GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15756 of the Employee Relocation Council, pursuant to 11 DCMR 3108.2 and 3107.2, for a special exception under Section 508 to extend an existing nonprofit office use, and a variance from the floor area ratio requirements (Subsection 531.1) for an addition to an office building for a nonprofit organization in an SP-1 District at premises 1718 N Street, N.W. (Square 159, Lot 33).

HEARING DATE: October 14, 1992
DECISION DATE: October 14, 1992 (Bench Decision)

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, submitted written issues and concerns in support of 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 531.1 and for a special exception pursuant to 11 DCMR 508. 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 and 3108. The Board concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and 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 3331.3 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.

BZA
Case No. 16765
Exhibit No. 32

Board of Zoning Adjustment
District of Columbia
CASE NO.16765
EXHIBIT NO.32

VOTE: 3-0 (Paula L. Jewell, Maybelle Taylor Bennett and Carrie L. Thornhill to grant; Angel F. Clarens and Sheri M. Pruitt not present, not voting).

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

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: OCT 26 1992

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 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15943 of the District of Columbia Jewish Community Center, Inc., as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for special exceptions under Section 209 to allow an extension to a community center building, Subsection 400.7(b) and 411.11 to allow a roof structure that does not meet the set back requirements and 2514.2 to allow an addition to extend into a more restrictive use district, and a variance from the floor area ratio requirements (Subsection 531.1) for an addition to a community center building in a DCOD/SP-1/R-5-B District at premises 1529 16th Street, N.W. (Square 194, Lot 818 per subdivision).

HEARING DATE: April 20, 1994
DECISION DATE: April 20, 1994 (Bench Decision)

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 Commissions (ANCs) 2B and 2F and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, filed a written statement of issues and concerns in support of 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 531.1 and special exceptions pursuant to 11 DCMR 209, 400.7(b), 411.11 and 2514.2. No person or entity appeared at the public hearing in opposition to this 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 further 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: 5-0 (Laura M. Richards, William B. Johnson, Craig Ellis, George Evans and Angel F. Clarens to grant).

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

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: APR 29 1994

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

15943Order/TWR/bhs

AMERICAN SOCIETY FOR MICROBIOLOGY 10969/002

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16470 of The American Society for Microbiology, pursuant to 11 DCMR 3108.1 for a special exception to expand the existing atrium of a building of a non-profit organization; and 3107.2 for a variance to exceed the maximum permitted floor area ratio of an existing building; and under Subsections 508, 531, 536 and 2001.3(c) for variances to reduce the minimum permitted width and area of the existing closed court; and to enlarge an existing non-conforming structure in the DC/SP-1 District at 1752 N Street, N.W. (Square 159, Lot 88).

HEARING DATE: June 16, 1999
DECISION DATE: June 16, 1999 (Bench Decision)

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 this application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, did not file a written statement.

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 variances from the strict application of the requirements of 11 DCMR Subsections 531, 536 and 2001.3 (c) and a special exception pursuant to 11 DCMR Subsection 508. No person or entity appearing as a party to this case testified in opposition to the application. 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 condition related to the property which creates an undue hardship 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 further concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3108 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 be **GRANTED**.

Pursuant to 11 DCMR 3301.1, The Board has determined to waive the requirement of 11 DCMR 3331.3 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: 4-0 (Betty King, Sheila Cross Reid, Jerry Gilreath and John Parsons to grant).

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

Final Date of Order: AUG 17 1999

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 SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

SO16470/7-27-99/POH

Government of the District of Columbia
BOARD OF ZONING ADJUSTMENT

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Application No. 16600 Union of American Hebrew Congregations, pursuant to 11 DCMR 3103.2 and 3104.1, for a special exception under Subsection 508.1 for the construction of an addition to an existing building for office use, a variance under Section 531.1 from the floor area ratio requirement and a variance under Section 2001.3(b) and (c) from the limitation on additions to non-conforming structures devoted to conforming uses in a DC/SP-1 District at premises 2027 Massachusetts Avenue, N.W. (Square 94, Lot 21).

HEARING DATE: September 19, 2000
DECISION DATE: September 19, 2000

SUMMARY ORDER

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR 3113.2.

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

The site of this application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, submitted a written statement in support of the application.

As directed by 11 DCMR 3119.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for special exception and variance from the strict application of the requirements of 11 DCMR 3104.1 and 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. 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 3104.1, that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property.

The Board also concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3103.2, 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. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. The Applicant shall remove the painted wall signage from the Q Street, N.W., frontage of the property, with the understanding that the Applicant retains the right, subject to appropriate DC government approval, to install on the property signage of the pre-manufactured variety (i.e., metal, plastic, wood) by means of attachment to the building or on post on the grounds of the property.

2. The Applicant shall provide proper parking signs on the Q Street side of the building.

3. The Applicant shall consult with the ANC Commissioner, in whose Single Member District the property exists, on design of the signage.

4. The Applicant shall maintain and keep clean the parking area on the property.

5. The Applicant shall, subject to appropriate DC government approval, construct a trash enclosure on the property (Exhibit No. 32 of the record). The enclosure is to be properly maintained and is to house a combination of dumpster and trashcans. Trash is to be picked up at regular intervals. The area surrounding the trash enclosure is to be kept clean at all times.

6. The Applicant shall consult with ANC 2B should there be substantial change to the trash enclosure from the design identified at Exhibit No. 32 of the record.

7. The Applicant shall provide additional trees and landscaping.

Pursuant to 11 DCMR 3101.6, the Board waives the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3 – 0 (Robert Sockwell, Anne Renshaw and Anthony Hood to approve; Rodney Moulden and Sheila Cross Reid not present, not voting).

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: OCT 26 2000

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 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO 3125.6."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

BAB/9.29.00

Government of the District of Columbia
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16600

As Director of the Office of Zoning, I hereby certify and attest that on OCT 26 2000 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 the matter, and who is listed below:

Norman M. Glasgow, Jr.
Wilkes Artis
1666 K Street, N.W., Suite 300
Washington, DC 20006

Councilmember Jack Evans
Ward 2
441 4th Street, N.W., Room 703
Washington, DC 20001

Kyle Pitsor, Chairperson
Advisory Neighborhood Commission 2B
P.O. Box 33224
Washington, DC 20033

Vince Micone
ANC Commissioner 2B02
P.O. Box 33224
Washington, DC 20033

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20009

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

'00 SEP 18 P1:50

Memorandum

TO: Board of Zoning Adjustments

FROM: Andrew Altman

DATE: 9/18/00

SUBJECT: BZA Case# 16600 (Union of American Hebrew Congregations)
2027 Massachusetts Ave, NW

The memo summarizes the Office of Planning's research, findings and recommendations to the Board of Zoning Adjustments regarding the above application's request pursuant to 11 DCMR §3104.1 for Special Exception of §508.1, and a Variance pursuant to 11 DCMR 3103.2 from §531.1 and §2001.3 (b) and (c) of the Zoning Regulations (see below).

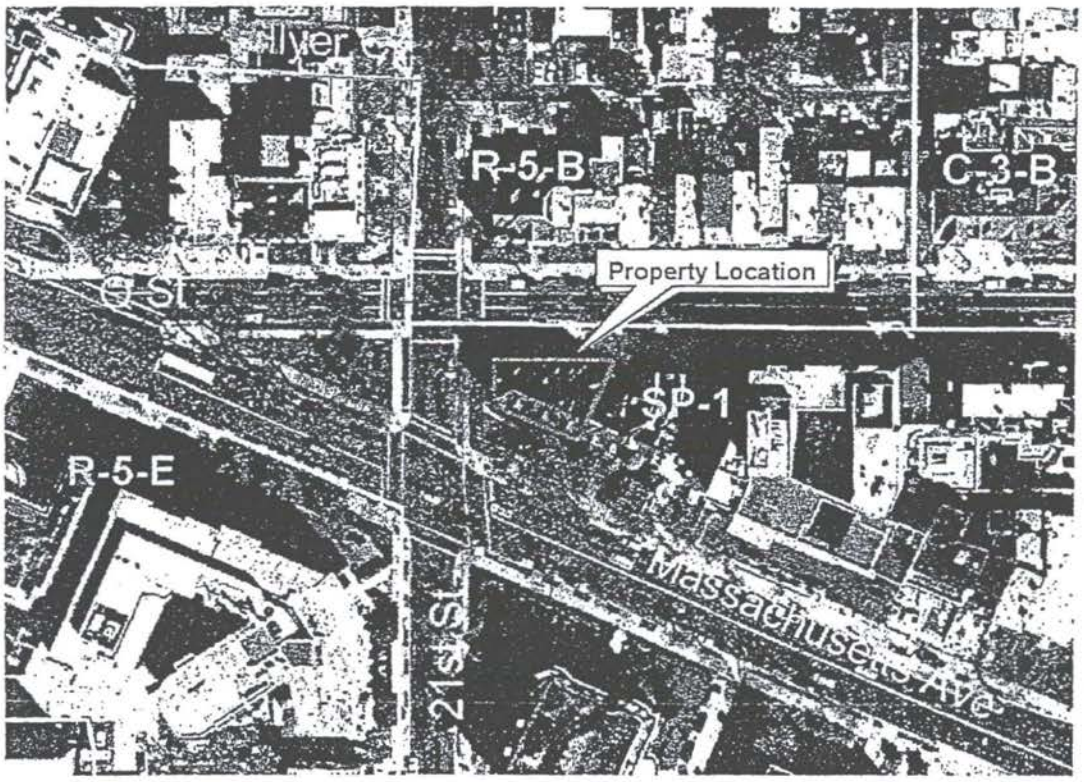
The Project

The Union of American Hebrew Congregations (the Applicant), located 2027 Massachusetts Ave. NW, wishes to add an elevator core to provide accessibility for those with mobility impairments to all floors and an enclosed fire staircase to improve the safety of the building. The property, defined as Square 94, Lot 21, is 2,804 sf in size. It is of triangular shape and fronts on Massachusetts Ave. to the south, Q St. to the north, and 21st St. to the north; adjacent properties abut the property on the east. The subject building is a 3 story red brick building totaling 8,644 gsf (3.08 FAR).

The Applicant's architect has proposed the elevator and staircase to be provided in the northeast corner notch of the building (see attached diagram). The expansion will add an additional 652 square feet to the building bringing the total of the building to 9,296 gsf or 3.32 FAR. This option was chosen over retrofitting the interior structure to support the elevator and stairs. According to the architect, retrofitting the interior would have been substantially more costly and a less efficient use of space than achieved by their proposal.

The property is located in the Dupont Circle and Massachusetts Avenue Historic District. Built around the turn of the century, it is considered to be a contributing building. The property is

zoned SP-1, which allows non-residential use of up to 2.5 FAR and height of up to 65 feet. Since the building was built prior to the District's enactment of modern zoning in 1958, its current FAR exceeds that allowed by zoning by 0.58 FAR, and is therefore considered a non-conforming building.



Community Comments

The project has received approval from the two community stakeholders affected by the development; they are the Advisory Neighborhood Commission (ANC) 2B and the Dupont Circle Conservancy. Their approval was contingent upon several requirements.

The ANC required the Applicant to:

- Provide proper parking signs for the parking spaces on the Q Street side, and
- Enclose their garbage held on site.

The Dupont Circle Conservancy's concerns centered on the architectural treatment of the addition's windows, the shed roof, and bracket detail. The architect addressed these concerns and has incorporated them into the design.

Agency Comments

Historic Preservation Review Board (HPRB) staff have reviewed and approved the project in concept and have directed the applicant to work on the design details, materials, and finishes for

final approval. HPRB staff report notes, "The architect had created a sympathetic new addition that reads as a new structure and relates to the nineteenth century townhouses that line the north side of Q Street."

Findings

1. The building's historic nature and unique shape present the applicant with an extraordinary or exceptional situation. If the BZA were to require strict adherence to the code, it would add the expense of improving the building's structural integrity such as strengthening the floor joists and would substantially reduce the useable space of the building resulting in undue hardship to the owner. (3103.2)

2. The proposed project will not increase the building's intensity of use. FAR is a measure of the density and intensity with which a property is used. By setting limits on FAR, zoning controls the external effects such as traffic congestion caused by this use. The addition of an elevator and emergency staircase will not increase the intensity, but merely improve the current level of use by providing handicap access to all floors and safe emergency egress. It is therefore in "harmony with the general purpose and intent of the Zoning Regulations." (§3104.1)

3. In accordance with §508.3, the Applicant has worked diligently with the community and HPRB to ensure the building's bulk, height and design are in harmony with existing uses and structures on neighboring property. Therefore the project will not affect adversely the use of neighboring property. (§3104.1)

4. The current non-conforming building has an FAR of 23% greater than allowed by zoning. The addition, in achieving items 1 through 3 will bring the total of non-conforming square feet to33% greater than what is allowed by zoning. Given the overall size of the building, the project's use of other-wise dead space, and the way in which the addition relates to the nearby nineteenth century townhouses, the project can be granted without substantial detriment to the public good. (§3103.2)

Recommendation

Based on the four findings above, the Office of Zoning recommends that the Board of Zoning Adjustments approve the applicant's request with the following conditions pursuant to its authority under §508..5 of the Zoning Regulations:

1. The applicant shall provide proper parking signs on the Q Street side of the building.

2. The applicant shall enclose its garbage as request by the ANC 2B, and

3. The applicant shall continue to work with HPRB staff on the materials and details of the design.

Relevant Zoning Regulations

§ 508.1 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 specified in §3108 of Chapter 31 of this title, subject to the provisions of this section.

§508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.

§508.5 The Board may require special treatment in the way of design, screening of building, accessory uses, signs and facilities as it shall deem necessary to protect the values of neighboring property.

§ 531.1 Except as provided in §537, the maximum permitted floor area ratio in the SP district shall be as set forth in the following table:

District	Apartment House or Other Residential Use	Other Permitted Use	Maximum Permitted
SP-1	4.0	2.5	4.0
SP-2	6.0	3.5	6.0

§2001.3 Enlargements or additions may be made to the structure; Provided that the following requirements are met:

(b) The addition or enlargement itself shall conform to use and structure requirements; and

(c) The addition or enlargement itself shall not increase or extend any existing nonconforming aspect of the structure, and shall not create any new nonconformity of the structure and addition combined.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: September 18, 2001

SUBJECT: BZA Application #16754 (Application of 1615 LLL LP)
Governor's House Hotel 1615 Rhode Island Avenue, NW
Square 182N, Lot 11

I. APPLICATION-IN-BRIEF

Applicant:	1615 LLL LP
Relief Sought:	Variances from FAR, Height, Loading Dock, and Parking Requirements for Addition to Non Conforming Structure
From Section:	11 DCMR §s530, 531, 2201.1, 2115.9
Zoning:	DC/SP-1
Regulations Require:	25 feet less than proposed height (65' vs. 90') 3.7 less FAR than proposed (4.0 vs.7.5) 1 loading dock more (none existing or to be provided) 5 additional parking spaces (49 vs. 44)
Relief Sought Under:	§3103.2
Applicant's Justification:	Minimum size for an efficient moderate-sized hotel has increased in the 35 years since existing structure was built. Accordingly, applicant seeks to build an addition to an existing non-conforming structure. The existing structure's height, FAR and number of parking spaces conformed with the SP zoning district regulations in effect when it was constructed in 1963. However, the structure and the use have become non-conforming due to subsequent changes in zoning regulations. The addition would further objectives of Comprehensive Plan and the Generalized Land Use Map, which designates Square as High Density Commercial. Proposed addition has support of ANC 2B. It would not be visible from residential areas to north, and would fit in with height and bulk of facing commercial structures without any harm to area

II. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

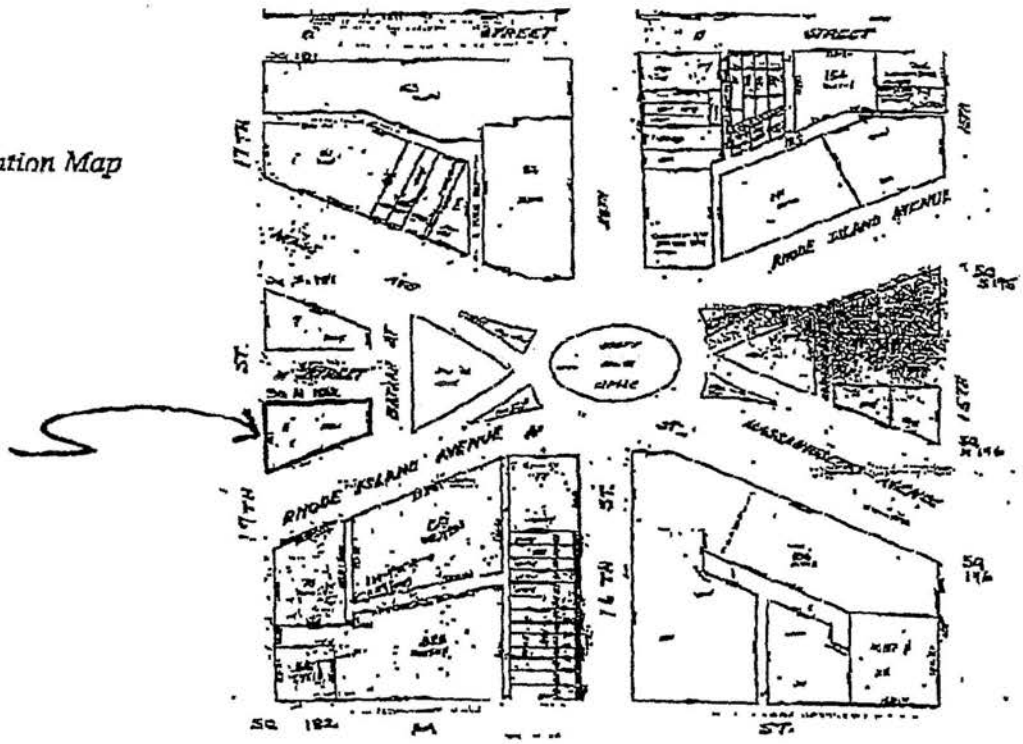
The Office of Planning (OP) recommends that the requests for all variances be APPROVED.

III. SITE AND AREA DESCRIPTION *(See Attachments 1 and 2)*

Square 182N in northwest Washington is bounded by:

- North: N Street
- East: Bataan Street, just west of Scott Circle
- South: Rhode Island Avenue
- West: 17th Street.

Figure 1: Location Map



The Square is generally triangular. There are no alleys.

The Governor's House Hotel occupies the entire private portion of the Square. The hotel is rectangular and is situated to the north, parallel to N Street. A porte cochere, terraces and a pool occupy the rest of the property. Below-ground parking occupies the entire building footprint, as well as adjacent vault space.

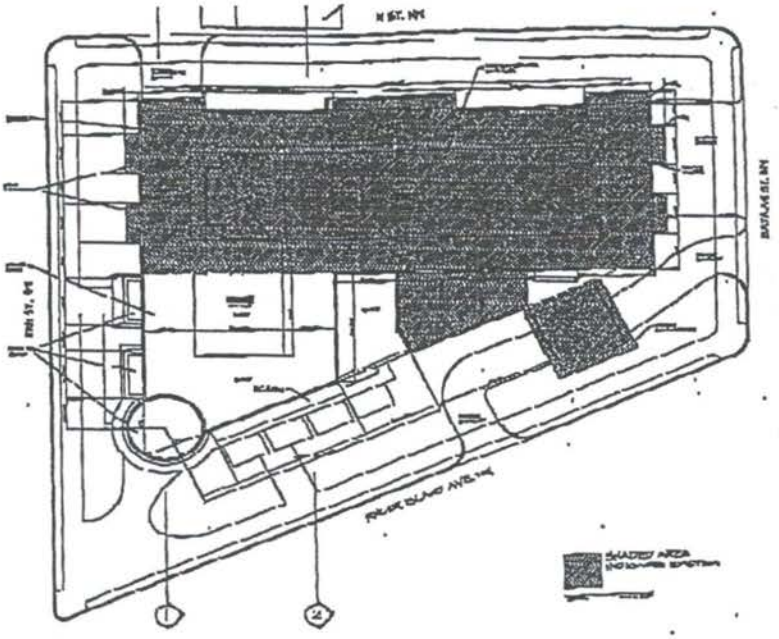


Figure 2: Hotel Site Plan

The hotel has 199 rooms, a restaurant, and minimal function space. It is 90 feet high (nine stories) and comprises 68,450 GSF. There are 44 regulation-sized parking spaces, which are augmented with valet parking and use of vault space, to provide 90 spaces.

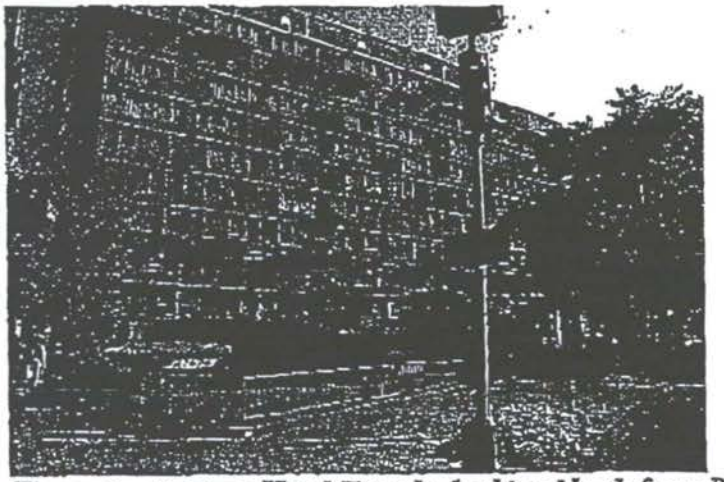


Figure 3: Existing Hotel Facade, looking North from Rhode Island Ave. and 17th Streets

BZA #16754
1615 LL LP
1615 Rhode Island Avenue, N.E. (The Governor's House Hotel Addition)
September 18, 2001
Page 4

The subject parcel is located adjacent to the southwestern quadrant of Scott Circle, which is at the intersection of 16th Street, Massachusetts and Rhode Island Avenues, and N Street, N.W. It is within, but at the northern edge of, the Central Employment Area, south of Massachusetts Avenue, but on the north side of Rhode Island Avenue. The area contains a rich mix of uses, heights, zoning, and zoning history – much of which is pertinent to this case, and which is described in more detail under the Zoning section of this report.

The blocks south and east of the site are integral parts of the central employment area (CEA) that developed after World War II. The blocks to the north are the generally residential Dupont Circle neighborhood. This neighborhood also has commercial corridors along Connecticut Avenue and a portion of 17th Street.

The dividing line between the CEA and the residential area was set at Massachusetts Avenue in the 1984 District of Columbia Comprehensive Plan. Since then commercial encroachment has generally been held back north of Massachusetts Avenue, with one or two prominent exceptions. The area south of Massachusetts Avenue has become increasingly commercialized, with a combination of infill development and Planned Unit Developments (PUDs) and the conversion of historic buildings from residential to commercial uses.

On its south side, the 1600 block of Rhode Island Avenue contains the eight-story Marriott Courtyard Hotel, the 11 story University of California (U of C) residential and commercial PUD, the proposed 11 story Human Rights Campaign headquarters that the Zoning Commission is considering for Phase 2 of the U of C PUD, and the 9- story B'nai B'rith headquarters. The 1700 block of Rhode Island Avenue contains downtown-sized office buildings on the south, the 90 foot high YMCA on the north, and the 200+ foot St. Matthew's Cathedral and its adjacent approved commercial PUD. To the north, along Massachusetts Avenue, there is a mix of townhouses and mansions that have been converted to embassy and non-profit uses, and eight and nine-story apartment and commercial structures. The Philippines Embassy is across N Street, to the north. Immediately west is the low-scaled 1700 block of N Street.

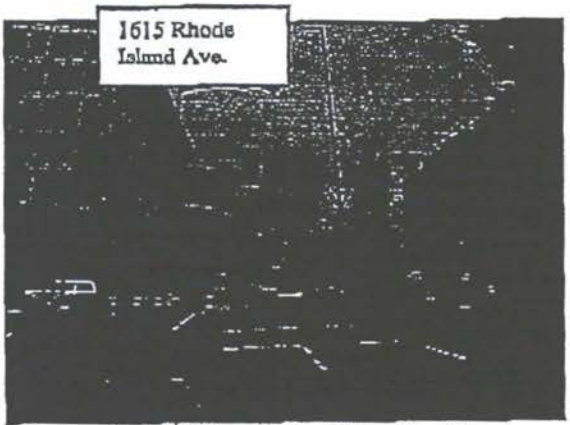


Figure 4: 17th Street, Looking North

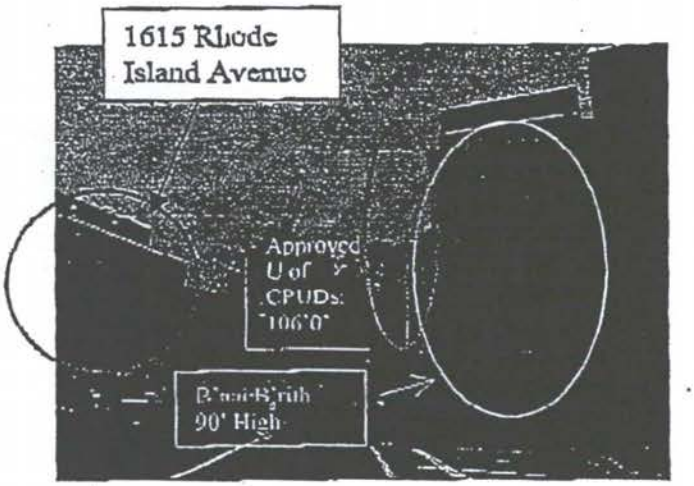


Figure 5: 1600 block Rhode Island Avenue, looking East

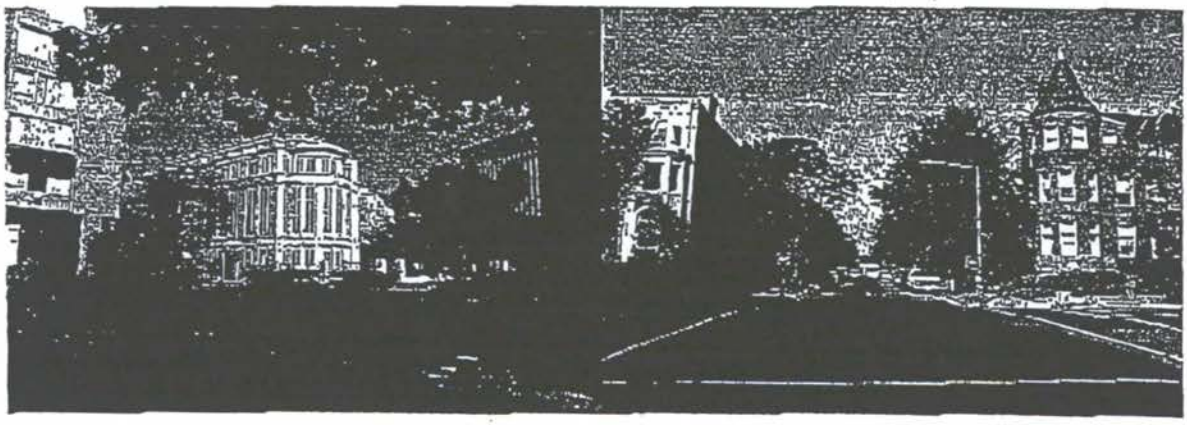


Figure 6. Governor's Hse. & Philippinas Embassy *Figure 7: 1700 block of N Street, looking West*

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Figures 8 and 9)*

The site is zoned DC/SP-1. "DC" stands for Dupont Circle Overlay, which governs curb cuts and PUDs. The SP-1 zone is a medium density mixed-use zone that permits 4.0 FAR, of which 1.5 may be non-residential.. The matter of right height limit is 65 feet. While hotels had been matter of right uses in the SP zone prior to 1978/79, they are now permitted as special exceptions.

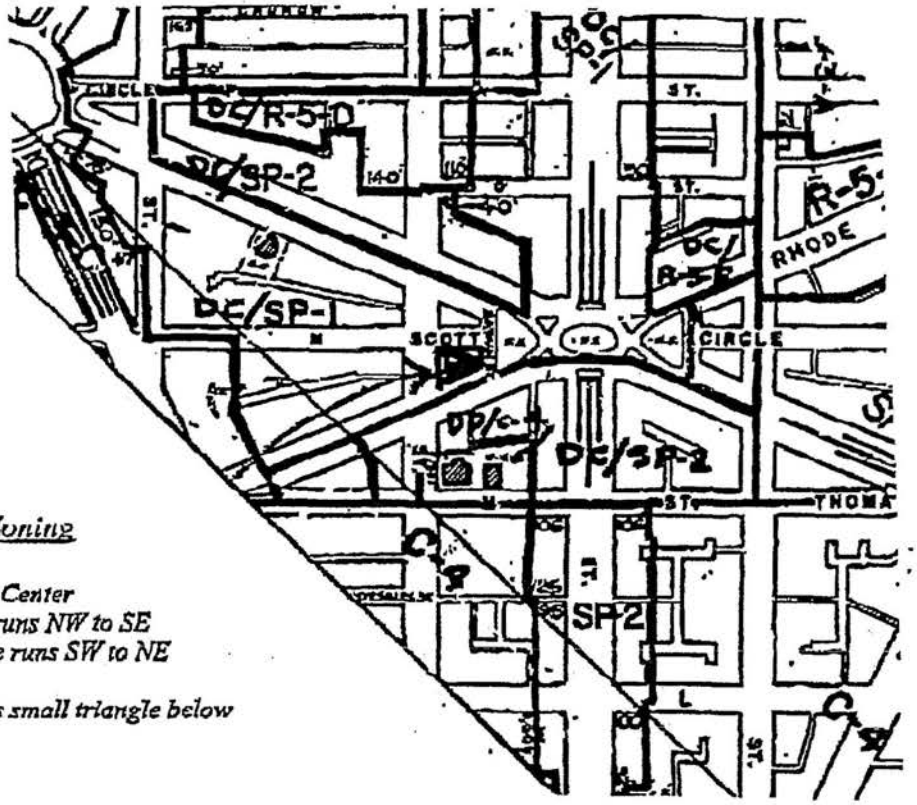


Figure 8: Area Zoning

Scott Circle is at the Center
Massachusetts Ave. runs NW to SE
Rhode Island Avenue runs SW to NE

1615 Rhode Island is small triangle below the word "Scott

The zoning to the north and west is also DD/SP-1. The properties facing the site to the south and east are zoned DD/SP-2 and C-4.

The DD/SP-1 zone covers most of the triangle between the north side of Rhode Island Avenue, the south side of Massachusetts Avenue and the east side of 18th Street, as well as a one building-deep strip along either side of 16th Street between Scott Circle and Q Street. Most of an approximately 110-wide strip of 16th Street from Scott Circle south to Lafayette Square is zoned SP-2, as are two sites on the southern side of the intersection of Rhode Island Avenue and 17th Street. The rest of the area to the south, between Rhode Island Avenue and Pennsylvania Avenue, is zoned C-4 – an intense commercial zone for the central business district.

The site is not within an historic district, although the southern portion of the Dupont Circle historic district is directly west, across 17th Street, from the northwestern edge of the subject property. There are many nearby structures and public memorials that have acquired individual historic designation.

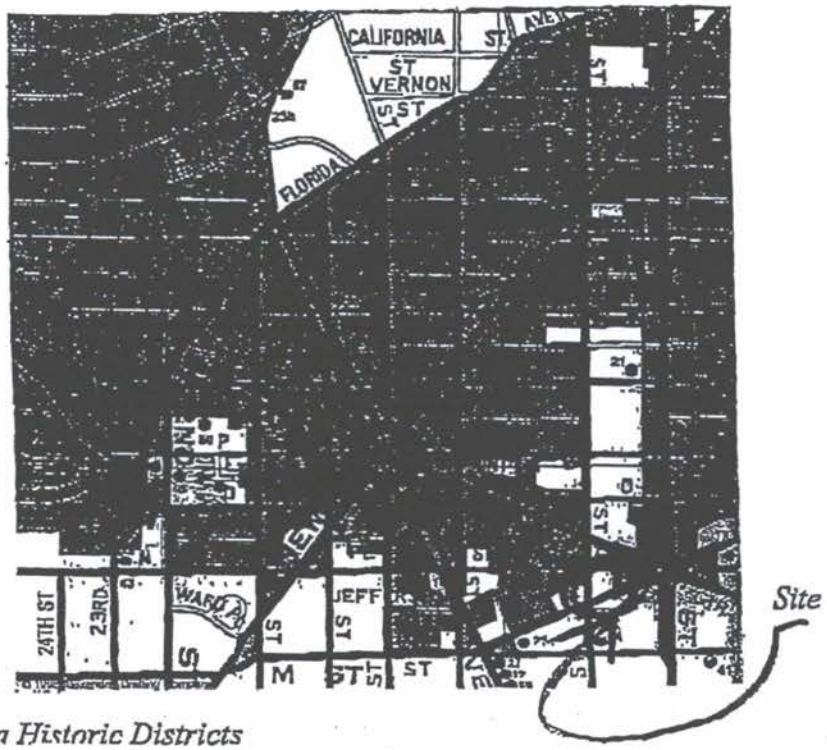


Figure 9: Dupont Circle Area Historic Districts

V. PROJECT DESCRIPTION

The applicant owns a nine-story 150-unit hotel known as the Governor's House. It was constructed in 1963. Its entrance is on Rhode Island Avenue, but the bulk of the building is the rectangular nine-story block on the northern part of the small, 12,000 square foot site. The hotel block is parallel to N Street. A walled pool and terrace are at the corner of 17th Street and Rhode Island Avenue, to the west of the hotel entrance.

There are two levels of underground parking, with 44 spaces that meet code requirements, plus additional spaces that are valet parked. They occupy virtually the entire site from building line to building line. These spaces are entered from the little used section of N Street that is between the hotel and the Philippines Embassy to the north.



Figure 10: 1600 Block N Street, Looking East

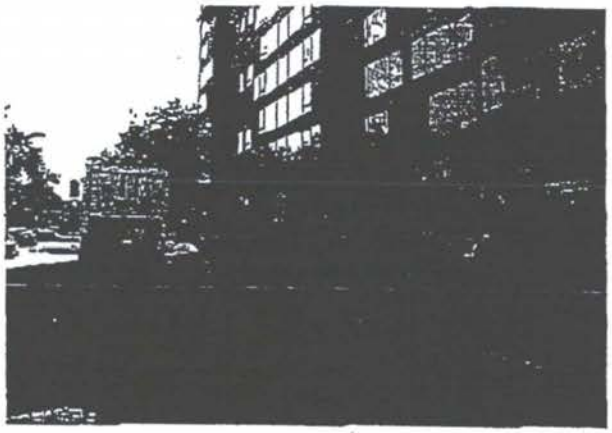


Figure 11: 1600 Block N Street, Looking West, With Garage Entrance and On-Street Loading

The hotel has not had a loading dock at least since 1980, although one is required by the current zoning regulations and was required by those that were in place at the time of the hotel's construction. Neither OP nor the applicant have researched a possible dock before 1980.

Adjacent to and one-floor down from the lobby are a few small meeting rooms and a restaurant.

The Partnership wishes to construct a nine-story 49-room addition to the existing hotel, in the area now occupied by the pool and a portion of the terrace. It would be parallel to 17th Street and would form an "L" with the current wing.

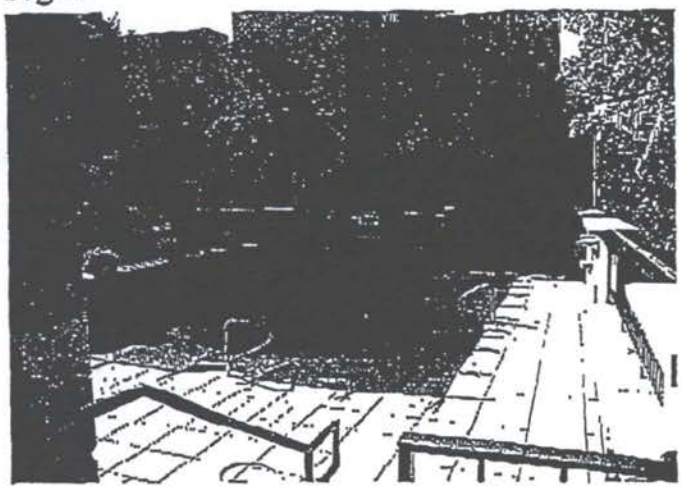


Figure 12: Pool and Terrace Where Addition is Proposed

No additional parking spaces would be constructed, nor would the missing loading dock be added.

VI. RELATIONSHIP OF THE APPLICATION AND THE PRESENT ZONING TO THE COMPREHENSIVE PLAN *(See Attachment 1)*

The subject site is seven blocks from the new Washington Convention Center. The Ward 2 element of the Comprehensive Plan includes the addition of approximately 3,400 hotel rooms, primarily within Ward 2 as part of the District's objectives for business and tourism.

The District of Columbia's Generalized Land Use Map designates the block and the general area as suitable for high-density commercial uses. This designation typically implies C-3-C or C-4 zoning, which allows between 6.5 and 8.5 FAR, and 90 to 110 foot high construction. However, the site is zoned DD/SP-1.

The history of the Comprehensive Plan and the Generalized Land Use Map Designations in this area is complex. The 1984 Plan gave general policy guidance that set Massachusetts Avenue as the northern boundary for central employment area-type uses. North of this, uses were to be primarily residential. The residents of the Dupont Circle area were also reluctant to let central employment area designations and uses move into the triangle south of Massachusetts Avenue, between Rhode Island Avenue and 18th Street. Citizen groups were successful in keeping the land use map designations for the lower-scaled blocks along N Street and the east side of 18th Street as mixed use medium density commercial/ medium density residential. A significant portion of this area is within the lower portion of the Dupont Circle Historic District.

The applicant is asking the Board to approve variances that would enable construction of a building whose characteristics are consistent with the Land Use Map's indications for the site.

VII. REQUESTED ZONING RELIEF

Pursuant to Sections 3103.2, the applicant is requesting variances from:

Section 530 Height; Section 402.4 F.A.R;
Section 2201.1 Loading Berth; Section 2215.9 and, implicitly Section 2101.1 Parking

The following table compares what is permitted on the site under matter of right zoning with what exists now and what is proposed.

	Matter of Right	Existing Hotel	*Proposed Addition*	*Total W/ Proposed Addition*	Difference, Proposed Total from Matter of Right	% Change, Proposed Total from MOR
Site Size	11,938 SF	8,900 SF	To be determined.	To be determined	N/A: < 80%	N/A: < 80%
Zoning	DC/SP-1	Pre-1978 SP	DC/SP-1	90'	N/A	N/A
Sq. Footage	48,000	68,450	25,591	92,041	+44,041	+92%
Heights, Sec. 530	65'	90'	90'	90'	+25'	+38%
F.A.R, Sec. 531.1	4.0	5.7	1.9	7.7	+3.7	+90%
Loading Berth, Sec. 2201.1	(1) 30' deep berth for 30-200 sleeping rooms	None, although 1 required by Zoning when hotel built	None	None	-1	-100%
Parking Spaces, Sec. 2115.9 (Cf. 2101.1)	2101.1 requires 38 full size spaces (1 per 4 rooms + 1 per 300SF mtg. Space in largest function room); 2115.9 allows size exceptions for commercial bldgs requiring > or = 75 spaces	44 standard spaces; Up to 90 spaces using vault space and valet parking	0	44 +	-6 - -8, which applicant says could be met under standards of 2115.9, rather than 2101.1 (50-52 required by 2101.1, depending on meeting space size)	- 12% 15%

VIII. AUTHORITY TO GRANT VARIANCES

11 DCMR, Sec. 3103.2 cites the D.C. code provision that authorizes the BZA to grant the requested variances *"where, by reason of*

- *exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations,*
- *or by reason of exceptional topographical conditions*
- *or other extraordinary or exceptional situation or condition of a specific piece of property,*

the strict application of any regulation ... would result in

- *peculiar and exceptional practical difficulties to*
- *or exceptional and undue hardship upon the owner of the property...;*

Provided, that the 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".* (Emphasis added)

IX. DOES THE APPLICATION MEET THE VARIANCE TESTS?

1. **UNIQUENESS:** ***With respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions of the specific piece of property:***

It does meet this test.

1. The property is exceptional by virtue of its physical characteristics. It is a 12,000 SF roughly triangular site. In central Washington, only Square 95N, the "mirror image" square to Square 182N on the eastern side of Scott Circle, is similarly sized. Square 95N is developed to its building line with a small triangular structure that was constructed for a trade association and that is now used as the Embassy of Tunisia. Even other small Squares, such as 58 and 59 (World Health Organizational and an apartment building) in Foggy Bottom, are larger than the Square 182N.

2. The site has also been subject to extraordinary or exceptional situations or conditions. The property is unique with respect to its zoning and Comprehensive Plan history since its construction in 1963. As noted in Section VI, the current Comprehensive Plan Land Use Map designation of the site as suitable for high density commercial is more consistent with older versions of the SP zoning regulations than with the current SP regulations. Before 1978, the then-SP district in which the present hotel was constructed allowed a matter of right height of 90 feet, and a 6.0 FAR. The parking and loading dock requirements were the same then as now: 1 space per 4 sleeping rooms, and one loading dock.

   In 1978, the Zoning Commission split the SP zone into two districts and the current property was temporary classified as SP-2, which retained the 90-foot height limit and 6.0 FAR for non-commercial uses. However, new hotels in both of the SP zones were made special exceptions, which was the first of several changes that made the present hotel into a non-conforming, grandfathered use and structure.

   In 1979, the hotel's site was reclassified to SP-1, as were several other Squares. This zoning district's 65-foot height limit and 4.0 FAR made the existing hotel a non-conforming *structure*, as well as a non-conforming *use*. The Comprehensive Plan Generalized Land Use map continued to indicate the site as being suitable for high-density commercial uses. Other rezoned Squares did not have this Map designation.

Together, the unusual site, and the zoning history of the site make the site unique.

2. ***With respect to the "Practical Difficulties" that would be "unnecessarily burdensome" and impose Undue Hardship to the Applicant should the application for FAR, height, loading berth and parking variances not be approved:***

It does meet the tests.

a. FLOOR AREA RATIO (SECTION 531.1) AND HEIGHT (SECTION 530):

These are grouped together because the small site size and commercial program make the height and FAR inextricably linked.

The subject hotel was constructed 38 years ago. Since that time, standards for hotel room amenities and services have increased, driving a demand for larger facilities. In addition, hotels, because of the intensity of their use, face a need for continuing cycles of reinvestment. The Office of Planning finds the applicant's claim that it must expand in order to compete effectively with similarly priced suburban hotels to be credible. Because of the extremely small size of the Square, the applicant is not able to acquire additional land on which to construct the necessary additional space. Therefore, strict application of the density and height regulations would result in the unnecessarily burdensome practical difficulty of making any expansion of hotel operations impossible.

b. LOADING BERTH

Section 2201.1 requires one thirty-foot deep loading dock for a hotel that has between thirty and two hundred sleeping rooms. The Governor's House is thus required to have one loading dock. However, even though this regulation was in place at the time of the building's construction in 1963, there is no record of the loading dock's having been built. Loading and unloading have occurred either directly from the block of N Street between 17th and Bataan, or from the building's garage.

This absence of a required loading berth in a post-1959 hotel is relatively unusual. In most situations, were a new wing being added, OP would recommend that a loading berth be constructed as part of the new addition. However, because of the unusual nature of this site, constructing a loading berth would result in either a situation that would not be desirable for the public, or that would be unnecessarily burdensome and impose undue hardship on the applicant.

The new addition will, on its longest end, face 17th Street. On its shorter front it will face Rhode Island Avenue. Both of these are principal streets for vehicular and pedestrian traffic. The block faces are very short, well-landscaped and pedestrian-

friendly. On such short blocks, a loading dock would have a significant negative aesthetic impact.

From an urban design standpoint, Bataan Street and N Streets are more suitable for loading berth consideration. Because both the existing and future building width along Bataan Street is only 58', constructing a loading berth along that frontage would require the applicant to reconfigure many of its front desk, administrative and public circulation systems, and would bring the loading into the building at its front-of-house end.

With respect to construction of a loading berth towards the western end of N Street, closer to the garage entrance and pedestrian service entrance, OP's field inspection revealed:

1. The applicant could not simply widen the garage entrance. The garage ramp is narrow and has a slope greater than 12%. A loading berth next to the garage entrance would require the construction of a steel structure for a mezzanine, and would, in turn, require the relocation of the hotel's main laundry facilities as well as the loss of two sleeping rooms. [1]

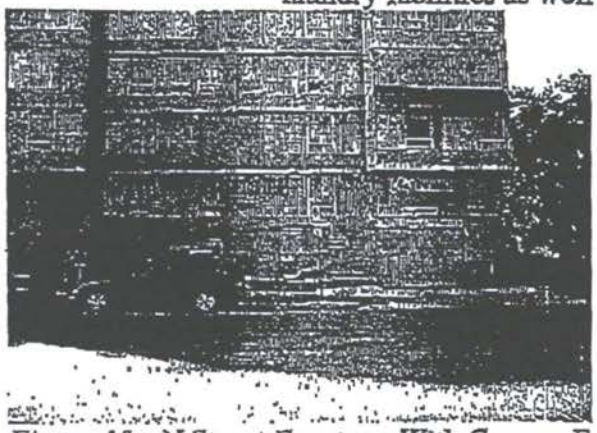


Figure 13: N Street Frontage With Garage Entrance

- There is very little through-traffic on this block of N Street or on Bataan Street. Bataan Street is one-block long. The 1600 block of N Street has a T intersection with Bataan Street at Scott Circle, and is signed one-way eastbound in the 1700 block and one-way west-bound in the 1800-2100 blocks. There are no buildings fronting on either Bataan Street or the 1600 block of N Street. Because of the configuration and signalization of the streets and blocks, the width of Rhode Island and Massachusetts Avenues and 17th Streets, and the varying one-way signing of the 1700-2100 blocks of N Street, through-traffic most logically stays on the Avenues and 17th Street. Almost all of the traffic that OP observed on either the 1600 block of N Street or on Bataan Street was traffic going to the garage and on-street loading area for the

[1] In correspondence with OP, the applicant has estimated this cost as approximately $400,000.

Philippines Embassy on the north side of N Street, or to the garage and on-street loading area for the Governor's House on the south side of N Street. There is little incentive for traffic seeking parking spaces to travel on these streets, as all of the spaces on Bataan Street, and most of the spaces on the 1600 block of N Street are restricted to Diplomatic Parking before 6:30 p.m., Monday through Saturday.

While constructing a loading berth on N Street would be possible, it would impose an unnecessary burden on the applicant with little, if any, public advantage.

c. PARKING

The applicant currently has forty-four standard sized parking spaces – six more than are required by zoning regulations. This has been achieved by constructing two levels of parking underneath all of Square 182N, and using adjacent vault space. The small and irregular shape of the site results in a high ratio of travel and turning space to parking spaces.

No additional parking spaces can be constructed under the site. With the proposed addition, the applicant would thus be deficient by approximately 6 spaces.

However, because the hotel restricts its parking to valet parking, it is regularly able to provide up to 90 spaces using stacked parking underneath its building and in adjacent vault space. This provides parking for 50 more cars than the zoning regulations require the current hotel to accommodate, and approximately 40 more spaces than would be required with the proposed addition. Section 2115.9 of the zoning regulations permits many larger hotels to stripe a variety of parking space sizes, to account for compact cars, valet parking, etc. However, these regulations apply only to commercial buildings where 75 or more spaces are required. The applicant is thus asking for a variance from Section 2115.9, to allow that section's dimensional requirements for parking spaces to apply to a hotel where only 50 spaces would be required.

The applicant has a property of exceptional size and shape. The application of the Section 2101.1's parking requirements would preclude an expansion otherwise justified. The applicant is already providing more parking spaces than would be required after the proposed expansion through the use of valet parking. To require the applicant to meet the strict requirements of either Section 2101.1 or Section 2115.9 would result in an exceptional practical difficulty.

To summarize, the Office of Planning believes this exceptional property will be subject to practical difficulties and undue hardship unless zoning relief is granted.

3. ***Can The Relief 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?***

It can.

The proposed construction matches the height of both the existing wing of the hotel and the structures facing it to the south, southwest and southeast. The height and FAR variances are unlikely to impair the integrity of the zone plan for this area, since the properties that would most likely be affected in the triangle between Massachusetts and Rhode Island Avenues east of 18th Street are already protected by being within the boundaries of the Dupont Circle Historic District.

The Comprehensive Plan clearly designates the subject property as being within the central employment area and as being suitable for high-density commercial uses.

The loading berth variance request is predicated on the existence of an inexplicable circumstance: the prior lack of a required loading berth. The uniqueness of this situation precludes the requested variance's generating a precedent that would violate the intent of the zoning regulations. As noted above, given the very limited use of the 1600 block of N Street and Bataan Street, and the lack of adverse impact from the current loading pattern, the continued loading off of N Street is not likely to harm the public welfare.

The requested parking variance would be troublesome were the applicant not already remedying this problem by using valet parking and parking sizes *as if* it were operating under the provisions of Section 2115.9. The applicant already provides more parking spaces than would be required for a hotel with the proposed new total number of rooms.

X. COMMUNITY COMMENTS

At its regular monthly meeting on August 8, 2001, ANC 2B voted 5-0 to support this application.

Ward 2 Councilmember Jack Evans has filed a letter in support of the application.

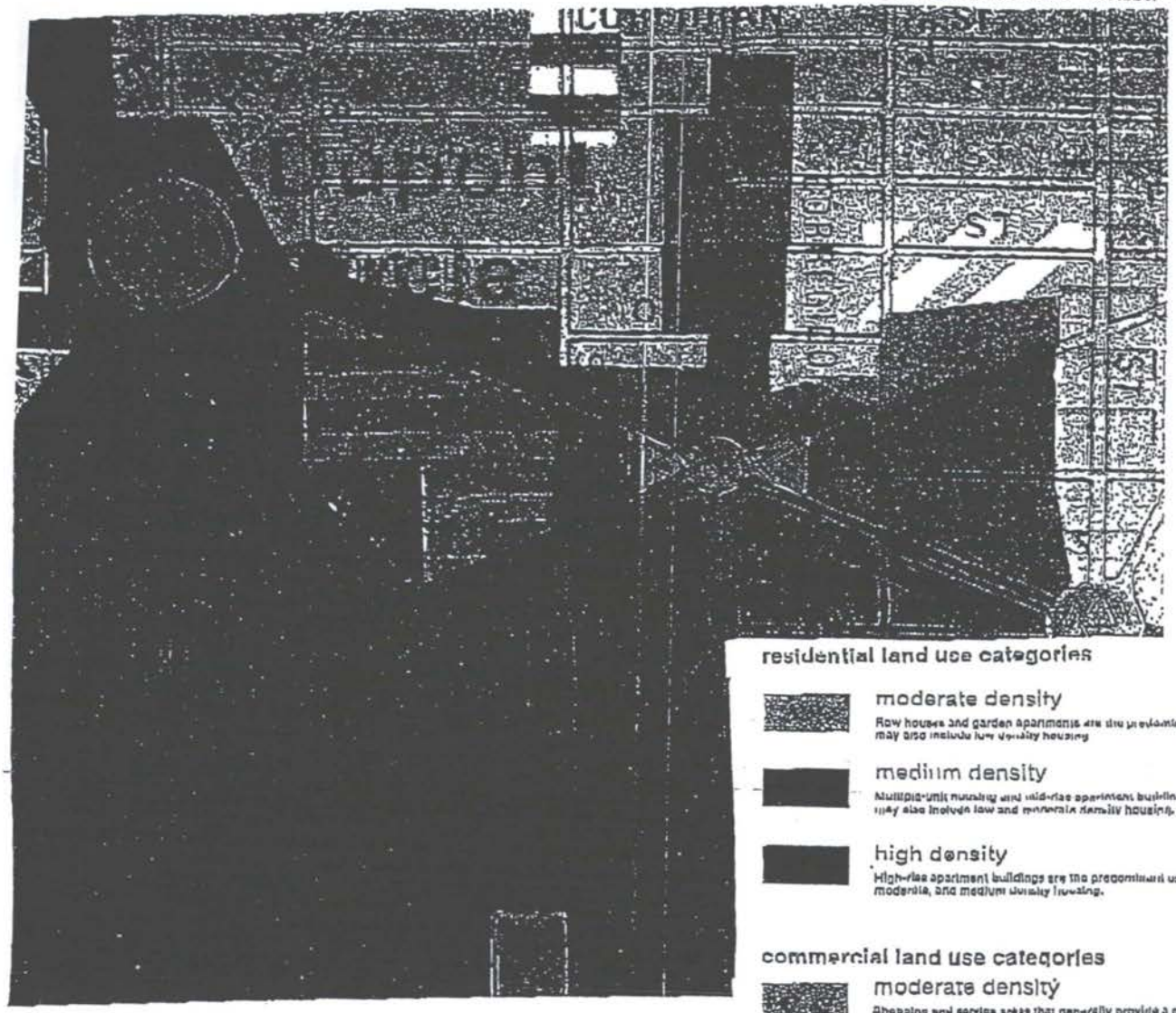
XII. OTHER AGENCY COMMENTS

No agencies had submitted comments as of September 10, 2001.

XIII OP SUMMARY RECOMMENDATION

OP RECOMMENDS THE BZA APPROVE ALL VARIANCE REQUESTS.

Attachment 1
Generalized Land Use Map



residential land use categories

moderate density
Row houses and garden apartments are the predominant uses, may also include low density housing

medium density
Multiple-unit housing and mid-rise apartment buildings are the predominant use; may also include low and moderate density housing.

high density
High-rise apartment buildings are the predominant uses, may also include low, moderate, and medium density housing.

commercial land use categories

moderate density
Shopping and service areas that generally provide a much broader range of good services are the predominant uses. Chain drug stores and grocery stores as well branches of department stores, some specialty shops, and personal service establishments may be present.

medium density
Shopping and service areas that generally offer a large concentration and variety of goods and services outside the Central Employment Area are the predominant Most customers arrive by car, bus or subway.

medium - high density
A shopping and service area that generally offers the largest concentration and v of goods and services outside the Central Employment Area is the predominant Most customers arrive by car, bus or subway.

high density
The business and retail heart of the District and metropolitan area includes a mix employment, retail, office, cultural and entertainment centers.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

RECEIVED
D.C. OFFICE OF ZONING
2001 SEP 27 PM 12: 25

Office of the Director

MEMORADUM

TO: Board of Zoning Adjustments

FROM: Andrew Altman, Director
Office of Planning

DATE: September 26, 2001

SUBJECT: Waiver of Rules for Late Submittal of the Report on Case No. 16765

The attached Final Report concerning the application for the Variances and Special Exception Request located at 1155 16th Street, NW is being submitted less than 7 days prior to the Board of Zoning Adjustment's consideration of the item and scheduled public hearing. The Office of Planning respectfully requests that the Commission waive its rule and accept the report into the record.

Attachments

AA/jm

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

TO: **Board of Zoning Adjustment**

FROM: **Andrew Altman**
Director

DATE: **September 27, 2001**

SUBJECT: **BZA Case #16765; American Chemical Society**
1155 16th Street, NW (Square 197, Lot 85)

APPLICATION

This report summarizes the Office of Planning's (OP) review of the above application from the American Chemical Society (The Applicant) to the Board of Zoning Adjustments for a Special Exception pursuant to 11 DCMR §§3104 and 508 of the Zoning Regulations and for variances to §§531 and 2001.3, pursuant to 11 DCMR §3103 of the Zoning Regulations for the property described as Lot 85 of Square 197 (the Property) in northwest DC. The report presents the Office of Planning's findings and recommendations to the Board of Zoning Adjustment.

SUMMARY OF RECOMMENDATIONS

The Office of Planning recommends denial of the applicant's request.

SITE LOCATION

The property is located in the northwest corner of Square 197, which is bounded by 16th Street on the west, M Street on the north, 15th Street on the east, and L Street to the south (See aerial). The property fronts on 16th Street and is in the SP-2 zone, which extends on both sides of 16th St down to the White House. The Property is composed of two buildings joined at the ground level; according to the Computer Aided Mass Appraisal (CAMA) and the Sanborn Property Atlas, the first was built in 1959 and is in the SP-2 Zone. The eastern half was built in 1988 and is in the C 4 Zone.

PROJECT DESCRIPTION

The project proposes to permanently enclose the patio on the south side yard of the property. The applicant has stated that due to additional information technology requirements of their organization, they need to add computer space to the roughly 3,000 sf of existing computer space. They have argued that the logical location is the employee

lunchroom, which is directly above the existing computer space. In order to relocate the employees' lunchroom area they are applying to the BZA to enclose their side patio of their non-conforming building. The building is currently non-conforming due to its existing floor-area-ratio (FAR).

The enclosure will measure 1,260 Square Feet reaching to a height of 15 feet. It is made of steel and glass and will be mostly obscured from the street by trees.

ANALYSIS

Variances

Under section 3103.2, applicants must meet three tests to receive a variance. The three tests have been bolded in the following section.

> 3103.2 As set forth in D.C. Code Ann. §5-424(g)(3) (1981), "where, by reason of **exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions 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 exceptional 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, that the 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."

To meet these tests the applicant has argued that the property is unique because it is:

- A Split zoned property, and
- A Non-conforming building

First, while citing the split zoning of the property, the applicant shows no correlation between the split zoning and the inability to locate the lunchroom so as to conform to the Zoning Regulations. In fact, the proposed lunchroom would be located entirely within the boundaries of the SP-2 portion of the site. In Addition, the property was originally not split zoned. The western half of the property was constructed in 1959, after the enactment of the regulations. The building may have been approved and under construction prior to the regulations; OP asks the applicant to verify this. According to the DC Surveyor the property was then assembled from multiple lots on June 24, 1982 well after the adoption of the zoning regulations. The eastern portion of the property on M St is separated by an underground garage entrance and was then constructed in 1988 (see Picture 3). Given this order of events, the fact that they are now one lot of record indicates that this facet of the property's uniqueness is self-induced.

The split zoning is not a unique circumstance within this neighborhood. The National Geographic Society, directly across 16th Street, from the subject property is also split zoned and evidenced in the applicant's prehearing statement (page 3).

When the Zoning Regulations using FAR as a limiting factor were enacted, regulations were drafted to cover those older buildings that did not conform to the zoning classification. Chapter 20 regulates non-conforming buildings and permits by special exception changes to those building. The section reads as follows:

> 2001.3 Enlargements or additions may be made to the structure; Provided, that the following requirements shall be met:
>
> (a) The structure shall conform to percentage of lot occupancy requirements; and
> (b) The addition or enlargement itself shall conform to use and structure requirements; and
> (c) The addition or enlargement itself shall not increase or extend any existing, non-conforming aspect of the structure, and shall not create any new non-conformity of structure and addition combined.

In light of the above section the non-conforming building should not be considered unique because non-conforming structures as specifically addressed by the regulations. In fact, the regulations state in sub-paragraph (c) that the special exception not be permitted if it increases the buildings non-conformity. Uniqueness by definition would mean the regulations could not anticipate problems faced by such properties.

Second, the applicant has stated that their practical difficulty is due to:

- The building being non-conforming
- The tenant needs more space because of changes in their situation

Nothing indicates a non-conforming building itself is a practical difficulty. In this case, the users of the non-conforming building have an advantage because they have more non-residential FAR (5.9) than they would be normally allowed in the SP-2 zone (3.5).

Further, they have argued that the need for additional computer space has forced them to convert their employees' lunchroom. However, they have not provided sufficient evidence as to why an employee lunchroom cannot be located elsewhere in the building. Therefore OP believes that this change in the circumstances of the tenant is self-induced and does not meet the standard for practical difficulty. Practical difficulty would exist if in an effort to comply with other laws or regulations changes to the building were required such as fire stairs or handicap accessibility.

The applicant has cited previous cases that have set a precedent, however in the case of the National Education Association, as stated in the order, the design phases were approved prior to the enactment of the Zoning Regulations and the case was approved in part to provide emergency fire stair.

Third, the applicant has argued that the addition, due to its limited size does not cause substantial detriment to the public good or the intent, purpose, and integrity of the zone plan because it:

- Does not represent a change in the intensity of the use of the property,
- Has received approval from their neighbors and the ANC, and
- It would largely be hidden from view.

The request represents an expansion of a non-conformity. OP agrees that the request will not cause "substantial detriment to the public good" but OP cannot conclude that the request is within the intent or purpose of the zone plan. Clearly, § 2001 intends that non-conforming aspects of structures not be expanded and the zone plan of the SP-2 zone has a maximum non-residential FAR of 3.5. The subject property is non-conforming because it exceeds the FAR maximum and the request proposes to expand that non-conformity. The issue is underscored by the fact that the application doesn't address why space cannot be configured within a building, which is already substantially above the commercial FAR permitted on the site.

Special Exception
Section 3104.1 of the Zoning Regulations requires two tests be met for the granting of special exceptions. These requirements are in bold below.

> 3104.1 Pursuant to authority contained in the Zoning Act, the Board is authorized to grant special exceptions, as provided in this Title, 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,** subject in each case to the special conditions specified in this title, as follows:

Office use in the SP-2 zoning district can only be constructed or added to by special exception. The regulations outline the requirements as follows:

> 508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.
>
> 508.4 The use shall not create dangerous or other objectionable traffic conditions.

OP agrees that the current office use is in harmony with the neighboring properties; the addition will not impact the existing height of the structure; and the design will be mostly screened from the neighboring properties as a result of its location and landscaping. However has stated above the request is not in accordance with section 2001.3 (c) which specifically states "The addition or enlargement itself shall not increase or extend any existing, non-conforming aspect of the structure."

Findings

1) The split zoning cited as making the lot unique is not relevant to the practical difficulty.
2) The assemblage of the lot after the creation of the zoning regulations results in a uniqueness that was self-induced; and the requested variance applies only to the portion of the lot zoned SP-2.
3) There are other properties in the immediate neighborhood that are also split zoned;
4) Non-conforming buildings are inherently not unique because there are specific regulations that govern their "addition and enlargement";
5) The Non-Conforming subject building exceeds FAR limits for its zone district and is not disadvantaged but rather has more space than the zone would ordinarily allow; and
6) Organizational staff growth is self-induced and requires them to make ordinary decisions with regards to space.
7) The application provides no explanation why the lunch room cannot be accommodated within the existing building.

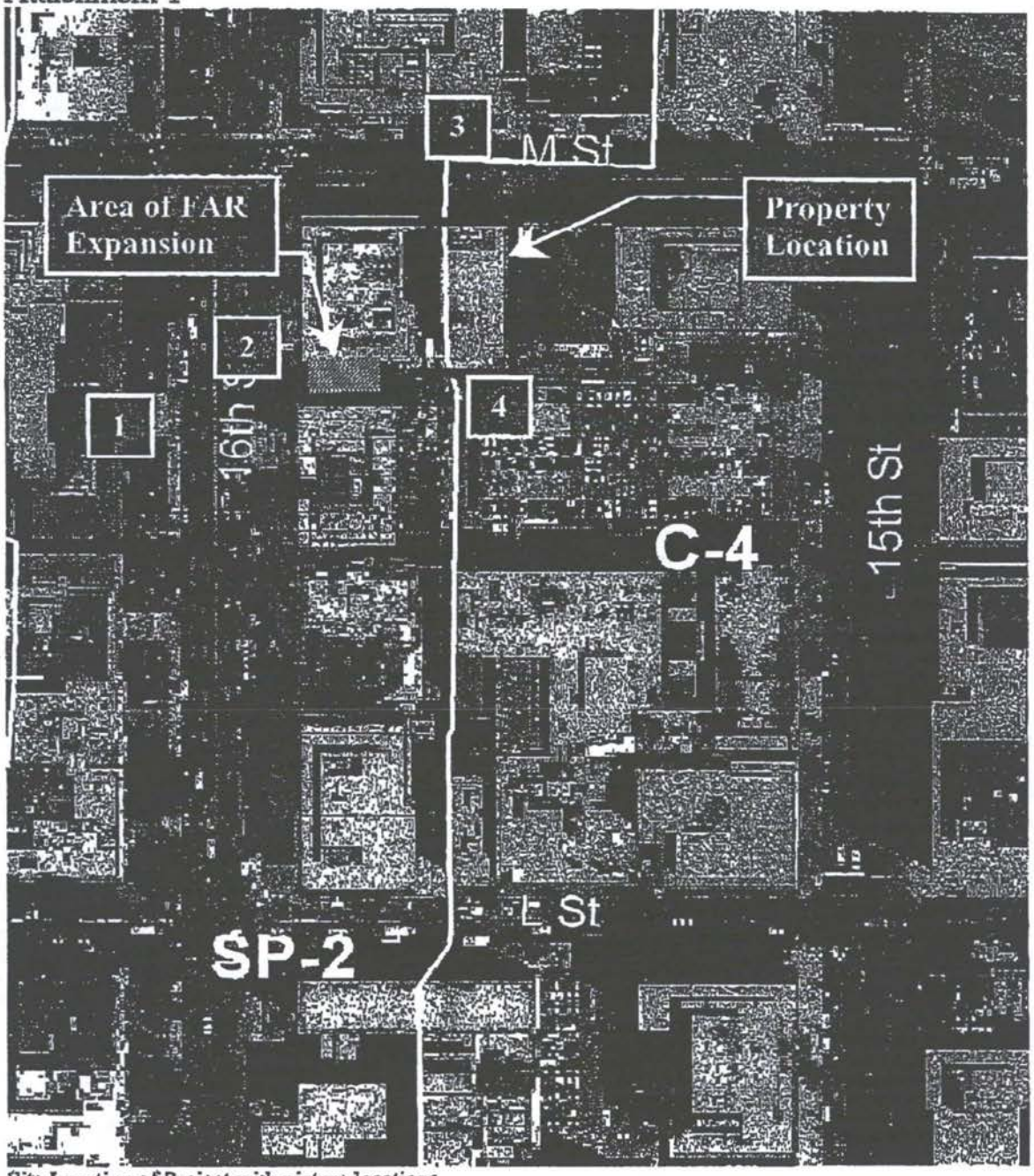
Recommendations

The Office of Planning concludes, based on the application that the circumstances of the property are not unique, that the application of the regulations would not result in practical difficulty and the application is not in harmony with the intent and purpose of the Zoning Regulations. Therefore, the Office of Planning recommends denial of the application.

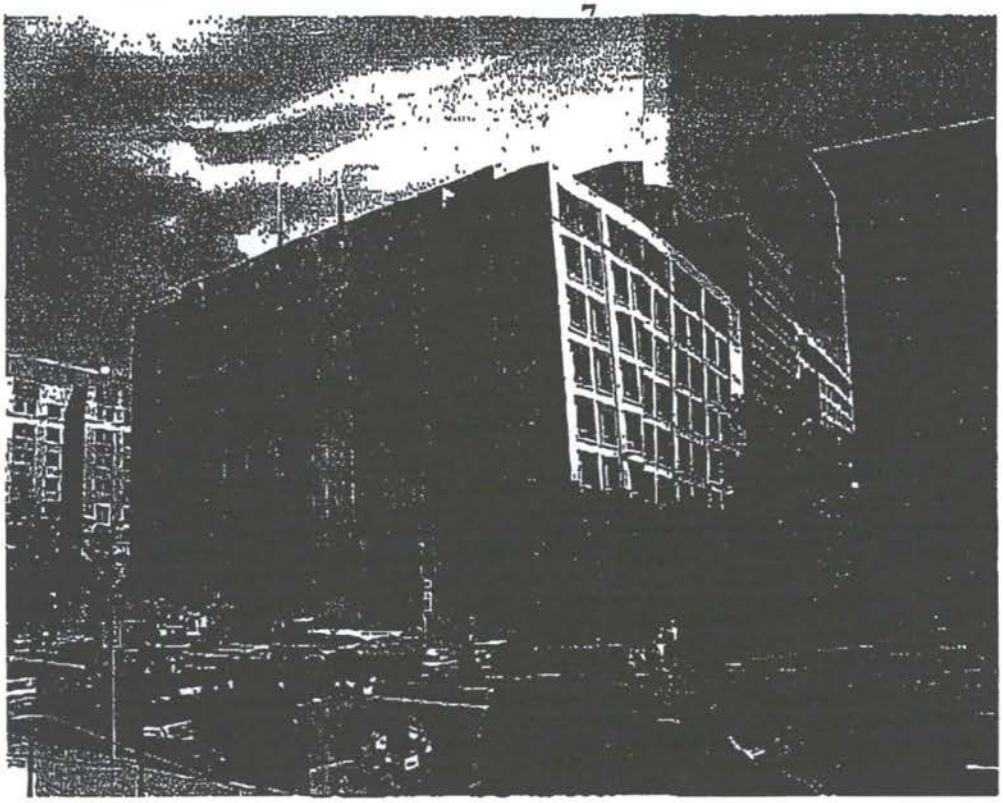
Attachments

Aerial Photo
Contextual Photos

Attachment 1



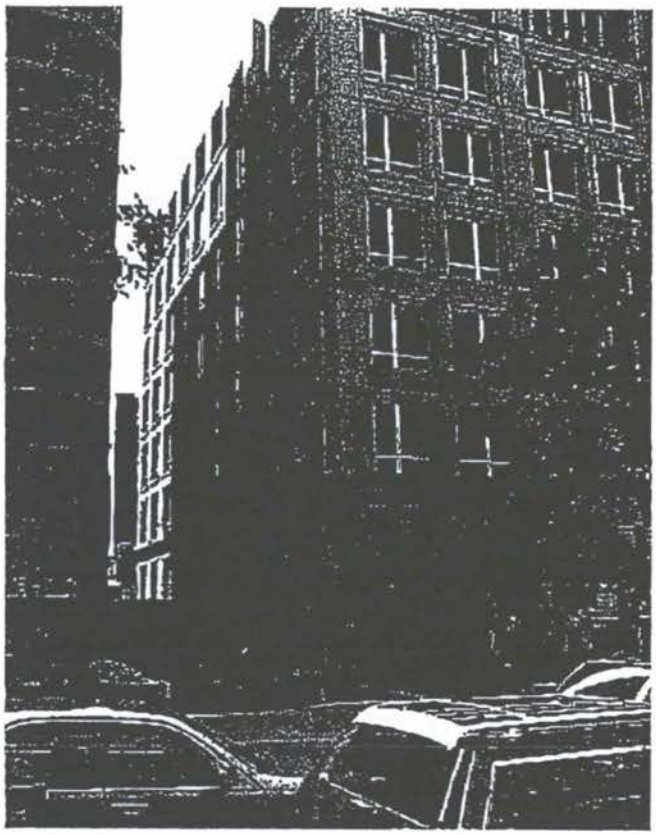
Site Location of Project with picture locations



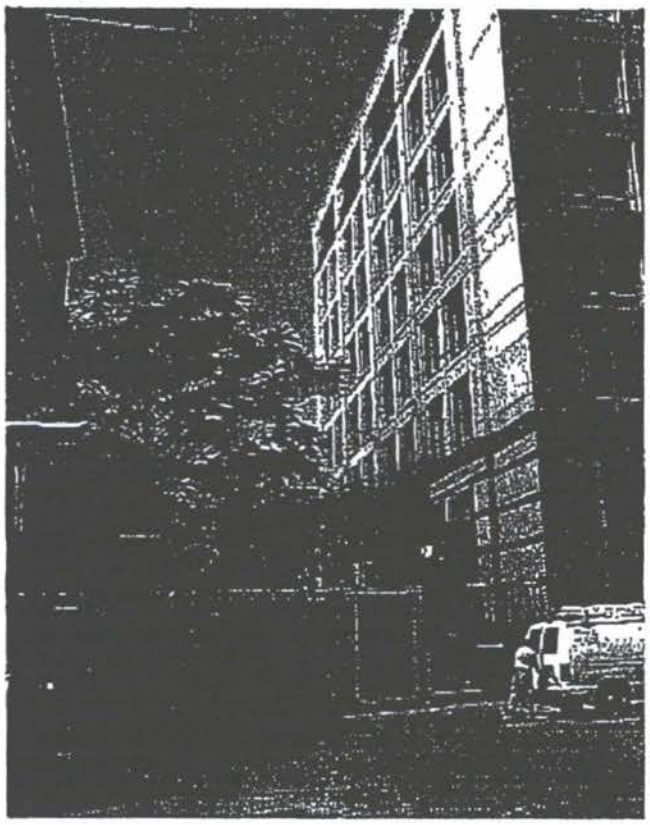
1) Property from 16th St Looking NW



2)Close up of Existing Patio



3) M St looking south at garage entrance between the 1958 building and the 1988 building



4) Looking west at the patio from the rear alley