 of the Zoning Regulations

Section 2115 of the Zoning Regulations sets forth various restrictions regarding the necessary dimensions for required parking spaces. Subsection 2115.9 provides for special parking arrangements for commercial buildings that are located in a C-3-C, C-4, C-5(PAD), SP, W or CR District and are required to provide at least 75 parking spaces according to §2101 of the Regulations, and which provide said required spaces in a parking garage. Included among these special parking arrangements, the minimum required parking space dimensional size may be waived, along with design

and striping requirements, provided that the parking is professionally managed during a 12-hour daily peak period. Because the Applicant is unable to comply with the required off-street parking schedule of §2101 without waiver from the dimensional requirements of §2115, the Applicant requests variance relief from §2115.9.

As set forth below, the application meets the three-part test for area variance relief from §2115.9 of the Regulations.

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

The exceptional condition affecting the Subject Property include its exceptional size, configuration and zoning history, as detailed above.

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

The exceptional conditions impacting the Subject Property, particularly its very small lot area and its asymmetrical footprint place upon the Applicant a practical difficulty in complying with the dimensional requirements for parking spaces under the Zoning Regulations.

The Applicant is able to provide 44 standard-sized spaces on the Subject Property, and 19 more (for a total of 63) standard-sized spaces in existing vaults. The Applicant is able to accommodate approximately 90 vehicles in these spaces under its valet parking regime.

While the Applicant provides sufficient parking to meet the parking requirements under the 1960 and 1995 Zoning Regulations (approximately 38

spaces) for the existing hotel, the Applicant will not be able to accommodate the required number of spaces under the parking schedule (approximately 53 spaces) of §2101 for the increased number of guest rooms without stacking the spaces. The footprint of the building, coupled with the limitation placed upon a large portion of the below grade space by the existing building and its service functions (storage, equipment, fire room), simply does not permit the Applicant to provide the 53 spaces required under the parking schedule without providing some sort of alternative arrangement to the dimensional requirements of §2115. The existing garage occupies the entire below-grade footprint of the site. The garage cannot be expanded in lateral area, nor is it feasible to dig out any additional levels.

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 requests that the Board grant the Applicant variance relief from §2115.9, so that the Applicant may provide the sufficient number of spaces on an inadequately sized and configured lot to comply with the Zoning Regulations as well as to minimize traffic congestion along the parking entrance and exit on N Street, NW, as well as to provide a meaningful amenity to hotel guests. Section 2115.9 provides a threshold of 75 required parking spaces before offering the privilege of waiving the dimensional requirements for parking spaces. The hotel, as expanded, generates a requirement of 53 spaces under the parking schedule.

The request for variance in this instance has the support of ANC 2B, which recognized the benefit of Applicant's use of valet parking in order to minimize

congestion entering the parking level off N Street, NW as well as the relief that said off-street parking provided to public parking on neighborhood streets. The hotel currently provides valet parking to its guests to maximize efficient use of the spaces. Patrons of the hotel do not have direct access to the garage, and the hotel's attendants presently control all access to and from the parking spaces. The Applicant's efforts to maximize off-street parking are also in keeping with the general objectives of the District to alleviate congestion and to provide sufficient parking downtown and to relieve parking strains on the District's neighborhoods.

For all the above reasons, variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent of the zone plan.

IX.
The Application Meets the Requirements for Variance Relief from §2001.3 of the Zoning Regulations

Section 2001 of the Zoning Regulations regulates nonconforming structures devoted to conforming uses. Owing to the downzoning of the Subject Property from SP-2 to SP-1 by Zoning Commission Order No. 282 in 1979, the existing hotel is a nonconforming structure in that its 90 feet height and 5.7 FAR density exceed the 65-foot height and 4.0 FAR density established for the SP-1 District. Subsection 2001.3 allows for enlargements or additions to such nonconforming structures provided that said enlargements or additions: (a) conform to the percentage of lot occupancy requirements; (b) the addition or enlargement shall conform to use and structure requirements; and (c) the addition or enlargement shall not increase or extend any

existing nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined. Because the Applicant's proposed enlargement of the hotel use extends or increases the building's nonconformity with regard to building height, density, parking and loading, as set forth hereinabove, the Applicant requests variance relief from the requirements of §2001.3.

As set forth below, the application meets the three-part test for area variance relief from §2001.3 of the Regulations.

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

The exceptional condition affecting the Subject Property include its exceptional size, configuration and zoning history, as detailed above.

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

The Applicant has set forth in detail the practical difficulty that will be rendered upon it absent variance relief from the above structural requirements of the Zoning Regulations. To the same end, absent variance relief from §2001.3, regarding nonconforming structures devoted to conforming uses, the Applicant will not be able to accomplish the proposed modernization and addition to its hotel use, which, as the Applicant has set forth above, is vital to the hotel's continued vitality, if not feasibility. Without approval of the requested relief from §2001.3, the Applicant is essentially prevented from undertaking any expansion of any size whatsoever without seeking a rezoning of the Subject Property.

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

For all the above reasons given in support of the various aspects of variance relief requested, the Applicant contends that variance relief from §2001.3 can be granted without any substantial detriment to the public good and without substantial impairment to the intent of the zone plan. The continued use of the property as an expanded hotel maintains the balance of uses in the area, with office, residential, hotel and institutional uses continuing on surrounding properties. The proposed addition is consistent in height, bulk and scale with older development in the area, as well as with more recent developments permitted by the BZA and the Zoning Commission. It is also in keeping with the high density commercial land use designation of the Generalized Land Use Plan and furthers objectives set forth in support of hotel development in the Ward 2 Plan of the Comprehensive Plan.

X.
Witnesses

A. Representative of 1615 LLL LP, Applicant.

B. Eric Morrison, Architect.

C. Ted Seale, Hotel Market Expert.

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

XI.
Conclusion

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By _____
Norman M. Glasgow, Jr.

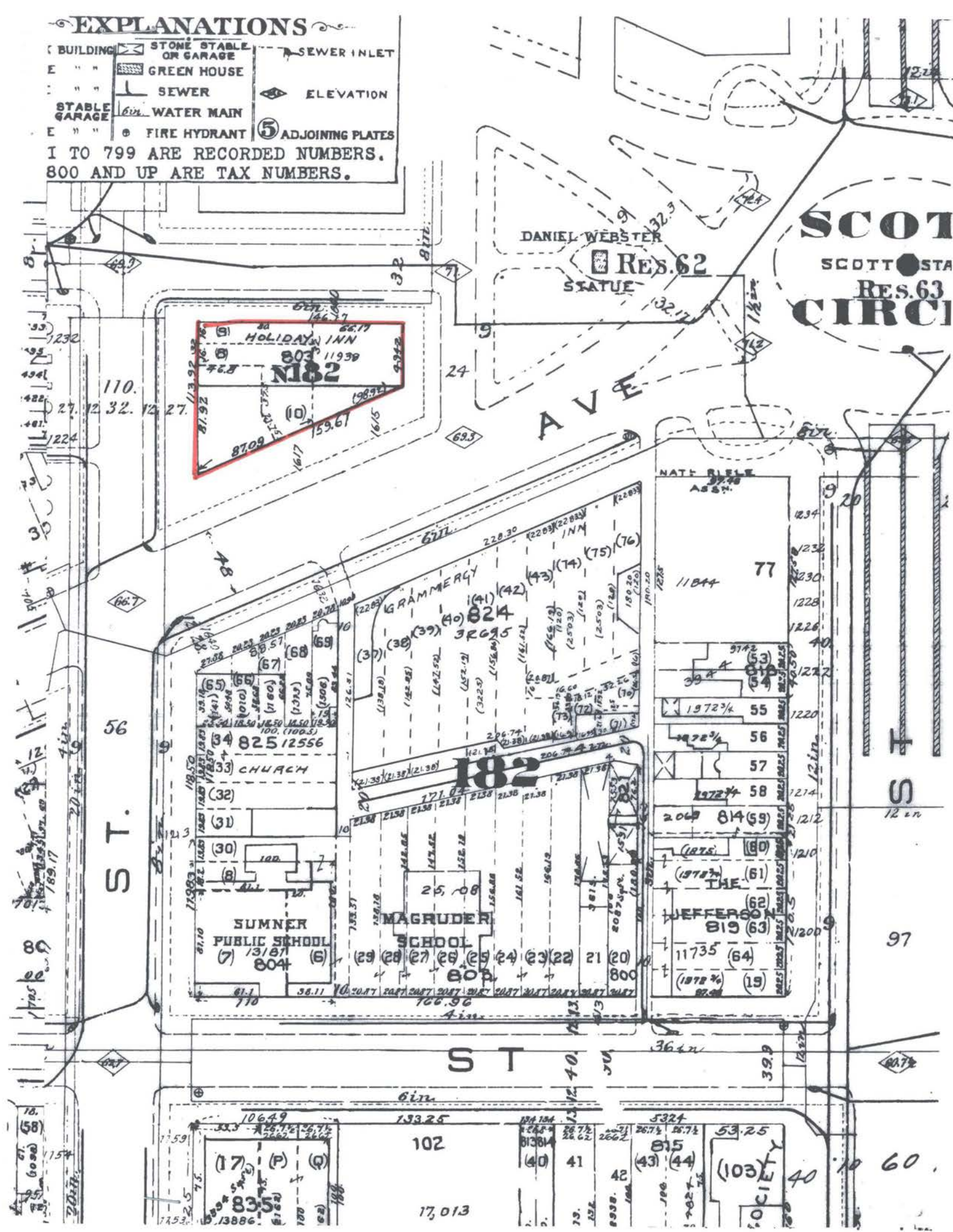
_____
Dennis R. Hughes

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(202) 955-3000

September, 2001

WAS1 #1007200 v1

A


EXPLANATIONS
BUILDING
STONE STABLE OR GARAGE
GREEN HOUSE
SEWER
STABLE GARAGE
6in. WATER MAIN
FIRE HYDRANT
SEWER INLET
ELEVATION
5 ADJOINING PLATES
1 TO 799 ARE RECORDED NUMBERS.
800 AND UP ARE TAX NUMBERS.
DANIEL WEBSTER
RES. 62
STATUE
SCOTT
SCOTT STA
RES. 63
CIRC
AVE
HOLIDAY INN
803
11938
N182
110.
87.09
159.67
GRAMMERGY INN
824
3RG95
182
825 12556
CHURCH
SUMNER PUBLIC SCHOOL
804
MAGRUDER SCHOOL
808
800
THE JEFFERSON
819
814
NAT'L BIBLE SOC'Y
77
11844
ST.
ST
S T
102
17,013
835
13886
815

B

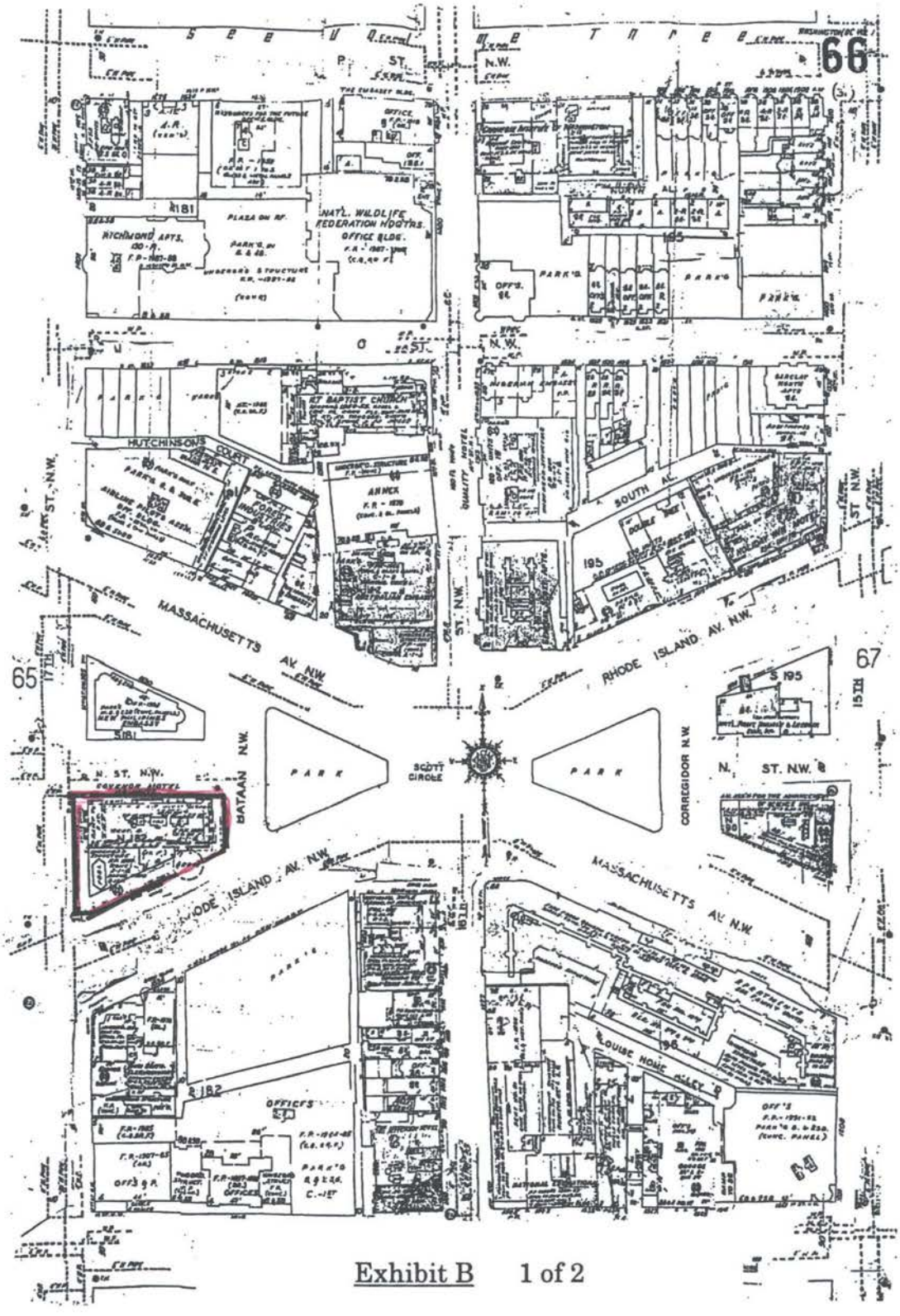


Exhibit B 1 of 2

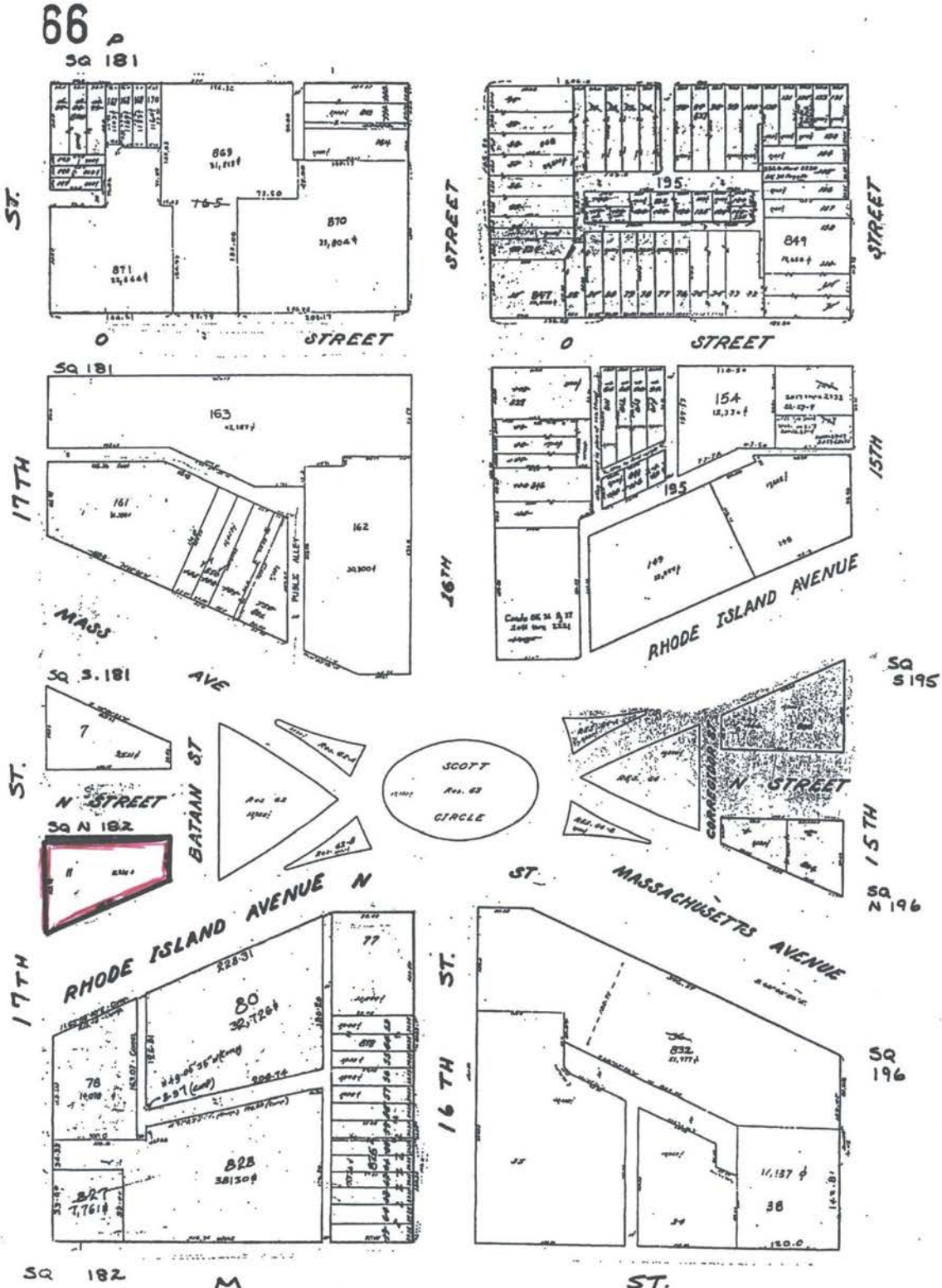


Exhibit B 2 of 2

C

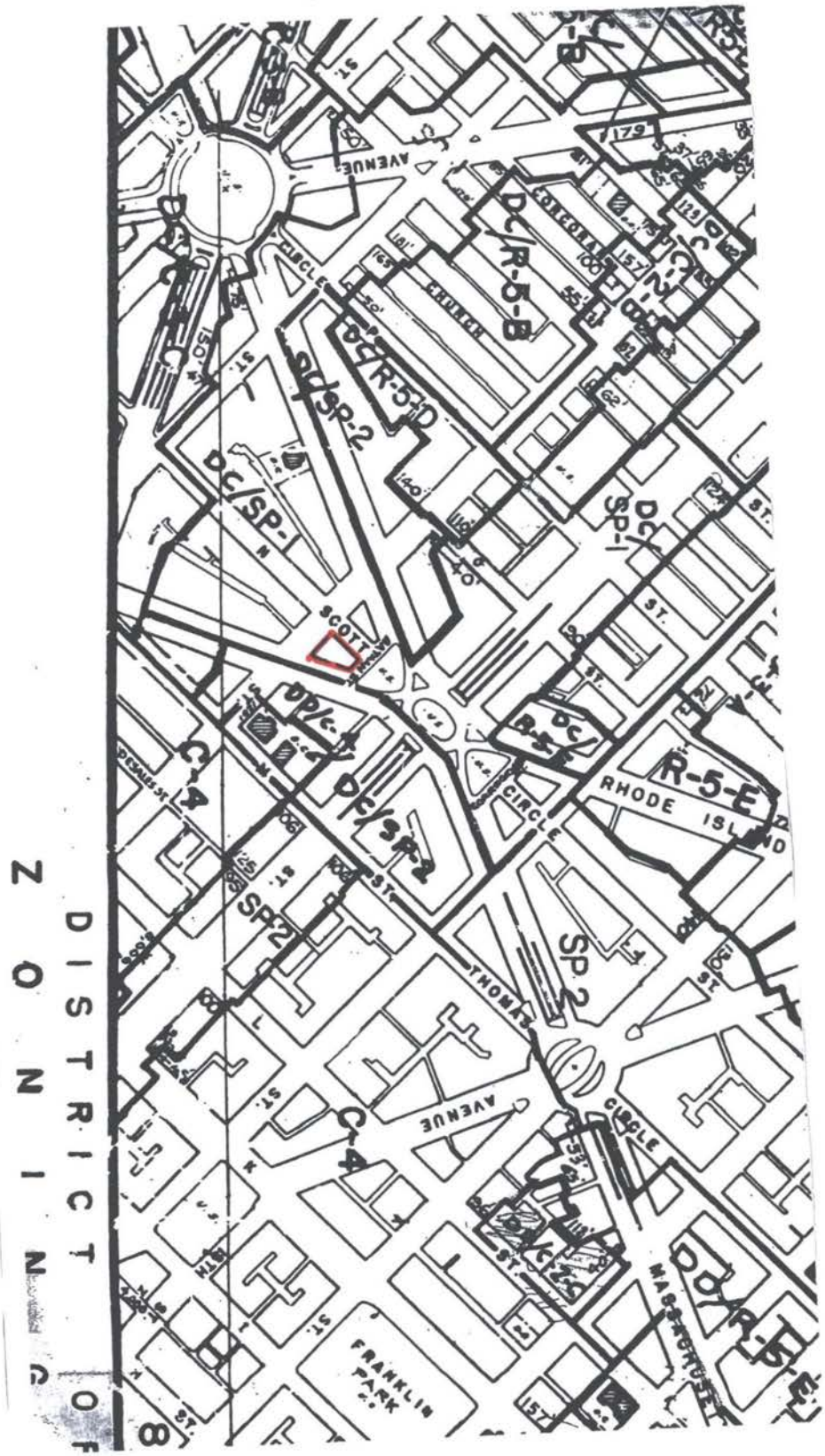
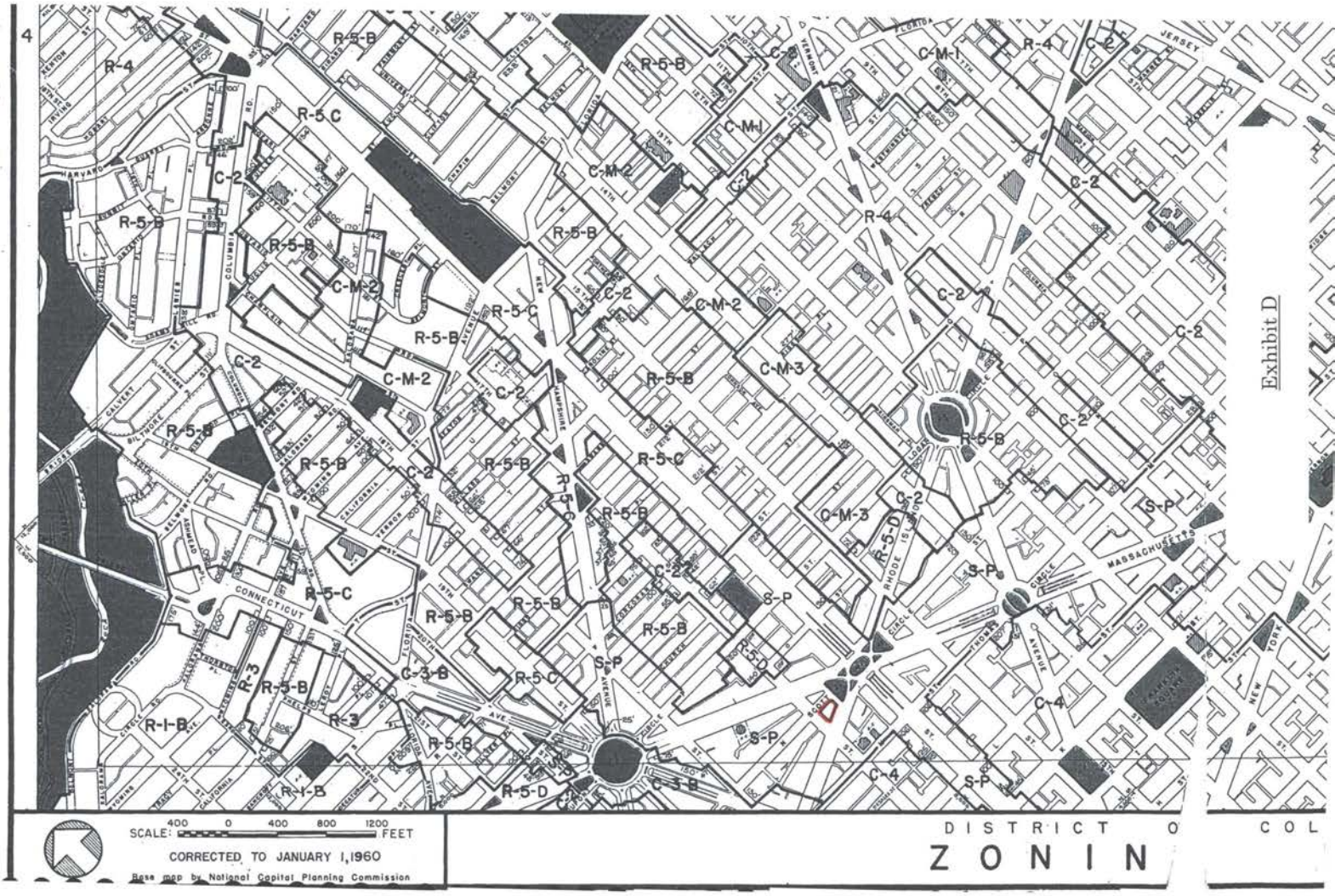

ZONING DISTRICT MAP
DC/R-5-B
DC/R-5-D
DC/SP-2
DC/SP-1
R-5-E
C-4
SP-2
RHODE ISLAND AVENUE
CIRCLE
THOMAS AVENUE
FRANKLIN PARK
SCOTT CIRCLE

Exhibit C

D


4
R-4
R-5-B
R-5-C
C-2
C-M-1
C-M-2
C-M-3
R-5-D
C-3-B
C-4
S-P
R-3
R-1-B
SCALE: 400 0 400 800 1200 FEET
CORRECTED TO JANUARY 1, 1960
Base map by National Capital Planning Commission
DISTRICT O
ZONIN
COL
Exhibit D

(Map No. 5)

E

Section 4304—Side Yards

4304.1 *Side yards* shall be provided in the Special Purpose District as specified in the following subparagraphs.

4304.11 A *one-family detached dwelling* shall comply with the *side yard* requirements of an R–1 District.

4304.12 A *one-family semi-detached dwelling* shall comply with the *side yard* requirements of an R–2 District.

4304.13 For all other residential *buildings*, including *hotels*, no *side yard* is required, but if such *yard* is provided it shall be at least three inches wide for each foot of *height of building*, but not less than eight feet.

4304.14 For all other *structures* no *side yard* is required but if such *yard* is provided, it shall be at least two inches wide for each foot of *height of building*, but not less than six feet.

Section 4305—Courts

4305.1 Where a *court* is provided in the Special Purpose District such *court* shall comply with the dimensions specified below: (As amended Dec. 8, 1958.)

Structure	*Width of open court*	*Width and area of closed court*
One-family dwelling.....	Three inches per foot of *height of court*, but not less than six feet	Width: Four inches per foot of *height of court*, but not less than 15 feet Area: Twice the square of the required *width of court* dimension based on the *height of court*, but not less than 350 square feet.
All other residential *buildings*, except *hotels*	Three inches per foot of *height of court*, but not less than ten feet	Width: Four inches per foot of *height of court*, but not less than 15 feet Area: Twice the square of the required *width of court* dimension based on the *height of court*, but not less than 350 square feet.
All other *structures*, including *hotels*	Two and one-half inches per foot of *height of court*, but not less than six feet	Width: Two and one-half inches per foot of *height of court*, but not less than 12 feet Area: Twice the square of the required *width of court* dimension based on the *height of court*, but not less than 250 square feet

4305.2 In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing *structure* in the Special Purpose District, no legally required window shall be permitted to open onto a *court* which does not comply with the dimensions given in paragraph 4305.1.

Section 4306—Exceptions to Density Regulations for Roof Structures (June 14, 1960.)

4306.1 The provisions of Section 3308 in toto shall also regulate roof *structures* in the Special Purpose District.

4306.2 The *gross floor area* of roof *structures* permitted under this section shall not be counted in determining the amount of off-*street* parking as required elsewhere in these regulations.

ARTICLE 72

OFF-STREET PARKING REQUIREMENTS

Section 7201—Authority to Require Parking Facilities

7201.1 All *structures* erected on or after the effective date of these regulations shall be provided with *parking spaces* to the extent specified in Section 7202.

7201.11 No application for a building permit for a *structure* to be erected on or after the effective date of these regulations shall be approved unless there is included with the plans for such *structure* a parking plan showing the location, dimensions, and grades of all required *parking spaces* and approaches thereto in accordance with the provisions of this Article.

7201.12 No certificate of occupancy shall be issued for the use of a *structure* erected on or after the effective date of these regulations unless the required *parking spaces* shall have been provided in accordance with the parking plan included in the approved building permit.

7201.2 When the use of a *structure* is changed to another use which requires more *parking spaces* than required for the use existing immediately prior to such change or, if the *structure* is vacant, the use which existed immediately prior to such vacancy, *parking spaces* shall be provided for the additional requirement in the amount necessary to conform to Section 7202. (As amended Dec. 8, 1958.)

7201.3 When the intensity of use of a *structure* existing before the effective date of these regulations is increased by an addition or additions of employees, *dwelling units*, *gross floor area*, seating capacity, or other unit of measurement specified in Section 7202, *parking spaces* shall be provided for such addition or additions, provided:

7201.31 Except as provided in subparagraph 7201.32, *parking spaces* shall not be required for the addition or additions unless such addition or additions increase the intensity of use of such *structure* by more than 25% of the aggregate;

7201.32 At least one *parking space* shall be available on the *lot* for the use of occupants of such *structure;*

7201.33 *Parking spaces* for such addition or additions need not exceed the amount of *parking spaces* which would be required for the entire *structure* as proposed if constructed new; and,

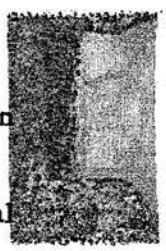
7201.34 The determination of the increase of intensity of use shall be based on the total increase in intensity of use such *structure* undergoes on or after the effective date of these regulations whether such total increase occurs at one time or in successive stages.

Section 7202—Schedule of Requirements for Parking Spaces

7202.1 On and after the effective date of these regulations all *structures* shall be provided with *parking spaces* as specified in the following table:

Uses	Amount of *Parking Space* Required
RESIDENTIAL USES.	
One-family dwelling:	
All *districts*	One for each *dwelling unit*
Two-family dwelling or *flat, apartment house, tenement house,* or *multiple dwelling:*	
R-5-A, C-1	One for each *dwelling unit*
R-5-B, C-2, C-3-A	One for each two *dwelling units*
R-4, R-5-C	One for each three *dwelling units*
R-5-D, SP, C-3-B, C-4	One for each four *dwelling units*
Rooming house:	
All *districts*	One for each five guest bedrooms
Motel:	
All *districts*	One for each sleeping room or suite
Hotel:	
R-5-B, R-5-C, C-1, C-2, C-3-A	One for each two sleeping rooms or suites
R-5-D, SP, C-3-B	One for each four sleeping rooms or suites
C-4	No requirement
Dormitory, sorority or fraternity house not a part of a campus development:	
All *districts*	One for each five beds

Uses	Amount of *Parking Space* Required
SCHOOLS	
Nursery through Junior High school:	
All *districts*	Two for each three teachers and other employees except custodial personnel
High school and accessory uses:	
All *districts*	Two for each three teachers, plus one for each 20 classroom seats OR one for each ten auditorium seats whichever is greater
College or other institution of higher learning; business, trade, or other school and accessory uses located on the campus:	
C-4	No requirement
All other *districts*	For each *building* two for each three teachers, plus one for each ten classroom seats OR one for each 12 stadium seats OR one for each ten auditorium seats, whichever is greater
INSTITUTION.	
Hospital:	
C-4	No requirement
All other *districts*	One for each bed
Sanitarium, *convalescent or nursing home, philanthropic or eleemosynary institution:*	
All *districts*	One for each ten beds
PLACES OF PUBLIC ASSEMBLAGE EXCEPT HOTELS	
Churches:	
All *districts*	No requirement
Arena, armory, assembly hall, auditorium, community center, concert hall, convention hall, dance hall, funeral parlor, ice or roller skating rink, public hall, stadium, or theatre:	
C-4	No requirement
All other *districts*	One for each ten seats of occupancy capacity for the first 10,000 seats, plus one for each 20 seats above the first 10,000, provided that where seats are not fixed, each seven square feet of *gross floor area* usable for seating shall be considered one seat
COMMERCIAL BUILDINGS	
Offices—general	No requirement for the first 2,000 square feet of *gross floor area;* in excess of 2,000 square feet of *gross floor area* as follows:
C-1, C-2, C-3-A	One for each 600 square feet of *gross floor area*
C-3-B, SP	One for each 1,800 square feet of *gross floor area*
C-4	No requirement
C-M-1, M	One for each 600 square feet of *gross floor area*
C-M-2, C-M-3	One for each 900 square feet of *gross floor area*
Offices—medical or dental:	
C-4	No requirement
All other *districts:*	
If the office space devoted to medical or dental offices is less than 25% of the *gross floor area* of the entire *structure*	Same as required for office *building* in *district* in which located
If the office space devoted to medical or dental offices is 25% or more of the *gross floor area* of the entire *structure*, for that	Twice the number of spaces required for general offices for the *district* in which located



Uses	Amount of *Parking Space* Required
COMMERCIAL BUILDINGS—Continued	
portion of the *structure* devoted to medical and dental offices	
Office space in other types of *buildings:*	
All *districts*	Same as required for office *building* in *district* in which located
Buildings containing retail or service establishments	No requirement for the first 2,000 square feet of *gross floor area;* in excess of 2,000 square feet of *gross floor area* as follows:
C-1, C-2, C-3-A	One for each 200 square feet of *gross floor area*
C-3-B, C-M-3	One for each 750 square feet of *gross floor area*
C-4	No requirement
C-M-1, M	One for each 250 square feet of *gross floor area*
C-M-2	One for each 500 square feet of *gross floor area*
Retail and service space in other types of *buildings:*	
All *districts*	Same as required for retail or service establishment in *district* in which located
MANUFACTURING AND INDUSTRIAL ESTABLISHMENTS	
C-M-1, M	One for each 800 square feet of *gross floor area*
C-M-2	One for each 1,000 square feet of *gross floor area*
C-M-3	One for each 1,200 square feet of *gross floor area*
Warehouse	
C-M-1, M	One for each 2,400 square feet of *gross floor area*
C-M-2	One for each 3,000 square feet of *gross floor area*
C-M-3	One for each 3,600 square feet of *gross floor area*

7202.2 Nothing contained in this Section shall be construed to prohibit the establishment of accessory *parking spaces* in an amount which exceeds that required by paragraph 7202.1, provided that in each case all other applicable provisions of this Article are complied with.

7202.3 Nothing contained in this Section shall be construed to prohibit the establishment of *parking spaces* accessory to *structures* for which no required *parking spaces* are specified in paragraph 7202.1 provided that in each case all other applicable provisions of this Article are complied with.

Section 7203—Exceptions to the Schedule of Requirements

7203.1 The Board of Zoning Adjustment is hereby authorized to vary or modify the amount of *parking spaces* required for nonresidential uses by Section 7202 provided the amount of required *parking spaces* shall not be reduced by more than 25%.

7203.2 The Board in exercising the authority granted herein shall give consideration to:

7203.21 The nature and location of the *structure;*

7203.22 The maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed *structure* at one time;

7203.23 The amount of traffic congestion existing or which the *structure* can reasonably be expected to create in the neighborhood; and,

7203.24 The quantity of existing public, commercial, or private parking, other than curb-parking, on the property or in the neighborhood which can reasonably be expected to be available when the *structure* is in use.

7203.3 Any proposed change or modification in the amount of required *parking spaces* shall be consistent with the spirit and purpose of these regulations.

Section 7204—Size of Parking Spaces

7204.1 All required *parking spaces* shall be at least nine feet in width, 19 feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area, and have a vertical clearance of at least six and one-half feet.

Section 7205—Location of Parking Spaces

7205.1 Except as provided in Chapters 3, 4, 5 and 6 and in paragraph 7205.3 of this Article, *parking spaces* shall be located on the same *lot* with the *structures* they are intended to serve in one of the following ways: (As amended Apr. 20, 1959.)

7205.11 Within a permitted garage or carport, subject to the special provisions of Article 74; or,

7205.12 On an open area of the *lot*, subject to the conditions set forth in paragraph 7205.2:

(a) Within a *rear yard;* or,

(b) Within a *side yard*, provided such spaces are at least three feet from any side *lot line* and at least three feet from any main *building;* or,

(c) Except in an SP District, elsewhere on the *lot* if accessory to a commercial or industrial use. (As amended July 22, 1958.)

7205.2 No portion of an open *parking space* shall be located within ten feet of:

7205.21 A *one-family dwelling* or *flat;* or,

7205.22 Any wall of a *multiple dwelling* if such wall contains openings designed to provide light or ventilation for such *multiple dwelling.*

7205.3 If approved by the Board of Zoning Adjustment open *parking spaces* accessory to any *structure*, may be located anywhere on the *lot* upon which the *structure* is located, or elsewhere except in the case of a *one-family dwelling*, provided:

7205.31 It is not practicable to locate such spaces in accordance with paragraph 7205.1 because of:

(a) Unusual topography, grades, shape, size or dimensions of the *lot;*

(b) The lack of an *alley* or the lack of appropriate ingress or egress facilities through existing or proposed *alleys* or *streets;* or,

(c) Traffic hazards caused by unusual *street* grades.

7205.32 When the accessory *parking spaces* are to be located elsewhere than on the *lot* upon which the *structure* they are intended to serve is located, such parking on adjacent *lots* or *lots* separated only by an *alley* from the *lot* upon which the *structure* is located shall be preferred.

7205.33 Such spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the *structure* for which they are designed to serve, but in no case shall they be farther than 800 feet from any *lot line* of the *lot* upon which the *structure* is located; and,

7205.34 The Board may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits or any other requirement it shall deem necessary to protect adjacent or nearby property. It may also impose such other conditions as it shall deem necessary to assure the continued provision and maintenance of such spaces.

Section 7206—Access, Maintenance, and Operation

7206.1 The *parking spaces* required by this Article shall be provided and maintained so long as the *structure* exists for which the *parking spaces* are designed to serve.

7206.2 *Parking spaces* shall not be reduced in total extent after their provison except upon approval of the Board of Zoning Adjustment and then only after proof that the *parking spaces* provided are no longer needed by reason of a reduction of employees, seats, *gross floor area*, *dwelling units*, or any other unit of measurement, provided the Board of Zoning Adjustment may impose any condition it shall deem necessary to assure the addition of *parking spaces* in case of a subsequent increase in employees, seats, *gross floor area*, *dwelling units*, or any other unit of measurement.

7206.3 All open *parking spaces* shall be paved with materials which form an all-weather impervious surface.

7206.4 Each *parking space* shall be accessible at all times directly from *streets* or *alleys* or from *streets* or *alleys* through means of ingress and egress from graded and unobstructed private driveways or aisles which are paved with materials which form an all-weather impervious surface. (64-55).

7206.5 When *parking spaces* are so arranged that an aisle is required for accessibility or maneuvering space between rows of two or more *parking spaces* or between a row of two or more *parking spaces* and the perimeter of the area devoted to *parking spaces*, such aisle shall have a clear width of not less than 14 feet.

7206.6 Driveways which provide accessibility to *parking spaces* accessory to *one-family dwellings* or *flats* shall be not less than eight feet in width and have a maximum grade of not more than 20% with a vertical transition at intersections.

7206.7 Driveways which provide accessibility to *parking spaces* accessory to any *structure* other than a *one-family dwelling* or a *flat* shall be not less than 14 feet in width and have a maximum grade of not more than 12% with a vertical transition at intersections.

7206.8 Detailed plans shall be submitted to the Director, Highway Department, District of Columbia, for approval of all curb cuts or driveway openings.

7206.9 All applications for building permits shall include plats, profiles, topographic maps, or any other plans in sufficient detail to determine compliance with requirements of this Section.

Section 7207—Rules of Interpretation

7207.1 For the purpose this Article, the following rules of interpretation shall be applicable:

7207.11 Where individual seats are not provided, each 18 inches of benches or other similar seating shall be considered as one seat.

7207.12 The number of employees shall be computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

7207.13 In computing the number of *parking spaces* required, that portion of the *gross floor area* devoted to *parking spaces*, *loading berths*, or loading platforms may be excluded.

7207.14 In the case of mixed uses the *parking spaces* required shall be the sum of the requirements for the various individual uses computed separately in accordance with Section 7202. *Parking spaces* for one use shall not be considered as providing the required *parking spaces* for any other use.

7207.15 Whenever calculations based on the schedule set forth in Section 7202 result in a fractional space, any fraction under one-half shall be disregarded and any fraction of one-half or over shall require one *parking space*.

7207.16 No *parking spaces* are required for *buildings* with a *gross floor area* less than the minimum sizes specified in the schedule established by Section 7202.

7207.17 If a *structure* is not included in one of the categories of *structures* in Section 7202 and is not specifically exempted from complying with the schedule of requirements as provided therein, *parking spaces* shall be provided therefor to the extent required for a *warehouse* located in a C-M-1 District.

ARTICLE 73

OFF-STREET LOADING REQUIREMENTS

Section 7301—Authority to Require Loading Facilities

7301.1 All *structures* erected on or after the effective date of these regulations shall be provided with *loading berths* and loading platforms to the extent specified in Section 7302.

7301.11 No application for a building permit for a *structure* to be erected on or after the effective date of these regulations shall be approved unless there is included with the plans for such *structure* a loading plan showing the location and dimensions of all required *loading berths*, loading platforms, and approaches thereto in accordance with the provisions of this Article.

7301.12 No certificate of occupancy shall be issued for the use of a *structure* erected on or after the effective date of these regulations unless the required *loading berths* and loading platforms shall have been provided in accordance with the loading plan included in the approved building permit.

7301.2 When the use of a *structure* erected on or after the effective date of these regulations is changed to another use which requires more *loading berths* and loading platforms than required for the original use, additional *loading berths* and loading platforms shall be provided in the amount necessary to conform to the requirements of Section 7302.

7301.3 When the intensity of use of a *structure* existing before the effective date of these regulations is increased by an addition or additions of *gross floor area* or *dwelling units loading berths* and loading platforms shall be provided for such enlarged *structure* to the extent specified in Section 7302, provided:

7301.31 No *loading berths* or loading platforms shall be required for such enlarged *structure* if no loading facilities would be required for a new *structure* of the same size; and,

7301.32 The determination of the increase of intensity of use shall be based on the total increase in intensity of use such *structure* undergoes on or after the effective date of these regulations whether such total increase occurs at one time or in successive stages.

Section 7302—Schedule of Requirements for Loading Berths and Loading Platforms

7302.1 On and after the effective date of these regulations all *structures* shall be provided with *loading berths* as specified in the following table:

Structures	Loading Berths Required
Office Building:	
With 20,000 to 50,000 square feet of *gross floor area* in C-1, C-2, C-3-A or C-M-1 *Districts*	1
With 50,000 to 100,000 square feet of *gross floor area* in C-1, C-2, C-3-A or C-M-1 *Districts*	2
With 30,000 to 100,000 square feet of *gross floor area* in all other *districts*	1
With 100,000 to 200,000 square feet of *gross floor area* in all other *districts*	2
With over 200,000 square feet of *gross floor area* in all *districts*	3
Retail or Service Establishment:	
With 5,000 to 20,000 square feet of *gross floor area* in C-1, C-2, C-3-A, C-M-1 or C1M-2 *Districts*	1
With 8,000 to 20,000 square feet of *gross floor area* in C-3-B, C-4, C-M-3 or M *Districts*	1
With 20,000 to 100,000 square feet of *gross floor area* in all *districts*	2
With over 100,000 square feet of *gross floor area* in all *districts*	3
Wholesale Commercial or Warehouse Structure:	
With 2,000 to 20,000 square feet of *gross floor area* in C-1, C-2, C-3-A, C-M-1, or C-M-2 *Districts*	1
With 4,000 to 20,000 square feet of *gross floor area* in C-3-B, C-4, C-M-3 or M *Districts*	1
With 20,000 to 100,000 square feet of *gross floor area* in all *districts*	2
For each additional 200,000 square feet of *gross floor area* in all *districts*	1
Manufacturing or Industrial Structure:	
With 5,000 to 25,000 square feet of *gross floor area*, or 5,000 square feet or more of *lot* area	1
With 25,000 to 50,000 square feet of *gross floor area*	2
With over 50,000 square feet of *gross floor area* for each additional 100,000 square feet of *gross floor area*	1
Apartment House, With 50 or More *Dwelling Units*:	
All *districts*	1
Hotel:	
All *districts*	1

(As amended Feb. 19, 1959.)

7302.2 Except as provided in this paragraph, a loading platform with the dimensions prescribed in paragraph 7303.5 shall be provided for each required *loading berth*. No loading platform need be provided if the required *loading berth* is increased in depth for the full width thereof in such amount that the resulting enlarged *loading berth* is equal to the combined area of a required *loading berth* and a required loading platform.

7302.3 Nothing contained in this Section shall be construed to prohibit the establishment of *loading berths* or loading platforms for existing *structures*, nor shall this Section be construed to prohibit the establishment of *loading berths* or loading platforms in an amount which exceeds that required by Section 7302, provided that in each case all other applicable provisions of this Article are complied with.

Section 7303—Size of Loading Berths and Platforms

7303.1 For *apartment houses* required *loading berths* shall be 45 feet deep.

7303.2 For all other *structures*, the first required *loading berth* may be 20 feet deep and all additional required *loading berths* shall be 45 feet deep.

7303.3 All *loading berths* shall be 12 feet wide. The first required *loading berth* may have a vertical clearance of 10 feet and all additional required *loading berths* shall have a vertical clearance of 14 feet. (As amended Feb. 19, 1959.)

7303.4 The dimensions specified above for *loading berths* are exclusive of access aisles, maneuvering space, and loading platforms.

7303.5 The area of a required loading platform for a *loading berth* shall be not less than the following:

7303.51 For a required *loading berth* which is 20 feet deep: 100 square feet per *loading berth*.

7303.52 For a required *loading berth* which is 45 feet deep: 200 square feet per *loading berth*.

Section 7304—Location of Loading Berths

7304.1 All required *loading berths* shall be located on the lot upon which is located the *structure* the berths are designed to serve in one of the following ways:

7304.11 Within the building the *berths* are designed to serve; or,

7304.12 On an open area of the *lot*:

(a) Within a *rear yard;* or

(b) Within a *side yard*, provided that when in a Residence or Special Purpose District such *loading berths* and *loading platforms* shall be at least three feet from any side *lot line;* or

(c) Elsewhere on the *lot*, only when located in commercial and industrial districts.

(Case 61-58 of 12-12-61)

Section 7305—Access, Maintenance, and Operation

7305.1 All *loading berths* shall be paved with materials which form an all-weather impervious surface and shall be designed with appropriate means of vehicular access to a *street* or *alley* as well as maneuvering areas. Curb cuts or driveway openings shall be subject to approval by the Director, Highway Department, District of Columbia.

7305.2 The *loading berths* required by this Article shall be provided and maintained so long as the use exists which the berths are designed to serve.

Section 7306—Rules of Interpretation

7306.1 For the purpose of this Article, the following rules of interpretation shall be applicable:

7306.11 In computing the number of *loading berths* required, that portion of the *gross floor area* devoted to *parking spaces*, *loading berths*, or loading platforms may be excluded.

7306.12 In the case of mixed uses the *loading berths* required shall be the sum of the requirements for the various individual uses computed separately in accordance with Section 7302, and at least one *loading berth* shall be provided when the sum of the *gross floor area* of the separate uses exceeds the minimum *gross floor area* requiring *loading berths* for any of the uses. *Loading berths* for one use shall not be considered as providing the required *loading berths* for any other use.

7306.13 No *loading berths* are required for *structures* with a *gross floor area* less than the minimum sizes specified in the schedule established by Section 7302.

7306.14 No *loading berths* are required for *structures* not included in one of the categories of *structures* in Section 7302.

ARTICLE 74

SPECIAL REGULATIONS FOR GARAGES, CARPORTS, PARKING LOTS AND GASOLINE SERVICE STATIONS

Section 7401—Private Garages and Carports

7401.1 A *building* erected, altered, converted, or reconstructed for use as a *private garage* shall be subject to the following special provisions:

7401.11 A *private garage* which is an *accessory building* in a Residence District shall be subject to the following special regulations in regard to its location:

(a) It may be located either within a *rear yard* or beside the main *building*, provided that if such garage is located beside the main *building* it shall be removed from the side *lot line* a distance equal to the required *side yard* and from all *building lines* a distance of not less than ten feet; and,

(b) Where abutting an *alley* it shall be set back at least twelve feet from the center line of the *alley* upon which it opens. (As amended Dec. 8, 1958.)

7401.12 *Private garages* constructed on an *alley lot* shall be set back at least 12 feet from the center line of the *alley* on which such *lot* abuts and shall be exempt from the requirements for minimum *lot* dimensions but shall be subject to the limitation on *percentage of lot occupancy* for the *district* in which located.

7401.13 A *private garage* permitted in a Residence District as a principal use on a *lot* other than an *alley lot* shall open directly onto an *alley* and shall not be located within 50 feet of any *building line* or within 12 feet of the center line of the *alley* upon which it opens. The *lot* upon which such garage is located shall be exempt from the requirements for minimum *lot* dimensions but shall be subject to the limitation on *percentage of lot occupancy* for the *district* in which located.

7401.2 A carport shall be attached to the main *building* and shall not be located along the side of the *building* which faces a *building line* except, if approved by the Board of Zoning Adjustment a carport may be located anywhere on the *lot* upon which the main *building* is located subject to the conditions for accessory open *parking spaces* set forth in paragraph 7205.3.

F

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 235
CASE NO. 78-2
SEPTEMBER 14, 1978

Pursuant to notice, public hearings of the District of Columbia Zoning Commission were held on May 8, and May 22, 1978, to consider proposed amendment to the text of the Zoning Regulations. Such amendments proposed to modify requirements for the Special Purpose and Mixed Use Districts, and also requested public testimony on how hotels should be regulated.

Following the lengthy hearings and receipt of large amounts of public testimony, the Commission determined to divide the case into several parts, for the purpose of discussing the matter and arriving at a decision. The Commission held several work sessions, and finally determined that changes should be made to the Special Purpose District.

This Order is therefore the first of several Orders relating to this overall case. Subsequent Orders will deal with the Mixed Use District and other elements of this case. After all of the issues in the entire case have been decided, the Commission will issue a full statement of reasons setting forth the basis for its decision.

The Commission believes that the proposed amendments are in the best interests of the District of Columbia and are consistent with the intent and purposes of the Zoning Regulations and the Zoning Act. The Commission therefore hereby Orders adoption of the following amendments to the Zoning Regulations:

1. Substitute for existing Articles 41, 42 and 43, all the text language contained in the attached document entitled "Revised SP District," dated September 14, 1978, a copy of which is attached hereto and made a part hereof.

1. Amend the Regulations to conform to the changes made above, as specified in the document entitled "Conforming Amendments to Other Portions of the Zoning Regulations," dated September 14, 1978, a copy of which is attached hereto and made a part hereof.

Vote of the Commission taken at the public meeting held on August 28, 1978: 4-0 (George M. White, Walter B. Lewis and Theodore F. Mariani to approve the change, John G. Parsons not present, not voting).

WALTER B. LEWIS
Chairman

STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on September 14, 1978 by a vote of 3-0 (Walter B. Lewis and John G. Parsons to adopt, Ruby B. McZier to adopt by proxy, Theodore F. Mariani not voting, George M. White not voting not present).

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, these amendments to the Zoning Regulations are effective on _____.

"Revised SP District"

September 14, 1978

Section 7614 -- Exceptions to Density Regulations for Open Arcades

7614.1 -- This section establishes the standards and requirements for arcades to receive a floor area ratio credit. This section is designed to encourage open arcades at sidewalk level, to increase pedestrian convenience and result in greater open area adjacent to public streets without loss of rental floor space. An open arcade shall be allowed a floor area ratio credit not to exceed 0.25 or 25% of the gross floor area of the floor which is adjacent to the arcade, whichever is less.

7614.2 -- An open arcade shall be permitted in all R-5, SP, W, CR, and all C Districts except C-5 (PAD), provided that:

7614.21 -- An open arcade shall provide pedestrian access to and along a building and shall extend for the entire side of the building or other structure and adjoin a street or pedestrian way at sidewalk level. Such open arcade shall be designed to meet and carry through the arcades of adjoining buildings.

7614.22 -- The floor area granted by this section shall apply only to those areas embraced within the perimeter of the open arcade. Where vehicular access is permitted across an arcade area, the portion of the arcade encompassed by the access space shall not be counted for the purposes of this section.

7614.23 -- An open arcade shall be not less than 10 feet in width at any point, including piers, columns or arches. The minimum open unobstructed passageway shall be 7 feet in width.

7614.24 -- An open arcade shall be not less than 9 feet in height at any point within the arcade,

7614.25 -- An open arcade shall have its floor at the same level and continuous with the sidewalks, and shall connect to existing adjoining open arcades or shall be so constructed as to permit such connection in the future, provided however, where the existing arcade is at a different elevation, the new arcade connection shall be made in a barrier-free manner.

7614.26 -- The use of the area within an open arcade shall be essentially restricted to pedestrian uses, and vehicular access to or through an open arcade shall be minimized.

7614.27 -- In commercial buildings, an open arcade shall include retail and service uses fronting on at least 60% of the arcade, with such uses directly accessible from the open arcade.

7614.3 -- The additional gross floor area permitted under Subsection 7614.1 shall not be counted in determining the number of off-street parking spaces or loading berths.

Additional Conforming Amendments:

1. Delete entire Paragraph 7602.19, concerning cornices above the 110 foot setback level in the C-4 District.

2. Add to the table of special exceptions in Sub-section 8207.2 the following:

Type of Special Exception	District	Section, Paragraph or Sub-paragraph where conditions are specified
Rear yard, waiver of	C-3, C-4	5303.11

September 14, 1978

CHAPTER 4

USE, HEIGHT, AREA, AND BULK REGULATIONS FOR SPECIAL PURPOSE, WATERFRONT, AND MIXED USE DISTRICTS

ARTICLE 41

USE REGULATIONS FOR SPECIAL PURPOSE DISTRICT

Section 4101 - SP Districts (Limited offices and apartments)

4101.1 -- The SP District (Special Purpose) is designed to stabilize those areas adjacent to C-3-B and C-4 Districts and other appropriate areas which contain existing apartments, offices, and institutions, and mixed use buildings. The major purpose of the SP District is to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale and design with the transitional function of this zone district. The District is designed to preserve and protect areas adjacent to commercial districts which contain a mix of row houses, apartments, offices and institutions at a medium to high density, including buildings of historic and architectural merit. The District is divided into an SP-1 (medium density) and an SP-2 (medium-high-density) Districts. In both districts, new residential development would be permitted at a higher density than new office development, both to be compatible with surrounding properties.

4101.2 -- Except as provided in Chapter 7 of these regulations, in the SP District no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used except for one or more of the uses listed in the following paragraphs.

4101.3 -- The following uses are permitted as a matter of right:

4101.31 -- Any use permitted in any R-5 District under Subsection 3105.3, except hotel.

4101.32 -- Private school, including preschool group, kindergarten, elementary, secondary, trade, or any other school.

4101.33 -- Religious reading room.

4101.34 -- Community center building.

4101.35 -- Park, playground, swimming pool, or athletic field operated by a local community organization.

4101.36 -- Artist studio

4101.37 -- Ticket Office

4101.4 -- The following uses are permitted if approved by the Board of Zoning Adjustment, provided that each application shall be referred to the Municipal Planning Office as specified in Sub-section 4101.5, and subject to the conditions specified in Section 8207 and below in each case:

4101.41 -- Parking lot, in existence on _____ under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed four years from the date that the present Certificate of Occupancy expires provided that:

4101.411 -- Such use is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions;

4101.412 -- The present character and future development of the neighborhood will not be affected adversely by the use.

4101.413 -- The parking facility serves either residential uses or provides short term parking for retail, service and public facility uses, but does not provide all-day commuter parking.

The Board of Zoning Adjustment shall not have authority under this paragraph to approve the establishment of any new parking lot.

4101.42 -- Parking garage subject to the provisions of Article 74, provided that:

4101.421 -- Such use is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions;

4101.422 -- The present character and future development of the neighborhood will not be affected adversely by the use;

4101.423 -- The parking facility serves either residential uses or provides short term parking for retail, service and public facility uses, but does not provide all-day commuter parking.

4101.424 -- The parking provided is within 800 feet of the use to be served and is necessary to that use.

4101.43 -- College or university which is an academic institution of higher learning, including college or university hospital, dormitory, fraternity or sorority house proposed to be located on the campus of a college or university, provided that:

4101.431 -- The applicant has submitted and the Board has approved a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including, but not limited to buildings, parking and loading facilities, screening, signs, streets, and public utility facilities, athletic and other recreational facilities, and a description of all activities conducted or to be conducted therein, and of the capacity of all present and proposed campus development. The plan may provide for the interim use, for a limited period of time, of land or improved property with any use which is a proper college or university function. The Board may approve such a plan, or any amendment thereto, concurrent with an application for approval of a specific college or university building or use.

4101.432 -- In approving such a plan, the Board shall determine that the use is so located that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

4101.433 -- In approving any application for a specific college or university building or use, the Board shall determine that the proposed building or use is consistent with the approved campus plan, and further is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions.

4101.44 -- Hotel or office for a chancery, nonprofit organization, labor union, architect, dentist, doctor, engineer, lawyer or similar professional person, provided that:

4101.441 -- The use, height, bulk and design are in harmony with existing uses and structures on neighboring property;

4101.442 -- The use will not create dangerous or other objectionable traffic conditions;

4101.443 -- The Board may require such special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it shall deem necessary to protect the value of neighboring property.

4101.45 -- Telephone exchange, public utility pumping station, electric substation using nonrotating equipment or natural gas regulator station if declared necessary in the public interest by the Public Service Commission, and subject to such requirements for setbacks, screening, or other requirement as the Board shall deem necessary for the protection of neighboring or adjacent property.

4101.46 -- Accessory parking spaces elsewhere than on the same lot or part thereof on which any principal SP use is permitted, except for a one-family dwelling, when such parking spaces will be established within the square in which the principal use is located, provided that:

4101.461 -- The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use.

4101.462 -- It is economically impracticable or unsafe to locate such parking spaces within the principal building or on the same lot on which such building or use is permitted because of:

4101.4621 -- Strip zoning or shallow zoning depth;

4101.4622 -- Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on such lot;

4101.4623 -- Unusual topography, grades, shape, size or dimensions of the lot;

4101.4624 -- The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or,

4101.4625 -- Traffic hazards caused by unusual street grades or other conditions.

4101.463 -- Such parking spaces are so located and all facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions.

4101.47 -- Antenna towers as an accessory structure and in conjunction therewith the erection, alteration or use of a building for transmission or reception equipment, provided that:

4101.471 -- The use, height, bulk and design is in harmony with existing uses and structures on neighboring properties.

4101.472 -- The Board may require special treatment in the way of design, screening, lighting or such other requirements as it shall deem necessary to protect neighboring properties.

4101.5 -- On receiving an application for an approval under Sub-section 4101.4, the Board shall submit the application to the Director of the Municipal Planning Office for coordination review, report and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Environmental Services, Housing and Community Development and, if a historic district or historic landmark is involved, of the State Historic Preservation Officer.

4101.6 -- The following accessory uses or accessory buildings incidental to the above uses are permitted:

4101.61 -- The following commercial uses as accessory uses and appropriate adjuncts to an apartment house or hotel: drug stand, including soda fountain; perfumery shop; florist shop; barber shop; beauty parlor; pressing or tailoring establishment; dry cleaning or laundry pick-up-station; cigar or news stand; and other similar uses, provided that;

4101.611 -- There is no direct entrance thereto from the outside of the building;

4101.612 -- No part of such adjunct or the entrance thereto is visible from a sidewalk; and,

4101.613 -- No sign or display indicating the existence of such adjunct is visible from the outside of the building.

4101.62 -- Any other accessory use and accessory building customarily incidental to the uses otherwise authorized by this Section.

4101.7 -- Exceptions to the Regulations for Existing Uses

4101.71 -- This sub-section shall be applicable to those situations where property contained in one Special Purpose District is rezoned to another Special Purpose District, or where the Zoning Regulations have been amended so as to change the use requirements of the Special Purpose District.

4101.72 -- All conforming uses lawfully in existence and with a valid Certificate of Occupancy on _____, in any Special Purpose District shall be considered conforming so long as they remain in any Special Purpose District.

4101.73 -- An existing use qualifying under Paragraph 4101.72 may be extended to other portions of an existing structure. Such extension shall not involve a structural addition as authorized by sub-section 4307.5. No such use may be expanded to another structure, or expanded in land area.

ARTICLE 42

HEIGHT REGULATIONS FOR SPECIAL PURPOSE DISTRICT

Section 4201 - Height of Buildings or Structures

4201.1 -- Except as specified in the following paragraphs of this Section and in Chapter 7 of these regulations, the height of buildings or structures in a Special Purpose District shall not exceed that given in the following table:

District	Height in Feet	Height in Stories
SP-1	65	No limit
SP-2	90	No limit

4201.2 -- The height of buildings or structures as specified in Paragraph 4201.1 of this Section may be exceeded in the following instances:

4201.21 -- A spire, tower, dome, minaret, pinnacle, penthouse over elevator shaft, ventilation shaft, chimney, smokestack and fire sprinkler tank may be erected to a height in excess of that authorized in Sub-section 4201.1. A radio or television tower may be erected to a height in excess of that authorized in Sub-section 4201.1 if authorized by the Mayor of the District of Columbia.

4201.22 -- If erected or enlarged as provided in Section 4306, housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located, provided such housing or penthouse is set back from all lot lines of the lot upon which such structure is located a distance equal to its height above the roof of the top story. A roof structure shall not exceed 18 feet 6 inches in height above the roof upon which it is located.

4201.3 -- Where required by the Act of June 1, 1910 (36 Stat. 452), a height in excess of that therein permitted must be authorized by the Mayor of the District of Columbia.

ARTICLE 43

AREA AND DENSITY REGULATIONS FOR SPECIAL PURPOSE DISTRICT

Section 4301 - Floor Area Ratio

4301.1 -- Except as provided in Section 4306 the maximum permitted floor area ratio in the Special Purpose Districts shall be as given in the following table:

Floor Area Ratio (FAR)

District	Apartment House or other residential Use	Hotel or other permitted use	Maximum Permitted
SP-1	4.0	2.5	4.0
SP-2	6.0	3.5	6.0

The maximum permitted floor area ratio may be increased for specific applications approved by the Zoning Commission under the planned unit development process as specified in Section 7501.

Section 4302 - Percentage of Lot Occupancy and Residential Recreation Space

4302.1 -- In the Special Purpose Districts no building including accessory buildings, devoted to a residential use except a hotel, shall occupy more than 80% of the lot upon which located.

4302.2 -- When all or a portion of a building in a special purpose district is devoted to a residential use other than a hotel, recreation space shall be provided which is safe, secure, and equipped and/or landscaped for the active or passive recreation use of the residents. Such recreation space shall be provided as specified below:

4302.21 -- An area equal to not less than 10 per cent of the gross floor area devoted to residential use shall be provided as residential recreation space.

4302.22 -- Residential recreation space may be located at ground level, on or above the residential plane, on rooftops or within a building or other structure. The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony, or portion of it, adjoins an individual residential unit and is accessible only from that unit. Rooftops which contain recreation space may have a parapet wall not to exceed five feet in height.

4302.23 -- If any portion of a roof is to be used for residential recreation space, the roof area shall have no dimension less than 25 feet.

4302.24 -- No less than 50 per cent of the total residential recreation space shall be outdoors.

4302.24 -- Residential recreation space shall be physically accessible to all residents of the buildings served by that space.

4302.26 -- The floor area devoted to residential recreation space shall not be counted in determining the amount of off-street parking spaces or loading berths.

Section 4303 -- Rear Yards

4303.1 -- To provide adequate light, view, movement of air and visual privacy, a rear yard shall be provided for all structures located in the Special Purpose District. The rear yard shall have a minimum depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall but not less than 12 feet.

4303.2 -- In the SP Districts, the depth of rear yard required in Sub-section 4303.1 may be measured as follows:

4303.21 -- Where a lot abuts an alley, from the center line of the alley to the rear wall of the building or other structure. A rear yard on such a lot need not be provided below a horizontal plane 20 feet above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the 20 foot plane.

4303.22 -- Where a lot does not abut an alley, the depth of rear yard shall be measured as specified in the definition of rear yard, except a rear yard need not be provided below a horizontal plane 20 feet above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the 20 foot plane.

4303.23 -- In the case of a through lot or a corner lot abutting three or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the building or other structure.

4303.3 -- In the case of a corner lot, a court complying with the width requirements for a closed court as specified in Sub-section 4305.1 may be provided in lieu of a rear yard. For the purpose of this paragraph, the required court shall be provided above a horizontal plan beginning not more than 20 feet above the curb grade opposite the center of the front of the building, and the width and area of such court shall be computed for the entire height of court.

4303.4 -- The Board of Zoning Adjustment may waive the rear yard requirements of Section 4303 provided that the objective of this section are met in accordance with the following standards:

4303.41 -- No apartment window shall be located within 40 feet directly in front of another building.

4303.42 -- No office window shall be located within 30 feet directly in front of another office window nor 18 feet in front of a blank wall.

4303.43 -- In buildings which are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms should be considered in determining distances between windows and appropriate setbacks.

4303.44 -- Provision shall be included for service functions, including parking and loading access and adequate loading areas.

4303.45 -- On receiving an application for an approval under Sub-section 4303.4, the Board shall submit the application to