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

Atlanta
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:
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo
*Representative Office

September 12, 2001

LINDSLEY WILLIAMS
SENIOR ADVISOR FOR LAND USE, PLANNING, AND ZONING
202-828-1873

Internet Address:
LWilliams@hklaw.com

VIA HAND DELIVERY

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20002

D.C. OFFICE OF ZONING
2001 SEP 14 PM 2:19

Re: BZA Application No. 16773
2533 Sixteenth Street, NW (Square 2574, Lot 32)

Dear Members of the Board:

Enclosed please find one record copy (punched at the top with two holes) and nineteen bound copies of the Statement of the Applicant filed on behalf of Totten Tower Limited Partnership for variance relief requested pursuant to the Zoning Regulations.

Thank you for your consideration of these materials.

Respectfully submitted,

Lindsley Williams

Enclosures

cc: Office of Planning
ANC 1B

BZA
Case No. 16773
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16773
EXHIBIT NO.27

BEFORE THE
BOARD OF ZONING ADJUSTMENT
FOR THE
DISTRICT OF COLUMBIA

APPLICATION OF:
TOTTEN TOWER LIMITED PARTNERSHIP
2533 SIXTEENTH STREET, N.W.

BZA APPLICATION NO. 16773
HEARING DATE: SEPTEMBER 25, 2001
ANC 1-B

D.C. OFFICE OF ZONING
2001 SEP 12 PM 2:

STATEMENT OF THE APPLICANT

I.

NATURE OF RELIEF SOUGHT

This statement is submitted on behalf Totten Tower Limited Partnership ("Totten Tower" or "Applicant") in support of the application to the Board of Zoning Adjustment for a variance relief from the requirements of the Zoning Regulations pursuant to 11 DCMR § 3103.2, specifically, a variance from the floor area ratio ("FAR") requirement of Section 402.4.

The relief will permit the reconstruction and occupancy of the Totten Cottage portion of the overall Warder-Totten property located at 2633 Sixteenth Street, NW (the "Site"), also known as Lot 32, Square 2574. The entire site is located within an R-5-D Zone District. Located in the Meridian Hill area, the property is less than one block north of the northern extent of Meridian Hill Park (now also known as "Malcolm X Park").

The subject property includes structures that have deservedly achieved status as nationally and locally recognized historic landmarks, specifically the original "Totten Cottage" and the addition made to that Cottage in the 1920's from

the Warder Mansion designed by Henry Hobson Richardson, which was relocated from its original location and attached to the Sixteenth Street face of the original Totten Cottage. Within the site, the development as proposed is appropriate for the Site, fully compatible with the surrounding area, and consistent with both the Comprehensive Plan and the Zoning Regulations. Advisory Neighborhood Commission ("ANC") 1-B, whose boundaries encompass the site, supports this application. The applicant's representatives have also been contacted by representatives of the District of Columbia Preservation League and Committee of 100 on the Federal City, both of which have supported the restoration of the subject property in the past and may express themselves in the instant proceeding. The Applicant is not aware of any opposition to this application.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the variance relief requested herein pursuant to Section 3103 of the District of Columbia Municipal Regulations ("Zoning Regulations"). 11 DCMR §3103.

III.

BACKGROUND

A. Description of the Site

The Site is located at 2633 Sixteenth Street, N.W. (All subsequent designations of address and location within this submission are within the Northwest or "NW" quadrant of the District of Columbia.) The site is nearly rectangular and forms a "through lot" extending from Sixteenth Street east to Fifteenth Street; the site comprises the entire private land area of Lot 32 of Square 2574, amounting to either 21,788 square feet (from official records) or 21,798 from surveys recently executed by licensed surveyors. Square 2574 is bounded by Sixteenth Street to the west, Euclid Street to the south, Fifteenth Street to the east, and Fulton Street to the north.

The western face of the site faces Sixteenth Street, a street of particular significance in the District of Columbia terminating to the south at the center of the White House. Overall, the Sixteenth Street right of way is 160 feet wide. Four lanes of traffic flow in the 50 foot width of the roadway, which are flanked by symmetric public spaces of 55 feet each, each of which provides fifteen feet for sidewalk and curbside treebox areas, along with a 40 foot wide public space that extends from the property lines to the nearest edge of the public sidewalks, officially known as the "parking."

The eastern side of the Site faces Fifteenth Street, whose overall right of way totals 50 feet, 30 of which are dedicated to roadway, with two 10-foot wide areas for sidewalks and treeboxes on each side.

B. Description of Surrounding Area

As noted above, the Site is located approximately two miles north of the White House along the Sixteenth Street monumental corridor. Columbia Road and U Street are the nearest major cross streets – and the site is located approximately midway between these two cross streets.

The Generalized Land Use Map of the Comprehensive Plan (bearing the date of February 2001) places the site south of the area it labels "Columbia Heights" (where Columbia Road intersects both Sixteenth and Fourteenth Streets, several blocks north) and places the Site, along with areas north (extending to Columbia Road), south to the southern extent of Square 2574, and east to Fourteenth Street in the "medium density" residential land use category. (In that plan's land use classification, there are two lower density residential categories, namely "low" and "moderate," "high" being the only higher one.) The same map declares the area west of the Site to be in the "moderate density" residential use category. Commercial categories are mapped in the larger neighborhood, but only beginning along traditionally commercial streets such as Columbia Road (to the northwest and northeast, two or more blocks' distance away.

The area immediately surrounding the Site includes six chanceries or offices of international organizations. They are the former Cuban chancery, now supervised by Swiss officials who look after Cuban interests in the United States, and the chanceries (or chancery annexes) of Spain, Mexico, Poland, Ecuador, Lithuania, and Italy. The immediate area also includes offices of the Pan American

Union, an international organization. To the southeast are offices of a non-profit organization, which followed use of that property as a chancery (Hungary) following its use and occupancy as offices for the American Legion. The Ghanaian chancery is located at the southwestern corner of Kalorama Road and Sixteenth Street, about 800 feet away. The 1945 Baist Atlas (at Exhibit D) suggests the Subject Property may have itself been used for chancery purposes at that time.

Consistent with the zoning, discussed below, of the area, most of the rest of the subject area consists of housing, ranging from row houses to multi-story apartment buildings, along with various institutions such as places of worship, e.g. the "All Souls Unitarian" church, or specialized assembly, e.g. the "Scottish Rites Temple." These uses are readily discerned on the "Generalized Land Use Map of Area Surrounding the Warder Mansion, Totten Cottage, and Totten Tower Addition" that is submitted herewith (Exhibit C.)

All of Square 2574 is zoned R-5-D, the zone category that extends north though Square 2577 and north along Sixteenth Street above the point at which Columbia Road crosses Sixteenth Street. R-5-D is also mapped along the eastern face of the Squares to the west of the site, Square 2578 and northwest, Square 2575. The remainder of those Squares are mapped D/R-5-B.

Given the frequent appearance of chanceries in the immediate area, and the adjacent areas mapped D/R-5-B, it is useful and relevant to point out that chanceries are now governed by special provisions of the Zoning Regulations, guided by the Foreign Missions Act. The regulations provide for a chancery uses to continue, with rights to rebuild, when they are located in Diplomatic Overlay zone

districts and the right to petition the Foreign Missions Board of Zoning Adjustment to establish them therein, or make additions to the ones already there. More significant is the fact that the same body of regulations provide that the same chancery rules apply to **all areas mapped R-5-D and R-5-E** (and SP). Thus, those areas, while not mapped as part of any D overlay have, effectively, identical provisions. See §1002.1

C. Project Description

The Applicant proposes to preserve the Totten Cottage, renovating it so as to include apartment units that would occupy two full floors and available habitable space under the historic roof line on a third level with ground floor retail uses (the "Cottage").

Overall, the entire project consists of the following elements, but only the planned activity within the Cottage is the subject of the variance:

- Renovation of the Warder Mansion, converting it from the effects of all prior uses as well as from gross neglect and deterioration to apartments.
- Renovating the largest part of the original Totten Cottage, also neglected and deteriorated even more than the Mansion, and converting it to apartments.
- Demolishing the easternmost portion of the pre-existing Totten Cottage, which consisted of later additions to it that the Mayor's Agent for Historic Preservation has already determined eligible for demolition. (This demolition work has already been accomplished, making way for the fourth and final element.)

- Designing and building a multistory apartment addition to the Warder Mansion/Totten Cottage building (a single building under zoning rules), together with underground parking. (This portion of the project has been designed and financed in a manner qualifying it for tenants who quality for low income housing assistance.)

The resulting project will contain one building with three principal parts: the restored Warder Mansion, the restored Totten Cottage, and the new Totten Tower.

Overall, the project meets all zoning parameters other than that of maximum gross floor area allowed under the limitations imposed by the limitation on Floor Area Ration ("FAR") under the Zoning Regulations.

The renovations to both the Warder Mansion and the Totten Tower, and the Totten Tower addition are proceeding or will under the approvals already granted by the Historic Preservation Review Board, the Mayor's Agent, and officials of the Department of the Interior, and include extensive, expensive and painstaking efforts to restore the property to its former grandeur and original use group, namely residential.

IV.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCES FROM THE REQUIREMENTS FOR FAR, HEIGHT, PARKING, AND LOADING

A. Standards for Granting Area Variances

Under D.C. Code §5-424(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

(1) the Site is unique because, *inter alia*, of its size, shape or topography or other extraordinary or exceptional situation or condition;

(2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and

(3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, the proposed development and the variances requested for the same meet all three prongs of this test.

B. Overview of the Site's Exceptional Conditions

The Site has exceptional conditions as a result of its containing a property that contains a designated historical landmark, one which is further distinguished as a result of its having both a historic original building (the Totten Cottage) and the Warder Mansion, which was relocated to this Site in the 1920s.

These historic attributes satisfy, in themselves, the requirement for uniqueness.

However, there are other elements that effectively run with the land augmenting this argument.

- The applicant is obliged to design, construct, and then deliver a set number of additional apartment units under its agreements with the Government of the District of Columbia, effectively a covenant (See Exhibit F)
- The project received extended, if not extensive, reviews by officials in the Department of Consumer and Regulatory Affairs that did not identify the issue with excess floor area definitively until July of this year, six months after the basic building permit was issued. (See Exhibit F)

The Board of Zoning Adjustment, as with the Zoning Commission under Capitol Hill Restoration Society v. Zoning Commission of the District of Columbia (380 Atlantic 2nd 174, at page 184, DC App. 1977), must take account of covenants affecting the use and density to which land can be put in rendering decisions. Such conditions effectively exist and apply here.

C. **Variance Relief for FAR under Sections 402.4**

Section 402 of the Zoning Regulations provides that no structure in an R-5-D District may exceed a maximum FAR of 3.5 (or 76,258 square feet from official records; or 76,293 square feet from survey measurements) for all permitted uses.

The Applicant proposes a project of one technical "building" with a total of under 80,100 square feet of gross floor area devoted to residential uses, or 3.68 FAR, which is a deviation of just under five percent (5.0 %).

The variance sought would allow the project to be completed in a manner satisfying the owners responsibilities to the Government of the District of Columbia, to the Historic Preservation Review Board, and the Department of Interior, filling the envelope of the site with a slight excess of floor area yet in keeping with existing (albeit non conforming) development that exists elsewhere on the Square (from assessment records):

- Lot 829: Land 11,828, floor area 76,620, FAR possibly 6.48 or, if adjacent vacant lot 24 in same ownership is counted, land 13,828, same floor area, or FAR possibly 5.54.
- Lot 831: Land 44,554, floor area 168,395, FAR possibly 3.8.
- Other improved properties within the Square appear to be conforming as to FAR.

Finally, the Zoning Regulations have been crafted in many instances to impose fewer restrictions on properties that are historic landmarks or that are contributing structures within established historic districts. Most notably, had this project pre-existed as now planned and the Cottage sustained a collapse thereafter,

the Zoning Regulations would have allowed it to be fully reconstructed even if it was a separate building (which it is not), and even if that theoretically separate building was more than seventy-five percent (75 %) destroyed (see §2001.4 and the flexibility accorded thereafter at §2101.9).

2. A Strict Application of the Zoning Regulations Would Impose a Peculiar and Exceptional Practical Difficulty on the Applicant

As a result of the aforementioned unique circumstances, a strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty on the Applicant. First, the Cottage would remain open to the sky and unoccupied. This has obvious implications for the overall economics of the project, arising from diminished income and reduction in the attractiveness of the project as well.

Second, given the obligation the owner accepted from the District to build an apartment tower to contain eighty apartment units, it is impractical at this time to revise the scope of the apartment addition or overall project to have fewer units.

Third, the applicant proceeded to develop working drawings and let a construction contract only after the project was reviewed and approved by building and historic preservation officials, creating an issue of reliance (see Exhibit F).

In this regard, a detailed review of the plans submitted and approved will reveal that the applicant consistently stated the total amount of floor area that was contemplated, along with the correct FAR limit of 3.5. Apparently, neither the applicant nor District officials, including those charged with zoning reviews, established the ratio of total floor area to land area until sometime after the building permit was issued in January 2001. The applicant brought the issue to the attention of District officials but was not provided a definitive answer until July of this year, long after construction had started, during which time officials appear to have sought, but did not find, any other means of curing the problem outside of an

area variance. During some portion of this time period, the applicant was advised by District zoning officials that they understood the Zoning Administrator could conceivably allow deviations of up to two percent under "flexibility" rules (later determined not to apply).

For these reasons, the predicament facing the project to complete the Cottage as part of it constitutes a practical difficulty for which there are no satisfactory feasible alternatives.

3. Relief Can Be Granted Without Substantial Detriment to the Public and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map

The variance relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map. To the contrary, the requested variance contributes to improving the public good by enabling the historic residential elements to be restored and occupied on this significant Site. The Comprehensive Plan designates the Site and the surrounding area in the medium density residential land use category. This land use category is exactly the type of use encouraged in this part of the District of Columbia, the use that would result from the redevelopment underway and the use that would be there if the variance were granted. (See, 10 DCMR §1103.3.) Therefore, the minor FAR variance is not inconsistent with the Comprehensive Plan.

Second, the increased FAR of the project is consistent and compatible with the adjacent and nearby surrounding structures. The Cottage itself is situated

along and close to the northern property line. If the variance were granted, the roof line would be restored to its historic height, with the roof sloping from its east-west ridge line, *below* the height of the roof of the adjacent Warder Mansion *and well below* both the permitted and built height of the Totten Tower. Thus, issues of light and air to adjacent property owners are *de minimus.*

The Cottage will contain only a small number of apartment units. Thus, there will be negligible increase in project occupancy.

Finally, there is support for the relief being granted from the Advisory Neighborhood Commission ("ANC"). Applicant's representatives attended two ANC meetings, the first on August 2 and the second on September 6. The first meeting was introductory, occurring prior to the Board's setting an actual hearing date. At the second meeting, the ANC (with quorum and appropriate posting requirements satisfied) voted to support the project.

The support for the project evidences that there will be no detrimental impact on the public; other evidence shows it will not have an adverse impact on nearby or adjacent property owners or tenants. In fact, quite the opposite is true in that denying the application will be detrimental to a host of Federal and District interests and create, for neighbors, the unpleasant detraction of a partially completed construction project.

The architectural design of the overall project, including the completion of the Totten Cottage, is consistent with the historical integrity of the area and will help provide vitality to the District. The project will enhance the neighborhood, serve as a catalyst for the highest quality urban revitalization, and close a long

chapter of neglect and irresponsible stewardship of historic treasures in our Nation's Capital.

V.

ADVISORY NEIGHBORHOOD COMMISSION SUPPORT

The Applicant has been cooperated with the ANC 1-B since it became aware of the need to seek a variance, as set forth above. A copy of the letter of support from the Chairman of the ANC, Mr. Glenn Melcher, is expected to be filed prior to the hearing.

VI.

EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Kindly refer to application for copies of:

- Survey Plat
- Approved (and, for the Cottage, Proposed) Architectural Drawings.

Attached hereto please find:

Exhibit A:	Portions of the Sanborn Atlas showing the Subject Site highlighted in yellow;
Exhibit B:	A portion of the Zoning Map showing the Subject Site highlighted in yellow;
Exhibit C:	Generalized Land Use Map of Area Surrounding the Warder Mansion, Totten Cottage, and Totten Tower Addition – Together with Mapped Zoning Districts, depicting the following use groups: Embassies, Chanceries, and Annexes (and other International Organizations), Institutions and Clubs, Hotels and Offices, Retail, Parks and Recreation, and Residential uses;
Exhibits D1-D4:	Portions of four year's editions of Volume 3, Sheet 9 of the ***Baist Atlas*** (from 1921, 1931, 1945, and 1954) showing development and usage in the area of the Subject Site (in yellow) and declaring widths of streets, curb-to-curb and overall right of way;
Exhibit E:	Photographs of the Subject Site including the Warder Mansion and Totten Cottage prior to renovation;
Exhibit F:	Applicant's Timeline of Significant Stages to Project Development, Review, Approval and Other Requirements and Selected Approval Documents;
Exhibit G:	Outline of Testimony of Timothy Chapman, Totten Tower Limited Partnership;
Exhibit H:	Outline of Testimony of Representatives of SWA Architects, Larry Shifflet and Stephen Salomonsky; and
Exhibit I:	Outline of Testimony of Lindsley Williams, Land Planner.
Exhibit J:	DRAFT Summary Order (*italicized requiring review/update*).

VII.

WITNESSES

A. Timothy Chapman, Totten Tower Limited Partnership.

B. SWA Architects and Experts: Larry Shifflet and Stephen Salomonsky, architects.

C. Lindsley Williams, Expert Land Planner

AVAILABLE TO ANSWER QUESTIONS THE BOARD MAY HAVE

D. Mary Carolyn Brown, Expert in Historic Preservation

VIII.

CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for area variances under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to grant the application.

As the project is under intense deadlines, the applicant hereby alerts the Board that it would seek, if possible, a Bench decision and Summary Order. A possible Summary Order is attached hereto.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Douglas J. Patton

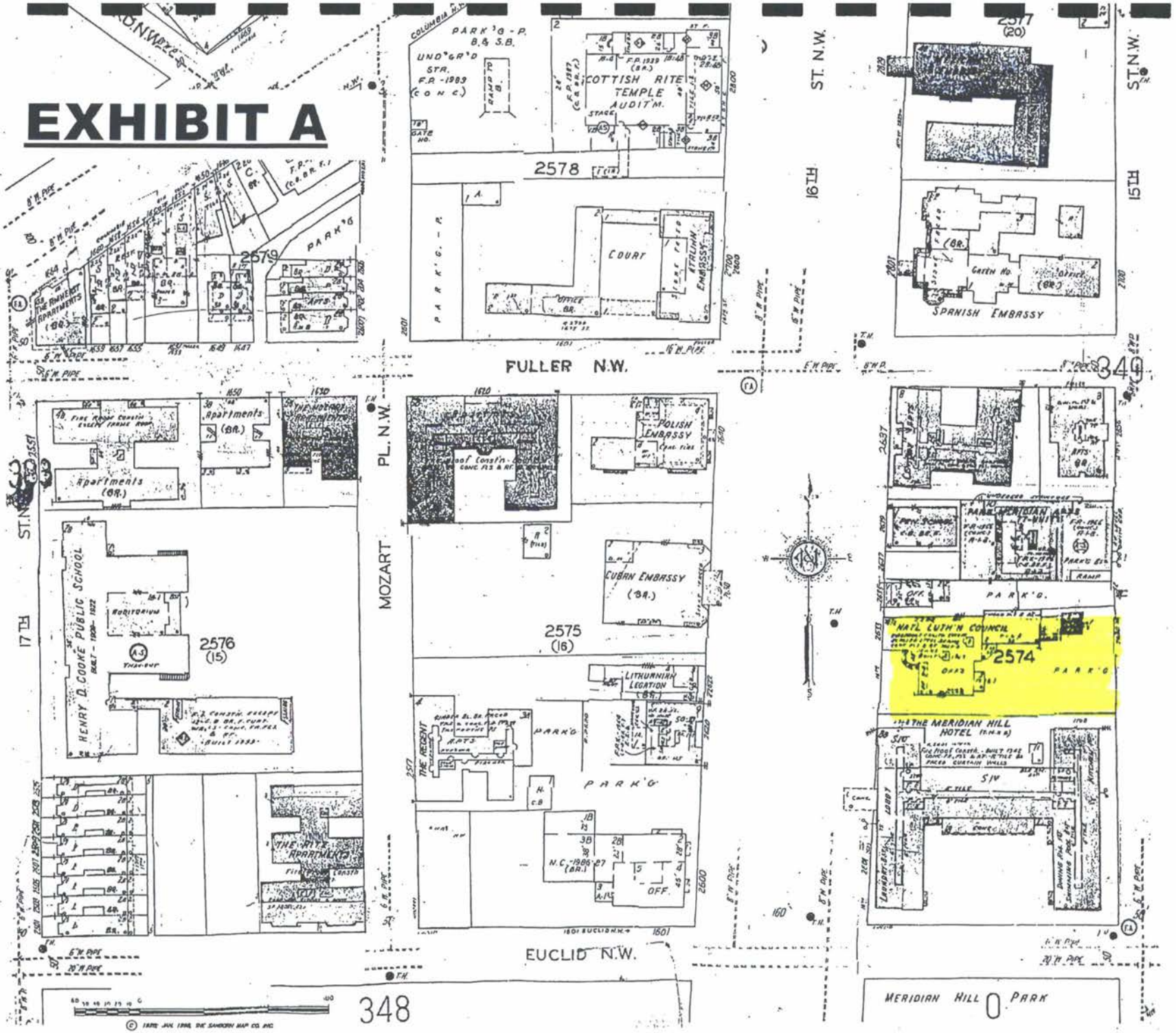
By: _____
Lindsley Williams

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

WAS1 #1011705 v1

A

EXHIBIT A


COLUMBIA H.T.
PARK'G - P. B.& S.B.
UND'GR'D STA. F.P.-1989 (CONC.)
SCOTTISH RITE TEMPLE AUDIT'M.
STAGE
2578
COURT
ATALIAN EMBASSY
OFFICE
PARK'G - P.
16TH ST. N.W.
2577 (20)
SPANISH EMBASSY
GREEN HO.
OFFICE
FULLER N.W.
2579
PARK'G
THE RANIER APARTMENTS
APTS.
8" W. PIPE
16" W. PIPE
Apartments (BR.)
THE WATFORD APARTMENTS
17TH ST. N.W.
HENRY D. COOKE PUBLIC SCHOOL
BUILT - 1908 - 1922
AUDITORIUM
2576 (15)
THE WITT APARTMENTS
PL. N.W.
MOZART
POLISH EMBASSY
CUBAN EMBASSY (BR.)
2575 (16)
LITHUANIAN LEGATION
THE REGENT
APTS.
PARK'G
N.C.-1986-27 (BR.)
OFF.
EUCLID N.W.
1601 EUCLID N.W.
2345
2574
NAT'L LUTH'N COUNCIL
THE MERIDIAN HILL HOTEL
MERIDIAN HILL PARK
348



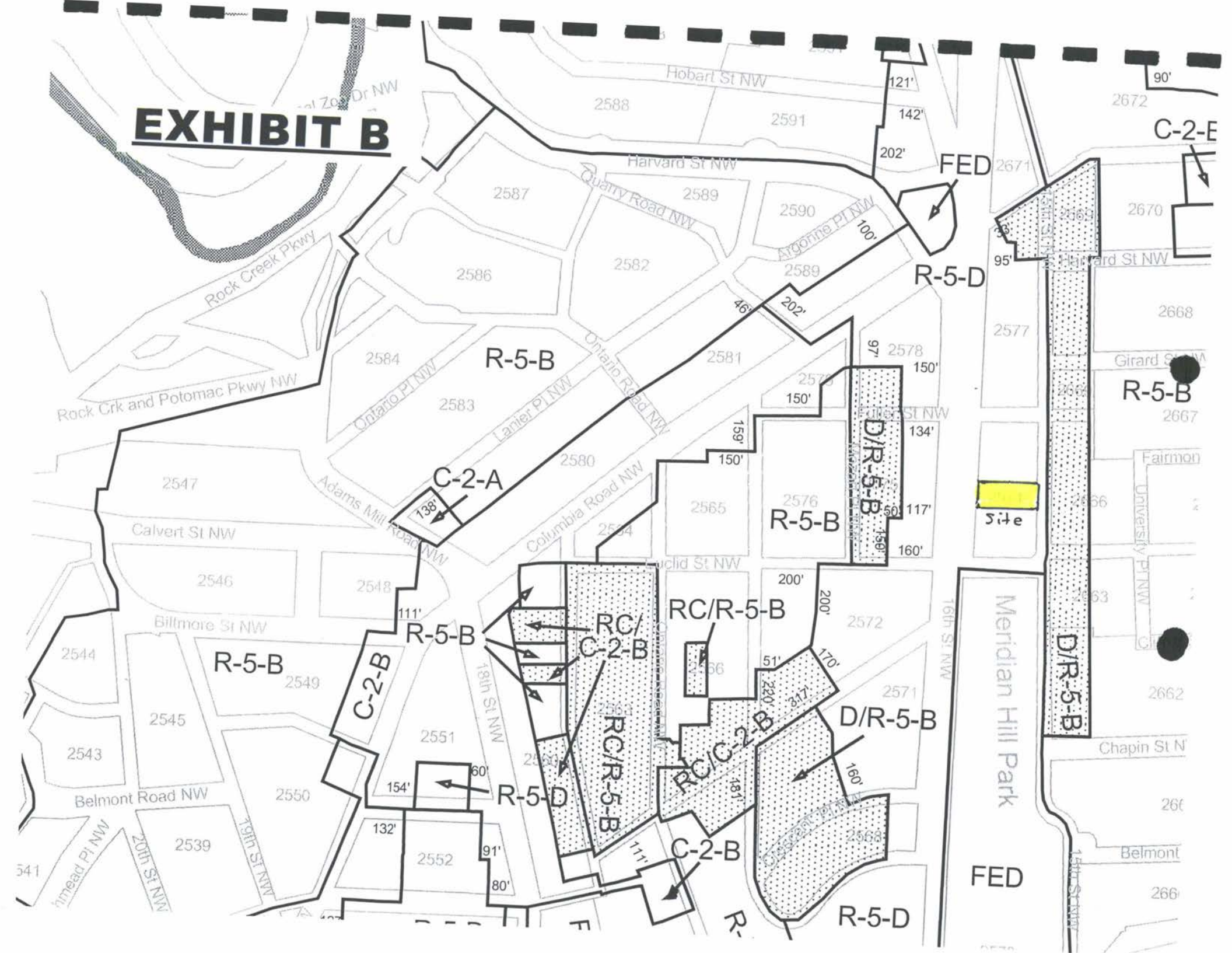
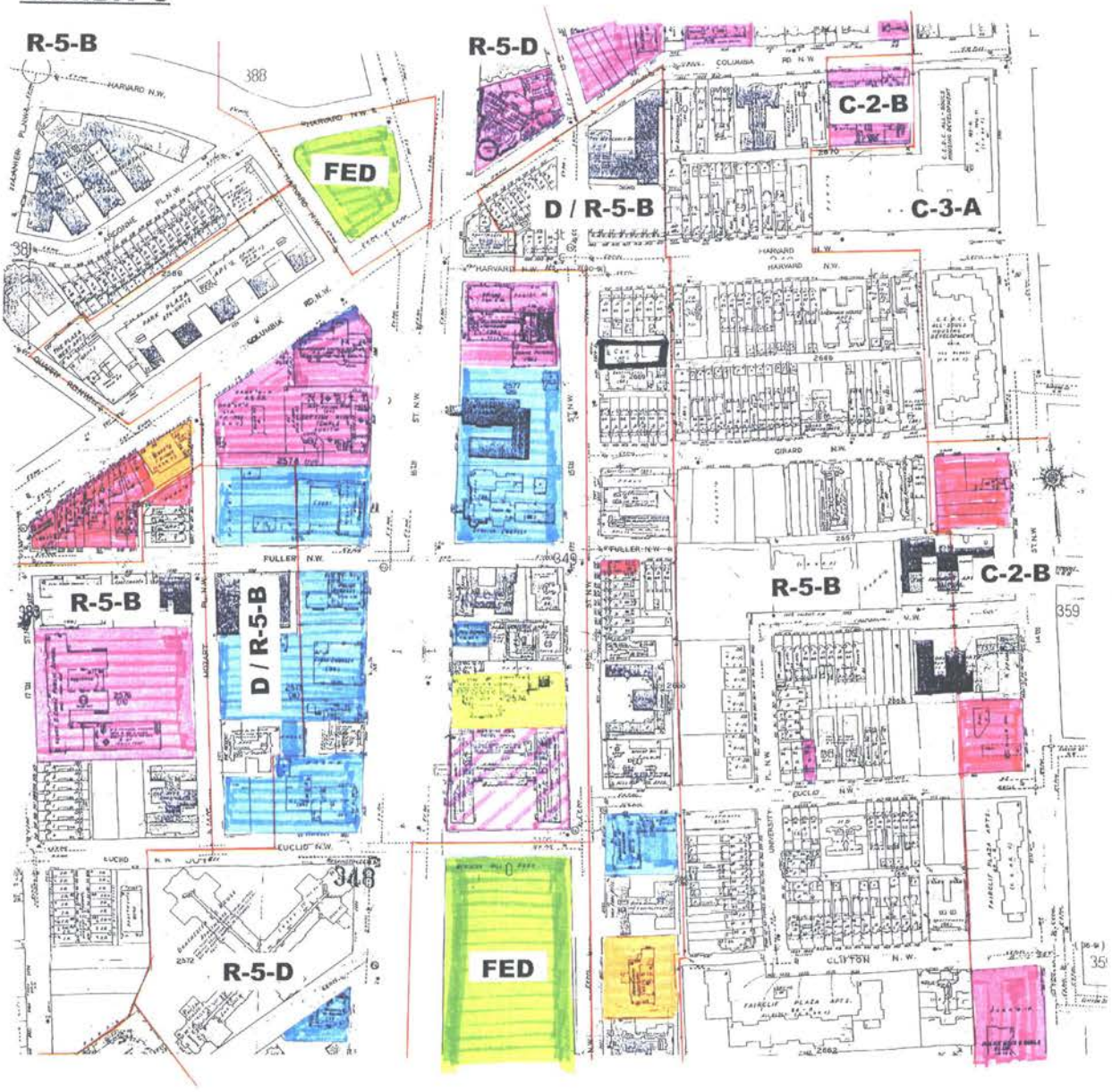

EXHIBIT B
Hobart St NW
Harvard St NW
Quarry Road NW
Argonne Pl NW
Rock Creek Pkwy
Rock Crk and Potomac Pkwy NW
Ontario Pl NW
Ontario Road NW
Lanier Pl NW
Adams Mill Road NW
Columbia Road NW
Calvert St NW
Euclid St NW
Girard St NW
Fairmont
University Pl NW
Billmore St NW
Belmont Road NW
18th St NW
19th St NW
20th St NW
16th St NW
Meridian Hill Park
Chapin St N
Belmont
2588
2591
2587
2589
2590
2586
2582
2584
2583
2581
2580
2547
2546
2548
2565
2576
2578
2577
2672
2671
2670
2668
2667
2666
2663
2662
2544
2549
2545
2543
2551
2550
2539
2552
2572
2571
R-5-B
R-5-D
C-2-A
C-2-B
RC/R-5-B
RC/C-2-B
D/R-5-B
FED
Site
121'
142'
202'
100'
46'
97'
150'
134'
159'
117'
160'
200'
111'
51'
170'
220'
317'
60'
154'
132'
91'
80'
181'
95'
90'



EXHIBIT C



TOTTEN TOWER LIMITED PARTNERSHIP

BZA CASE NO. 16773

GENERALIZED LAND USE MAP OF AREA SURROUNDING THE WARDER MANSION, TOTTEN COTTAGE AND TOTTEN TOWER ADDITION – TOGETHER WITH MAPPED ZONING DISTRICTS

HOLLAND & KNIGHT LLP – WASHINGTON, DC – SEPTEMBER 2001 – ©

LAND USES:

- EMBASSIES, CHANCERIES AND ANNEXES
- INSTITUTIONS AND CLUBS
- HOTELS AND OFFICES
- RETAIL
- PARKS AND RECREATION
- RESIDENTIAL USES



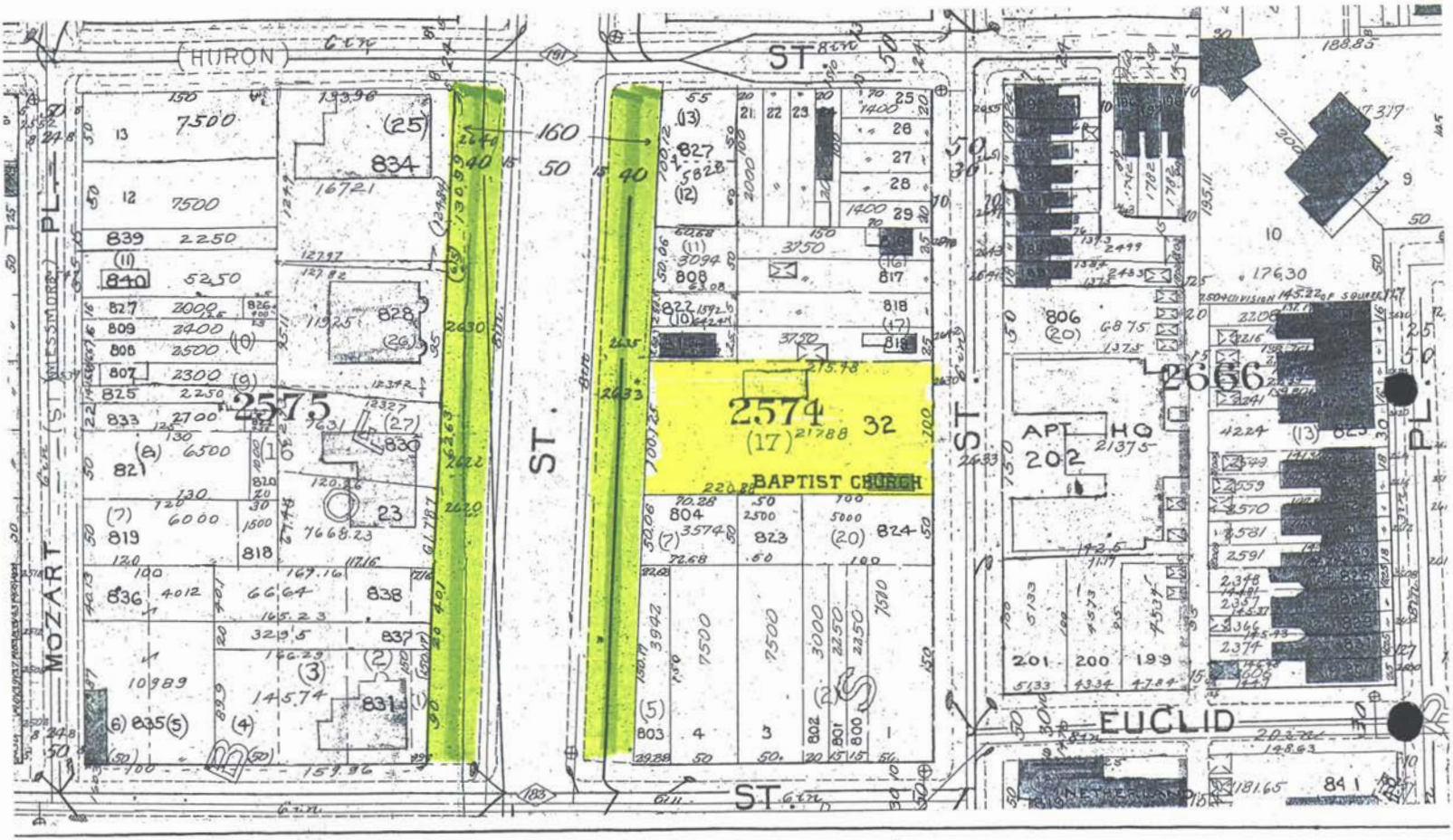


EXHIBIT D

Scale 100 feet = 1 inch

0 50 100 200 300

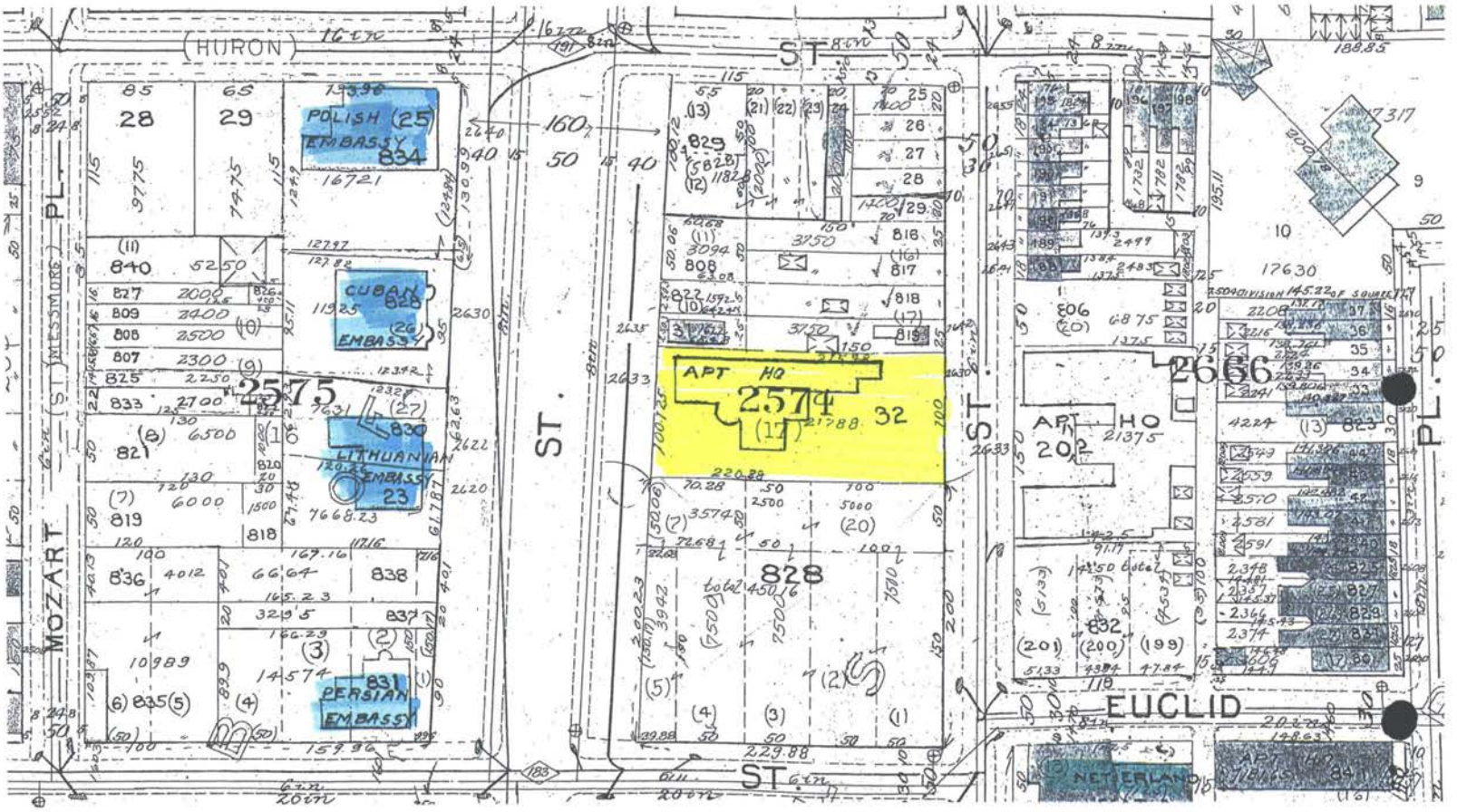
VOLUME THREE

BAIST'S REAL ESTATE ATLAS OF SURVEYS OF WASHINGTON

R. H. BAIST, 1239 W. CAMBRIA ST. PHILADA.

DISTRICT OF COLUMBIA

Sheet 9 (portion) 1921 1931 1945 1954



Scale 100 feet = 1 inch

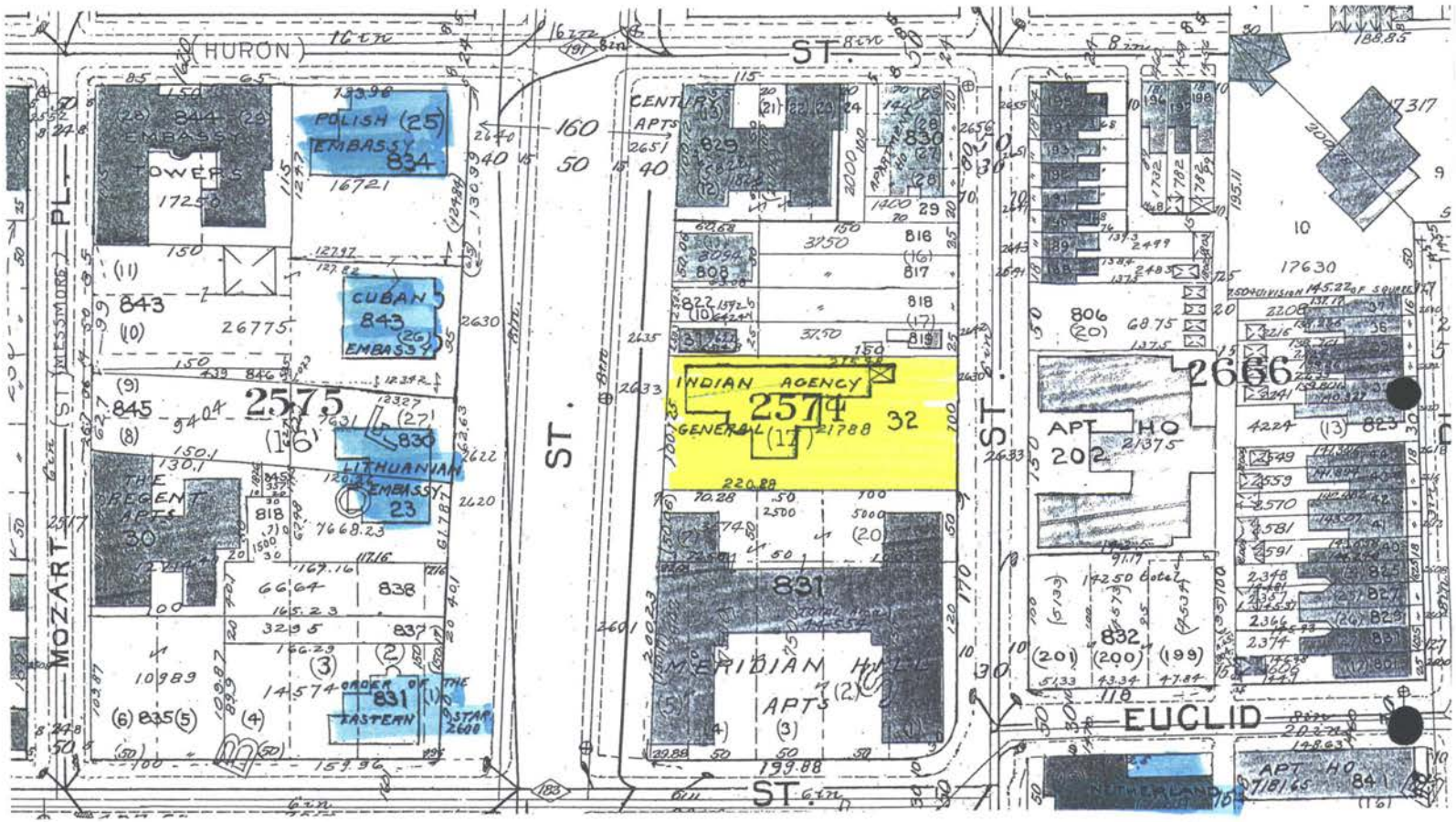
0 50 100 200 300

VOLUME THREE

BAIST'S REAL ESTATE ATLAS OF SURVEYS OF WASHINGTON DISTRICT OF COLUMBIA

R. H. BAIST, WASHINGTON, PHILADA. 1338 W. CAMBRIA ST.

Sheet 9 (portion) — 1921 1931 1945 1954



Scale 100 feet = 1 inch

0 50 100 200 300

VOLUME THREE

BAIST'S REAL ESTATE ATLAS OF SURVEYS OF WASHINGTON

DISTRICT OF COLUMBIA

Sheet 9 (portion)

1921 1931 1945 1954

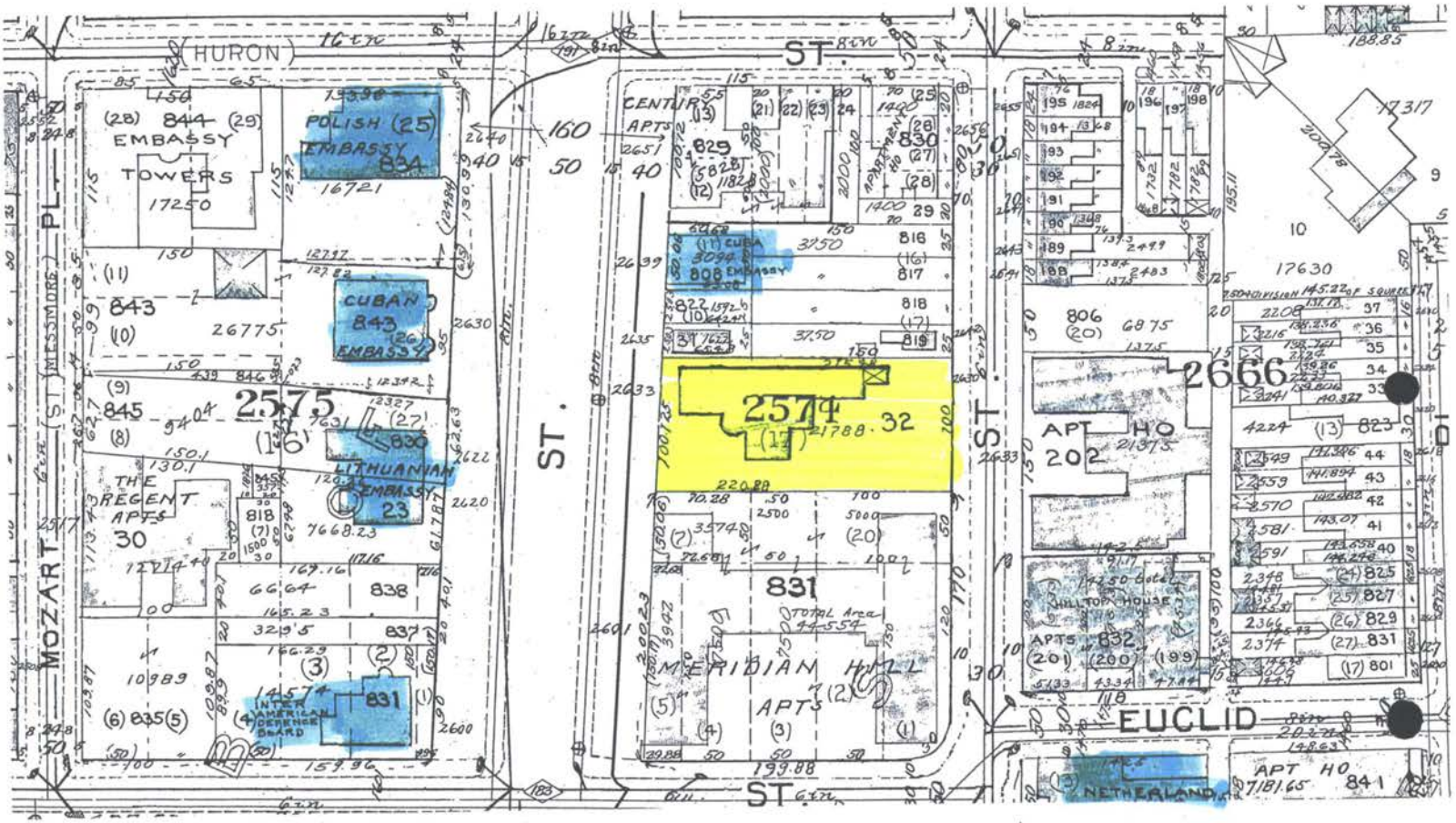

HURON
ST.
MOZART PL (ST MESSMORE)
CENTURY APTS
POLISH EMBASSY 834
CUBAN EMBASSY
LITHUANIAN EMBASSY
THE REGENT APTS
INTER AMERICAN DEFENCE BOARD
MERIDIAN HILL APTS
HILLTOP HOUSE APTS
APT HO 202
EUCLID
NETHERLAND
2575
2574
831
2666
Scale 100 feet = 1inch
0 50 100 200 300
VOLUME THREE
BAIST'S REAL ESTATE ATLAS OF SURVEYS OF WASHINGTON
R. H. BAIST
1238 W. CAMBRIA ST. PHILA.
DISTRICT OF COLUMBIA
Sheet 9 (portion)
1921 1931 1945 1954



EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of cottage of cottage looking NE (July 2000)



View of cottage of cottage looking NE (June 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of cottage looking north west (July 2000)



View of north face of mansion (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of west face of mansion, southern side (December 2000)



View of west face of mansion, northern side (December 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of west face of mansion, northern side (July 2000)



View of interior eastern side of mansion (December 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of 2nd floor of mansion looking east (December 2000)



View of mansion turret looking west (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of mansion turret looking west (July 2000)



Interior view of mansion (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



Interior view of mansion (July 2000)



Interior view of mansion (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of mansion turret looking west (July 2000)



Interior view of mansion (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



Interior view of mansion (July 2000)



Interior view of 4th fl. of mansion looking south (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



Interior view of mansion (July 2000)



Interior view of mansion (July 2000)

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of 3rd floor balcony on mansion looking south (July 2000)



EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of mansion and cottage looking north west



View of mansion and cottage looking west

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



Interior view of mansion



View of north face of mansion looking east

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of mansion roof line



View of mansion roof interior

EXHIBIT E – Photographs of Subject Site including Warder Mansion and Totten Cottage



View of mansion roof interior



View of property on east side of 15th street

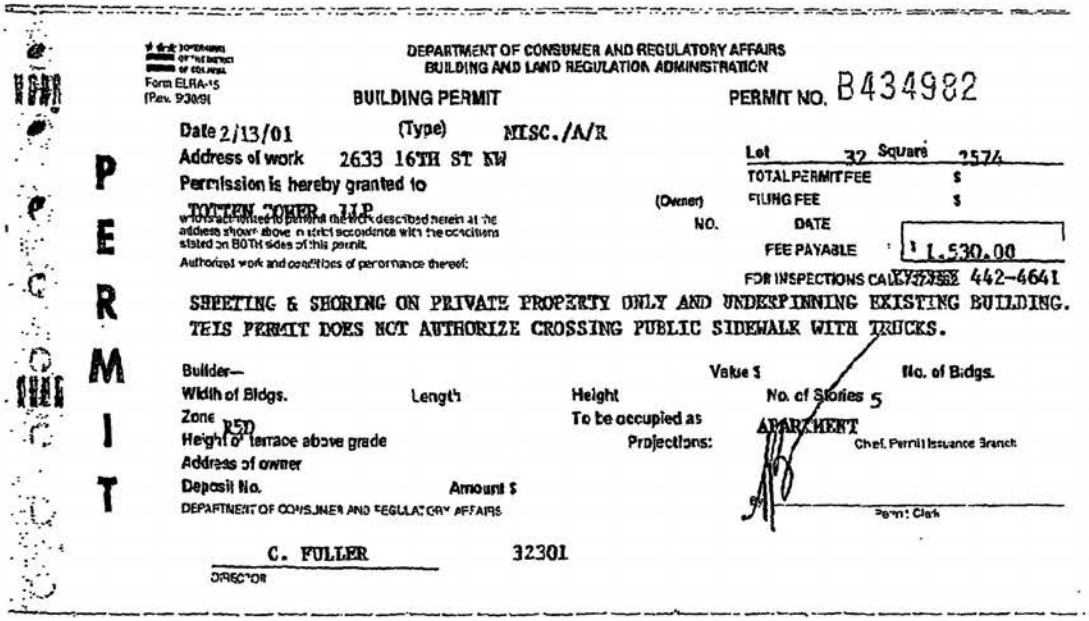
F

WARDER TOTTEN TIME LINE

Date	Activity
Mar-99	Initial site visit to consider purchase
22-Mar-99	Submitted purchase offer
Apr-99	Letter of Intent executed
15-Apr-99	Met with City to discuss assistance
May-99	Developed initial financial projections for construction and operations
9-Jun-99	Selected historic consultants (Robinson and Associates, Inc.)
28-Jun-99	Meeting at site to review project with historic consultants - developed overall historic plan
Jul-99	Drafted Purchase Contract
Aug-99	Executed Purchase Contract (90 days for financing)
Sep-99	Began interviewing Clark Builders
28-Sep-99	Second meeting with City - discussed LIHTC and back due real estate taxes on property
Oct-99	Provided keys to appraiser, environmental site assessor, engineer, and Clark Builders
Oct-99	Began negotiating with AEPA Architects & Engineers (A. Liu, AIA)
Oct-99	First Union began due diligence (equity)
Oct-99	Secured commitments from First Union (Construction Loan & Equity)
12-Oct-99	Applied for LIHTC to DHCD
14-Oct-99	Conditional reservation of LIHTC
Nov-99	Awarded LIHTC from DHCD
Nov-99	Environmental Site Assessment completed
Nov-99	Verbal commitment from Wachovia Bank (construction loan)
2-Nov-99	Wachovia Bank began due diligence (construction loan) expresses concern about historic tax credits
9-Nov-99	SWA Construction Inc. solicited additional A & E proposal from Commonwealth Architects
4-Jan-00	SWA Construction Inc. signed A & E subcontracts with Commonwealth Architects & SWA Architects
Feb-00	Began project design (Commonwealth Architects and SWA)
2-Feb-00	Received proposal from Schnabel Engineering (geotechnical engineering)
8-Feb-00	Site inspection to review project design issues
24-Feb-00	Meeting with Office of Consumer and Regulatory Office (Commonwealth Architects, SWA, Owner)
Apr-00	Received production drawings from Commonwealth Architects
14-Apr-00	***Applied for Building Permit***
18-Apr-00	Meeting with FNMA in DC
20-May-00	Meeting at site
Jun-00	Project budget approved
Jun-00	Signed civil engineering contract
7-Jul-00	Requested electrical variance - denied
7-Jul-00	Requested variance of storm water filter - denied
12-Jul-00	Preliminary Razing Permit issued
Aug-00	Clark Construction released - unable to achieve necessary budget
Aug-00	Began interviewing Monarc Construction
Aug-00	Commitment from Resource Bank (permanent loan)
Nov-00	Appraisal complete
Nov-00	Final commitment letter from First Union (equity)
Nov-00	Final commitment letter from Wachovia Bank (construction loan)
Nov-00	***Building Permit issued (raze operations)***
17-Nov-00	Began demolition work
27-Nov-00	***Submitted LIHTC Carry Forward Allocation App. - certified $1.7 million spent (min. $1.2 million)***
28-Nov-00	Meeting with DHCD in DC to discuss LIHTC
Dec-00	***Construction and equity loans closing***
12-Dec-00	***LIHTC Carry Forward Allocation approved***
Jan-01	Discovered UST
3-Jan-01	Date of UST status report
10-Jan-01	Meeting at site to review construction
Feb-01	***Building Permit issued (original submission April 14, 2000) - began construction on Mansion***
13-Feb-01	Sheeting and shoring permit issued - began construction of Tower
Mar-01	Finalized budget with Monarc Construction
26-Jun-01	Received Historic Certification Part 2 Approval from National Park Service
Mar-Jun 2001	Revised plans (change structural system of Tower, eliminate 2nd level of parking, storm water system)
01-Jul-01	***Denzel Noble advised Owner that FAR cannot be achieved***

Received Sep-07-01 11:37am From-703 641 8303 To-HOLLAND & KNIGHT LLP Page 002

Sep-07-01 10:09A Monarch Construction, Inc- 703 641 8303 P.02



PERMIT

Form ELRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B434982

Date 2/13/01 (Type) MISC./A/R

Address of work 2633 16TH ST NW

Lot 32 Square 2574

Permission is hereby granted to TOLTEN TOWER, LLP

(Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

TOTAL PERMIT FEE $

FILING FEE $

NO. DATE

FEE PAYABLE $1,530.00

FOR INSPECTIONS CALL [illegible] 442-4641

SHEETING & SHORING ON PRIVATE PROPERTY ONLY AND UNDERPINNING EXISTING BUILDING.
THIS PERMIT DOES NOT AUTHORIZE CROSSING PUBLIC SIDEWALK WITH TRUCKS.

Builder—

Value $

No. of Bldgs.

Width of Bldgs.

Length

Height

No. of Stories 5

Zone R5D

To be occupied as APARTMENT

Height of terrace above grade

Projections:

Address of owner

Deposit No.

Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

Permit Clerk

C. FULLER 32301

DIRECTOR

Received Sep-07-01 11:37am From-703 641 8303 To-HOLLAND & KNIGHT LLP Page 003

Sep-07-01 10:10A Monarch Construction, Inc. 703 641 8303 P.03

→ 32.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO. B434371

PERMIT

Date 1/18/01 (Type) ADD./A&R/FENCE/MISC PROJ.

Address of work 2633 16TH ST. N.W. Lot 32 Square 2574

Permission is hereby granted to WORDER MANSION, LOTTEN TOWER, LP (Owner) NO.

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

TOTAL PERMIT FEE $124,355.00
FILING FEE $ 2,000.00
DATE
FEE PAYABLE $122,355.00

FOR INSPECTIONS CALL 727-7562

NEW ADDITON, ALTERATION AND REPAIR AND UNDERGRD. PARKING GARAGE.
SEPARATE ELECTRICAL, PLBG AND MECH. INSTALLATION PERMITS ARE REQUIRED.
INSPECTION BRANCH 442-4641. 32301.
FENCE-MAT. MASONRY SURROUND AT DUMPSTER, HEIGHT 6'8" LOCATION ENTRANCE ON
OWNER'S LAND & PUBLIC SPACE.

Width of Bldg. Length
Zone R-5-D Height No. of Stories 9
Height of terrace above grade To be occupied as SFD
Address of owner SAME AS ABOVE Projections: THREE (3)
Deposit No. Amount $

Chief Permit Issuance Branch
D. MINOR
By ... Permit Clerk

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C FULLER
DIRECTOR

DISTRICT OF COLUMBIA GOVERNMENT
Form B-1A-5
Rev 5-1951

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO.

Date 4/19/01 (Type) MISC.

Address of work 2633 16TH STREET NW

Lot 32 Square 2574

Permission is hereby granted to SWA CONSTRUCTION

(Owner) NO.

TOTAL PERMIT FEE $

FILING FEE $

DATE

FEE PAYABLE $ 25.00

FOR INSPECTIONS CALL XXXXXX 442-4641

PERMIT is hereby granted for the work described herein at the address shown above in strict accordance with the conditions stated on both sides of this permit

Authorized restrictions or conditions of performance thereof

PLACEMENT OF A TRAILER ON THE PROPERTY.

Builder—

Value $

No. of Bldgs.

Width of Bldgs.

Length

Height

No. of Stories

Zone R5D

To be occupied as TRAILER AS AN OFFICE

Height of terrace above grade

Projections

Chief Permit Issuance Branch

Address of owner 1551 EAST MAIN STREET RICHMOND, VA

Deposit No.

Amount $

By

Permit Clerk

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER 32301

RECEIPT

Received Sep-07-01 11:37am From-703 641 8303 To-HOLLAND & KNIGHT LLP Page 005

Sep-07-01 10:10A Monarch Construction, Inc. 703 641 8303 P.05

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Form BLRA 15
Rev 5 3051

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO.

PERMIT

Date 4/19/01 (Type) MISC

Address of work 2633 16th STREET, NW

Lot 0032 Square 2574

Permission is hereby granted to

SWA CONSTRUCTION

(Owner)

who is authorized to perform the work described herein at the address stated above in strict accordance with the conditions stated on BOTH sides of this permit

Authorized work and conditions of performance thereof

NO. TOTAL PERMIT FEE $

FILING FEE $

DATE

FEE PAYABLE $ 25.00

FOR INSPECTIONS CALL 727-7562

ERECT TEMP 6FT CONST FENCE
REF BLDG PERMIT #B434371

Builder—

Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stores 5

Zone R-5-C To be occupied as APTS

Height of terrace above grade Projections:

Address of owner 1551 MAIN ST/RICHMOND, VA

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By WASHINGTON
Permit Clerk

C. FULLER

DIRECTOR

Received Sep-07-01 11:37am From-703 041 8303 To-HOLLAND & KNIGHT LLP Page 006

Sep-07-01 10:10A Monarc Construction, Inc. 703 641 8303 P.06

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BSRA-12
(Rev 1/95)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

PUBLIC SPACE PERMIT

U.C. NO.

PERMIT NO.

Date 4/19/01 (Type) OCCUPY

Address of work 2633 16th STREET, NW Lot 0032 Square 2574

PERMIT FEE $ 19.00

Permission is hereby granted to:

MONARC CONST

to perform the work describec herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

P E R M I T

TEMP USE OF ROADWAY/SIDEWALK TO ERECT CRANE LOCATED @ 15th ST, NW BTEN EUCILD & FULLER STRS, NW. LENGTH OF WORK 100', WIDTH OF WORK 20'. USE OF SIDEWALK/ROADWAY LOCATED ON 15TH/15TH BETWEEN EUCLID/EUCLID AND FULLER/FULLER. LENGTH OF WORK 100'/100'. WIDTH OF WORK 20'/20'. OCCUPY PORTION OF ROADWAY & SIDEWALK THE ERECTI· OF A CRANE TO ENABLE THE CONSTRUCTION OF A PRECAST BUILDING AT THE PROPOSED ADDRESS, AREA CONTAINED BY CONSTRUCTION FENCE. NO BLOCKING PUBLIC ALLEY WITH TRUCK OR CONSTRUCITON EQUIPMENT. NO PRIAVE VEHICLES MAY BE PARKED IN THIS AREA AUTHORIZE BY THIS PERMIT. THE ATTACHED CONDITIONS ARE PART OF THIS PERMIT. BARRICADES AND/OR LIGHTS MUST BE PROPERTY PLACED TO DIRECT TRAFFIC AROUND DUMPSTERS, CRANES, TRUCKS AND CONSTRUCTION EQUIPMENT.

Cal. No. Drawing No. Sht No.
Job No.
THIS PERMIT EXPIRES:
727058

EXPIRES: 5/19/01

C. FULLER
DIRECTOR

32702

Chief, Permit Issuance Branch

By: _____
PERMIT CLERK

Received Sep-07-01 11:37am From-703 641 8303 To-HOLLAND & KNIGHT LLP Page 007

Sep-07-01 10:10A Monarch Construction, Inc. 703 641 8303 P.07

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
Rev. 5/00-91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO. B433250

Date 11/16/00 (Type) RAZE OPERATIONS

Address of work 2633 16TH ST. N.W. Lot 32 Square 2574

Permission is hereby granted to

WORDER MANSION, TOTTEN TOWER LP (Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit. FEE PAID ON B-428044

Authorized work and conditions of performance hereof

NO.

DATE

FEE PAYABLE $0.00

TOTAL PERMIT FEE $

FILING FEE $

FOR INSPECTIONS CALL 727-7562

TO RAZE 2STORY COTTAGE AND STUDIO REAR ADDITION TO MANSION.
3 STORY SUNPORCH ATTACHED TO REAR OF MANSION, MATERIAL TERRA COTTA BLOCK AND WOOD FRAMING. RAZE METHOD BULLDOZER, CLEN CRANE, HEIGHT 30' COTTAGE

Builder— 30' PORCH, LENGTH 66' COTTAGE, 20' PORCH, WIDTH 26' COTTAGE

Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories

Zone 12' PORCH. To be occupied as VACANT LOT

Height of terrace above grade Projections:

Address of owner SAME AS ABOVE

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Assistance Branch

D. MINOR

By Permit Clerk

C FULLER INSPECTION BRANCH 442-4641.

DIRECTOR

PERMIT

District of Columbia Government
Department of Housing and Community Development

NOV - 2 1999

Mr. Timothy M. Chapman
Member
Totten Tower Limited Partnership
1610 West Abingdon – Suite 101
Alexandria, VA 223143219

Re: Binding Forward Commitment to Allocate $1,300,000 of Low Income Housing Tax Credits for the Rehabilitation of Warder-Totten House

Dear Mr. Chapman:

The District of Columbia's (District) Department of Housing and Community Development (DHCD) hereby advises you that your proposal on the above captioned project has been approved for the binding forward commitment, under Internal Revenue Code Section 42(h)(1)(c), Low Income Housing Tax Credits (LIHTC) to be allocated from the District's year 2000, 2001, and 2002 per-capita allocations. The amount of the binding commitment for Totten-House (the "Project") in year 2000 shall be Four Hundred Thirty-Three Thousand Three Hundred Thirty-Four Dollars ($433,334.00), which shall be in addition to the Four Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($433,333.00) of LIHTC to be allocated in year 2001, and Four Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($433,333.00) to be allocated in year 2002; however, in no event shall the sum of the Project's LIHTC allocations exceed one hundred and thirty percent (130%) of the Eligible Basis multiplied by the Applicable Percentage.

Upon receipt of satisfactory evidence of fulfilling all applicable requirements of the District's LIHTC Program and of Section 42 of the Internal Revenue Code, DHCD agrees that the aggregate amount of One Million Three Hundred Thousand Dollars ($1,300,000.00) of LIHTC shall be allocated to the Project in the following manner:

1. In 2000, the Project shall receive, subject to the limits of this Agreement, the District's per capita LIHTC allocation in the amount of $433,334.00.

2. In 2001, the Project shall receive, subject to the limits of this Agreement, the District's per capita LIHTC allocation in the amount of $433,333.00.

3. In 2002, the Project shall receive, subject to the limits of this Agreement, the District's per capita LIHTC allocation in the amount of $433,333.00.

The issuance of Binding Commitment agreements for years 2001 and 2002 shall be contingent only upon: (1) Totten Tower L.P.'s compliance with the year 2000 Binding Commitment and Allocation Agreements (attached hereto as Exhibit A); (2) Totten Tower L.P.'s compliance with the year 2001 Binding Commitment and Allocation Agreements and (3) the availability, to the District of Columbia, of LIHTC in amounts sufficient to honor the above agreement.

It is further understood and agreed that, to the extent necessary to comply with this agreement, Totten Tower, L.P. shall have first priority access to the District's 2000, 2001 and 2002 per capita LIHTC allocations.

The per-capita credit amount is determined by multiplying the Internal Revenue Service's estimation of the District's population by 1.25. Therefore, it is reasonable to anticipate that the District will have sufficient LIHTC to honor this agreement.

Any and all requirements under the 2000 Binding Commitment and Allocation agreements shall remain in force and, to the extent allowable by law and this agreement, the 2001 and 2002 Binding Commitment and Allocation agreements shall substantively replicate the 2000 agreement.

We understand that the First Union Capital Markets Group will rely on this letter in determining the amount and timing of its equity contributions to the Project.

If you have any questions regarding this matter, please address them to Ms. Barbara Chism, of my staff. Ms. Chism can be reached on (202) 442-7280. Thank you for your participation in the DHCD's mission to improve and preserve affordable housing for District of Columbia citizens.

Sincerely,

Othello Mahone
Interim Director

cc: David S. White

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

December 14, 2000

Kutak Rock LLP
Bank of America Center – Suite 800
1111 East Main Street
Richmond, VA 23219-3500

Re: Lot 32/Square 2574
Warder-Totten House
2633 – 16th Street, NW
Washington, DC

To Whom It May Concern:

You have indicated that Totten Tower LP and Warder Mansion LP intend to rehabilitate the existing historic buildings on the above referenced property for use as a 38 unit apartment complex and further that these entities intend to construct an addition to the existing property consisting of a plaza, a 30 unit parking garage and a nine story apartment tower containing 80 units.

Please be advised that this property is zoned R-5-D (Residential) and that this proposed use of the property is a matter of right use under the applicable zoning regulations. Furthermore, the parking requirements contained in the R-5-D (Residential) zoning regulations are waived for this proposed use pursuant to Section 2100.5 of the DC Zoning Regulations and upon the recommendation the State Historic Preservation Officer, because the subject property is an individually designated landmark. This waiver applies to the existing historic building and the new construction which is all deemed to be an addition to the existing historic buildings

Page 2 of 2 Pages

I have attached a copy of the R-5-D zoning regulations and Section 2100.5 of the zoning regulations for your review.

Respectfully,

Michael D. Johnson
Zoning Administrator

MDJ/er
2633 – 16th NW

NOTE FOR FILING:

Applicant was to have supplied attorney-planner with the a complete copy of the District-approved agreement binding the applicant to produce 80 units of below market rate housing as part of the overall site devlopment.

The individual with this document was out of the area, and away from this document, on September 11, 2001, when he was to have returned in time to provide this document. September 11 was the date of several apparent terrorist attacks on the United States, resulting in the shutdown of domestic air travel, and shutdown of both the District and Federal Governments.

The applicant will seek to add this document to the record in this case prior to the hearing, covered by a request for waiver of the relevant rules.

OUTLINE OF TESTIMONY
TIM CHAPMAN, TOTTEN TOWER LIMITED PARTNERSHIP

I. Introduction
   A. Description of Totten Tower Limited Partnership
   B. History and Experience in Projects of this type
   C. History of Totten Tower and Its Investigation into and Acquisition of this Site
   D. History of due diligence, historic preservation and restoration planning and approvals, and other obligations

II. Description of Project

   A. Description of Area
   B. Description of Building Design
   C. Basic development parameters in terms of units, location, and nature.

III. Site is Exceptional -- Description of Site and Development Parameters
   A. Historic property
   C. Obligations to Federal Government
   C. Obligations to DC
   D. Review of development process and zoning reviews (in combination with SWA Architects)
      1. Date filed
      2. Date certain building code variances sought and answered
      3. Date building plans were approved
      4. Date building permit issued
      5. Need for variances noted at that time
      6. Date FAR issue emerged and actions that followed (timeline)

III. Variance Relief Requested -- Deviation from the FAR Limitation

   A. Exceptional Condition or Situation
   B. Practical Difficulty
   C. No Detriment to Public Good

IV. Conclusions

H

OUTLINE OF TESTIMONY
SWA ARCHITECTS, PROJECT ARCHITECTS

I. Introduction
   A. Description of SWA and relationship to other architectural firm (Commonwealth).
   B. History and Experience in Projects of this type and in Washington

II. Description of Project

   A. Description of Area
   B. Description of Building Design
      1. Proposed Height, FAR, Design
      2. Proposed Materials
   D. Parking (not required, but provided)
   E. Loading (not required)

III. Site is Exceptional -- Description of Site
   A. Historic property
   C. Obligations to Federal Government
   C. Obligations to DC
   D. Review of development process and zoning reviews

III. Variance Relief Requested -- Deviation from the FAR Limitation

   A. Exceptional Condition or Situation
   B. Practical Difficulty
   C. No Detriment to Public Good

IV. Conclusions

1

OUTLINE OF TESTIMONY
LINDSLEY WILLIAMS, EXPERT IN ZONING AND LAND USE

I. Introduction
   A. Involvement in Zoning Variance for Applicant (date)

II. Description of Project Area

   A. Description of Site and Surrounding Area
      1. Uses
      2. Densities
      3. Comprehensive Plan
      4. Historic Districts (none to date) and landmarks

   B. Description of Building Design
      1. Proposed total and incremental FAR
   C. Parking (not required, but provided)
   E. Loading (not required)

III. Site is Exceptional -- Description of Site
   A. Historic property
   C. Obligations to Federal Government
   C. Obligations to DC
   D. Review of development process and zoning reviews

III. Variance Relief Requested -- Deviation from the FAR Limitation

   A. Exceptional Condition or Situation
   B. Practical Difficulty
   C. No Detriment to Public Good
      1. Adjacent properties
      2. Nearby, but not adjacent
      3. Zone District conformance
      4. Comprehensive Plan
      5. "Doing Business" in the District of Columbia

IV. Conclusions

آ

DRAFT

Application No. 16773 of TOTTEN TOWER LIMITED PARTNERSHIP, pursuant to 11 DCMR § 3103.2 for variances from the floor area ratio requirement (Section 402), for the construction and subsequent occupancy of apartment units within the Totten Cottage, a historic landmark, and part of the overall improvements of the premises 2633 Sixteenth Street, NW (Square 2574, Lot 32).

HEARING DATE: September 25, 2001
DECISION DATE: September 25, 2001 (Bench Decision)

SELF CERTIFICATION

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

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 Applicant, Advisory Neighborhood Commission (ANC) 1B, and to owners of all property within 200 feet of the property that is the subject of this application. The application was referred to the Office of Planning (OP) for review and report, *which recommended* ____. *The Board also waived the rules to accept the late filing of the OP report.*

The subject property is located within the jurisdiction of ANC 1B. ANC 1B filed a written statement supporting the application, which they sent following a regular monthly meeting following a vote of the ANC members when a quorum was present at a duly Noticed meeting of the ANC. *When the Board acts in a manner consistent with the recommendations of an ANC, as here, the summary Order need not detail the reasons why or recite and discuss any specific issues raised.*

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR §§ 402. No person or entity appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

When cases are eligible for Summary Orders, persons and parties in support need not be included in the Summary. *The application was supported at the hearing by several individuals and organizations.*

The Board closed the record at the hearing. Based upon the record before the Board, and having given great weight to the Office of Planning's report filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to

11 DCMR § 3103.2 under §§ 402, that there exists an exceptional or extraordinary situation or condition related to the property that 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 the application is **GRANTED**, subject to the following condition:

> The Applicant will dedicate the gross square footage sought and approved to the renovation and occupancy of the Totten Cottage portion of the overall project at the property as apartment units.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 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: 5-0-0 (Sheila Cross Reid, Anne Renshaw, David Levy, Geoffrey Griffis, and *Zoning Commission designee* to grant)

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____
Jerrily R. Kress, FAIA
Director

FINAL DATE OF ORDER: _____

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING

PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

WAS1 #1011886 v1