Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

Annapolis
Atlanta
Bethesda
Boston
Bradenton
Chicago
Fort Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
New York
Northern Virginia
Orlando
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
Washington, D.C.
West Palm Beach
International Offices:
Caracas*
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo
*Representative Office

September 18, 2001

DENNIS R. HUGHES
202-419-2448

Internet Address:
drhughes@hklaw.com

Hand Delivery

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

Re: BZA No. 16765, American Chemical Society

Dear Members of the Board:

Enclosed please find an original and 10 copies of the Statement of Applicant in the above-referenced application, scheduled for public hearing on October 2, 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
cc: Office of Planning
ANC 2B
David Francis
Ed Corr

WAS1 #1013962 v1

BZA
Case No. 16765
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16765
EXHIBIT NO.24

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of
American Chemical Society

BZA Application No. 16765
Public Hearing: October 2, 2001
ANC 2B

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR §3104 for a special exception to construct an addition to an office building in the SP-2 District under §508, and pursuant to §3103.2 for variances from the floor area ratio requirements in the SP-2 District under §531, and from the requirements for additions to nonconforming structures devoted to conforming use under §2001.3. The relief is requested in order to permit the construction of a small one-story patio enclosure addition to a non-conforming structure in the SP-2/C-4 Districts at premises 1155 16th Street, NW.(Lot 85, Square 197).

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief pursuant to §§ 3103.2 and 3104 of the Zoning Regulations.

III.
BACKGROUND OF THE CASE

A. Site and Vicinity Characteristics

The Subject Property, Lot 85 in Square 197, is located at the southeast corner of the intersection of 16th and M Streets, NW, extending south along 16th Street, NW, approximately 130 feet, and east along M Street, NW, approximately 176 feet. The Subject Property contains a total lot area of approximately 26,000 square feet. (Exhibit B).

The Subject Property is split-zoned. The entire lot frontage along 16th Street, NW, and extending to a depth of 106 feet east, is zoned SP-2. The remainder of the property, measuring approximately 71 feet along the south side of the 1500 block of M Street, NW, is zoned C-4. The SP-2 portion of the Subject Property occupies approximately 16,600 square feet of lot area while the C-4 portion totals approximately 9,336 square feet of lot area. (Exhibit C).

The portion of the building located within the SP-2 District, with premises address of 1155 16th Street, NW (the "Subject Building"), was constructed prior to 1958 and thus before the current Zoning Regulations took effect. That building is eight stories tall with two below-grade levels and a gross floor area of approximately 106,500 square feet. The original site area for the existing building was approximately 18,040 square feet. The resulting density of the Subject Building on the original site area is a floor-area ratio (FAR) of roughly 5.9.

In the early 1990s, a 12-story building was constructed in the C-4 portion of the Subject Property, with premises address of 1550 M Street, NW (the "M Street

Building"). The two buildings now share an above-grade connection and are on a single record lot and considered a single building for zoning purposes. The Subject Building was renovated in 1995, with no increase in gross floor area.

Within Square 197, the Subject Property is bounded to the south by the University Club, a seven-story private club building located at 1135 16th Street, NW. To the west of the Subject Property is the Metropolitan A.M.E. Church at 1518 M Street, NW. Across M Street, NW, to the north, in Square 196, stands the eight-story headquarters of the National Educational Association at 1201 16th Street, NW, also zoned SP-2. Directly west of the Subject Building, across 16th Street, NW, the National Geographic Society occupies the entire northern half of Square 183, which is also split-zoned SP-2 and C-4.

B. Project Description

The Applicant proposes to enclose a 1,260 square foot portion of the existing patio on the south side of the Subject Building in order to utilize the patio on a year-round basis as a break/lunch/congregating area for its employees. The patio is currently used by employees in good weather and is located adjacent to the first floor meeting rooms of the Society. The enclosure will provide all-weather protection to the patio area, and also will reduce noise levels on the patio emanating from the mechanical equipment adjacent to the patio.

The enclosure will be constructed primarily of glass and steel elements and will not require any structural alteration to the building. The enclosure will utilize the existing doorways that open from the building onto the patio. The enclosure will have

an arched roofline and will measure no more than 14 feet in height at the peak of the roof. Furthermore, it will be located within the existing eight-foot high brick wall enclosure of the patio area. The remaining approximately six feet of the enclosure that will extend above the wall (and notably less than that height for all areas other than the very peak of the roof) will be largely masked from public view as a result of its recessed location between the Subject Building and its neighbor to the immediate south, the University Club. The enclosure will also be largely hidden from public view by a stand of mature evergreen trees that are located in the landscaped public space area between the building line and the sidewalk area. (Exhibit F).

The Applicant has no intention of putting the space to any new use not currently existing in the Subject Building, nor will the enclosure generate any additional traffic to the building. No space created by the proposed enclosure will be devoted for offices, and no increase in staff will occur as a result of this proposal.

The need for the enclosure of the patio is directly related to the increased need for computer space in the lower level of the Subject Building, where it can be secure and climate-controlled. In order to address the demands of increased computer technology, the Applicant must make significant space available within the Subject Building to house the necessary computer systems. As shown in the plans for the "Sub-Basement" level, (Exhibit G), the information technology space takes up a significant portion of this lowest level, including the area directly and two levels below the patio area proposed to be enclosed. The only logical place for the technology expansion is in the space immediately above the current information technology area, on the first below-grade level (i.e. "Basement" level per Exhibit G).

The employee break room is the best and most logical location that the Applicant has found to relocate from the basement level to accommodate the growth of the information technology space. Because the break room is immediately above the computer space, it would be the most efficient expansion from a connectivity perspective. Wiring could be accomplished relatively simply between the two spaces and without disruption to other uses in the building. It is also suitable space, in that it is below-grade and there are no demands for light and air for the expansion of equipment.

Rather than do away with the employee break room, the Applicant, in turn, wishes to relocate it to a more suitable location, namely, the currently unenclosed patio area. This enclosed area would be an open, airy and inviting space for the employees, and would be a vast improvement to the quality of life of the Applicant's employees over the current basement space.

The unenclosed patio space is used regularly by employees who take their lunches and breaks there in fair weather. However, the space is virtually unusable during colder weather. Even in fair weather, employees using the patio must endure an exceptional amount of noise generated by the HVAC units located just on the other side of the wall enclosing the patio. Because the patio is located just outside the meeting rooms of the Society, with doors along the wall, the doors can also be opened during employee meetings to relieve some of the congestion which occurs when all of the employees meet on site.

As will be detailed below, the zoning relief that is required to permit the Applicant's modest proposal is somewhat complex owing to the history of the building

and the Subject Property. Because the Subject Building was constructed before the current Zoning Regulations were enacted in 1958, it is now considered a nonconforming structure that is devoted to conforming uses. As such, any additional square footage to the building will require relief from the Zoning Regulations. The Application satisfies the requirements for zoning relief that are necessary to permit the construction of this small patio enclosure.

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.
Exhibit B:	A portion of the Sanborn Atlas showing the Subject Property outlined in red.
Exhibit C:	A portion of the Zoning Map showing the Subject Square outlined in red.
Exhibit D:	Outline of testimony of the Representative of American Chemical Society, Applicant.
Exhibit E:	Outline of testimony of OPX, Architects for the project.
Exhibit F:	Photographs of the Subject Property.
Exhibit G:	Architectural drawings.
Exhibit H:	Board of Zoning Adjustment Order No. 14675, re: 1201 16th Street, NW
Exhibit I:	Board of Zoning Adjustment Order No. 16198, re: 1600 Rhode Island Avenue, NW.

V.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO ALLOW CONSTRUCTION OF AN ADDITION TO AN OFFICE BUILDING IN A SP DISTRICT UNDER 11 DCMR §§ 508 AND 3104.

Special Exception relief is required from §508 of the Zoning Regulations, regarding office uses in the SP Zones. As the Board is aware, a special exception use is a use pre-deemed compatible with other uses permitted in that particular zoning classification provided that the specific regulatory requirements are met. In reviewing applications for a special exception, the Board's discretion is limited to determining whether the proposed exception satisfies the requirements set forth in the appropriate section. If the Applicant meets its burden, the Board must ordinarily grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695 (1981).

Under §508.1 of the Zoning Regulations, "construction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use, shall be permitted in an SP district if approved by the Board of Zoning Adjustment in accordance with the conditions with the conditions specified in [§3104.1] ... subject to the provisions of this title."(emphasis supplied.) As demonstrated below, the Application satisfies the conditions of both §3104.1 and §508.

A. Compliance with Section 508

The Application satisfies the requirements for special exception relief set forth in §508 of the Zoning Regulations.

508.2 Each application shall be referred to the Office of Planning in accordance with the provisions of §500.6.

The Application has been referred to the Office of Planning. The Applicant met to discuss the present Application with staff of the Office of Planning on September 5, 2001.

508.3 The Use, Height, Bulk and Design Shall be in Harmony with Existing Uses and Structures on Neighboring Property.

The Application is in complete harmony with the use, height, bulk and design of existing uses and neighboring structures. There will be no change from the existing use of the Subject Property as a result of this Application. The proposal will have little or no impact on the height, bulk and design of the Subject Building. The enclosure will be virtually unseen from neighboring properties as well as from 16th Street, NW. Measuring only 14 feet at its highest point, the enclosure will be dwarfed both by the Subject Building, at eight stories tall, and by the adjacent University Club Building, measuring seven stories in height. In fact, only the arched roof will be visible from the University Club as the rest of the structure will be hidden behind the existing eight-foot tall brick wall enclosing the patio area of the Subject Building.

This diminutive height, when coupled with its recessed location between these two buildings, will virtually hide the enclosure from public view. This "transparency" is further enhanced by the predominately glass construction chosen for the structure and the stand of mature evergreen trees planted in landscaped public space between the building line and the sidewalk area.(Exhibit F).

508.4 The Use Shall not Create Dangerous of Other Objectionable Traffic Conditions.

The Application does not involve any change from the existing use or any increase in that use. Nor will the enclosure generate any additional traffic to the Subject Building, as it will be utilized only to house functions for employees of the organization and will involve only the relocation of existing uses and spaces within the Subject Building.

508.5 The Board may Require 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.

The extensive existing landscape screening, the surrounding brick wall, and the relative "transparency" of the proposed enclosure have been discussed above, and the Applicant has received support for its proposal from the only abutting neighbor to the patio area of the Subject Building. No additional screening is necessary to protect the value of neighboring property.

B. Compliance with Section 3104.1

Under §3104.1, the Board is authorized to grant those special exceptions which, in the judgment of the Board, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

1. Harmony with the Zoning Regulations and Maps

The present application is in harmony with the Zoning Regulations and Maps. The Applicant, American Chemical Society, has continuously occupied the Subject Building as offices since the building was constructed in the 1950s.

The proposed patio enclosure will measure only 1,260 square feet. The addition is minor in scale and will not increase the intensity of use of the building but only permit the Applicant to utilize the patio area on a year-round basis in order to provide a suitable lunch/break/meeting area for its employees.

2. No Adverse Effect on Neighboring Property

The small patio enclosure proposed for the existing building will not adversely affect neighboring property. The proposed addition has been designed in a manner that is architecturally sensitive to the Subject Building as well as neighboring properties. Care has been given by the Applicant to minimize any visual impact of the proposed enclosure through the size, location and construction materials chosen. The Application has the support of the only abutting property owner to the portion of the Subject Property under consideration. The University Club has reviewed the Application and has stated its support for the proposal. The Applicant understands that the University Club will be submitting a letter of support for the Application to the Board.

VI.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF UNDER THE ZONING REGULATIONS

The Application also satisfies the requirements for variance relief under §531, which sets forth permitted FAR in the SP Zones, and §2001.3, involving enlargements or additions to nonconforming structures devoted to conforming uses.

Section 531 of the Zoning Regulations establishes the permitted densities for buildings within the SP-2 District. Under the schedule established in §531.1, the total maximum permitted density is 6.0 FAR, of which non-residential uses are permitted to utilize up to 3.5 FAR. Because the Subject Building exceeds the currently permitted FAR for the SP-2 District, any proposed addition, no matter how minute, would require variance relief from §531 in order to increase the building's density.

Section 2001.3 of the Zoning Regulations permits enlargements and additions to be made to nonconforming structures devoted to conforming uses, provided certain enumerated elements are met, namely: (a) the structure shall conform to percentage of lot occupancy requirements; (b) the addition or enlargement itself 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 addition will extended the building's nonconformity with the FAR limitation in the SP-2 Zone, the Applicant requests variance relief from §2001.3.

As set forth below, the Application meets the three-part test for area variance relief under §§ 531 and 2001.3 of the Zoning Regulations.

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

The Subject Property is affected by certain exceptional conditions, most notably the property's split-zoning and its improvement with two buildings, one of which predates the current Zoning Regulations and is now considered a nonconforming structure devoted to conforming uses.

The Board has previously found the presence of a nonconforming structure on a particular property to qualify as an extraordinary or exceptional condition or situation. The Board made this determination when considering very similar zoning relief to that requested herein for the National Education Association, located across the street at 1201 16th Street, NW,(Exhibit H), and for the conversion of the former National Rifle Association headquarters at 1600 Rhode Island Avenue, NW, to a Marriott Hotel.(Exhibit I).

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

A strict application of §§ 531 and 2001.3 would result in a practical difficulty for the Applicant's proposal. Because the Subject Building is a nonconforming structure, any needed increase in space to be provided on the Subject Property, no matter how minute the increase, requires variance relief from the Zoning Regulations.

In the present case, the Applicant is faced with a combination of difficulties in its use of the Subject Building for the current and future programmatic needs of its non-profit organization. These difficulties include the need for additional space to house its information technology systems and space to accommodate those uses, and the need to relocate the employee break/lunch/congregation space that would be displaced by the expansion of computer space. This technological need cannot be met without the requested variance relief.

This combination of space and other constraints inherent in the Subject Building, as described above, work a practical difficulty upon the Applicant deserving of the variance relief herein requested. "It makes no practical difference whether the inability to use property in accordance with zoning regulations stems from topographical conditions of the land itself or from the existence of a structure on the land." *Clerics of St. Viotor, Inc. v. District of Columbia Board of Zoning Adjustment,* 320 A.2d 291, 294. The Board has previously determined that a practical difficulty results where, as here, there is no reasonable alternative space within an existing non-conforming structure to create a pleasant gathering and dining area.(Exhibit H).

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

The Applicant proposes simply to enclose a portion of its existing patio space. No addition of office space is being undertaken with this very small building addition project. The addition will not lead to increased office space or traffic of employees or visitors.

To ensure that the proposal does not work a detriment to the public good or zoning in the District, the Applicant has presented its plans both to its immediate neighbor, the University Club, who offered support for the project, and to the Office of Planning. Likewise, the Applicant is scheduled to present its plans to Advisory Neighborhood Commission 2-B at its next public meeting, which has been rescheduled to September 19, 2001.

Because the proposed enclosure is of such a diminutive nature, does not increase traffic to the Subject Building or add any new use, and because the enclosure will be largely hidden from view from the neighboring properties and the general public alike, the Applicant believes that the proposed enclosure will not serve a detriment to the public good or as an impairment to the Zone Plan.

For all the above reasons, variance relief from §§ 531 and 2001.3 is justified and appropriate.

VII.
WITNESSES

A. Representative of American Chemical Society, Applicant.

B. Representative of OPX Architects.

VIII.
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 _____
Christopher H. Collins

_____
Dennis R. Hughes

2099 Pennsylvania Avenue, NW,
Suite 100
Washington, D.C. 20006
(202) 955-3000

September, 2001

WAS1 #1011711 v2

A

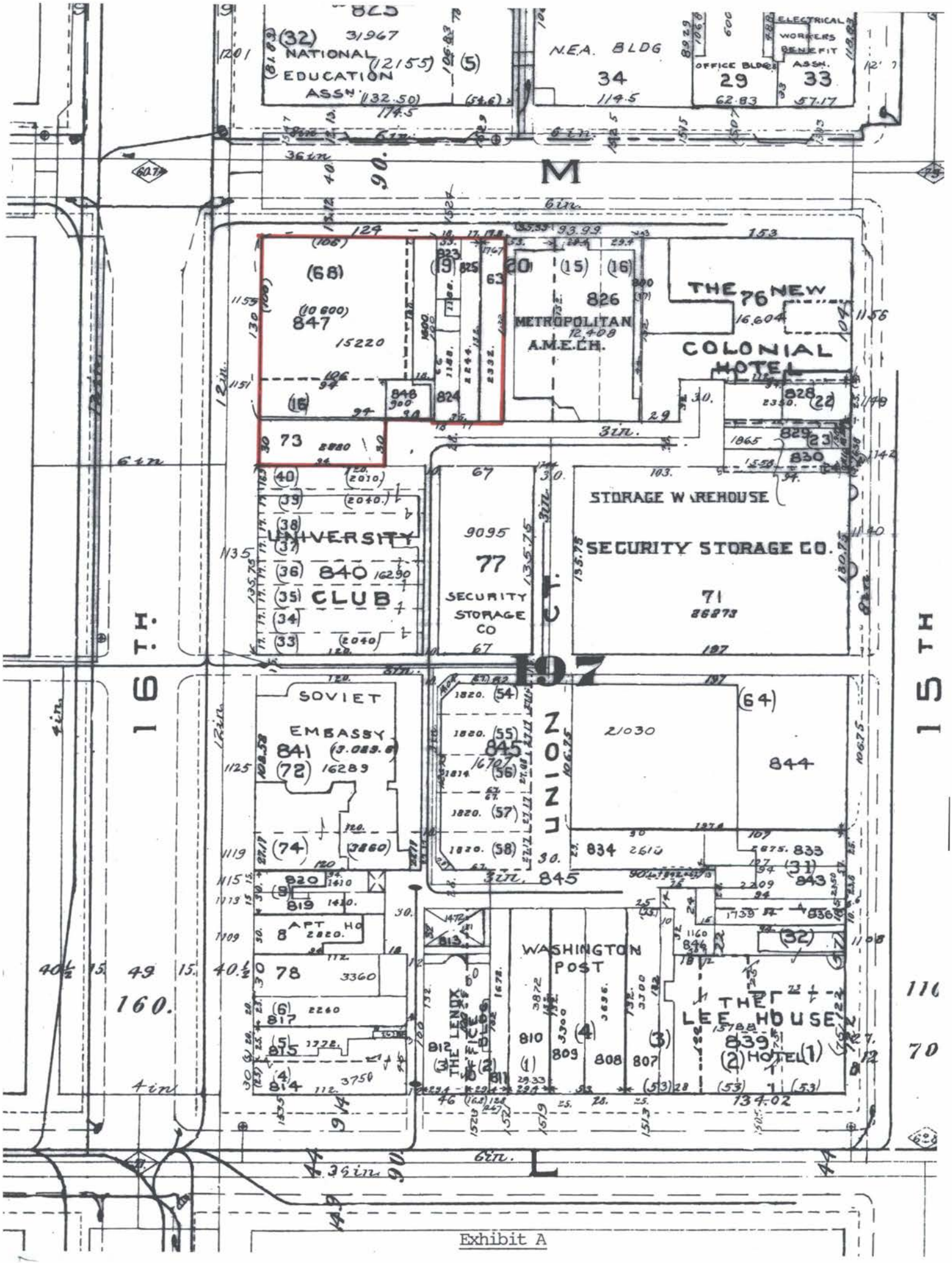

NATIONAL EDUCATION ASSN
N.E.A. BLDG
ELECTRICAL WORKERS BENEFIT ASSN.
OFFICE BLDG.
THE NEW COLONIAL HOTEL
METROPOLITAN A.M.E.CH.
STORAGE WAREHOUSE
SECURITY STORAGE CO.
UNIVERSITY CLUB
SECURITY STORAGE CO
SOVIET EMBASSY
WASHINGTON POST
THE LENOX
THE LEE HOUSE HOTEL
16 TH.
15 TH
M
L
K ST.
U ST.

Exhibit A



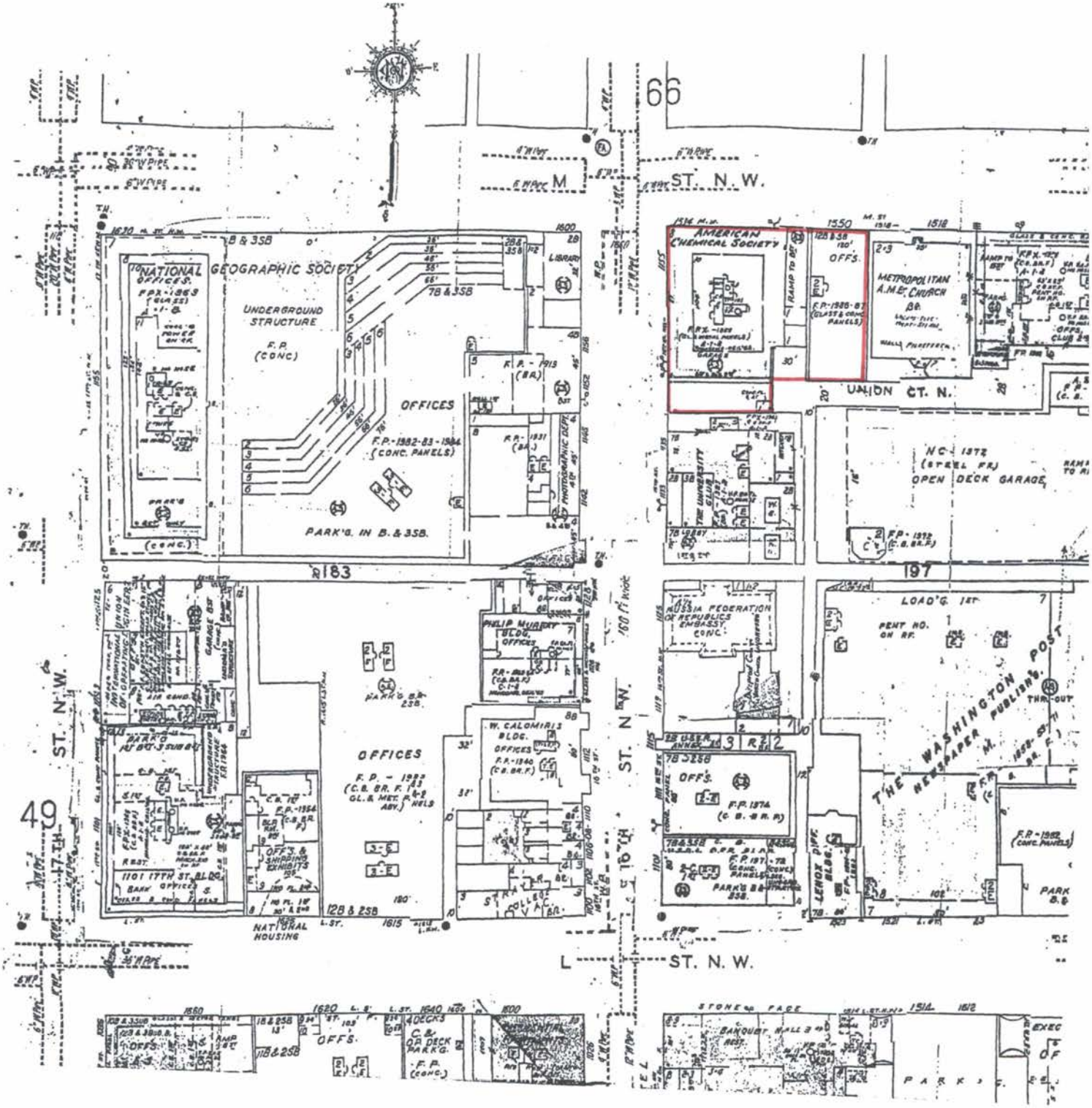


Exhibit B (1 of 2)

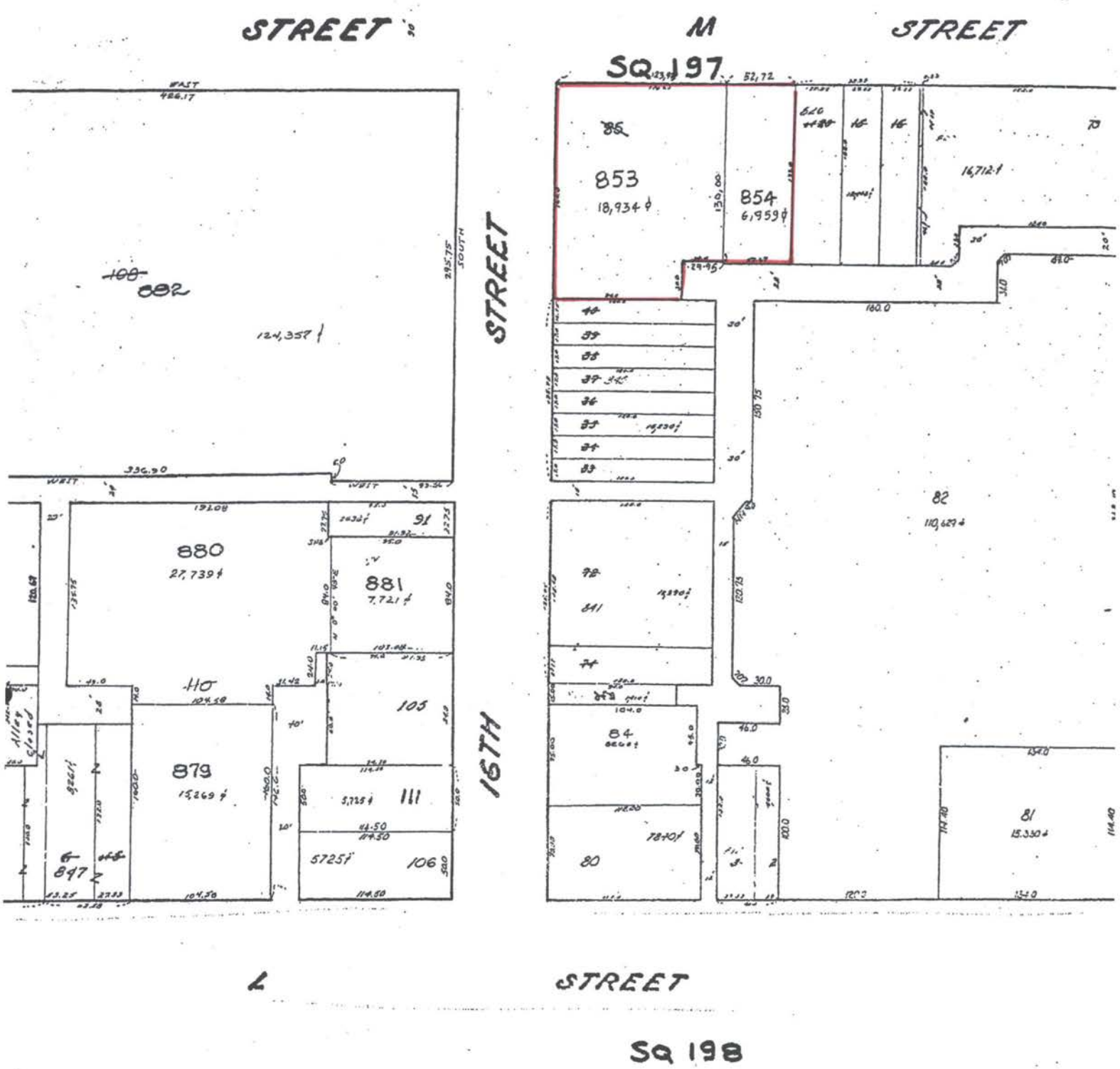
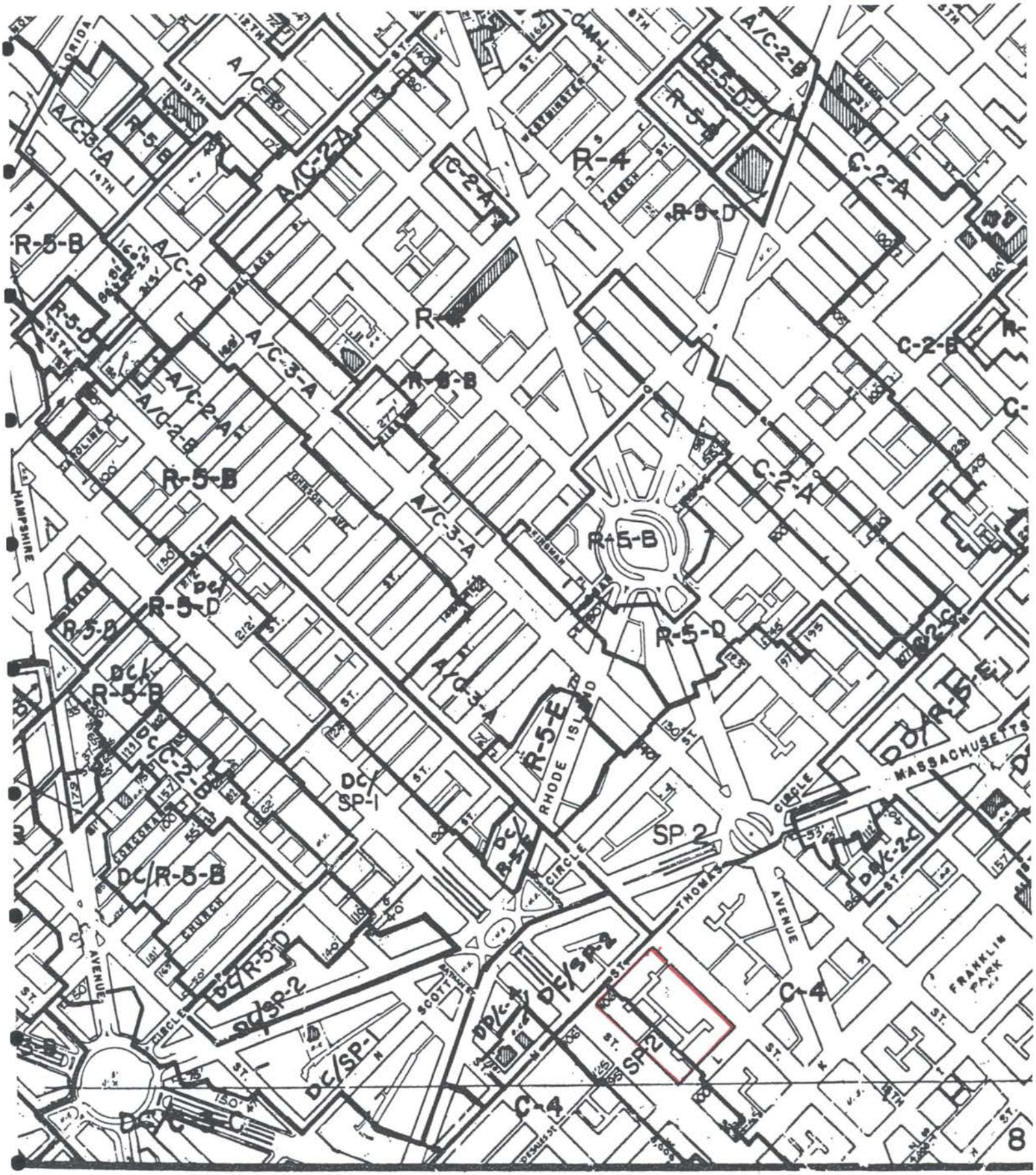


Exhibit B (2 of 2)




DISTRICT OF
ZONING
SECTION
Exhibit C



OUTLINE OF TESTIMONY
REPRESENTATIVE OF AMERICAN CHEMICAL SOCIETY

I. INTRODUCTION

II. OWNERSHIP HISTORY OF SITE

III. DESCRIPTION OF SITE AND VICINITY

IV. DESCRIPTION OF PROPOSED PATIO ENCLOSURE

V. SPECIAL EXCEPTION AND VARIANCE RELIEF IS NEEDED

VI. CONCLUSION



OUTLINE OF TESTIMONY
REPRESENTATIVE, OPX ARCHITECTS

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

- **A. Overview of Site, Vicinity and Land Use/Zoning**
- **B. Site Planning – size, configuration, existing construction**

III. PROJECT DESIGN

- **A. Design Considerations**
- **B. Review of Drawings**

IV. RELIEF REQUIRED

- **A. Special Exception Under §508 to Construct Addition to Office Use**
- **B. Variance from §531, Floor Area Ratio Requirements**
- **C. Variance from §2001.3, Additions to Nonconforming Structures**

V. CONCLUSION

WAS1 #1013639 v1

Exhibit E

F



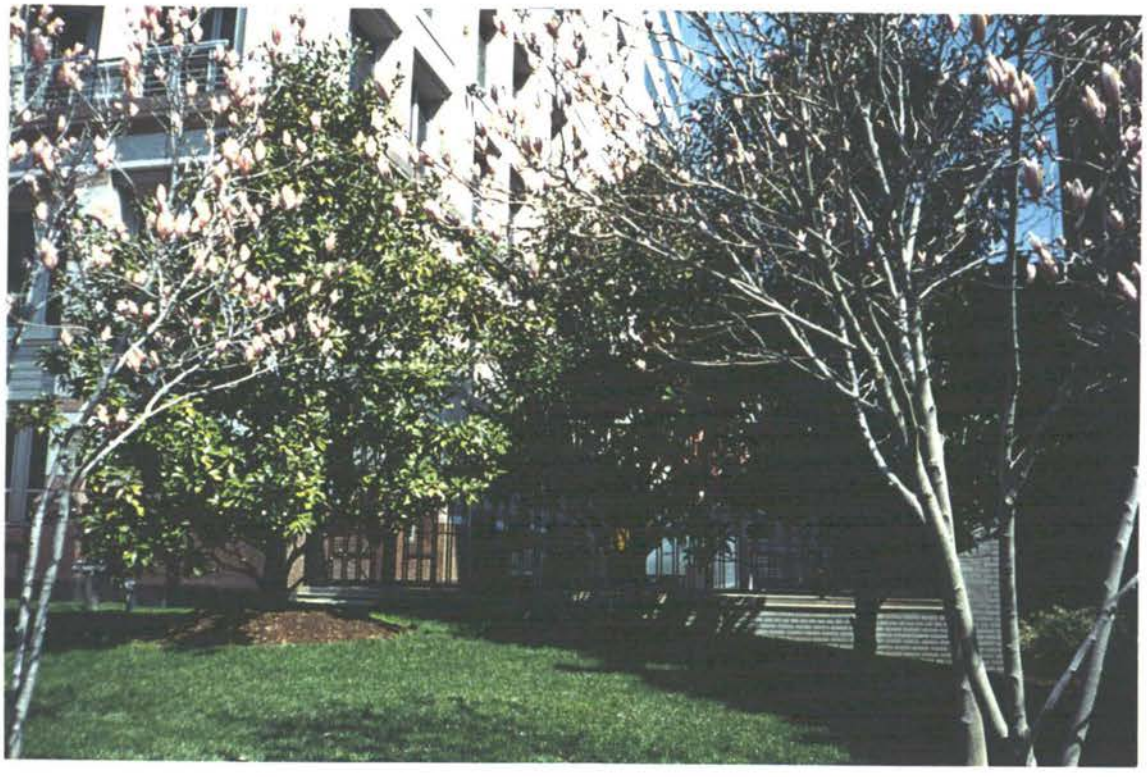
1155 16th Street, N.W. (The Subject Building)



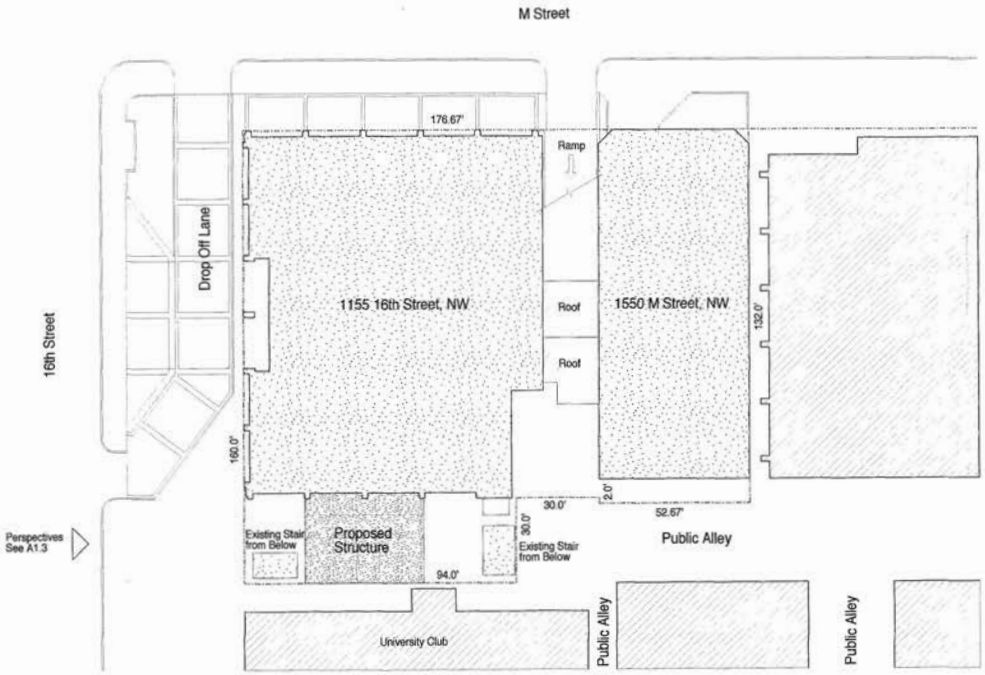
1550 M Street, N.W.
(The M Street Building)
Subject Building in
Foreground



Subject Building to Left; University Club to Right
Patio Area Center Right



View of Patio Area



PROJECT INFORMATION
Square: 197 Lot: 85
Address: 1155 16th Street, NW Washington, DC 20036
Note: All site plan data taken from District of Columbia Survey dated 1-11-2001, recorded in book 174, page 28.

N

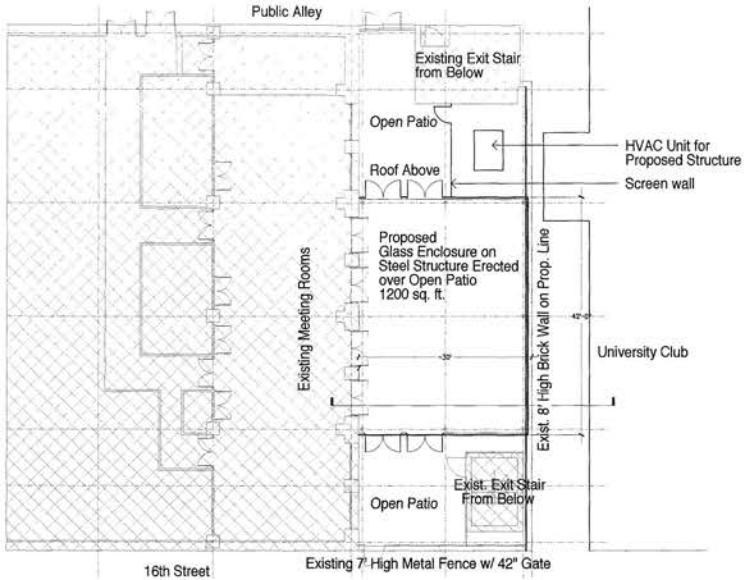
AMERICAN CHEMICAL SOCIETY

1155 16th Street, NW
Washington, DC 20036

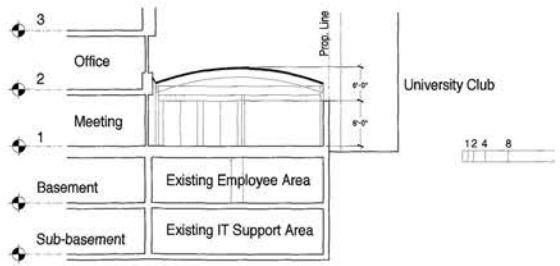
architecture / interiors
21 Dupont Circle Washington DC 20036
tel 202.822.9797 / fax 202.785.0443
http://www.opxglobal.com

SITE PLAN

ISSUED FOR REVIEW	06.01.01	Drawn: DSB	Scale:	Drawing No. 2000
ISSUED FOR ZONING SUBMISSION	09.18.01	Approved:	Date: 06.01.01	A1.1



FIRST FLOOR PLAN



SECTION

N

AMERICAN CHEMICAL SOCIETY
1155 16th Street, NW
Washington, DC 20036

architecture / interiors
21 Dupont Circle Washington DC 20036
tel 202.822.9797 / fax 202.785.0443
http://www.oprglobal.com

PROPOSED PLAN & SECTION

ISSUED FOR REVIEW	06.01.01	Drawn: JBL / DGR	Scale: AS NOTED	Drawing No.: A1.2
ISSUED FOR ZONING SUBMISSION	09.18.01	Approved:	Date: 06.01.01	



PERSPECTIVE: EXISTING
View from 16th Street looking east



16th Street Elevation
Existing



View into Courtyard
Existing



View to rear of Courtyard
Existing



View from Courtyard
to 16th Street
Existing



PERSPECTIVE: PROPOSED
View from 16th Street looking east



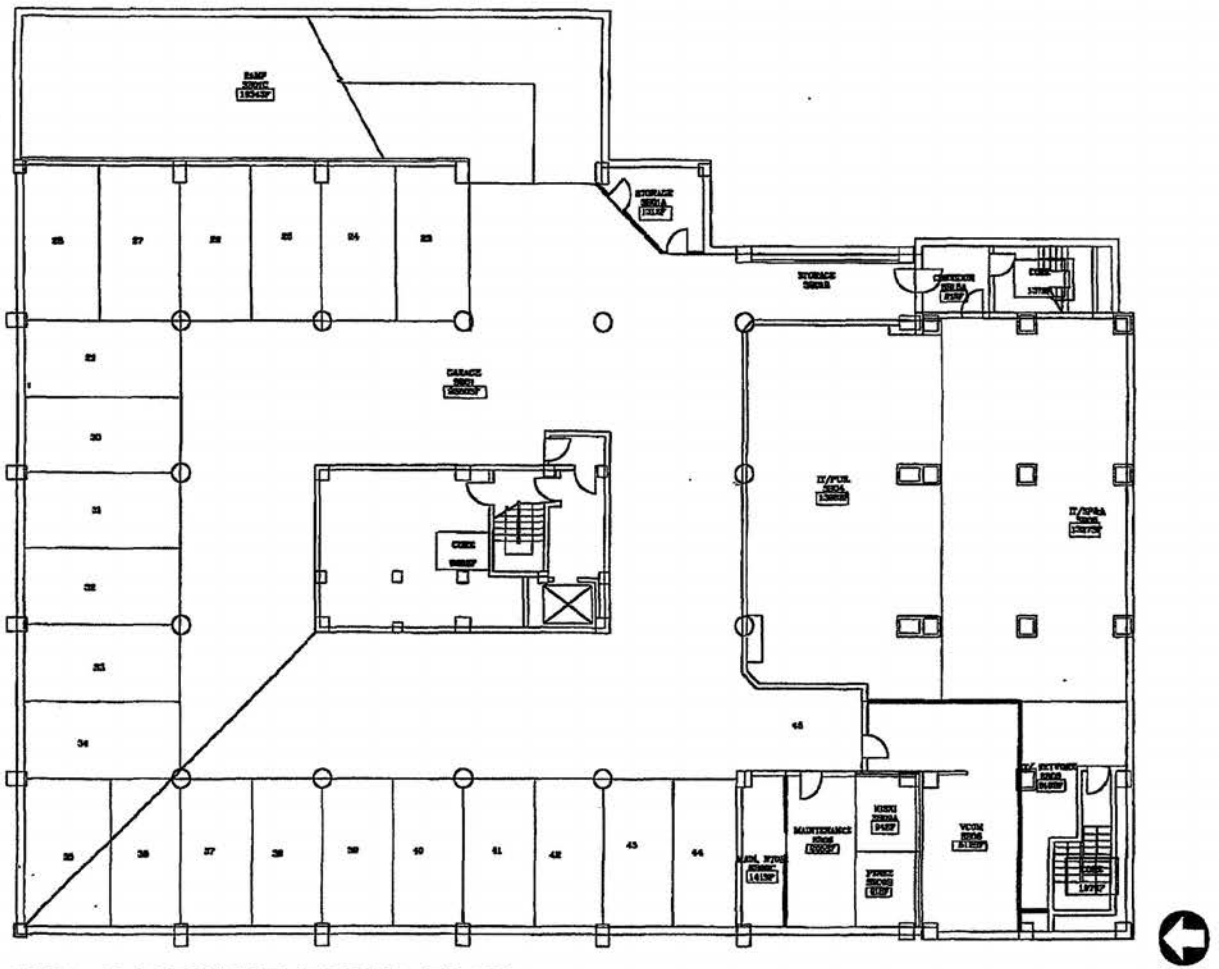
PERSPECTIVE: PROPOSED
View from 16th Street looking east without trees

AMERICAN CHEMICAL SOCIETY
1155 16th Street, NW
Washington, DC 20036

architecture / interiors
21 Dupont Circle Washington DC 20036
tel 202.822.9797 / fax 202.785.0443
http://www.opxglobal.com

EXISTING & PROPOSED IMAGES

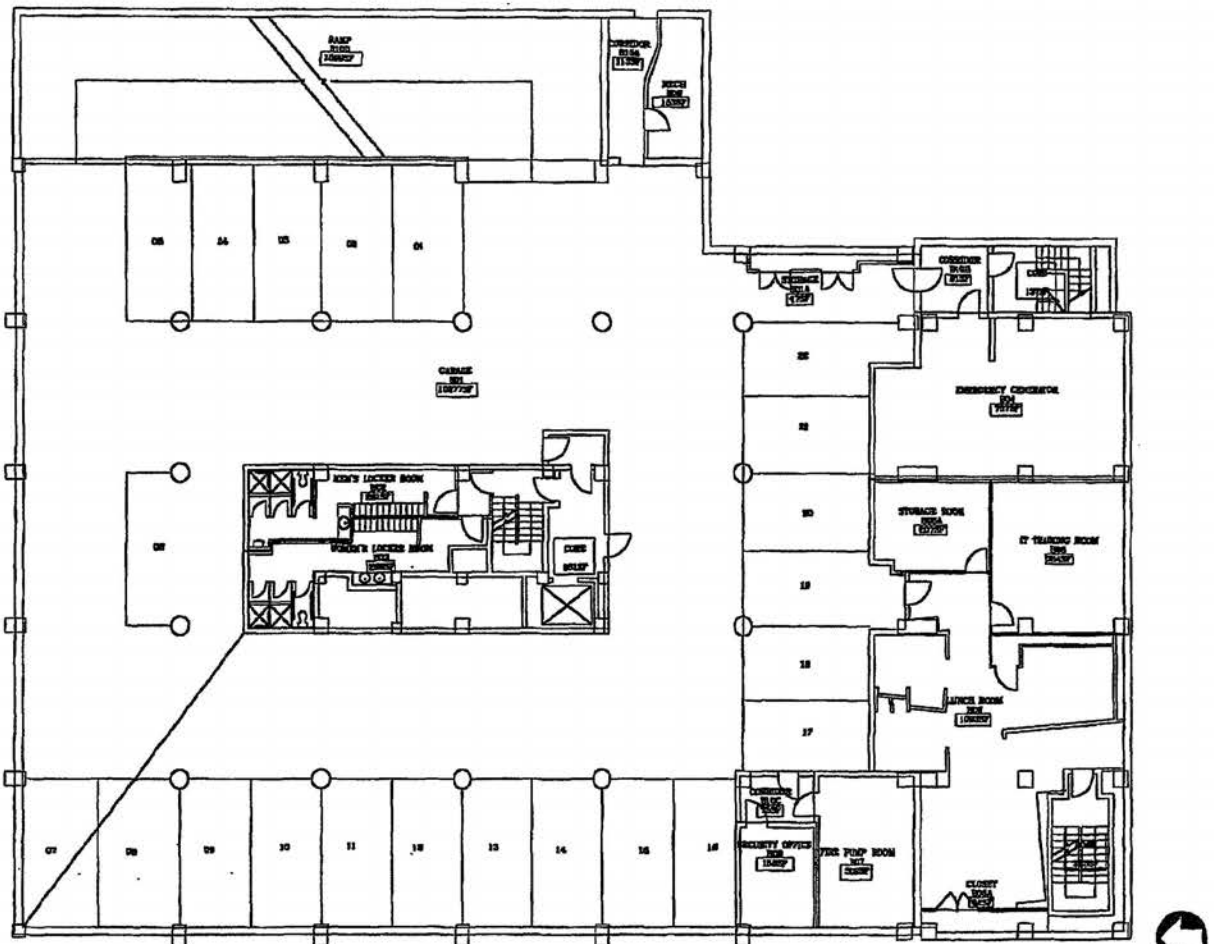
ISSUED FOR REVIEW	05.01.01	Drawn: JRL / DSB	Scale: AS NOTED	Drawing No. 2040
ISSUED FOR ZONING SUBMISSION	05.18.01	Approved:	Date: 05.01.01	A1.3



SUB–BASEMENT FLOOR PLAN

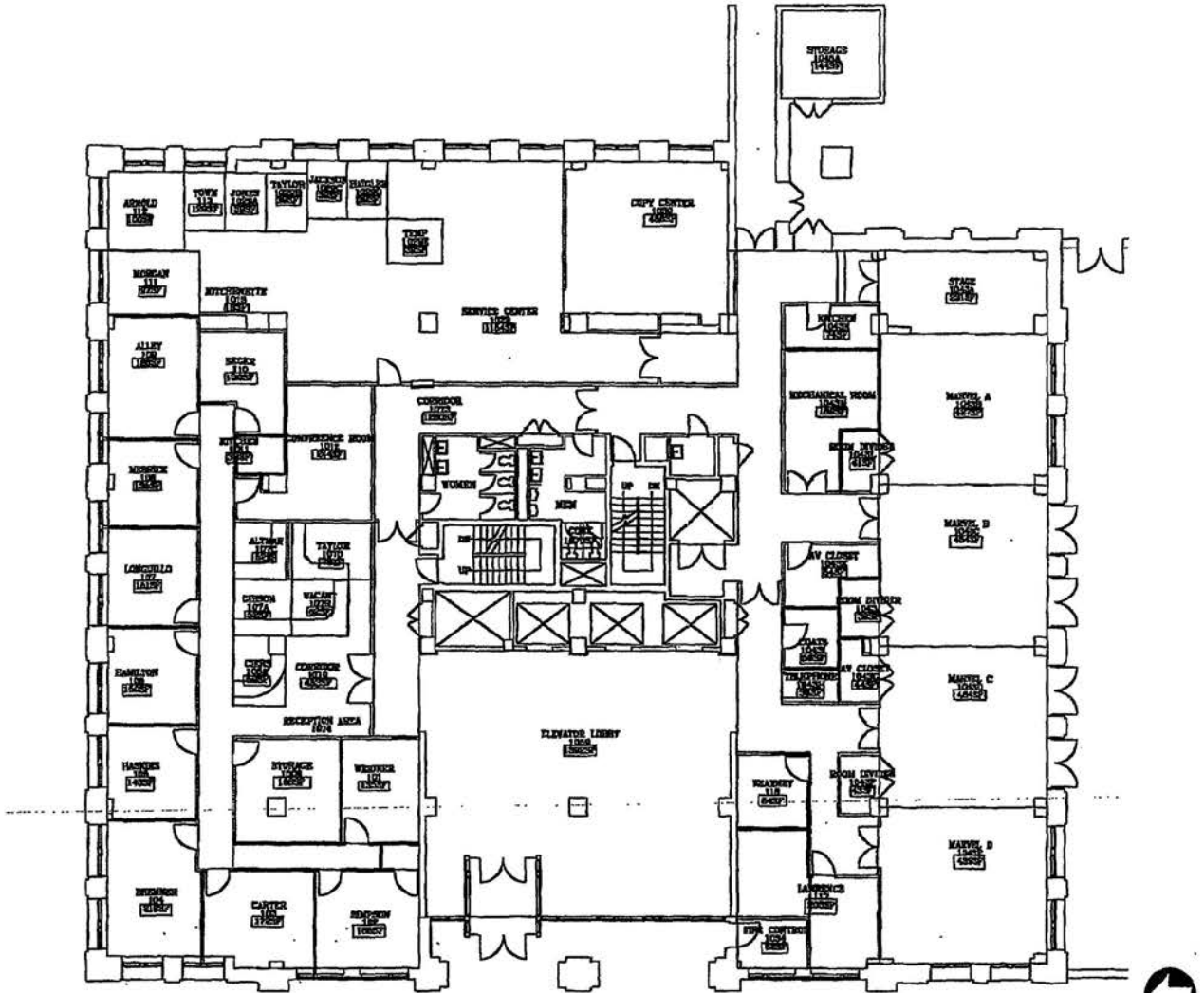
1155 16TH STREET, N.W.

Exhibit G



BASEMENT FLOOR PLAN

1155 16TH STREET, N.W.



FIRST FLOOR PLAN

1155 16TH STREET, N.W.

H

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14675 of the National Education Association, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sub-section 508.1 allowing an addition to a nonprofit office building and a variance from the floor area ratio requirements (Section 531) in an SP-2 District at premises 1201 16th Street, N.W. (Square 196, Lots 34 and 35).

HEARING DATE: October 14, 1987
DECISION DATE: October 14, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The site is located at the northeast corner of 16th and M Streets, N.W., at 1201 16th Street, N.W. The site is comprised of two irregularly shapes and separate lots (Lots 34 and 35) divided by a 15 foot wide public alley. The site is in the SP-2 District.

2. The site has a total land area of approximately 55,155 square feet. The site is presently improved with two eight-story plus penthouse and basement wings connected, both below grade and from the fourth level up. The wing located on Lot 35 currently contains approximately 210,933 square feet of gross floor area and is referred to as the west wing. The wing on Lot 34 contains approximately 101,048 square feet of gross floor area and is referred to as the east wing.

3. The uses in the vicinity of the site include a mix of uses characteristic of those normally found in the SP and C-4 Districts. There are a number of nonprofit and commercial office buildings on directly across 16th Street from the site.

4. The majority of the buildings in the vicinity are eight-story structures of brick, limestone, glass and other similar materials. There is a twelve-story building under construction across the street from the site at 1550 M Street.

5. The National Education Association (NEA)'s have been located in the District of Columbia since 1920. Through a series of purchases between 1919 and 1929, the NEA acquired all of the property that makes up the subject site. In the early 1950's, the NEA drew up plans for the staged

development of the NEA headquarters complex that exists on the site today. On October 15, 1954, the NEA presented the general overall plans for the redevelopment of the site at a public hearing before the D.C. Zoning Commission. The details of the development were than presented to the Board of Zoning Adjustment on December 15, 1954 in Appeal No. 4004.

6. The Board approved the construction of nearly all stages of the headquarter's five stage development. Stage I, fronting on M Street, required no zoning approvals because the land was already zoned commercial. Stage II entailed the renovation and refacing of the Annex, adjacent to Stage I. Stage III provided for the construction of the 8-story office building on the corner of 16th and M Streets. The Board approved Stage II and part of Stage III in Appeal No. 4004. On September 23, 1955, in Appeal Nos. 4255 and 4256, the Board granted the NEA permission to proceed with the rest of Stage III, provided that parking be located in Stage IV of the project on the property across the alley on M Street (now known as the east wing). Before the NEA was able to implement its plans for Stage IV, in 1958 the D.C. Zoning Commission comprehensively rezoned the City and the subject property was placed in the SP District with a maximum permissible FAR of 5.5. Accordingly, NEA had to again seek approval from this Board to construct the planned eight-story east wing office building/parking garage complex which was designed to an FAR in excess of 5.5. The Board granted the NEA relief from the FAR and rear yard requirements on April 21, 1959, in Appeal No. 5113, noting that the NEA's overall plans were based on the regulations in effect prior to 1958. The Board approved the final stage of the complex, Stage V, on May 17, 1965, in Appeal No. 8192. Stage V, an addition of a north part to the west wing along 16th Street, required an FAR variance and permission to provide the required parking in the east wing. Construction of Stage V was completed in 1967.

7. The proposed application would allow additional FAR in various locations throughout the building, including an atrium in the existing court at the rear of the west wing and a fire stair running from the third to the eighth floor at the rear of the west wing. These additions will add to the total FAR but, the additions' FAR is offset by the deletion of some existing FAR.

8. Under the original application, FAR was to be added to the east wing, the applicant at the public hearing modified the proposed plans to eliminate the additional FAR to the east wing. Also proposed were several minor additions to the penthouse.

9. The NEA building is in need of major repairs. The current face of the building, constructed of reinforced concrete encased in Vermont marble, aluminum, and green tinted glass, is extremely weathered, and certain components

are failing. All of the infrastructure systems are outmoded and in need of replacement.

10. The proposed atrium addition is intended to provide an attractive dining and meeting area for the building's employees that can be used on a year-round basis, to provide greater climate control, and to enhance efficient internal circulation. The proposed fire stair addition is necessary to comply with building code requirements.

11. Neither the height nor the basic design of the NEA building will be affected by the applicant's proposal. The basic bulk of the building will not be affected. The proposed additions will not be seen from either 16th Street or M Street.

12. There will be no increase in the number of employees or visitors on the site as a result of this application nor will the use of the building change.

13. The subject building currently exceeds the permissible FAR. After its construction to an FAR in excess of 5.5 in the 1950's and 1960's, the Zoning Commission divided the SP District into the SP-1 and SP-2 Districts and mapped the subject site in the SP-2 District with a permissible nonresidential FAR of 3.5.

14. Advisory Neighborhood Commission 2B, through a letter dated October 2, 1987, reported that at their September 9, meeting, they voted unanimously to support the application as the community had expressed no opposition to it.

15. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. With reference to the special exception, the applicant must prove that it has complied with the requirements of Sub-sections 508 and 3108.1 of the Zoning Regulations. The Board concludes that based on the evidence and testimony, that with the proposed additions, the use, height, bulk, and design will be in harmony with the existing uses and structures on neighboring properties.

The Board further concludes that the use shall not create dangerous or other objectionable traffic conditions as there will be no increase in the number of employees or visitors to the site. The Board further concludes that with

the proposed additions, the use will not create dangerous or other objectionable traffic conditions.

As to the variance relief, the applicant must prove that it has complied with the requirements of Section 531 and 3107.2 of the Zoning Regulations. The Board concludes that the requested variance is an area variance, the granting of which requires a showing of an exceptional or extraordinary situation or condition, inherent in the property, that a strict application of the Zoning Regulations will result in a practical difficulty, and that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan. The Board concludes that the subject site is affected by an extraordinary or exceptional situation or condition because of the existing nonconforming structure on the site.

The existing building was approved by the Board in various stages. Because of a change in the Zoning Regulations after the initial plans for the Center had been completed and approved, the building already exceeded the permissible FAR by the time construction was completed. The 1978 change in the Regulations served to increase the extent of the building's nonconformity. The proposed addition will add 9,397 square feet, for an increase in FAR of 0.23 resulting in a total square footage of 101,307 square feet necessitating a variance of 48,921 square feet, or 93.38 percent. The practical difficulty results because there is no reasonable alternative space within the existing structure to create the atrium space or add the fire stair. The fire stair is necessary as a life safety element and the atrium is necessary to provide a pleasant dining and gathering area and to promote more efficient climate control and internal circulation.

The Board further concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The proposed additions are minor and are positioned in such a way that they will not be seen from either 16th Street or M Street, N.W.

The Board further concludes that it has given to Advisory Neighborhood Commission 2B the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application for a special exception and variance is hereby GRANTED subject to the CONDITION that construction shall be in accordance with the Plans marked as Exhibit No. 6 as amended by Exhibit No. 26 of the record.

VOTE: 4-0 (Paula L. Jewell, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Maybelle T. Bennett not voting, having recused herself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: DEC 31 1987

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

order14675/DEE5

1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16198 of Millbank Partners - Massachusetts Avenue Limited Partnership, pursuant to 11 DCMR 3107.2, and 3108.1, for a variance to allow enlargement of an existing nonconforming structure that now exceeds the floor area ratio and does not meet the minimum rear yard requirement [Paragraph 2001.3(b and c)], a variance to allow an increased floor area ratio allowed a penthouse (Section 411.7), and a special exception under Section 512 to establish a 162 room hotel and an addition to an existing penthouse in a DCOD/SP-2 District at premises 1600 Rhode Island Avenue, N.W. (Square 182, Lot 77).

HEARING DATE: January 22, 1997
DECISION DATE: February 5, 1997

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to the application did not file a written statement of issues and concerns in the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 2001.3(b) and (c) and a special exception pursuant to 411.7. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3108 and that the requested relief can be granted as being in harmony

with the general purpose and intent of the Zoning Regulations and Map. The Board concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED.**

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Maybelle Taylor Bennett and Susan Morgan Hinton to grant; Laura M. Richards to grant by absentee vote; Sheila Cross Reid not present, not voting; Angel F. Clarens not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAR 28 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENMTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16198/RCL/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16198

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 28 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Christopher H. Collins, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Millbank Partners - Massachusetts Ave. Ltd. Partnership
3299 K Street, N.W., Suite 700
Washington, D.C. 20007

Mr. Kyle Pitsor, Chairperson
Advisory Neighborhood Commission 2B
Dupont Circle
P.O. Box 33224
Washington, D.C. 20033-3224

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

Date: MAR 28 1997