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D.C. OFFICE OF ZONING
2002 JUL -9 PM 4:31

July 9, 2002

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: BZA Application No. 16907 of US Property Development Corporation
Our File No. 092000.0008

Dear Mr. Griffis:

Enclosed for consideration by the Board of Zoning Adjustment you will find an original and twenty (20) copies of the prehearing statement of the applicant in the above-referenced matter. With a copy of this letter, we are sending a copy of the prehearing statement to the Office of Planning and to the ANC 2F.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

Enclosures (as stated)
cc: Metropolis Development Co.
Office of Planning, Arthur Jackson
ANC 2F

45630525.1

BZA
Case No. 16907
Exhibit No 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16907
EXHIBIT NO.22

PRE-HEARING STATEMENT

On behalf of

US PROPERTY DEVELOPMENT CORPORATION

for

APPLICATION FOR TWO AREA VARAINCES AND

A SPECIAL EXCEPTION

at

1522-1526 14TH Street, N.W.





BZA APPLICATION NO. 16907

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of:
US Property Development Corporation

BZA Application No.: 16907
Hearing Date: July 23, 2002

STATEMENT OF THE APPLICANT

I.
Introduction

This is an application pursuant to 11 D.C.M.R. §§ 3103 and 3104. The subject property is located at Square 209, Lot 98 and has a premises address of 1522-1526 14th Street, N.W. (the "Property"). US Property Development Corporation ("US Property"), the owner of the Property, has formed a joint venture with Metropolis Development Company LLC ("Metropolis"), pursuant to which Metropolis will develop the Property. US Property proposes to construct a mixed-use, retail, arts and residential project at the Property. To facilitate this development, US Property is seeking two area variances from the lot occupancy (11 D.C.M.R. § 772) and residential recreation space (11 D.C.M.R. § 773) requirements of the Zoning Regulations, as well as a special exception from the ground floor retail requirements of section 1901 of the Zoning Regulations. US Property submits that it meets the criteria for the requested relief.

II.
Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to 11 D.C.M.R. §§ 3103.2 and 3104.1.

III.
Background Information

A. The Property and Surrounding Neighborhood.

1. The Property. The Property is located at the northeast corner of 14th and Church Streets, N.W. in the Greater 14th Street Historic District. The site contains 30,870 square feet of land. The eastern property line runs parallel with 14th Street; the southern property line is along Church Street; the northern property line is adjacent to a ten foot (10') public alley right-of way; and the western property line is adjacent to an existing three-story brick building.

2. The Neighborhood. The Property is located one block away from Q Street, which is developed with historic rowhouses ranging in height between twenty to forty feet (20'-40'). As explained in greater detail below, the 1500 block of 14th Street is characterized by commercial buildings, formerly used as automobile showrooms or associated with the automobile industry.

3. Recent Development. The surrounding neighborhood has experienced recent growth in development, both in proposed new construction, such as the instant project, as well as ongoing construction. For example, Hoffman currently has two residential projects under construction in Square 209 at Lots 102 and 103 (1440 Church Street and 1425 P Street, respectively). *See* BZA Application Nos. 16841 and 16848. Additionally, the Property is one of three (3) projects in Square 209 that US Property is in the process of developing for mixed-use, retail, arts and residential purposes. The other properties are know as "Parcel B", which is located at the southwest corner of 14th and Church Streets, N.W. at 1510 & 1520 14th Street and 1410 Church Street (Square 209, Lots 837 and 916), and "Parcel C", located at the northwest corner of 14th and P Streets at 1500 through 1508 14th Street, N.W. and 1413 P Street, N.W. (Square 209, Lots 800, 801, 802 and 803). Both

Parcel B and C are undergoing historic preservation review.

The Greater U Street Historic District. As mentioned above, the Property is located in the Greater 14th Street Historic District, which is roughly bounded by S Street on the north, 11th and 12th Streets on the east, N and O Streets on the south, and the 16th Street Historic District on the west.

The Greater 14th Street Historic District, a diverse mid-city neighborhood, is primarily associated with the Victorian-era rowhouses that line many of its streets. Development of this area is associated with the streetcar line that ran along 14th Street. In addition to its association with residential development, the Greater 14th Street Historic District is notable for the late 19th and early 20th century commercial buildings along 14th Street, most particularly for the city's greatest concentration of automobile showrooms from the early 20th century. The 1500 block of 14th Street (between P and Q Streets) had the city's greatest concentration of these showrooms and, as such, earned the moniker "Automobile Row".

In the 1920s, 14th Street was the city's busiest street car line. The classically-styled showrooms built along this stretch have a distinctive, monumental presence and character and are reflective of national trends in the design, location, construction and internal organization of this new type of building. The showrooms were typically limestone buildings with large expanses of windows for display. The buildings were intended to reflect the elegance associated with the early days of the automobile.

In contrast to the high-style automobile sales showrooms fronting 14th Street, which represent the most architecturally distinguished remnants of this era, the industry was supported by numerous, more utilitarian, service-related facilities. These service facilities included shops for repairs and tire

sales, garages, and gas stations. The buildings that housed these shops were more modest in size and expression than the automobile showrooms and were primarily relegated to less prominent alley or side street locations. Church Street is unique in being the only side street in the historic district that was devoted to these service functions, which help convey the full historical picture of the automobile industry and its impact on the Historic District.

Church Street is a relatively narrow street with a width of only fifty-feet (50'), in comparison to the 110-foot width of 13th, 14th and 15th Streets and the ninety-foot (90') width of P, Q and R Streets. Buildings along Church Street were generally built to or just a few feet behind the property line, resulting in no public greenspace. There have always been open parking lots along Church Street, as well as a wide variety of both small and large scaled buildings, the majority of which have been auto-service related.

B. The Proposed Development.

1. History of the Design Process. US Property, through Metropolis, has been working with the community and Historic Preservation Division ("HPD") staff of the Office of Planning ("OP") in designing the improvements to the Property, as well as the development of Parcels B and C, for almost two (2) years. During this time, the design of the improvements to the Property has changed significantly to accommodate the concerns of the surrounding community, HPD and, most recently, the Historic Preservation Review Board ("HPRB").

a. Attempts to Down-zone the Area. There have been two (2) attempts by Advisory Neighborhood Commission ("ANC") 2F (previously ANC 2C) to down-zone the surrounding area, including the Property, so as to limit buildings heights to fifty feet (50'). Although these attempts were unsuccessful, they are important to understand, as they provide the basis for the

height limitation on the proposed development of the Property.

The first attempt to down-zone the surrounding area occurred in Zoning Commission Case No. 87-7 ("Howard Gateway and 14th & U Street Area")[1], wherein ANC 2C asked the Zoning Commission to "[p]rotect adjacent housing in the 1400 blocks of P and Church Street with C-2-A zoning and a 50-foot height limit on Church Street and P Streets." *Zoning Commission Order No. 632* at p.2 (37 D.C. Reg. 1451; February 23, 1990). In response, the Zoning Commission explicitly stated that it "Does not concur with the recommendation of ANC 2C that a 50-foot height limit is appropriate for Church Street frontage." *Id.* At p. 5 (37 D.C. Reg. at 1455)(relying on the Compressive Plan designations for commercial density for the specific area).

The second attempt to down-zone the surrounding area was in 2000, when ANC 2F requested that the Office of Planning ("OP") support its petition for an amendment to the Zoning Regulations to remove the seventy-five foot (75') height limit and replace it with a fifty foot (50') height limit. Although OP did not agree with ANC 2F that the area should be down-zoned, OP did commit to keeping the height of any new development as low as possible.

The community's concern regarding the height of any new development is in response to its desire to protect the nature of the surrounding neighborhood to the north of the Property, including Q Street, N.W., which is characterized by three-story townhouses, many of which include English-basements. Somewhat out of character with the neighborhood is the PN Hoffman developments under construction at the south side of Church Street, N.W. at Lots 102 and 103 in Square 209 (at the

[1] In Case No. 87-7, the Zoning Commission adopted a new Chapter 19 of Title 11 to eliminate inconsistencies between the zoning regulations that govern the areas and the Comprehensive Plan so as to protect residential areas and to encourage revitalization of the area.

premises of 1440 Church Street and 1425 P Street, respectively), which have a height of seventy feet (70'). Additionally, at the intersection of Q and 14th Street is the Barrett School condominiums, which have a height of sixty to sixty-five feet (60'-65').

b. Initial Proposal. In late 2000, Metropolis went before the HPRB with a design proposal that called for adding an additional floor to the structure at 1522-24 14th Street, two (2) additional floors to 1526 14th Street, as well as a one-story addition to the utilitarian addition of 1526 14th Street, which fronts Church Street, and a four-story addition to the vacant area adjacent to the utilitarian addition. The additions to the existing buildings were to be set back from the front facades by approximately twelve feet (12'). The one-story addition would have risen to fifty-four feet (54') and the two-story addition to sixty feet (60'). Because of the configuration of the existing buildings, this preliminary design did not take advantage of the full FAR available at the Property.

As a result of concerns of the community and HPD that the proposed buildings would overshadow the historic rowhouses in te 1400 block of Q Street, Metropolis agreed to limit the additions to one-story and a height of fifty-four feet (54'), with setbacks of twelve feet. As a result, even less FAR was utilized in this design. At its October 26, 2000 meeting, HPRB approved this massing.

c. HPRB Conceptual Design Review. In April, 2002, Metropolis appeared before HPRB seeking conceptual approval of its design for the Property, which design was in accordance with HPRB's previous approval of massing and Metropolis's agreement with the community to limit the building height to fifty-four feet (54'). Despite its prior approval of this massing and much to Metropolis's surprise, at the April 25, 2002 hearing, HPRB reversed its approval of the massing and recommended that fourth floor additions be set back by forty to sixty

feet (40' to 60' feet) along 14th Street. Accordingly, Metroplis redesigned the improvements so that the fourth floor addition would be set back from 14th Street by forty-two feet (42') on the building located at 1526 14th Street and by sixty-one feet (61') on the building at 1522-1524 14th Street. HPD staff recommended approval of this massing and HPRB adopted the HPD staff report at its May 23, 2002 meeting.

Approximately three (3) residential units were lost as a result of the massing change recommended and approved by HPRB in May 2002.

2. The Current Proposal. As a result of the historic preservation review, the current proposal includes a fourth floor addition to the existing buildings that will be set back from 14th Street by forty-two feet (42') on the building located at 1526 14th Street and by sixty-one feet (61') on the building at 1522-1524 14th Street. A five-story addition will be added to the currently vacant portion of the site.

The project will contain approximately 12,182 square feet of ground floor retail. The retail space will be located in the existing buildings. However, there is limited street frontage on 14th Street in comparison to the depth of the existing buildings. As a result, the retail space provided will have very limited street frontage along 14th Street, which is a major pedestrian thoroughfare. Because the limited street frontage will make the retail space will be difficult to market, it is expected that much of the retail space will be occupied by a health club.

Eighty-six (86) residential units will also be provided in the development. Of these units, forty-eight (48) will be located in the existing buildings, with the remaining thirty-eight (38) units located in the additions.

Because the existing buildings are contributing buildings and because the proposed

construction is an addition to these buildings, there are no parking and loading requirements for the project. Regardless, US Property is providing a three (3) level, below grade parking garage on the presently vacant site, which will contain approximately 79 spaces. A loading area of approximately 1000 square feet is also being provided at the rear of the Property.

C. Zoning.

The Property is in the C-3-A zone district and within the Uptown/Arts Overlay ("Arts Overlay"). The C-3 zone districts are designed to accommodate important sub-centers supplementary to the Central Business district and, as such, are intended to provide substantial amounts of employment, housing and mixed uses. 11 D.C.M.R. §§ 740.1 & 740.2. The C-3-A zone district permits medium density development, with a density incentive for residential development within a general pattern of mixed uses. 11 D.C.M.R. § 740.4. The C-3-A zone districts are to be located on arterial streets, in uptown centers and at rapid transit stops.

Matter of right uses in the C-3-A zone district include, *inter alia*, multiple dwelling and retail. 11 D.C.M.R. § 741.

The Arts Overlay District is intended to encourage retail and residential uses and to expand the housing supply in the overlay district. 11 D.C.M.R. § 1900.2. In addition to promoting the housing supply, the Arts Overlay District, as with the C-3-A zone district, is intended to expand business and job opportunities. 11 D.C.M.R. § 1900.2(e).

There is a strong emphasis on pedestrian activity in the Arts Overlay and, as such, the Overlay requires uses that encourage pedestrian activity such as retail, entertainment and residential uses. 11 D.C.M.R. § 1900.2(b). An example of this emphasis is the requirement that retail and services and arts and related uses, as set forth in Sections 1907 and 1908, respectively, occupy no

less than fifty percent (50%) of the ground level of a building that fronts 14th Street. 11 D.C.M.R. §1901.1.

Other relevant goals of the Arts Overlay are to:

(a) Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;
(b) Expand the area's housing supply in a variety of rent and price ranges;
(c) Encourage development of residential buildings.

11 DCMR § 1900.2(c)-(e).

IV.
Area Variance Considerations

A. The Standard for Area Variances.

The standard for obtaining an area variance is well settled. In the leading case of *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972), the Court interpreted D.C. Code, §§ 5-420, 5-424(g)(3) and the corresponding provision of the Zoning Regulations, 11 D.C.M.R. § 3103.2, which permits the Board to grant variances, pursuant to the following:

> 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 this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial determent to the public good and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the zoning regulations and map.

The above regulation sets up separate statutory requisites to the granting of variances, i.e., a

showing of "practical difficulties" or "undue hardship". The court adopted the dichotomy recognized in other jurisdictions between area variances and use variances, applying the statutory requisite of "practical difficulties" to a showing of the former, and applying the separate statutory requisite of "undue hardship" to a showing of the latter. *Id.* at 541. Because "an area variance, relating to restrictions such as side yard, rear yard, frontage, set-back or minimum lot requirements, does not alter the character of the zoned district, whereas a use variance seeks a use ordinarily prohibited in the particular district", the court held that a "more stringent showing is warranted with respect to the more drastic relief inherent in a use variance". *Id.* at 541. In short, the Board is empowered to grant an area variance where it finds three conditions:

(1) The property is unique because, *inter alia*, of its size, shape or topography;

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

(3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

Roumel v. District of Columbia Bd. of Zoning, 417 A.2d 405, 408 (D.C. 1980); *see also Association For The Preservation Of 1700 Block Of N Street, N.W. v. Board of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978)(the applicant must demonstrate that compliance with the area restriction is unduly burdensome and the practical difficulties are unique to the property).

Reviewing the criteria for an area variance recently, the Court, in *Capital Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 941-942 (D.C. 1987), stated that the

> threshold requirement to show that the property is unique with respect to the hardship or difficulty asserted as grounds for the variance means the property owner must present proof that "the circumstances which create the hardship *uniquely* affect the *petitioner's property* * * * ." *Taylor, supra* note 6, 308 A.2d at 234 (emphasis in original).

Id.; see also Russell v. Board of Zoning Adjustment, supra, 402 A.2d at 1235 (the requirement that the practical difficulty be caused by the uniqueness of the property "insures relief for problems peculiarly related to the * * * land or structure, and not shared by other property in the neighborhood, thus avoiding a de facto amendment of zoning laws.").

In other words, US Property must demonstrate that compliance with the area restrictions is unduly burdensome and the practical difficulties are unique to the Property. In finding an extraordinary or exceptional condition, the Board may rely upon a confluence of factors.

As illustrated below, the Property at issue in this case is, indeed, unique, as that term has been applied to area variances, and a practical difficulty does result from the strict application of the Zoning Regulations.

B. Uniqueness and Practical Difficulty.

1. Uniqueness of the Property. The practical difficulties in complying with the Zoning Regulations arise from unique conditions affecting this Property, most notably the existing historic structures, which currently occupy sixty-five percent (65%) of the Property. Because these buildings are contributing buildings, the development of the Property is restricted and must incorporate the existing buildings.

Development of the Property is further restricted by its location in the Greater 14th Street Historic District and the accompanying requirement that any construction be compatible with the Historic District. Because the Historic District is predominantly characterized by its smaller,

residential structures, developing these contributing commercial buildings in a manner compatible with the neighborhood presents a unique challenge. For example, in order to prevent the historic rowhouses in the 1400 block of Q Street from becoming overwhelmed or overshadowed by the proposed additions at the Property, HPD recommended that the additions be restricted to one-story or fifty-four feet (54') in height. HPRB has also required the setbacks of the additions by forty-two (42) and sixty-one (61) feet along 14th Street, N.W.

Lastly, the Property is unique given its narrow width and limited street frontage along 14th Street, in comparison to its extreme depth. That is, the Property is only ninety-feet (90') wide and has a depth of three hundred and forty-three feet (343'), or over three and one half times the width of the Property.

2. Practical Difficulties in Meeting the Lot Occupancy and Residential Recreation Space Area Requirements of the Zoning Regulations. As illustrated below, due to the constraints imposed on the Property because of the historic buildings and its location in the Greater 14th Street Historic District, US Properties must seek variances in order to develop the Property. US Properties has put careful consideration into the design of the proposed project in facing the difficult challenge of conforming to the historic preservation requirements, while at the same time attempting to maximize retail and arts space, as well as the amount of residential housing provided at the Property and limiting the amount of zoning relief required.

a. Lot Occupancy. The configuration of the existing buildings, along with the restraints on the development of the Property due to its historic nature, create practical difficulties, if not a physical impossibility, in complying with the lot occupancy requirements of the Zoning Regulations.

The maximum lot occupancy for buildings devoted to residential use in the C-3-A zone district is seventy-five percent (75%). 11 DCMR §772.1. As stated above, the existing improvements to the site occupy sixty-five percent (65%) of the Property and the lot occupancy with the proposed additions is ninety percent (90%). It is notable that the currently vacant portion of the site was previously a separate lot from the improved portions of the Property and that prior to subdividing the lots, the historic structures occupied greater than ninety percent (90%) of their respective lot. The addition to the currently vacant portion of the site occupies only seventy-five percent (75%) of the vacant portion of the Property.

The need for the variance from the lot occupancy requirements is clearly necessitated by the historic preservation design requirements. Because the height of the improvements to the Property has been limited to fifty-four feet (54'), the building has been compressed and, as a result, the lot occupancy has been increased.

Although not required, the applicant is providing three (3) levels of parking on the currently vacant portion of the Property. Additionally, the applicant proposes to maximize the housing and retail/arts available at the project so as to comply with the Zoning Regulations, as well as to ensure that the project is financially viable. As a result, the applicant is proposing ninety percent (90%) lot occupancy, as the conditions at the Property present a practical difficulty in complying with the lot occupancy requirements of the Zoning Regulations.

b. Residential Recreation Space. The practical difficulties in complying with the residential recreation space requirements of the Zoning Regulations are even more compelling than with the lot occupancy requirements. In this instance, the existing conditions and development restraints on the Property make it physically impossible to meet the requirements of the Zoning

Regulations.

The C-3-A zone district requires private recreation space for fifteen percent (15%) of the gross floor area devoted to residential purposes, of which fifty percent (50%) must be located outside of the building. 11 D.C.M.R. §§ 773.3 and 773.8. With 98,875 square feet of residential space, the proposed development requires 14,831 square feet of residential recreation space, of which at least 7,415 square feet must be located outside.

Recent history has proven that the residential recreation space requirement is extremely difficult (if not impossible) to comply with. More importantly, this requirement is contrary to the goals of the underlying zoning to encourage the maximization of housing and to increase pedestrian activity. In fact, both the Board and the Zoning Commission have recently recognized that this requirement is inappropriate for an urban neighborhood. *See, e.g.* March 19, 2002 BZA Transcript (BZA Application Nos. 16841 & 16848) at 41 and 75-76; December 18, 2001 BZA Transcript (BA Application No. 16809)(wherein the esteemed Chairman of the Board referred to the requirement as "antiquated"). As a result, both the Board and the Zoning Commission have requested that OP further study these "onerous and impractical" requirements and recommend appropriate amendments to the Zoning Regulations to remedy the outdated nature of the requirements for residential recreation space. *Id.* However, until such amendments are adopted, applicants are forced to seek relief from the Board to reduce the amount of residential recreation space provided at a given project.

The residential recreation space provided at the Property is 1.3% of the total residential area, of which 0.3% is provided on a roof-top deck and the remaining 1% is located in the residential lobby. As a mitigating factor, private residential space is provided by way of private roof top decks and private terraces on many of the units. The total private recreation space provided is 10,800

square feet, or nine percent (9%) of the total residential space. The resulting combined residential space (i.e., both private and "public") is over ten percent (10%) of the residential space. Consequently, US Property is complying with the spirit of the Zoning Regulations.

Again, the practical difficulty in providing the required fifteen percent (15%) residential recreation space arises from the configuration existing buildings and the constraints placed on the development of the property due to its historic nature and location in the Greater 14th Street Historic District. These factors, along with the approved HPRB design, result in little to no ground level space available for residential recreation space. However, although the nature of the Property precludes compliance with the residential recreation space requirements of the Zoning Regulations, US Property is providing an ample amount of outdoor private residential recreation space in the nature of private balconies, terraces and patios.

The size of the project area, current lot occupancy and narrowness of the Property area also affects the ability to provide the required amount of residential recreation space. Two-thirds (2/3) of the existing improvements are built to the property line along Church Street, with the remaining one-third (1/3) set back by less than fourteen feet (14').

Given these constraints, it is not possible to provide additional outdoor residential recreation space. The area of the proposed roof-top terrace is three hundred fifty square feet (350 s.f.), which is the maximum area permitted for one means of ingress and egress. Because of the configuration of the improvements and Building Code and American with Disabilities Act requirements, it is not possible to expand the roof-top deck, as such expansion would require an additional point for ingress/egress. BZA Order No. 16841 & 16848 (May 16, 2002) at ¶ 21.

Likewise, it is not possible to provide additional interior recreation space. The retail

requirement on the first floor makes it infeasible to provide additional space on that level without sacrificing residential space. The historic preservation restrictions on the development have already resulted in the loss of three (3) units in a project that was already well below the allowable FAR. Thus, the loss of additional residential units is unfavorable.

There is no below-grade space available for residential recreation space use in either the existing building or proposed addition to the vacant portion of the Property. The existing buildings do not have any basement area and, although not required, US Property is providing three (3) levels of parking in the currently vacant portion of the Property. Because of the high water table, additional below-grade space cannot be provided.

Clearly, the uniqueness of the Property results in not only a practical difficulty, but a physical impossibility, in meeting the residential recreation space requirements of the Zoning Regulations. In spite of the challenges presented by the Property, US Property has sensitively designed the project so as to provide ample private outdoor residential recreation space, an amenity more highly sought after by residents and more consistent with the goals of the underlying zoning than public residential recreation space.

3. Economic Considerations. As demonstrated by the above discussion, the physical limitations of the Property not only result in practical difficulties, the historic preservation requirements and the nature of the existing buildings prevent full compliance with the Zoning Regulations. Even without the restrictions on height and the set-back requirements imposed on the Property, because of the existing buildings on the site, it is not possible to develop the Property to its full FAR. As a result of HPRB's requirement for deep set-backs, approximately three (3) residential units had to be eliminated from the proposed improvements. Without the requested zoning relief, it

would be economically infeasible to develop the Property.

Consideration of the economic viability of the proposed project, which consideration has contributed to the need of US Property to seek relief, is relevant to the practical difficulty aspect of the area variance issue.

In *Tyler v. District of Columbia Board of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992), the court held that the Board could rely on economic factors to evaluate this issue, even if it was not relevant to the uniqueness issue. *Id.* at 1365-1366. In *Tyler*, the court held that the Board had failed to demonstrate how the admittedly unique factors applicable to the property in that case also created practical difficulties. Rejecting petitioners' claim that the Board could not rely on economic factors, the court merely stated that it could not determine whether the decision was based on non-economic or economic factors where, in its decision, the Board had rejected the economic justification. *Id.* at p. 1365-1366. With regard to economic considerations, the court said that it eliminated, in its decision in *Gilmartin v. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990), "any doubt that '[e]conomic use of property' may properly be 'considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in [area] variance cases . . . '". *Id.* at 1367; s*ee also Wolf v. Board of Zoning Adjustment*, 397 A.2d 936, 943 (D.C. 1979) (Board properly granted area variance to permit conversion to three-unit apartment where "marketability" of property would otherwise be "unfeasible" and investment would yield loss rather than profit). *See generally* Arden H. Rathkopf & Darren A. Rathkopf, The Law of Zoning & Planning § 38.04, at 38-48 to 38-53 (1991) (discussing need to prove "significant economic injury" in order to show practical difficulty).

In the instant matter, it is economically infeasible to develop the Property within the historic

preservation restrictions without the requested zoning relief. With regard to the residential recreation space, the management of such space would result in increased condominium fees, making the residential units less attractive. In short, compliance with the residential recreation space requirements would put US Property at a "tremendous competitive and economic disadvantage compared to similar residential projects where little or no residential recreation space is required by the applicable Zoning Regulations or demanded by the customers." BZA Order No. 16851 & 16848 (may 16, 2002) at ¶ 26.

This is not a situation where the applicant has sought to manufacture unique conditions. To be certain, the unique conditions of the Property make it both physically impossible, as well as economically infeasible, to design a building which fully complies with the Zoning Regulations. Those conditions, namely the existence of the historic buildings on the Property, existed prior to the time the Property was acquired by US Property and are the primary reason why the project cannot be constructed without resort to the Board.

C. The Proposed Project and Requested Variances Will Not Adversely Impact the Surrounding Neighborhood or Be Detrimental to the Zone Plan.

The proposed project will not substantially impair the intent, purpose and integrity of the zone plan or adversely affect the surrounding neighborhood. To the contrary, the requested relief will allow US Property to develop the Property in a manner which furthers goals of the Zoning Regulations of maximizing housing and retail and arts in the Arts/C-3-A zone district. Thus, not only is the requested relief consistent with the intent, purpose and integrity of the zone plan, the proposed development will benefit the surrounding area by providing additional housing and retail and arts uses.

1. Lot Occupancy. As mentioned above, before the improved portions of the Property were subdivided (i.e., combined) with the vacant portion, the lot occupancy of the improvements was over ninety percent (90%). The additional occupancy on the currently vacant portion of the Property will not adversely affect the surrounding neighborhood for three (3) primary reasons.

First, the total lot occupancy is ninety percent (90%), which is somewhat lower than the existing condition on the improved portion of the Property. The addition to the vacant portion of the Property only occupies seventy-five percent (75%) of that area, which is in compliance with the Zoning Regulations.

Second, by improving the currently vacant portion of the Property, US Property is able to provide parking for the development, thus minimizing the impact on parking in the surrounding neighborhood.

Finally, the variance from the lot occupancy requirements allows for the maximization of both retail and arts use and residential space, thus furthering the goals of the Zoning Regulations.

2. Recreational Space. The variance from the recreational space requirements of the Zoning Regulations can likewise be granted without detriment to the public good and without impairing the intent, purpose and integrity of the Zoning Regulations and without harm to the surrounding community.

As mentioned above, the residential recreation space requirements of the Zoning Regulations are in dire need of updating to reflect current market conditions, which place little importance on recreation space within a given development. There is no requirement for residential recreation space within any of the residential zone districts. To the contrary, this requirement is limited to areas of the city which, ironically, the District has targeted for revitalization, including increased

pedestrian traffic and increased street front amenities such as retail and arts. Even in such areas, the Zoning Commission has recognized that fifteen percent (15%) is far too high a benchmark and has made amendments to the Zoning Regulations to help alleviate this predicament. For example, in comparison to the underlying zone district, the Zoning Regulations for the nearby Downtown Development District overlay have been amended to reduce the residential recreation space requirement from fifteen percent (15%) to five percent (5%), a benchmark that is still often difficult to comply with.

It has been recognized by the Board that residential recreation space is not appropriate for an urban neighborhood. Residential recreation space has been characterized as being "suburban oriented" and geared toward creating a self-contained environment that is entirely inappropriate for an urban neighborhood. March 19, 2002 BZA Transcript (BZA Application Nos. 16841 & 16848) at 41 and 75-76. On at least one occasion, the Board has sent a message to OP to draft a text amendment for the Zoning Commission to correct this requirement on a citywide basis. *Id.*

The project proposes a large amount of private recreation space, which is more highly sought after than public recreation space. Moreover, with regard to the first-floor terraces along Church Street, the community encouraged the incorporation of residential front entrances along Church Street to enhance the residential character of the area.

Given that a large portion of the first floor retail/arts space is not visible from 14th Street, it is likely that this space will be used for a health club facility. Although not counted towards residential recreation space, it is the type of amenity sought after by urban dwellers.

Residents of the project will also be able to take advantage of the nearby Logan Circle, which is located one block from the Property.

Based on the foregoing, the variance from the public recreation space will not adversely affect the surrounding neighborhood or be a detriment to the zone plan.

V.
Special Exception Considerations

A. Criteria for Special Exceptions.

As for the criteria for a special exception, 11 D.C.M.R. § 3104.1 permits the Board to grant special exceptions, pursuant to the following:

> Pursuant to authority contained in the Zoning Act of June 20, 1938 (52 Stat. 797), as amended, 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 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...
>
> In short, the Board is empowered to grant a special exception where it finds
>
> (1) The proposed use is in harmony with the Zone Plan and Zone Maps; and
> (2) The proposed use is not likely to adversely affect the use of neighboring property.

The Board's discretion in reviewing an application for a special exception is limited to a determination of whether the Applicant has complied with requirements of the section. If the Applicant meets this burden, the Board ordinarily must grant the application. First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment, 432 A.2d 695, 698 (D.C. 1981); Stewart v. District of Columbia Board of Zoning Adjustment, 305 A.2d 516, 518 (D.C. 1973).

Generally, US Property has the burden of demonstrating that its proposal addresses the issues reflected in §§ 1906 & 3104.1. Specifically, section 1906 provides that a special exception can be granted from the requirements of the Arts Overlay based on the following criteria:

(a) The use(s), building(s) or feature(s) at the size, intensity and location(s) proposed, will substantially advance the stated purposes of the ARTS Overlay District and will not adversely affect neighboring property or by detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;

(b) Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits, in lieu of the excepted uses or features, that are of comparable value to the public in achieving the purposes or this chapter and of the Comprehensive Plan;

(c) The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; Provided that if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report; and

(d) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise and objectionable traffic conditions; and

Additionally, the Board may impose requirements pertaining to design appearance, signs, size, landscaping, and other such requirements as it shall deem necessary to protect neighboring property and to achieve the purposes of the Arts Overlay District. 11 D.C.M.R. § 1906.1(e).

Based on the attached information, and the testimony and evidence which will be presented at the public hearing, US Property has satisfied these requirements.

B. The Requested Special Exception Meets the Requirements of Section 1906.

1. The Uses at the Property Will Advance the Purposes of the Arts Overlay. The Arts Overlay district is intended to encourage retail and residential uses and to expand the housing supply in the overlay district. 11 D.C.M.R. § 1900.2(b) -- (d) With regard to residential use, the Arts Overlay is specifically intended "to expand the area's housing supply in a variety of rent and price ranges." 11 D.C.M.R. § 1900.2(d). Likewise, it is the goal of US Property to maximize both the

retail/arts residential space at the Property. Given that the project is exclusively a mixed-use, residential and retail/arts project, the uses will further the purposes of the Arts Overlay.

2. Exceptional Circumstances at the Property Make Compliance with the Overlay Difficult. As illustrated in the above discussion regarding the requested area variances, the Property presents exceptional circumstances given the current lot occupancy, the layout of the existing improvements, and the historic preservation restrictions on development given the historic nature of the buildings and their location in the Greater 14th Street Historic District. Because of the narrow width of the Property, much of the retail space provided will not have visual street frontage, making such space difficult to market. Thus, it is expected that a portion of this space may be used for a health club facility. Despite the difficulty in meeting the retail/arts requirements of the Arts Overlay, US Property is providing forty-seven percent (47%) of the ground floor space for retail/arts.

3. The Architectural Design of the Project Will Enhance the Urban Design of the Neighborhood. Given the extensive historic preservation review and abundant community input this project has received, the proposed project meets this criterion.

4. Vehicular Access and Egress. The parking access to the building has been located off of Church Street, which is not a major pedestrian way. In contrast, 14th Street is a major pedestrian way. Because of the location of the parking entrance on Church Street, rather than through the alley off of 14th Street, the vehicle access to the Property has been situated and designed to minimize the impact on pedestrians.

C. The Special Exception Will Be in Harmony with the General Purpose and Intent of the Zone Plan and Maps.

Of the fifty percent (50%) requirement for ground floor use, US Property is providing almost

forty-eight percent (48%)[2] of the ground floor for the required uses of the Arts Overlay. The remainder of the ground floor is being provided for residential use and parking access. Because the requested special exception is a minimal deviation (585.5 square feet, or a mere 4.6%) from the requirements of the Arts Overlay, it is in harmony with the Zone Plan and Maps.

D. The Requested Relief Will Not Adversely Affect the Neighborhood.

The project provides for a significant amount of ground floor space dedicated to the required uses of the Arts Overlay. In addition, residential units opening on to Church Street -- an amenity desired by the surrounding community -- is being provided. Finally, the provision of off-street parking and loading, despite the historic preservation waiver from the same, will alleviate congestion on the streets in the surrounding community. Given these factors, the minor deviation from the first floor requirements will not adversely affect the surrounding neighborhood.

VI.
Exhibits In Support of the Application

Exhibit A: Self-Certification Form

Exhibit B: Site Map

Exhibit C: Architectural Plans

Exhibit D: Parking/Loading Waiver

Exhibit E: Resume of Architect and outline of Architect's testimony

Exhibit F: Resume of Architectural Historian and outline of testimony

[2] A total of 47.7 percent of the ground floor is dedicated to the required uses of the Arts Overlay.

VII.
Witnesses

A. Scott Pannick, Metropolis Development Company LLC

B. Marc Fairbrother, RTKL DC Associates P.C.

C. Emily Eig, EHT Traceries, Inc.

VII.
Conclusion

For the above reasons, US Property respectfully requests that the Board grant the relief sought. Given the lack of adverse impact on the surrounding area and the support of the ANC 2F, US Property requests a bench decision, if the Board feels such a decision is justified.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, L.L.P.

Richard B. Nettler

Jeannine Rustad Zigner

1801 K Street, N.W.
Suite 1200
Washington, D.C. 20006
(202) 775-0725

A

Form 135 - Side 1
(Revised 03/15/02)

Case No._____

ZONING SELF-CERTIFICATION FORM

Project Address(es)	Square	Lot(s)	Zone District(s)	ANC(s)/Single Member District(s)
1522-1526 14th Street, N.W.	209	98	ARTS/C-3-A	2F01

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 - Use Variance	☒ §3103.2 - Area Variance	☒ §3104.1-Special Exception
Pursuant to Subsections		772 and 773	1901.1

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print)
Senior V.P.	U.S. Property Development Corporation
Agent's Signature	Agent's Name (Please Print)
	Richard B. Nettler and Jeannine Rustad Zigner

Date	5-2002	D.C. Bar No.	929471/451110	or	Architect Registration No.	

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature		Date	

Jerrily R. Kress, FAIA – Director
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Side 2

INSTRUCTIONS

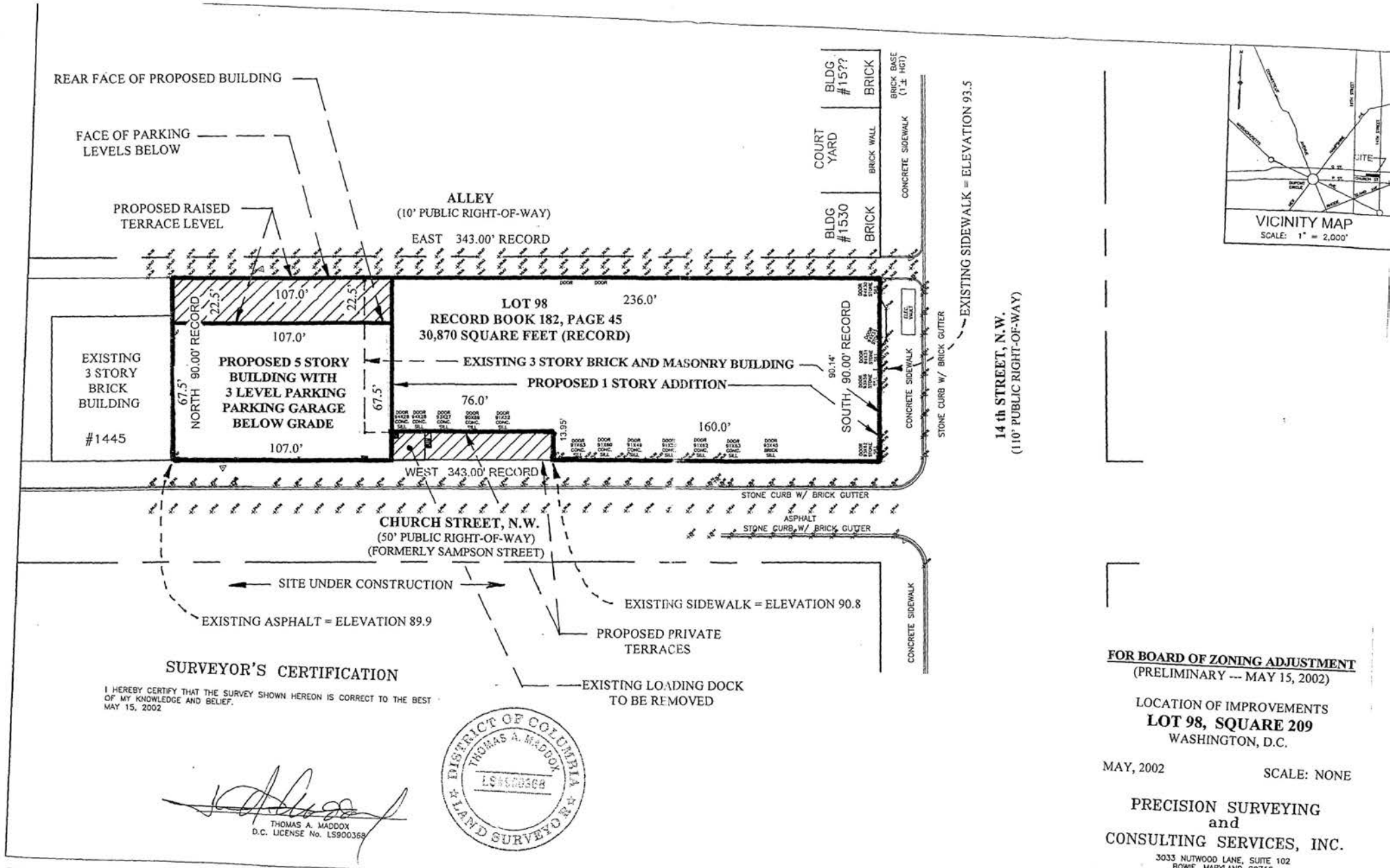
Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on Form 135. All certification forms must be completely filled out (front **and** back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.

2. Complete one self-certification form for each application filed. Present this form with the Form 120 Application to the Office of Zoning, 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	30,870	n/a	n/a	30,870	none
Lot Width (ft. to the tenth)	90'	n/a	n/a	90'	none
Lot Occupancy (building area/lot area)	65%	n/a	75%	90%	16%
Floor Area Ratio (FAR) (floor area/lot area)	approx 1.93	n/a	4.5	3.67	none
Parking Spaces (number)	approx 25	(waived) historic bldg	n/a	79	none
Loading Berths (number and size in ft.)	none	(waived) historic bldg	n/a	loading area of 1000 s.f.	none
Front Yard (ft. to the tenth)	n/p	n/a	n/a	n/p	none
Rear Yard (ft. to the tenth)	n/p	12'	n/a	22'6"	none
Side Yard (ft. to the tenth)	n/p	n/a	n/a	n/p	none
Court, Open (width by depth in ft.)	n/p	n/a	n/a	n/p	none
Court, Closed (width by depth in ft.)	n/p	n/a	n/a	n/p	none
Height (ft. to the tenth)	1522 approx 45' 1526 approx 39'	n/a	75'	54'	none





SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
MAY 15, 2002

THOMAS A. MADDOX
D.C. LICENSE No. LS900368

DISTRICT OF COLUMBIA
THOMAS A. MADDOX
LS900368
LAND SURVEYOR

REVISED: 05-17-2002

FOR BOARD OF ZONING ADJUSTMENT
(PRELIMINARY --- MAY 15, 2002)

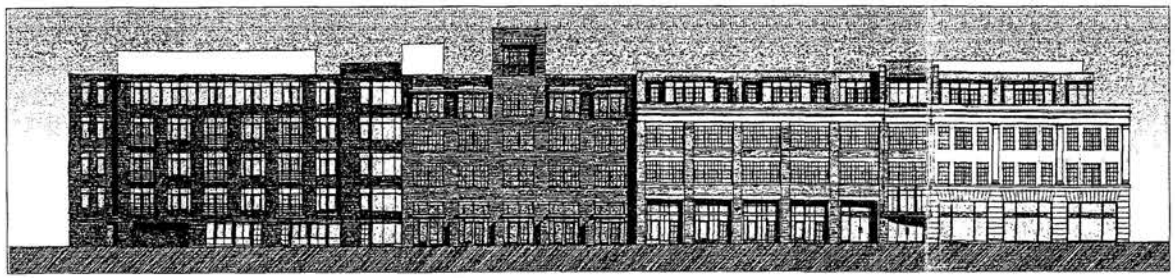
LOCATION OF IMPROVEMENTS
LOT 98, SQUARE 209
WASHINGTON, D.C.

MAY, 2002 SCALE: NONE

PRECISION SURVEYING
and
CONSULTING SERVICES, INC.
3033 NUTWOOD LANE, SUITE 102
BOWIE, MARYLAND 20716
TELEPHONE: (301) 390-5610 TELECOPIER: (301) 249-9360

P-88137 W.O. 6237 DRAWING NO. 14-001-D

C



PROJECT: CONDOMINIUMS AT 14TH STREET - PARCEL A

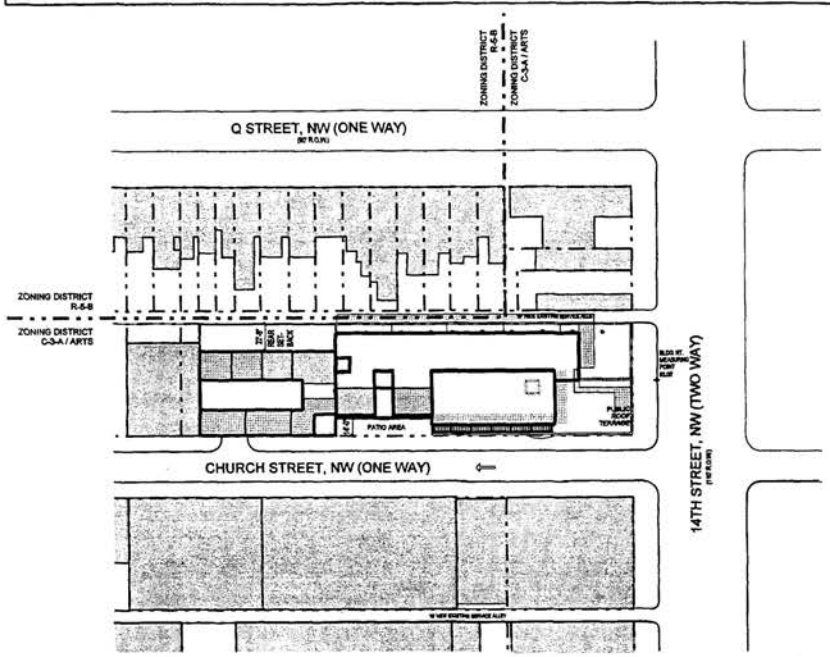
DEVELOPER: MID CITY DEVELOPMENT, LLC

ARCHITECT: RTKL DC ASSOCIATES P.C.

BZA SET - MAY 16, 2002

SHEET INDEX

00.00	COVER	33.01	BUILDING ELEVATIONS
00.11	SITE PLAN, INDEX, ZONING NOTES	33.02	BUILDING ELEVATIONS
00.21	SURVEY	34.01	BUILDING SECTIONS
30.P1	PARKING LEVEL PLAN	34.02	BUILDING SECTIONS
30.01	GROUND LEVEL PLAN		
30.02	SECOND LEVEL PLAN		
30.03	THIRD LEVEL PLAN		
30.04	FOURTH LEVEL PLAN		
30.05	FIFTH LEVEL PLAN		
30.06	ROOF ACCESS/TOWER PLAN		
30.07	ROOF PLAN		



SITE PLAN

PROJECT INFORMATION

ZONING DISTRICT: C-3-A / ARTS, GREATER 14TH STREET HISTORIC DISTRICT

SQUARE: 209
LOT: 98
SITE AREA: 30,870 SF

PARKING SPACES TOTAL: 79
STANDARD: 27
COMPACT: 52

RESIDENTIAL UNITS TOTAL: 86
UNITS IN EXISTING BUILDINGS: 48
UNITS IN ADDITIONS: 38

AREA TABULATION

	LEVEL	RESIDENTIAL	RETAIL	PARKING	OTHER	TOTAL	
ABOVE GRADE	TOWER/ ROOF ACCESS	1,704 SF				1,704 SF	
	5	20,468 SF				20,628 SF	
	4	27,484 SF				27,644 SF	
	3	27,484 SF				27,644 SF	
	2	13,098 SF				13,258 SF	
	1	8,637 SF	12,182 SF	2,427 SF	2,289 SF	25,535 SF	116,773 SF
BELOW GRADE	P1			9,900 SF		9,900 SF	
	P2			9,900 SF		9,900 SF	
	P3			9,900 SF		9,900 SF	29,700 SF
		98,875 SF	12,182 SF	32,127 SF	2,289 SF	146,113 SF	145,473 SF

ZONING INFORMATION

SECTION NO.	ZONING REGULATIONS	REQUIREMENT	PROVIDED	NOTE
770.1 & 1902.1	BUILDING HEIGHT	75'-0" MAX.	64'-0" TO HIGH POINT OF ROOF PER AGREEMENT WITH HPRB & COMMUNITY	REFER TO SHEET 34.01 PARAPETS OF BUILDING MAY BE HIGHER
770.6	PENTHOUSE HEIGHT	18'-6" MAX.	9'-0" AT NEW WING	REFER TO SHEET 34.01
771 & 1904.3	FAR RESIDENTIAL OTHER TOTAL	 4.5 2.5 4.5	 3.20 0.47 3.67	
772	LOT OCCUPANCY	75%	ENTIRE SITE: TYPICAL LEVELS: 90% * 5TH LEVEL: 67% NEW WING ALL LEVELS: 75%	SUBMISSION TO BZA FOR VARIANCE LOT OCCUPANCY OF EXISTING BUILDINGS IS 65%
773	RESIDENTIAL RECREATION SPACE	15% OF GFA	0.3% OUTDOOR (PUBLIC ROOF TERRACE) 1.0% INDOOR (LOBBY) 1.3% TOTAL *	SUBMISSION TO BZA FOR VARIANCE
774	REAR YARD	12'-0"	22'-6"	
775	SIDE YARD	NOT REQUIRED	NONE PROVIDED	
776	COURT	18'-6" (4" PER FT IN HEIGHT)	14'-0" AT CENTER PATIO	EXISTING CONDITION AT BUILDING. PATIOS ARE FOR PRIVATE USES, ENCLOSURE WALLS PROVIDED AS PART OF NEW CONSTRUCTION.
1901	GROUND LEVEL RETAIL	50% MIN.	47.7% *	SUBMISSION TO BZA FOR SPECIAL EXCEPTION
2100.5	OFF-STREET PARKING	NO REQUIREMENT	79	PROJECT IS ADDITION TO CONTRIBUTING BUILDINGS IN A HISTORIC DISTRICT; NO REQUIREMENTS APPLY.
2115	COMPACT PARKING SPACES	NO REQUIREMENT	66% (52 SPACES)	
2301.2	GARAGE ENTRANCE	40'-0" MIN. FROM INTERSECTION	320'-0"	
2200.5	LOADING BERTHS	NO REQUIREMENT	NONE PROVIDED	PROJECT IS ADDITION TO CONTRIBUTING BUILDINGS IN A HISTORIC DISTRICT; NO REQUIREMENTS APPLY.
	SET BACK REQUIREMENT FOR ADDITION ABOVE EXISTING BUILDINGS ON 14TH STREET		+/- 51'-0" ABOVE 1522 14TH STREET +/- 42'-0" ABOVE 1526 14TH STREET	

GENERAL NOTES

1. ITEMS MARKETED WITH * INDICATE ISSUES REQUIRING RELIEF TO BE SEEKED FROM THE BZA.
2. AREA TABULATIONS ARE APPROXIMATE CALCULATIONS BASED ON SCHEMATIC DESIGN PLANS AND ARE SUBJECT TO CHANGE PENDING ON FINAL DESIGN.
3. NUMBER OF UNITS AND PARKING SPACES PROVIDED ARE SUBJECT TO CHANGE PENDING ON FINAL LAYOUT.

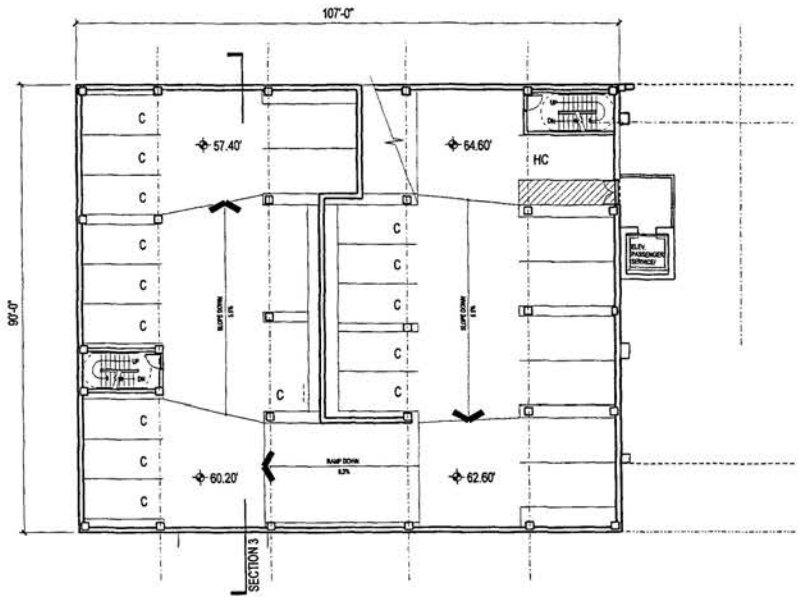
CONDOMINIUMS AT 14th STREET
PARCEL A

SITE PLAN, INDEX, ZONING NOTES

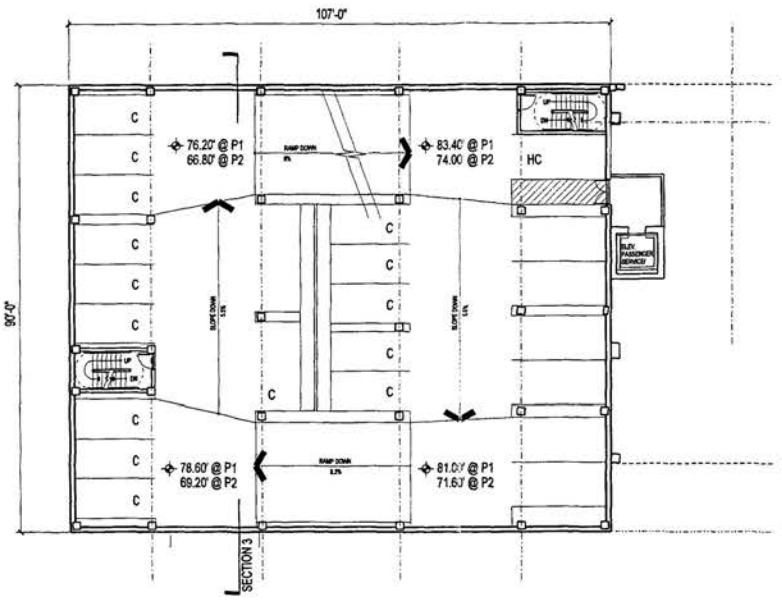
BZA SET MAY 16, 2002

RTKL DC Associates PC

00.11



P3 LEVEL PARKING



P1 & P2 LEVEL PARKING

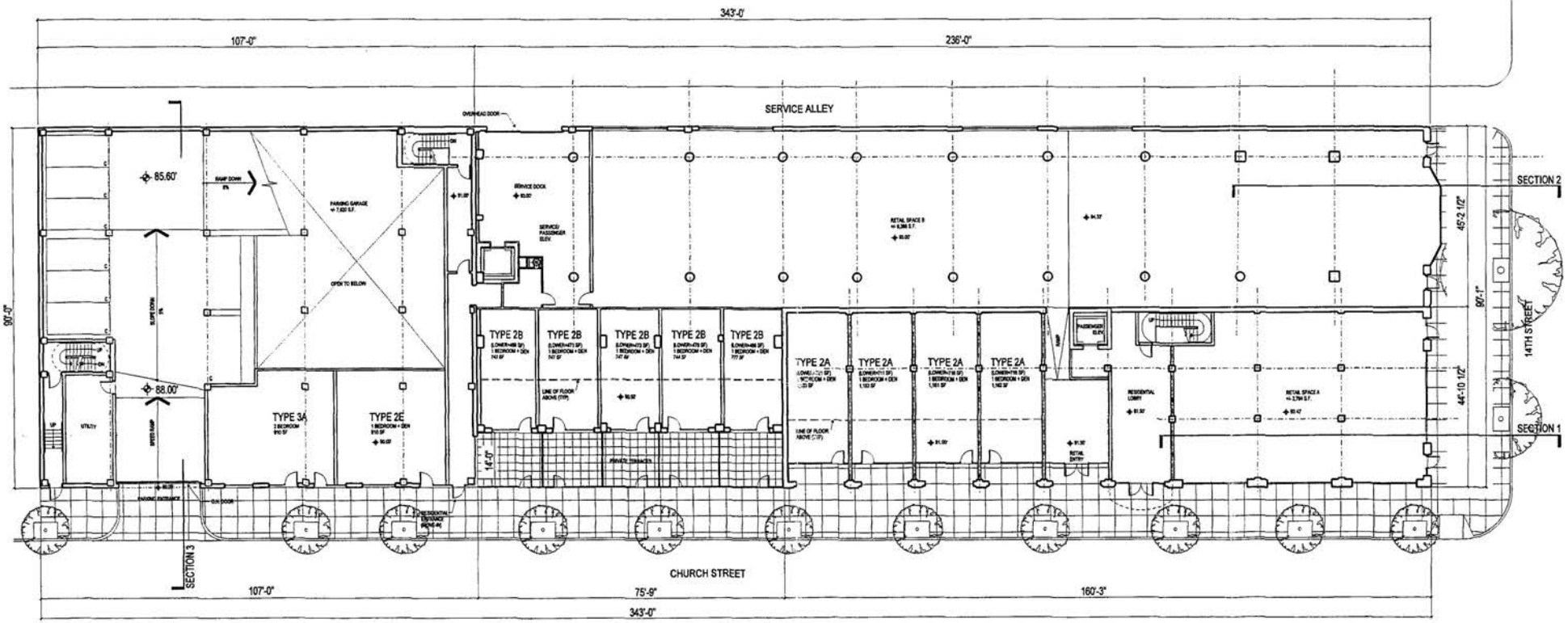
CONDOMINIUMS AT 14th STREET
PARCEL A

GARAGE LEVEL PLANS

BZA SET MAY 16, 2002

RTKL DC Associates PC

30.P1



KEY PLAN

NO SCALE

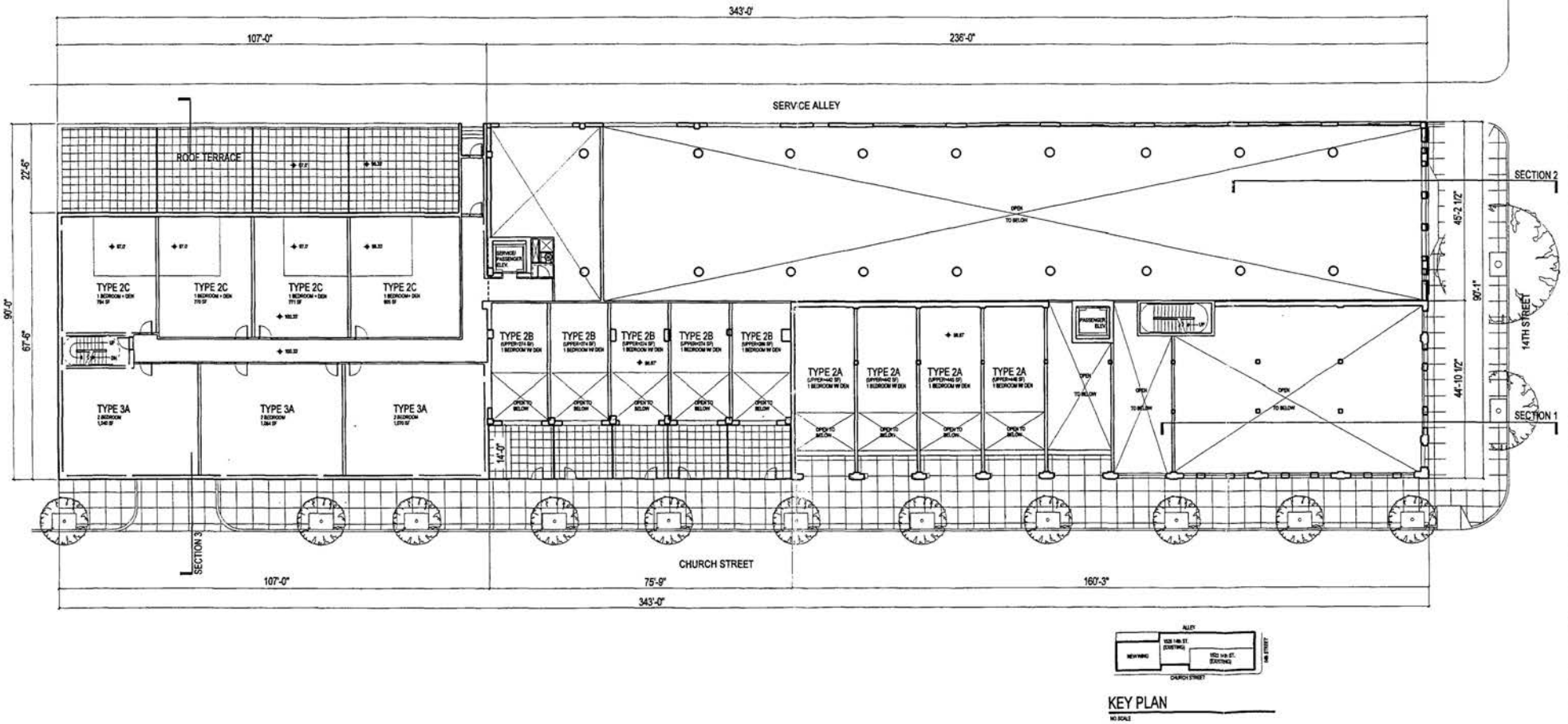
CONDOMINIUMS AT 14th STREET
PARCEL A

GROUND LEVEL PLAN

BZA SET MAY 16, 2002

RTKL DC Associates PC

30.01



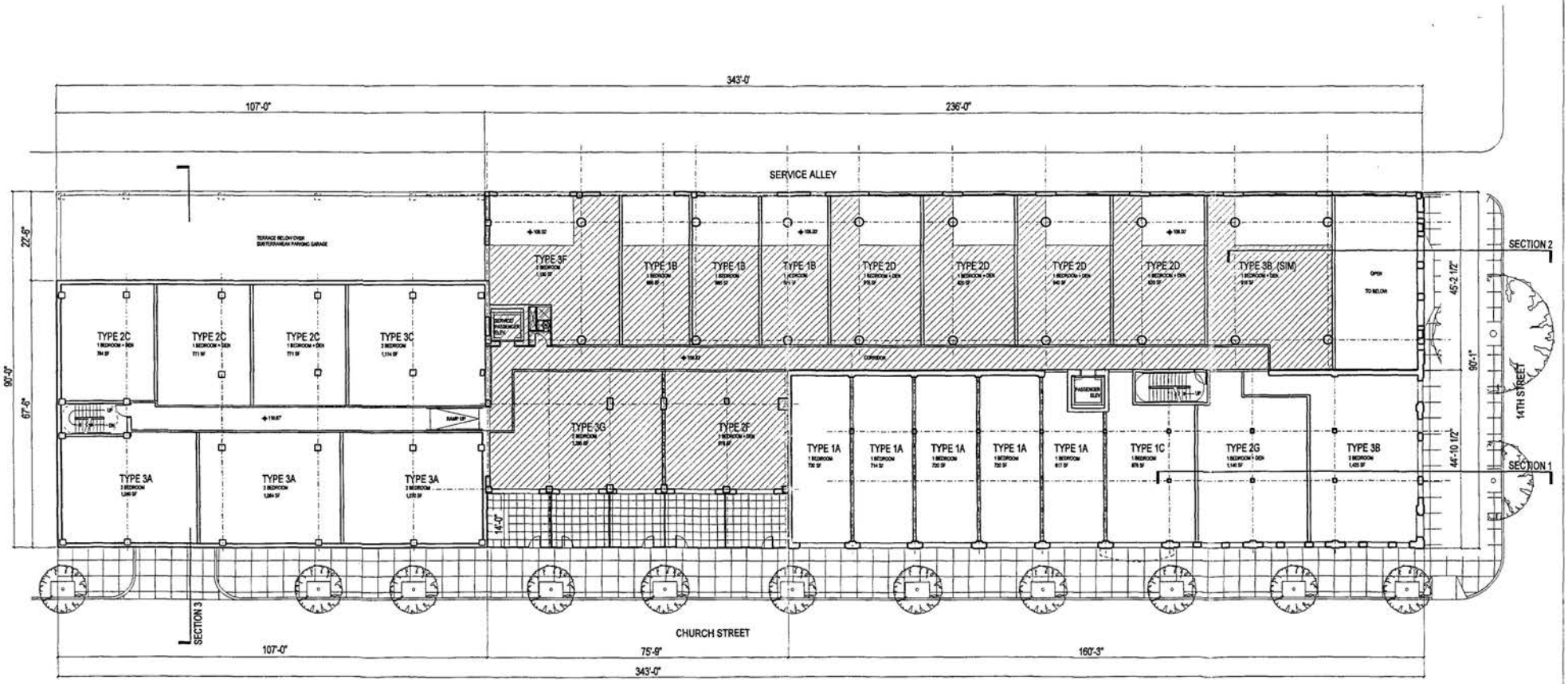
CONDOMINIUMS AT 14th STREET
PARCEL A

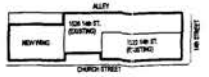
SECOND LEVEL PLAN

RTKL DC Associates PC

30.02

BZA SET MAY 15, 2002





KEY PLAN

GENERAL NOTES:
1. HATCHED AREAS INDICATE AREAS OF BUILD UP FLOOR ABOVE EXISTING SLAB. REFER TO BUILDING SECTIONS ON SHEET 34.01 FOR APPROXIMATE HEIGHT.

CONDOMINIUMS AT 14th STREET
PARCEL A

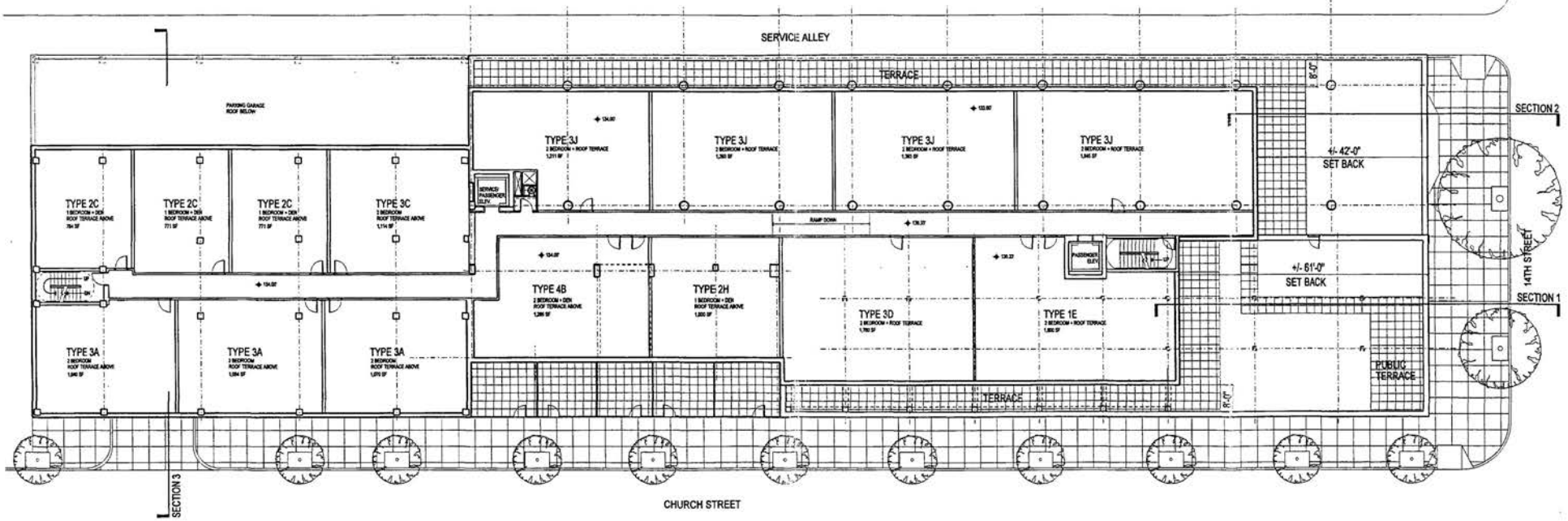
THIRD LEVEL PLAN

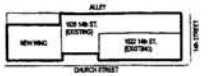
BZA SET MAY 16, 2002

RTKL DC Associates PC

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30.03





KEY PLAN

NO SCALE

CONDOMINIUMS AT 14th STREET
PARCEL A

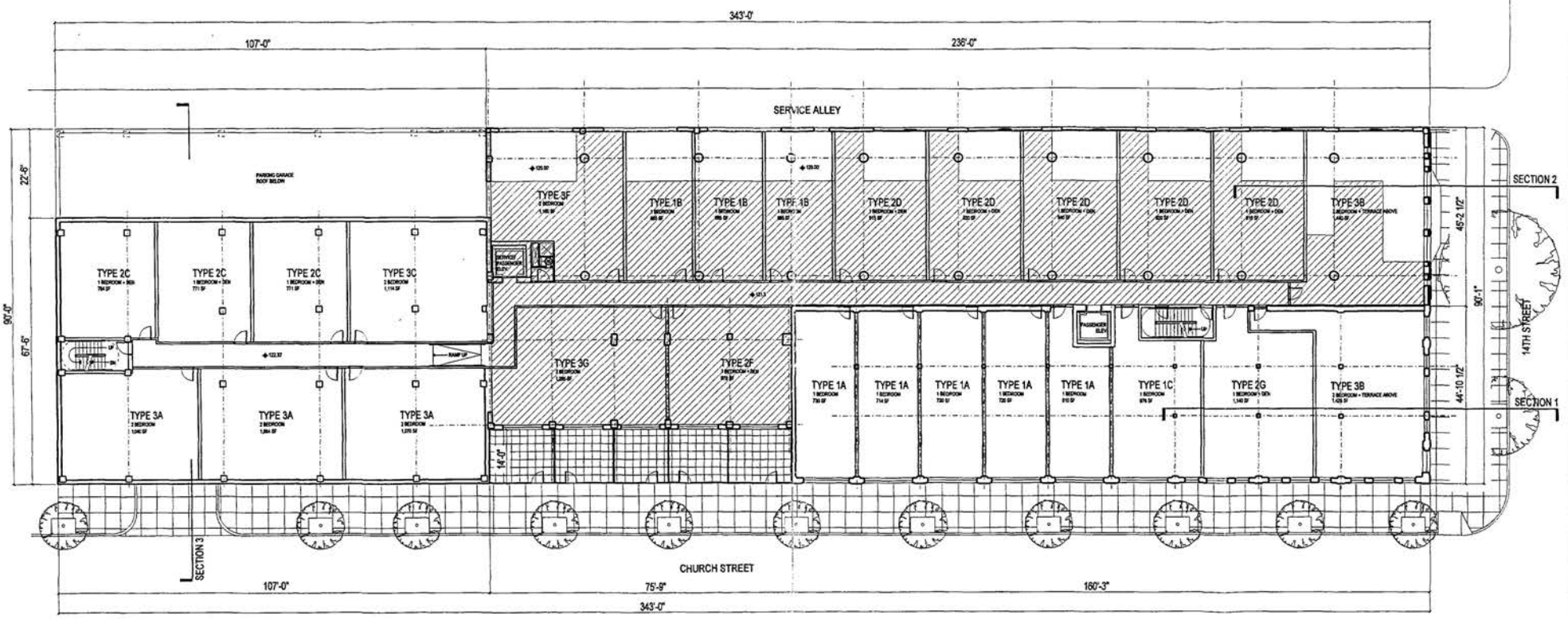
FIFTH LEVEL PLAN

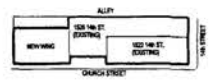
BZA SET MAY 16, 2002

RTKL DC Associates PC

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KEY PLAN

NO SCALE

GENERAL NOTE:
1. HATCHED AREAS INDICATE AREAS OF BUILD UP FLOOR ABOVE EXISTING SLAB. REFER TO BUILDING SECTIONS ON SHEET 34.01 FOR APPROXIMATE HEIGHT.

CONDOMINIUMS AT 14th STREET
PARCEL A

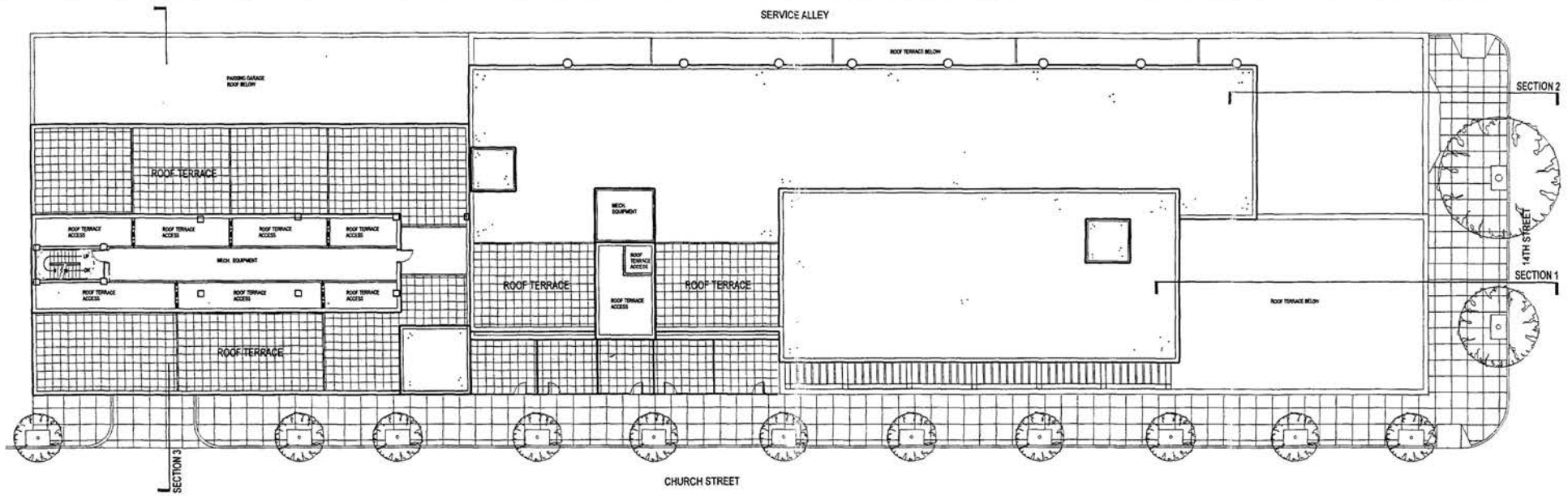
FOURTH LEVEL PLAN

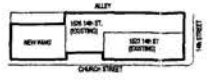
BZA SET MAY 16, 2002

RTKL DC Associates PC

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KEY PLAN

NO SCALE

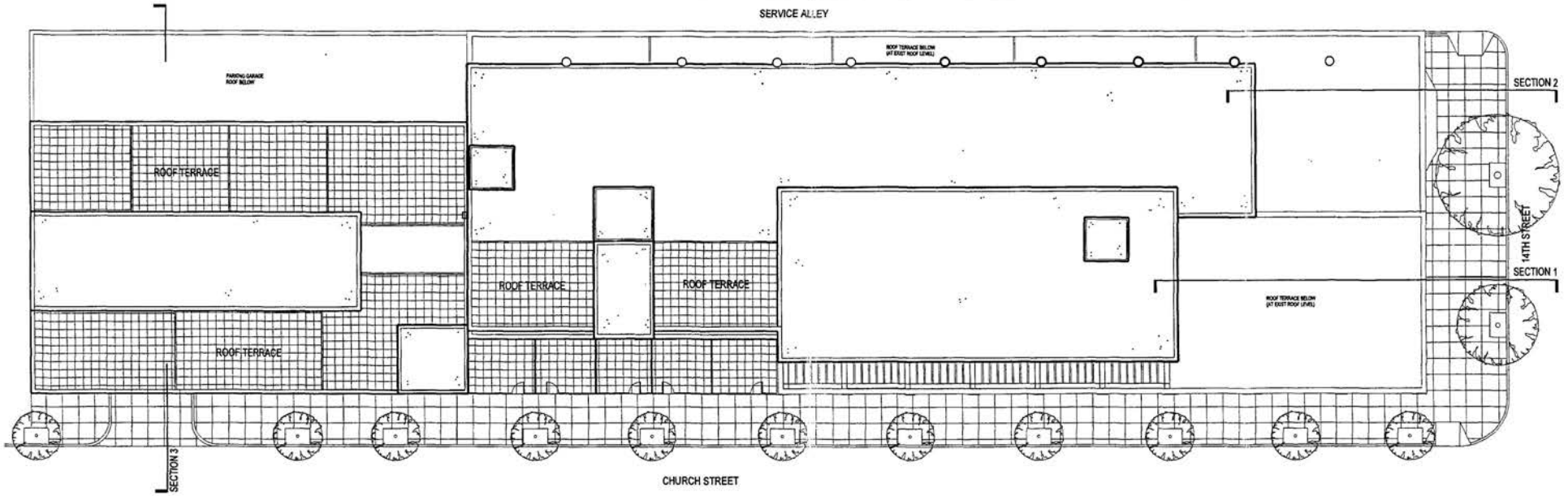
CONDOMINIUMS AT 14th STREET
PARCEL A

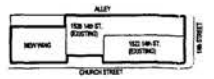
ROOF ACCESS/TOWER PLAN

BZA SET MAY 16, 2002

RTKL DC Associates PC

30.06





KEY PLAN
NO SCALE

CONDOMINIUMS AT 14th STREET
PARCEL A

ROOF LEVEL PLAN

BZA SET MAY 16, 2002

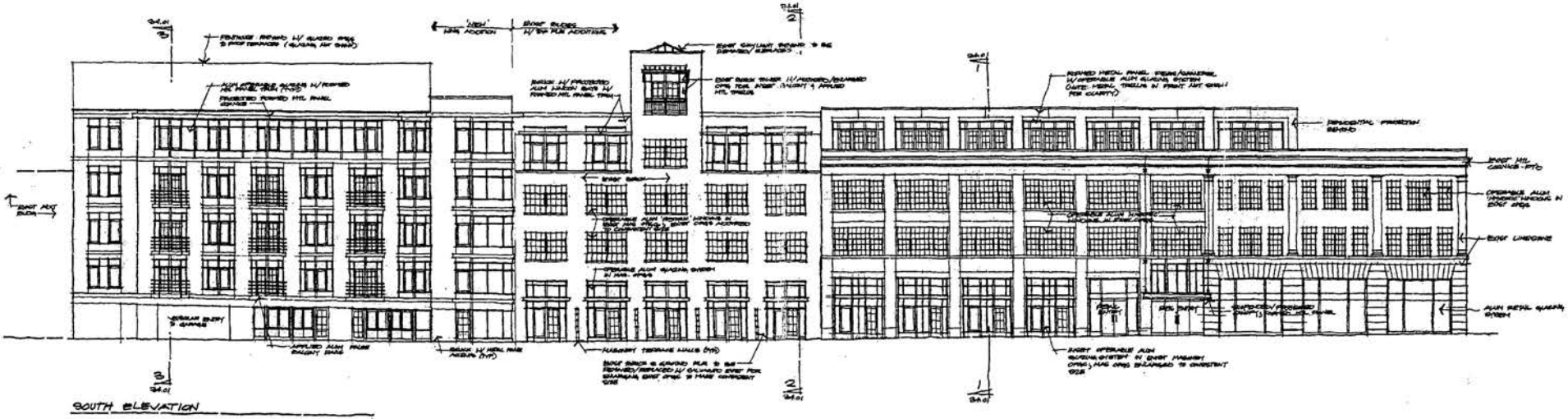
RTKL DC Associates PC

0 2' 4' 8' 16'

30.07



EAST ELEVATION



SOUTH ELEVATION

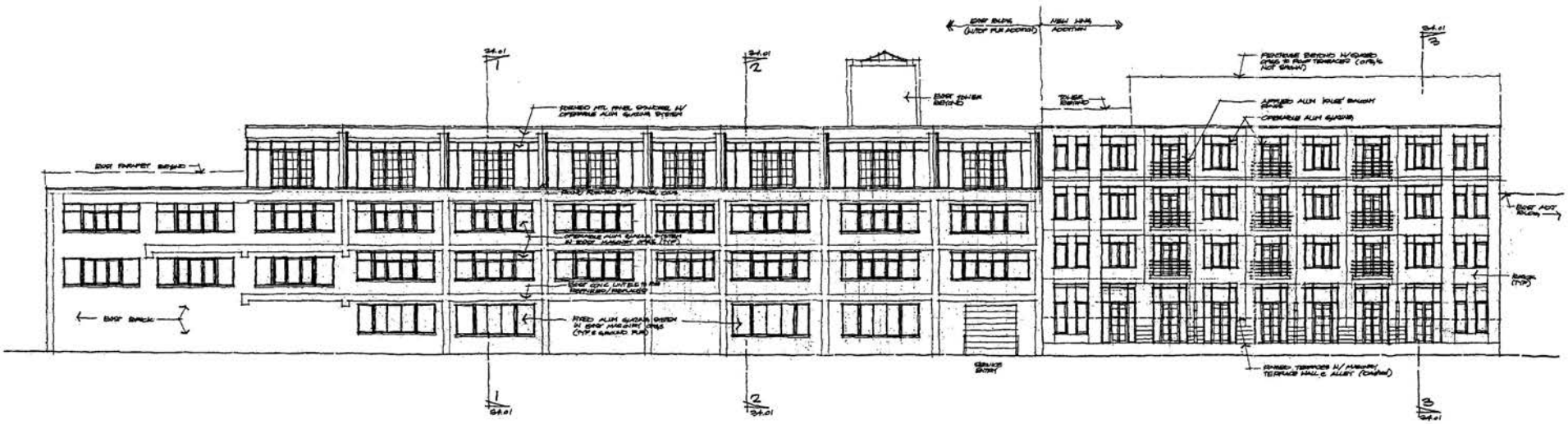
CONDOMINIUMS AT 14th STREET
PARCEL A

ELEVATIONS

BZA SET MAY 16, 2002

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33.01



NORTH ELEVATION

0 4 8 16 32

NOTE:
SEE GRT 0001 FOR FENESTRATION HEIGHTS & SILL CHART TO REMAIN

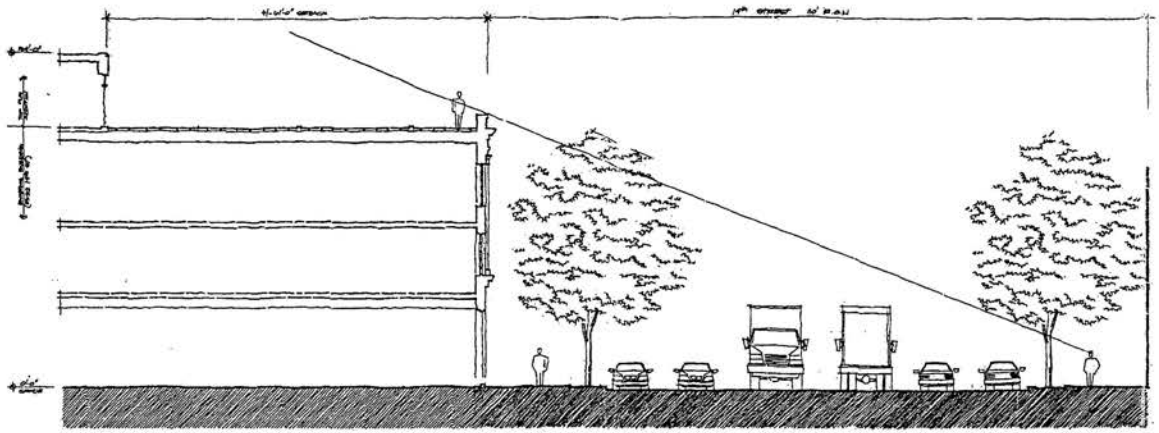
CONDOMINIUMS AT 14th STREET
PARCEL A

ELEVATIONS

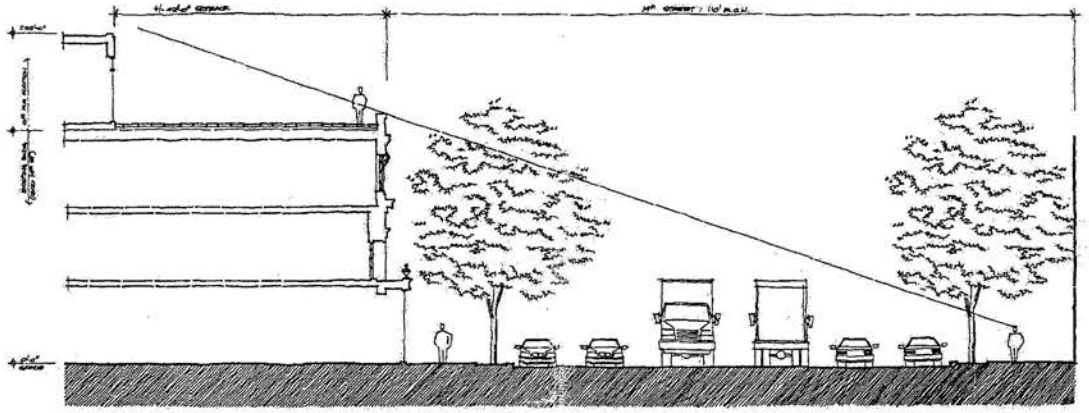
BZA SET MAY 16, 2002

RTKL DC Associates PC

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SITE SECTION 1



SITE SECTION 2

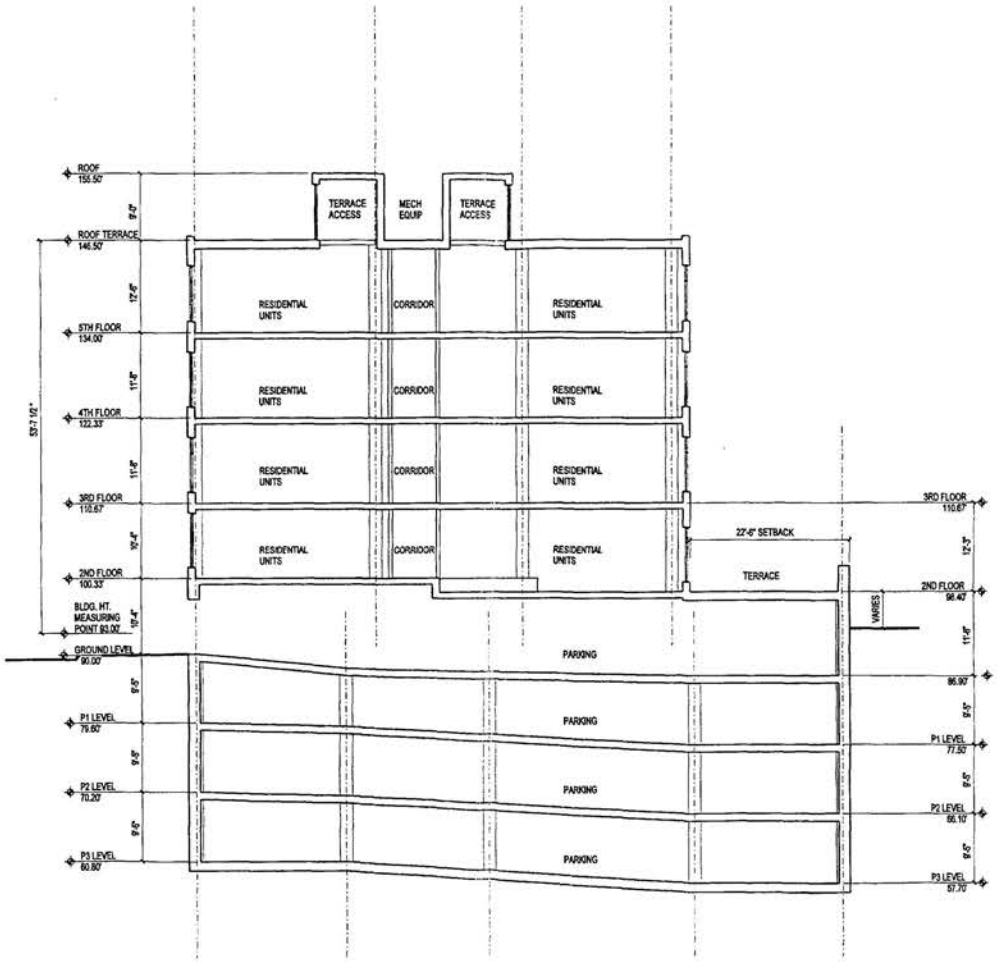
CONDOMINIUMS AT 14th STREET
PARCEL A

BUILDING SECTIONS

BZA SET MAY 16, 2002

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34.01



SECTION 3

CONDOMINIUMS AT 14th STREET
PARCEL A

BUILDING SECTIONS

BZA SET MAY 16, 2002

RTKL DC Associates PC

0 2 4 8 16

34.02



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

APPLICATION TO CERTIFY A HISTORIC BUILDING FOR D.C. ZONING REGULATIONS OR CONSTRUCTION CODES

I hereby request certification that the following property is a historic landmark or a building or structure contributing to the character of a historic district in the D.C. Inventory of Historic Sites, for the purpose of D.C. Zoning Regulations or the D.C. Construction Code. A photograph of the front of the building is attached.

Address: 1522-1526 14th Street, NW

Square: 209 Lot: 98

PURPOSE OF REQUEST:

X Waiver of Additional Off-Street Parking Spaces (Section 2100.5)

X Waiver of Additional Off-Street Loading Spaces (Section 2200.5)

_____ Increase in Number of Sleeping Rooms in a Bed-and-Breakfast Facility (Section 203.8)

_____ Non-Mandatory Compliance with Code Provisions (BOCA Section 3406.1)

_____ Alternative Compliance Provisions for Existing Buildings (Chapter 34, DC Construction Code Supplement of 1999)

U.S. Property Development Corporation — 202/775=0725

Applicant By Robins, Kaplan, Miller & Ciresi, LLP — Telephone

1801 K Street, NW, Suite 1200, Washington, DC 20006

Address

Signature Richard B. Nettler/Jeannine Rustad Zigner — 5/23/02 Date

HISTORIC PRESERVATION DIVISION USE ONLY

I hereby certify that this property is either a historic landmark or a building or structure contributing to the character of a historic district listed in the D.C. Inventory of Historic Sites.

State Historic Preservation Officer — 5/24/02 Date





14th Street Elevations



Church Street Elevation



OUTLINE OF TESTIMONY OF ARCHITECTS

I. Introduction

- A. Qualifications
- B. Previous Designs for Project
- C. Summary of Current Proposal

II. Consistency with requirements for area variances

- A. Uniqueness
  1. Existing structures and their configuration
  2. Architectural constraints as a result of
     - a. Historic status of existing buildings
     - b. Location of Property in the Greater 14th Street Historic District
  3. Narrowness of site
- B. Practical Difficulty in Complying with Zoning Regulations
  1. Lot Occupancy
  2. Residential recreation space
- C. In harmony with Zone Plan and Maps

III. Consistency with requirements for special exception

- A. Proposed uses will advance the purposes of the Arts Overlay
- B. Exception Circumstances at the Property Make Compliance with the Overlay difficult
- C. Deviation is Nominal
  1. 12,182 of the required 12,767.5 square feet is provided
  2. Difference between amount provided is 585.5 square feet, or 4.6%

IV. Lack of Adverse Impact on Neighborhood

Marcus Fairbrother AIA

VICE PRESIDENT

Mr. Fairbrother is a vice president of one of our architecture studios and is experienced in all phases of project development from concept design through construction administration. Since joining RTKL in 1989, his assignments have included office buildings, hotels and resorts, residential building, embassies, and mixed-use projects. Mr. Fairbrother was promoted to associate vice president in 1995 and to vice president in 1999.

PROJECT EXPERIENCE

14th & P, 200-unit condominium complex that includes historic renovation and new construction, Washington, DC

Dulles Building I, Dulles Station, 193-unit apartment complex within a 64-acre mixed-use development, Dulles, VA

717 6th Street, 12-story 76,500 SF urban infill apartment building with 54 one and two and three-bedroom luxury units, Washington, DC

Logan Circle, high-density urban residential project consisting of 9-story, 240,000 SF building with 170 loft-style apartments and two levels of below-grade parking, Washington, DC

Pentagon Row, two-phased mixed-use project with 300,000 SF of street-level retail, 500 apartment units on upper levels, underground and surface parking to accommodate 1,500 vehicles (phase 1) and a 17-story apartment building with 319 units (phase 2), Arlington, VA

Market Square at Shady Grove, master planning for a mixed-use development at Metro (subway) site, Shady Grove, MD

New Town, business school and retail development at the College of William and Mary, Williamsburg, VA

North Pier, 350,000 SF housing, 90,000 SF structured parking and public open space atop a pier, Jersey City, NJ

Central Place, master plan and design of mixed-use multi-block high-rise residential complex with street retail and underground structured parking, Rosslyn, VA

Reston Gateway, study for office and residential complex at the Reston Sheraton Inn site, Reston, VA

Bala Cynwyd, architectural design of a new 7-story, 175,000 SF office building with potential LEED certification and street level links to adjacent shopping center, Bala Cynwyd, PA

1800 M Street, NW, new 22,000 SF main entrance and lobby design in addition to renovation of courtyard and secondary lobby for 10-story office building, Washington, DC

Square 483, design of mixed-use block including 250-room business hotel, eight story office building with street retail and underground parking, Washington, DC

1000 16th Street, complete building renovation including 3-story addition, Washington, DC

Coca-Cola Company Headquarters, master plan and design of a 1,200,000 SF corporate administrative facility with structured parking, Atlanta, GA

MCI Telecommunication Corporation, master plan and design of 869,000 SF corporate operations center, Herndon, VA

2000 L Street, repositioning of 510,000 SF 30-year-old office building, Washington, DC

The Aerospace Corporation, 150,000 SF built-to-suit regional office, Westfields, VA

Nankang Exhibition Center, conceptual designs for over 2 million SF convention center, Taipei, Taiwan

Greens at Westfields, master plan of new office park 750,000 GSF build-out in six buildings, Westfields, VA

1801 N. Lynn Street, architectural design of 360,000 GSF 24-story new "smart" office building with structured parking, Rosslyn, VA

Lorton Town Center, master plan and design of new town center with 500,000 GSF of commercial/retail space and 850 housing units around an existing transit station, Lorton, VA

Computer Sciences Corporation, 44,000 SF executive presentation center, Falls Church, VA

The Trocadero, renovation of full-block structure into urban entertainment complex, London, England
Rockefeller Center, preliminary retail studies, New York, NY
Embassy of Singapore, 55,000 SF building, Washington, DC
1333 New Hampshire Avenue, renovation of 330,000 SF 12-story building, Washington, DC
American Red Cross, renovation of master plan for 150,000 SF, three building headquarters complex, Washington, DC
American Red Cross, 18th Street Building Renovation and Central Utility Plant addition, Washington, DC
American Red Cross, development feasibility study for client-owned, two-acre site, Alexandria, VA
Health Care Financing Administration Headquarters, 900,000 GSF federal office building, Baltimore County, MD
Elbow Beach Hotel, master planning and conceptual design for resort expansion, Elbow Beach, Bermuda
Hyatt Regency Resort Hotel and Casino, master plan of new 250-room resort, South Friars Bay, St. Kitts, West Indies
Hyatt Regency O'Hare, ballroom addition and parking garage, Chicago, IL
Japanese Resort, 150-room resort hotel, Shizuoka Prefecture, Japan
Daewoo Business Center, hotel, office, retail, apartments, Hanoi, Vietnam
Seafer Centre Inter•Continental, 412-room hotel as part of mixed-use complex with retail, office, apartments, Surabaya, Indonesia
Chancery of the United Arab Emirates, design competition, Washington, DC
Saitama project, 2.7 million SF government office complex with parking garage in new urban center, Saitama, Japan
Dalian New City Center, master plan for new waterfront mixed-use city center, Bo Hi Bay, China
Senayan Square, mixed-use complex, Jakarta, Indonesia
Suzhou, China, master planning and conceptual design for mixed-use city center redevelopment with retail, hotel, office, and civic green

EDUCATION

Arizona State University, Master of Architecture, 1986
Florida A&M University, Bachelor of Arts in Architecture, 1981

TEACHING EXPERIENCE

The Catholic University of America, Washington, DC, design studio critic

AWARDS

Chase Towers, Best High-Rise Office Building, Maryland NAIOP, 2002
Computer Sciences Corporation, IIDA Washington Metro Chapter Gold Award Commercial Over 10,000 square feet, 1998
Computer Sciences Corporation, IIDA Washington Metro Chapter Pinnacle Award Best of Show, 1998
New Times Building, Arizona Society/AIA, Award of Excellence
New Times Building, AIA Western Region, Student Award
New Times Building, Phoenix Visual Improvement Award
Plaza at Roosevelt Square, AIA Western Region, Worthy of Note Citation

PROFESSIONAL ORGANIZATIONS

American Institute of Architects

PROFESSIONAL REGISTRATION

District of Columbia license # 4450

RTKL Start Date: July, 1989

F

OUTLINE OF TESTIMONY OF ARCHITECTURAL HISTORIAN

I. Introduction

- A. Qualifications
- B. Summary

II. Impact of Historic Preservation Issues

- A. History
  1. Greater 14th Street Historic District
  2. Existing contributing buildings
- B. Constraints placed on development
  1. Historic District
  2. Existing contributing buildings
- C. Consistency with the Historic District and Compatibility with Existing Contributing Buildings

EHT TRACERIES INC

1121 FIFTH STREET, NW, WASHINGTON, DC 20001-3605 TEL (202) 393-1199 FAX (202) 393-1056 E-MAIL EHT@TRACERIES.COM

EMILY HOTALING EIG

Architectural Historian and President of EHT Traceries, Inc.

Ms. Eig is the founder and president of EHT Traceries, a women-owned company incorporated in the State of Maryland. As the head of EHT Traceries, she combines management of an 11-person firm with her work as an architectural historian and preservation consultant. Her technical knowledge is focused on late 19th and 20th century buildings, as well as a thorough understanding of current historic preservation issues. She is well-known for her work with federal an d local architecture, especially in Washington, DC, and nearby Maryland and Virginia. As a preservation consultant, she advises on the interpretation of preservation laws and regulations, as well as regularly assisting owners, developers, architects, and preservation technicians with the interpretation and analysis of historic buildings through an understanding of historic and contemporary documents, construction techniques, and building materials. She is a considered an expert in resource evaluation, federal and state Historic Preservation Certification processes, Section 106 mitigation, and the Secretary of Interior's Standards for the Treatment of Historic Properties.

Ms. Eig meets professional qualifications prescribed by the Secretary of the Interior (36 CFR 61 - Appendix A). She has been accepted as an expert witness before the District of Columbia Historic Preservation Review Board, the Montgomery County Historic Preservation Commission; D.C. Mayor's Agent for Historic Preservation; D.C. Zoning Commission; D.C. Board of Zoning Adjustment; Superior Court of the District of Columbia; the National Capital Planning Commission; and the U.S. Commission of Fine Arts. In 2002 Ms. Eig served on two Urban Land Institute panels for sites in Washington, D.C.–the Old Naval Hospital and the Old Post Office Pavilion.

RESEARCH AND PRESERVATION PLANNING

Ms. Eig has served as Project Architectural Historian and Preservation Consultant for numerous major historic projects in Washington, D.C. In these roles, she directed research; prepared Historic Structures Reports and Historic American Buildings Survey documentation; advised on local and federal preservation reviews including Determination of Eligibility, Section 106 Memorandum of Agreements; guided efforts to rehabilitate historic building using the Secretary of Interior's Standards, and advised on the design compatibility of major new additions to historic buildings.

Selected preservation projects include:

- Georgetown Incinerator (EastBanc/Millenium) Shalom Baranes Associates, 1997-
- Woodward & Lothrop Building (Douglas Development Co.) GTM Architects, 1999-
- United Mine Workers Building (Summit Properties) Martinez & Johnson, 1999-
- Alban Towers Apartments, (Charles E. Smith Companies) Torti.Gallas CHK Architects, 1999-

- 800 F Street, N.W., (Douglas Development Co.) Shalom Baranes Associates, 1998-
- Old Masonic Temple (Karchem Properties, Inc.) Martinez and Johnson Architects, 1997-
- 700 block of Seventh Street, N.W. (Douglas Development, Inc.) GTM Architects, 1997-
- Interstate Commerce Commission and Department of Labor Buildings (GSA) RTKL, 1995-96
- Department of the Interior Modernization (GSA) Shalom Baranes Associates, 1993-5
- Washington City Post Office (U.S. Postal Service/Postal Square Associates [Gerald D.
- Hines Interests, Managing Partner]; Shalom Baranes Associates, Architects), 1985-92
- Warner Theatre and Office Building (The Kaempfer Company; Pei Cobb Freed & Partners with Shalom Baranes Associates, Architects), 1986-92

SURVEY AND DOCUMENTATION

Ms. Eig holds particular expertise in late 19th and 20th century residential, commercial, religious, institutional, and public buildings, as well as in the history of city planning. Work in the Metropolitan Washington area has provided the opportunity to study a variety of building types from that period (notably commercial and office buildings, single family residences, apartment buildings, public and institutional buildings, banks, movie theaters, post offices, warehouses, garages, carriage houses and stables, and churches), as well as to develop expertise in the history of urban neighborhoods.

She has authored numerous documents, including Historic Structures Reports, Historic American Building Survey documentation, Maryland Historical Trust Historic Property Inventory Forms, General Services Administration Building Preservation Plans, and National Register of Historic Places nominations. This work includes innovative use of computer databases to provide recordation, comparative analysis, evaluation, and management of building elements.

In 1998, she completed a major study of the history of the Public Buildings Service. Tentatively titled, *Cause to Be Built: The Origins and History of the Public Buildings Service,* publication under the auspices of the General Services Administration is anticipated in 2002.

PRESERVATION PLANNING

In the last few years, EHT Traceries has participated in a number of important master plan documents for such institutions as Downtown Washington DC, The George Washington University, and the University of Maryland in Baltimore.

SURVEY DATA MANAGEMENT

Ms. Eig has extensive expertise in the design, implementation, and administration of historic architectural surveys, particularly in the design and use of computer-aided survey methodology. Since 1983, EHT Traceries has conducted more than fifty surveys in the District of Columbia, Maryland and Virginia. These surveys include contextual studies (such as the continuing survey of Annapolis, Maryland and Arlington County, Virginia), building type studies (such as the D.C. Apartment Buildings Survey), and transportation corridor studies for the Maryland Department of Transportation.

SELECTED PUBLICATIONS

Eig, Emily Hotaling, *Cause to Be Built: The History and Origins of the Public Buildings Service*, General Services Administration scheduled for publication in 2002.

Eig, Emily Hotaling, National Association of Historic Preservation Commissions, "Preservation in DC," February 1998.

Eig, Emily Hotaling, "Kalorama" in *Washington at Home* (Kathryn Schneider Smith, Ed.). Northridge, CA: Windsor Publications, Inc., 1988.

Eig, Emily Hotaling, "Waddy Wood, Architect" in *Department of the Interior Building; Its Architecture and Its Art* (David W. Look and Carole L. Perrault). Washington, D.C.: U.S. Department of the Interior, National Park Service, Preservation Assistance Division, 1986.

PROFESSIONAL AFFILIATIONS

Society of Architectural Historians
Committee of 100 on the Federal City
D.C. Preservation League
Association for Preservation Technology
Historical Society of Washington, D.C.

EDUCATION

The George Washington University, Washington, D.C.
Master of Arts in Teaching in Museum Education, 1975
Field of study: Architectural History

Brandeis University, Waltham, Massachusetts
Bachelor of Arts, Fine Arts (Art History), *cum laude* with departmental honors, 1974.

EHT TRACERIES INC

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DESCRIPTION OF THE FIRM

EHT Traceries, Inc. is a research and consulting firm specializing in architectural history and historic preservation. The firm provides a wide range of services related to historic resources, including research, survey, evaluation, and preservation. EHT Traceries manages project types involving Historic Preservation Certification Applications, Section 106 review consultation and documentation, Historic American Building Survey documentation, National Register/ Historic Landmark/ Historic District nominations, and preservation compliance consultation. A women-owned corporation, EHT Traceries works throughout the United States, focusing on the District of Columbia, Maryland, and Virginia.

PRESERVATION STRATEGY CONSULTATION

The senior members of EHT Traceries provide consultation to owners and their project teams to assist with a wide variety of preservation issues. These include concerns related to the physical fabric of the historic buildings as well as the political and legal issues that may be associated with a project and its site. Strategic consultation includes guidance on approach, timing, presentations and presentation materials, as well as how to work successfully with government and citizen concerns.

RESEARCH AND PRESERVATION PLANNING

The firm is thoroughly familiar with the resources of both federal and local archival centers, and major private collections of material. Located in Washington, D.C., our extensive in-house files, large library, extensive image collection, computerized database containing information on thousands of buildings, as well as internet access to repositories throughout the world, all add to the firm's research capabilities.

Compliance with preservation legislation is an important area of expertise. EHT Traceries keeps abreast of local and federal regulations governing historic preservation. The firm provides assistance in clarifying issues of historic landmark/district eligibility and protections. EHT Traceries maintains information on certification of historic structures within established districts, and can advise on the effects of tax regulations, transfer of development rights, easements and other programs designed to promote preservation, as well as on the impact of zoning and building codes on historic structures.

Working closely with owners, architects, and other professionals, EHT Traceries analyzes historic documentation to assist in cultural resource management planning. EHT Traceries' projects include individual buildings, neighborhoods, institutional complexes, counties, and cities. The staff is highly skilled at interpreting architectural drawings and specifications to determine the impact of proposed work whether dealing with an historic building, district, or county.

SURVEY AND DOCUMENTATION

EHT Traceries is a recognized authority in the evaluation of the significance of historic buildings with particular expertise on residential, commercial, religious, institutional, rural and public buildings at the local, state and federal levels. EHT Traceries has prepared numerous applications for historic landmark and district status (local and state levels), nominations for the National Register of Historic Places and National Historic Landmarks. The firm has extensive experience preparing monographs, context studies, historic structures reports, as well as Historic American Buildings Survey (HABS) and Historic American Engineering Record (HAER) documentation.

FEDERAL AND STATE TAX CREDIT CONSULTATION

Having worked closely with State and Federal agencies, EHT Traceries is adept at interpreting the *Secretary of the Interior's Standards for Rehabilitation* in relation to the adaptive use of historic structures. The firm has successfully guided numerous rehabilitation projects through the Historic Preservation Certification Process. EHT Traceries works with the owner, architect, and reviewing agencies to gain tax credits that are both beneficial to the owner and the preservation community.

SECTION 106 CONSULTATION

EHT Traceries offers extensive expertise in the documentation and evaluation of cultural resources and has comprehensive and successful experience in meeting the Section 106 standards. The firm is skilled in conducting reviews of eligibility and contributing status, making assessments of potential effects, and preparing effects reports based on the Criteria of Adverse Effect (Section 800.9 (b)) and the Exceptions to Criteria of Adverse Effect (Section 800.9(c)) as defined in the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties (36 CFR Part 800). If an adverse effect is determined, EHT Traceries is qualified to prepare recommendations for further action and provide consultation regarding Memorandum of Agreement and mitigation negotiations.

HISTORIC INTERIORS INVESTIGATION

EHT Traceries provides research, documentation and evaluation of historic spaces. Focusing on interiors, including architectural elements, finishes and furnishings, the staff can perform a full range of preservation services necessary to undertake an interior restoration or historic rehabilitation from the initial documentation through successful project completion.

MUSEUM AND EDUCATIONAL PROGRAMS

Working with museums, historical societies, schools, and educational organizations, EHT Traceries assists with many aspects of Built Environment Education. Projects have included the interpretation of historic buildings, exhibitions, educational programming, teacher training, preparation of curriculum materials, tour development, and consultation on educational television and film productions. Members of the firm are regular lecturers in the Washington area, as well as at national conferences and meetings held around the country.

CLIENTS

EHT Traceries provides objective, professional analysis and expertise to a variety of clientele. The firm works with the architectural, development, legal, and preservation community, neighborhood groups, and private clients. Clients include, town, city, county and state agencies, as well. The firm also has a long record of participation in projects with national organizations including the National Trust for Historic Preservation, the American Institute of Architects, and the Smithsonian Institution. This work now includes the General Services Administration and the Department of the Interior.

PERSONNEL

The professional staff of EHT Traceries is comprised of architectural historians, a number of who are trained as architects. All are trained in the discipline of research and evaluative methodology with Masters degrees in historic preservation or architectural history. Specializing in the critical investigation and examination of American architecture, the senior staff contributes various individual areas of specialization, significantly broadening the firm's ability to meet a wide range of needs. Committed to the highest levels of academic standards, EHT Traceries is particularly skilled at transferring the results of thorough study into the realm of practical application.

The firm is associated with professionals from other disciplines including a photographer, archaeologist, historian, landscape historian, and historic interiors specialist who regularly work with EHT Traceries on a consultant basis.

EHT Traceries has built its reputation by providing work of the highest quality, maintaining an objective posture and a commitment to comprehensive preparation. All professional personnel meet the National Park Service qualifications (36 CFR 61 Appendix A) as architectural historians. Several senior staff members are recognized as expert witnesses before the D.C. Historic Preservation Review Board, the D.C. Mayor's Agent on Historic Preservation, the D.C. Zoning Commission, the D.C. Board of Zoning Adjustment, D.C. Superior Court, National Capital Planning Commission, the U.S. Commission of Fine Arts, the Montgomery County (Maryland) Historic Preservation Commission, and Prince George's County (Maryland) Historic Preservation Commission, and the Prince George's County Board of Zoning.