GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: September 14, 2001

SUBJECT: Waiver of Rules for Late Submittal of a Revised Report concerning BZA Application 16757 requesting a Special Exception and several variances for properties located at 910, 912, 914 and 916 F Street, N.W.)

The attached report concerning an application from Jemal's Lofts LLC, requesting approval of a Special Exception under Section 411.11 and pursuant to Section 3104.1, and approval of several variances pursuant to Section 3103.2, under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, is submitted less than 7 days prior to the Board of Zoning Adjustment's Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

BZA
Case No. 16757
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16757
EXHIBIT NO.24

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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2001 SEP 17 PM 2:31

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

BZA
Case No. 16757
Exhibit No. 24

DATE: September 12, 2001

SUBJECT: BZA Application 16757

APPLICATION

In this application, Jemal's Lofts LLC requested the following zoning relief under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning:

- Approval of a Special Exception under Section 411.11, pursuant to Section 3104.1, for rooftop structure that does not meet the required set back from the side (western) property line; and
- Approval of variances pursuant to Section 3103.2 for:
  (a) Inconsistency with the allowable floor area ratio (FAR) under Section 1707.4;
  (b) Inconsistency with the recreation space requirements under Section 776; and
  (c) Inconsistency with the total ground floor preferred use requirement under Section 1703.3.

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of:

- A Special Exception to allow the rooftop structure to be set back from the western property line a distance equal or greater than five feet.
- Variances that:
  (a) Increase the allowable FAR from 6.0 to 8.03;
  (b) Reduce the residential recreation space requirement from 5% to 1.0%; and
  (c) Reduce the total ground floor preferred use requirement from 100% to 70%.

SITE AND AREA DESCRIPTION

The subject 0.306-acre (13,330 square feet) site consists of lots 828, 829, 847 and 848 on Square 377. These lots are developed with masonry buildings formerly occupied by a variety of commercial uses. Three buildings (located at 910, 912 and 914 F Street, N.W.) have been designated as contributing to the Downtown Historic District.

The properties are associated with a Planned Unit Development (PUD) approved by the Zoning Commission for the Woodward & Lothrop Department Store located on Square 346. The store is located to the northwest of the subject properties, across F Street and 10th Street, N.W.

In Final Order #940 dated April 16, 2001, the Commission required, among other things, at least 88,000 square feet of residential floor area on the subject properties. Prior to this approval, the applicant signed an agreement with The Downtown Housing Now Committee requiring, among other things, recordation of a covenant within thirty days of the issuance of the above-referenced Final Order stating that the applicant shall cause approximately 95,000 square feet of "Residential Type Uses" to be constructed on the Square 377 properties. Residential type uses were defined as those meeting the definition of apartment building, related accessory uses, and other agreed-to ground level and below-grade uses. The applicant indicated that this covenant has been signed and recorded.

The properties are zoned DD/C-4 in the Downtown Shopping District (SHOP) (refer to Exhibit 1).

APPLICANT'S PROPOSAL

Jemal's Lofts LLC proposes to renovate the three contributing buildings, and construct a twelve and fourteen-level "L"-shaped residential and parking addition (Exhibit 2). First floor retail space would be provided along the F Street frontage, approximately 75 one- and two- bedroom apartments on the upper floors (and rear of the first floor level) and underground parking for 20 vehicles accessed from Brooks Alley. Originally, a development with a gross floor area of 110,700 square feet was planned on the four-lot site, equaling an 8.3 FAR.

The applicant has requested relief from FAR limitations on the three historic properties. On July 26, 2001, the Zoning Commission approved Zoning Commission Case No. 01-06TA that changed Section 1707.4(e) of the Zoning Regulations, removing lots 829, 847 and 848 on Square 377 from the list of DD properties subject to the 6.0 FAR limitation due to the presence of contributing buildings. As a result of this Bench Decision, the subject properties can be developed to a 10.0 FAR, the maximum allowed in the underlying C-4 zoning. Since the proposed development would total an 8.3 FAR, the requested FAR variance would no longer be needed. However, final action on this amendment is pending.

EXISTING ZONING AND RELIEF REQUESTED

The proposed development would include a combination of first floor arts and retail uses, with upper floor residential uses. The property is zoned DD/C-4. Sections 1710 and 1711 include a list of allowed and "preferred" retail service, arts and arts-related uses in the district. Development of Downtown residential uses is one of the goals of the DD, therefore the proposed mixed-use is a conforming use.

Section 1706.6 states that: "In the DD/C-4 zone the following residential and mixed use provisions shall apply:

(a) The maximum FAR shall be 10.0 as a matter-of-right, which FAR may be devoted to all residential use or may include commercial or nonresidential uses as provided by this subsection; ..."

The property and development are also subject to the following requirements. Note that, as a result of reviews by the Historic Preservation Review Board (HPRB), the total gross floor area of the development has been reduced from 110,700 to 107,339 square feet.

Standard	DD/C-4 Requirement	Existing Building	Renovation and Addition	Required Relief
Lot Area (total)	---	13,332 s.f.	Same	N/A
Lot Width (total)	---	88 feet	Same	N/A
Floor Area	---	33,000 s.f.	107,339 s.f. (95,990 s.f. residential & 9,332 s.f. arts/retail)	N/A
Floor Area Ratio	6.0[1]	2.47	8.05	Variance[1]
Lot Occupancy (max.)	100% (for residential or retail uses)	65%	46-92%	N/A
Side Yard	0 feet	0 feet	Same	N/A
Courts, open	4 inches/foot height (15 feet min.)	46 feet	61 ft. (Court 2) 50 ft. (Court 3)	N/A
Courts, closed	20 feet 5 inches (15 feet min.)	46 feet	17 ft. (Court 1)	N/A
Height	120 feet	40 ft.	120 ft. (roof)	N/A
Residential recreation space	5% (4,962 s.f.)	0%	1.2% (1,200 s.f.)	Variance
Loading berths	None	None	None	N/A
Front Yard	0 feet	0 feet	Same	None
Rear Yard	0 feet	0 feet	Same	None
Penthouse setback	12 ft. (equals height)	None	12 feet (+), 5 feet (west side)	Special Exception

The Zoning Regulations include the following provisions:

> "1702.1 Each building that faces or abuts a street segment identified in §1701.4 or §1701.5 shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to permitted retail, service, arts and entertainment uses listed in §§1710.1 and 1711.1; ..."

The regulations also include provisions specific to the Downtown Shopping District (SHOP):

> "1703.1 The principal policies and objectives for the Downtown Shopping District (SHOP), or Retail Core, derived from the Comprehensive Plan, are as follows:

[1] Pending final action on the Final Order for Zoning Commission Case #01-06TA

(a) To create the most concentrated area of retail, service, arts, and entertainment uses in Downtown, in excess of one floor of these uses, with the greatest retail concentration oriented to F and G Streets, N.W.;
(b) To strengthen the character and identity of the District by means of physical design standards which ensure the following: ...

(2) Continuous retail, service, and entertainment uses on the ground level of buildings, with ample display windows and frequent store entrances to the outdoor pedestrian circulation system; ...

1703.2 The provisions of this section apply to the general area identified in the Comprehensive Plan as the Retail Core, or Downtown Shopping District, comprising squares ... and 377. ...

1703.3 Each new or altered building that faces or abuts a public street shall devote all of the ground floor leasable space to retail and personal service uses listed in §1710 or the arts uses listed in §1711; Provided that the following applies:

(a) The gross floor area devoted to the retail and arts uses listed in §§1710 and 1711 shall be no less than 0.5 FAR on the ground floor:
(b) Not more than twenty percent (20%) of the required ground floor area shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket offices, delicatessens, fast food restaurants, printing or fast copy services, newsstands, dry cleaners, or any combination thereof;
(c) This ground floor use requirement shall not apply to a building that is entirely devoted to hotel or apartment house use, or to a church or other place of worship; and
(d) In the applicable sector of the Downtown Arts District, that is, Squares ... 377, 376 and 375 (south of G Place), uses which are set forth in §1711 shall comprise not less than fifty percent (50%) of the floor area required to be devoted to preferred uses. ..."

Note that Sections 1710 and 1711 are lists of selected Retail and Service uses, and Arts and Arts Related Uses, respectively.

Based on this information, it was determined that the proposed development would not meet the residential recreation space requirement of 5%, and the penthouse would not be set back from the western property boundary a distance equal to its height. That applicant also states that they are unable to commit the entire first floor of the building for retail and personal service uses, arts and arts-related uses listed in Section 1710, or the arts and arts-related uses listed in Section 1711, as required under Section 1703.3.

Briefly, the applicant noted the following in their Statement of Justification:

- The property is affected by exceptional conditions, including:
  - A relatively small land area, narrow width, "unusual proportions" and having interior street frontage. There is also a steep grade to the south resulting a portion of the underground parking being included in the FAR calculations.
  - The only opportunities to achieve light and air circulation are along the street and alley frontages.
  - The site is required to have significant housing square footage as a result of an associated approved PUD.
  - The applicant is attempting this development while preserving three contributing buildings.
- Strict application of the Zoning Regulations would result in a practical difficulty with regard to the following:
  - Development of the residential development required under the PUD, while preserving the contributing buildings, cannot be accomplished on this small site under the 6.0 FAR limitation on historic properties in the DD.
  - Achieving the required residential development will not allow the entire first floor area of the new building to be used for preferred retail, service, arts and arts-related uses.
  - Providing the above land use mix will only allow the provision of 1,200 square feet of interior residential recreation space and no exterior recreation space.
- The listed 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 also stated that it is impractical for the proposed penthouse to comply with set back requirements (along the western property boundary) because of the configuration of the property and building, and "other conditions related to the proposed housing use." This reduced set back would also be "in harmony with the intent of the Zoning Regulations ..."

The applicant provided architectural plans and elevations with this application.

ANALYSIS

The applicant's proposal requests BZA approval of variances from the FAR limitation, residential recreation requirement and use requirements of the Zoning Regulations, and Special Exception relief for the proposed penthouse set back from the western property boundary.

Section 3103.2 grants the Board of Zoning Appeals (BZA) the power to grant variances from regulations set forth under the Zoning Act "[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation

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

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

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

The requested Special Exception for the roof structure is also subject to the following requirements under Section 411.11:

> "Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve the location, design, number, and all other aspects of such structure regulated under §§411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the materials of enclosing construction used if not in accordance with §§411.3 and 411.5; Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely."

Compliance with Section 3103.2:

The subject property and development meet the uniqueness standard. The four lots are narrow and deep. When combined, these properties will form an irregularly shaped development site because the alley changes direction in the southwest corner (toward F Street). The terrain also slopes significantly from F Street toward Brooks Alley. The proposal involves the adaptive reuse of three largely vacant buildings, formerly used for commercial purposes, for a mixed-use development that is primarily residential. Three buildings on three adjacent lots have been deemed contributing to the Downtown Historic District and subject to review by HPRB. As a result, the three building exteriors will be preserved while the fourth building (located at 916 F Street, N.W.) will be demolished for the new addition.

In order to retain the architectural integrity of the contributing building in front, the proposed residential tower addition will be constructed in an "L"-shape along the rear of lots with the contributing buildings, and extend to the F Street frontage across the westernmost lot. The building scale has also been limited so as not to impact the neighboring historic landmarks, the nine-story Riggs Bank Building to the east and the Union Life Insurance Company building to the west.

The properties were associated with Woodward & Lothrop (Woodies) PUD in order to provide a Downtown housing amenity. Final Order #940 required that at least 88,000 square feet of residential uses on-site. The Downtown Housing Now Committee agreement requires approximately 95,500 square feet of residential uses. In response, the applicant will provide 95,990 square feet of residential uses in the proposed development, almost 90% of the total floor area of 107,339 square feet.

OP considered whether four aspects of this development proposal present practical difficulties under the current zoning regulations:

- The 88,000 square feet of residential uses required by the associated PUD cannot be developed on the subject property under the existing 6.0 FAR limitation. Until final action is taken on the referenced amendment to Section 1707.4 (e), this limitation presents a practical difficulty.
- The applicant proposed to provide a total of 1,200 square feet of residential recreation space between the first floor lobby and third floor recreation room. The applicant considered locating additional square footage on the roof around the penthouse (Exhibit 3). This option was not pursued because of: the cost of extending the elevator core one additional floor; and increasing the height of the penthouse could create additional zoning nonconformities. Therefore, meeting the residential recreation requirement presents a practical difficulty.
- The current proposal would meet the requirements of Section 1703.3, except that it would not dedicate all first floor leasable space for preferred uses. The majority of the building frontage on this floor would be retail storefronts (the apartment entrance foyer would occupy the west end). Resident corridors, the elevator core and four apartments extending toward and along the rear alley would occupy a portion of the first floor. In order to maintain the integrity of the existing contributing buildings, and provide residential development required by the PUD and the related agreement, the applicant needs to maximize the renovated space and proposed addition for residential uses. Enlarging the building by providing additional bulk is not an option. Therefore, Section 1703.3 presents a practical difficulty with regard to the applicant providing the referenced residential square footage, which includes the rear portion of the first floor level.

OP is concerned about the limited amount of recreation space being provided on-site. However, staff has determined that these variances could be granted "without substantially impairing the intent, purpose and integrity of the zone map as embodies in the Zoning Regulations and Map."

Compliance with Section 411.11

Elevator and stair cores are located in the southwest corner of the site by virtue of the "L"-shaped design of the proposed addition. The area required for the mechanical equipment inside the building limits the flexibility to relocate this structure.

Section 770.6 (b) requires that the roof structures be setback from each property line one foot for each foot of height. The mechanical penthouse can meet the set back requirements along the north (F Street, N.W.), south (Booths alley), and eastern boundaries, but not along the western property boundary. During its review of this project, the HPRB endorsed the overall massing of the building, including the location of this roof enclosure five feet from the western property boundary.

Based on this information, this proposal would not materially impair the building, and the light and air of adjacent buildings shall not be affected adversely.

Compliance with Section 3104.1:

Based on the results under Section 411.11, it appears that this proposal will be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map, and will not tend to affect adversely the use of the neighboring properties.

COMPREHENSIVE PLAN

The Generalized Land Use Map designates the subject property as "High Density", characterized by it being "The business and retail heart of the District ..." that "includes a mix of employment, retail, office, cultural and entertainment centers."

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

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

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

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

> "(a) Undertake a variety of public and private programs to achieve a major increase in residential units in Downtown;
> ...
> (d) Encourage residential use as part of mixed use projects *south of Massachusetts Avenue, N.W.*"

Section 906 includes the following policies in support of the Downtown arts, cultural, and entertainment land use objective:

> "(a) Ensure that arts and entertainment use become significant components of the land use mix in Downtown;

(b) Encourage the retention and enhancement of arts and cultural facilities and activities in Downtown; ..."

Section 910 includes the following objectives related to the design of buildings:

"(a) Encourage development to strengthen public perception of safety and to be appropriate in appearance, scale, proportion, and mass to its context. ..."

Section 911 includes the following historic preservation objectives for Downtown:

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

Section 1319.1 includes the following objectives in support of historic preservation in Ward 2:

"(a) To preserve and protect existing buildings and small scale and open spaces in historic areas in Ward 2."

These objectives support measures to encourage and retain arts and entertainment, residential uses, protect historic properties and retain the scale of historic districts in the Downtown.

COMMUNITY COMMENTS

The overall proposal for the Woodies PUD, including providing housing on Square 377, was presented to Advisory Neighborhood Commission (ANC) 2C on December 6, 2000. The Commission voted 4-0 in favor.

AGENCY COMMENTS

The Historic Preservation Review Board (HPRB) has reviewed architectural building plans and models for the proposed mixed-use development. HPRB approved the building massing based on a model presented at its meeting on June 28, 2001. Final architectural plan approval was withheld pending submission of revised drawings (refer to Exhibit 3).

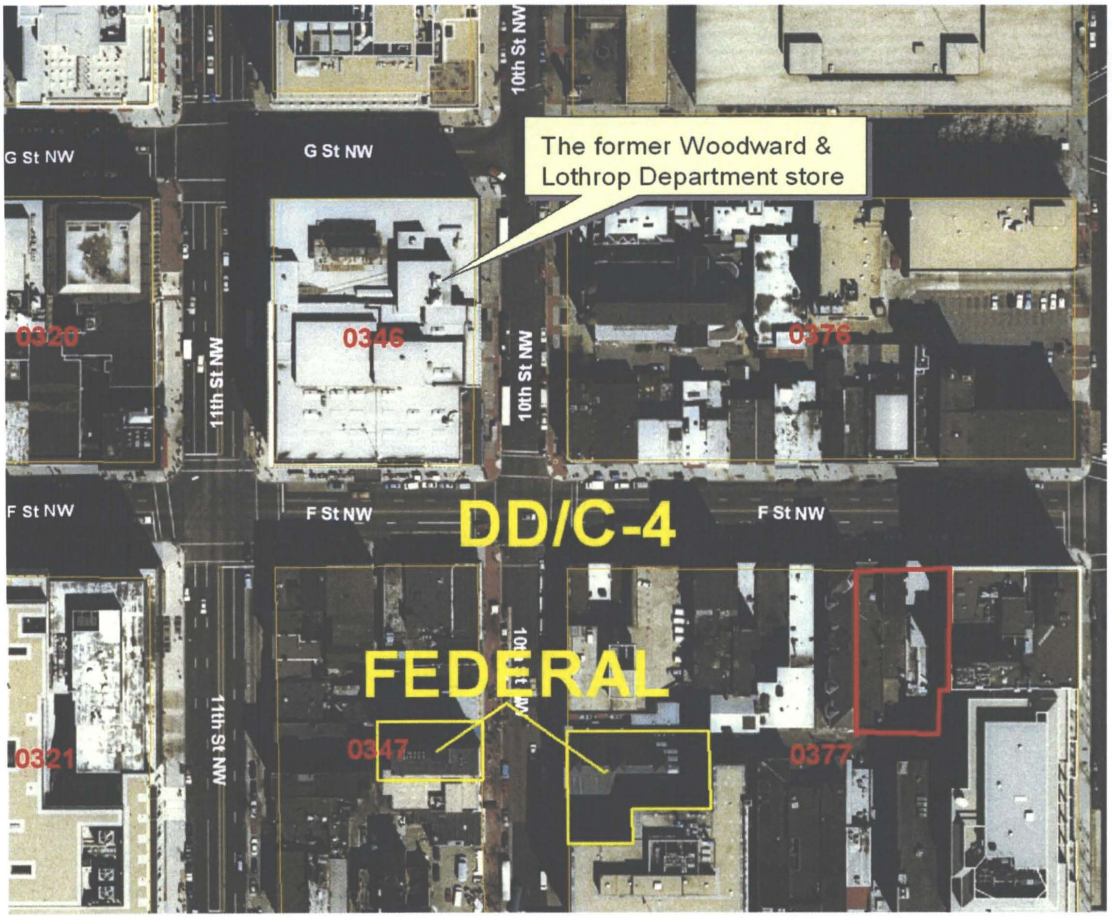
RECOMMENDATION

The Office of Planning recommends approval of the requested zoning relief. It should be noted that the PUD covenant has been submitted the to the District for review and approval.

Attachments:

Exhibit 1 Property Area Showing Zoning
Exhibit 2 Development Site Plan (First Floor Level)
Exhibit 3 Residential Tower (Penthouse Level)
Exhibit 4 Historic Preservation Review Board Staff Report and Recommendations for the Meeting on June 28, 2001

AA/afj



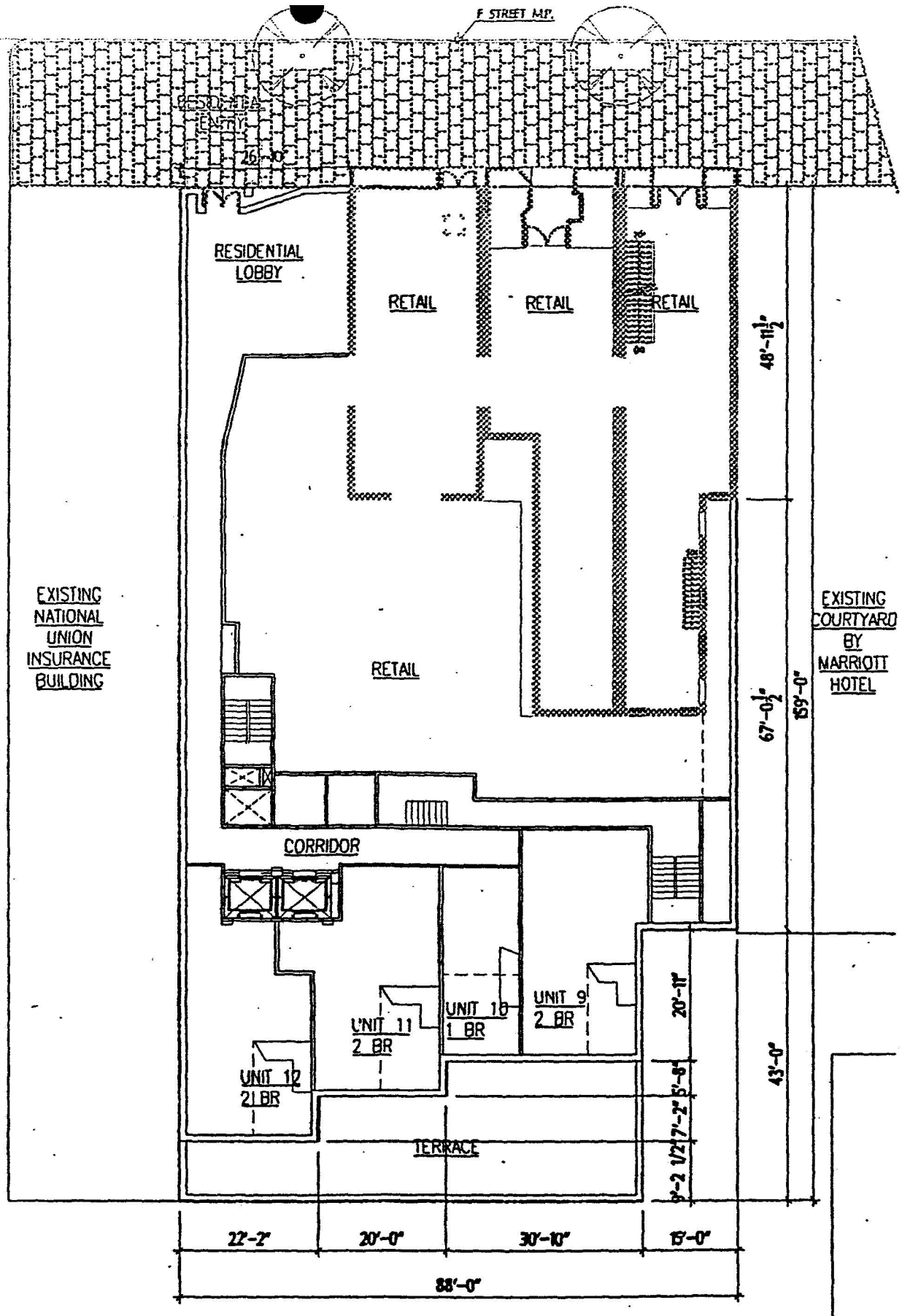
Aerial of 910, 912, 914 & 916 F Street N.W., Woodward & Lothrop Building with Zoning

0 100 200 Feet

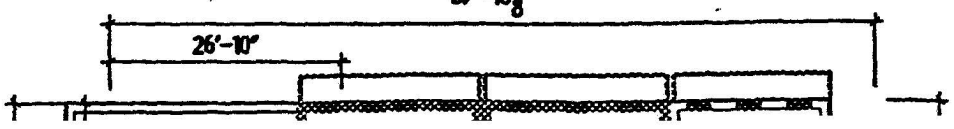
District of Columbia Office of Planning: REV 09/14/01

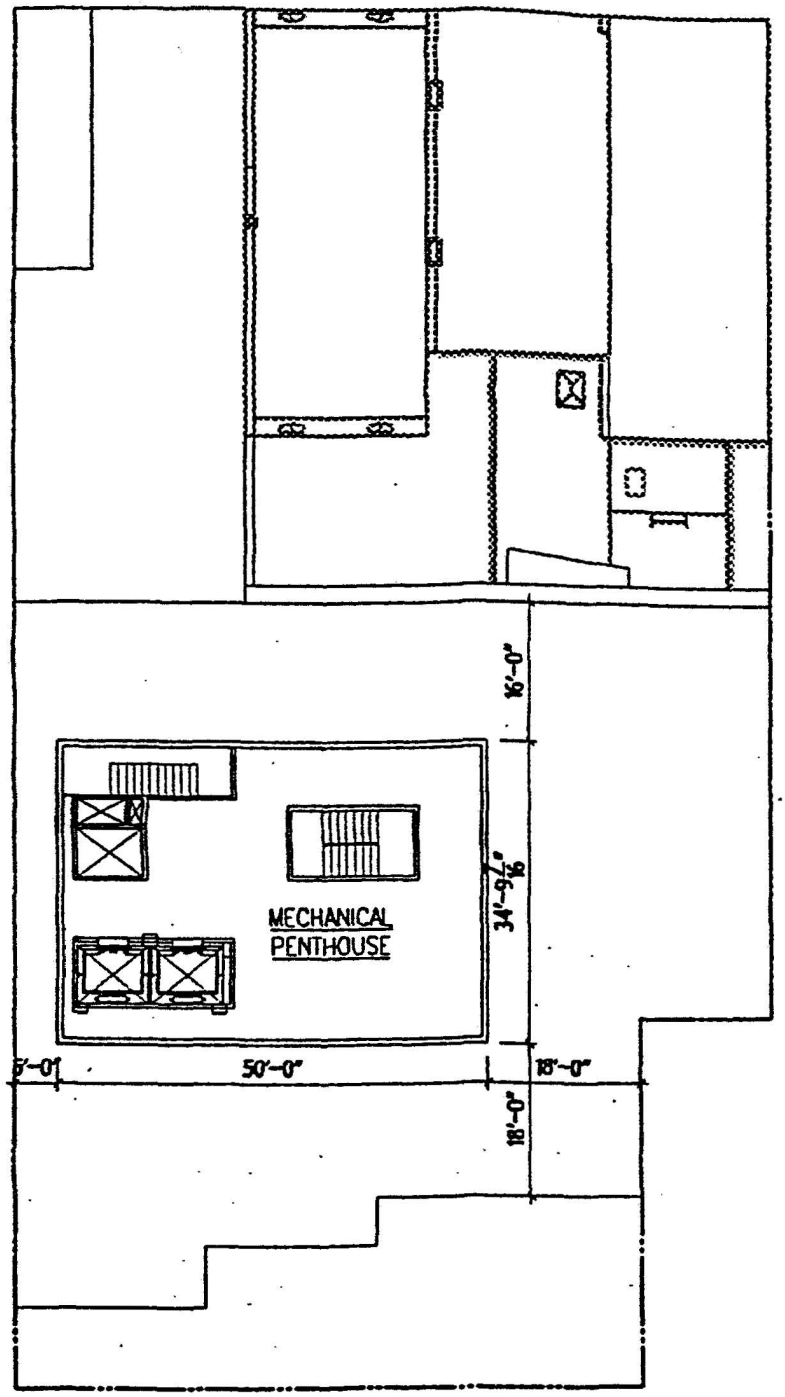
Exhibit 1

Exhibit 2



GROUND FLOOR +1





PENTHOUSE FLOOR

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/District:	**Downtown HD/Pennsylvania Avenue NHS**	(x) Agenda
Address:	**912 F Street, NW (910-16 F Street, NW)**	( ) Consent Calendar
Meeting Date:	**June 28, 2001**	( ) Alteration
H.P.A. Number:	**01-256**	(x) New Construction
Date Received:	**3/22/01**	(x) Conceptual Design
Staff Reviewer:	**David Maloney**	( ) Subdivision

Owner Douglas Development Corporation and architect Shalom Baranes Associates return to the Board for additional conceptual review of plans for a new apartment building and rehabilitation of three historic row buildings. At the May meeting, the Board recommended further study and revision of the project. There were two primary issues: lowering the F Street wing and setting back the residential tower so as not to protrude over the historic buildings. Since the last meeting, the architect has worked closely with the staff to respond to these issues.

Revised Plans

The revised plans show the F Street wing reduced by one floor to 11 stories, and the rear tower in roughly the same location, with some revisions and further development both interior and exterior.

The revised F Street wing represents the minimum height reduction within the broad guidance given by the Board after its discussion in May. The staff agrees with the architect's analysis that for a successful urban design relationship, this wing should not approximate, but contrast with the adjacent National Union Building in terms of height. Given this assumption, the next lower height would be about seven stories. Adopting for the sake of argument the architect's objection to the proportional relationship between this size wing and the rear tower, then the final option is an infill wing roughly the size of the rowhouses, or about three to four stories. Given the Board's prior direction, the staff is willing to support the 11-story height as an alternative to seven stories.

Further development of the F Street façade is of course warranted. The juxtaposition with National Union demands exceptional design and materials, especially if the new building is higher. The metal-and-glass curtain wall is obviously the critical design element. In addition, stone rather than brick would be more appropriate for the narrow pier adjacent to the rusticated brownstone façade of the National Union. The ground floor design should also be studied in context with restored storefronts on the historic buildings.

On the interior of the site, the proposal is still for the apartment tower to project over the rear wings of the historic buildings. The design relationship, however, is much advanced. The intervening space would be developed as a partially skylit room, roughly cubic in shape, defined by a structural framework. The frame would establish a compatible scale and allow the rear facades of the historic buildings to remain open to the air. Parts of the concept require further development, particularly where the new tower is directly above the historic buildings (ideally, this portion would be stepped back). However, the approach offers a promising solution to a difficult site, and the staff recommends working with the project team to refine the idea further.

Recommendations

The staff recommends that the Board support further development of the concept for full building preservation in conjunction with new construction.