DETAILED STATEMENT OF EXISTING AND INTENDED USE, AND COMPLIANCE WITH APPLICABLE BURDEN OF PROOF

I. Introduction

The subject property at 4817 U Street, N.W. is located in Square 1389, Lot 816 in an R-1-B District (see Exhibit A). The subject property has been used as a parking lot since 1946, pursuant to a series of special exception approvals granted by the Board of Zoning Adjustment (the "Board" or "BZA"). The most recent approval was granted by order dated September 26, 2001 in BZA Application No. 16722, with a condition limiting approval to a period of one year and 11 other conditions (for a total of 12 conditions). CVS, the lessee of the subject 78-space parking lot, proposes to continue to use the parking lot as previously approved.

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II. Background of Most Recent Approval (BZA Application No. 16722)

On March 26, 2001, the lessee of the subject property, McArthur Boulevard CVS ("CVS"), filed on behalf of the owner of the property, First F.S.K. Limited Partnership, a special exception application seeking the Board's approval of an order allowing the continued use of the property as a parking lot for five (5) years. Based on the unfortunate neglect in maintenance of the parking lot in the approximately two and one half year period that had preceded the prior application, and the significant community concerns that flowed from such neglect, the Board approved an order allowing the use to continue for a period of one year only. Since the Board's approval of BZA Order. No. 16722, CVS has remained in compliance with all conditions of the most recent order and now seeks an order allowing the continued use of the parking lot for a period of five (5) years.

BZA
Case No. 16912
Exhibit No. 4

Board of Zoning Adjustment
District of Columbia
CASE NO.16912
EXHIBIT NO.4

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III. Detailed Explanation of How Application Meets the Applicable Burden of Proof

Under Section 213 of the Regulations, the Board may grant special exception relief for a parking lot in a residential district provided the conditions of that section are met. As demonstrated below, and through exhibits, testimony and other information to be submitted into evidence before the Board, CVS meets all the standards of section 213.

1. Adjacency to an Existing Commercial District.

Section 213.2 of the regulations states that a "parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial district." Section 213.3 further states that the "parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial district." Consistent with these requirements, the parking lot is located in its entirety within 200 feet of the C-2-A District. The commercial zone boundary line is contiguous with the western edge of the parking lot, as shown on the Zoning Map attached as Exhibit B. The lot then extends a total distance of 200 feet east from that boundary line, placing the entire lot within 200 feet of the C-2-A District.

2. Compliance with Chapter 23 of the Zoning Regulations.

Section 213.4 of the regulations requires the applicant to comply with all the provisions of Chapter 23 of the Zoning Regulations. Consistent with this requirement, the parking lot complies with the following applicable provisions of Chapter 23.

a. Impervious Paved Surface

Under section 2303.1(a), all areas devoted to driveways, access lanes, and parking areas must be paved and maintained with bituminous concrete or brick materials, or a equivalent materials, which form an all-weather impervious surface, and which is a minimum of four inches in thickness. Consistent with this provision, the subject parking

lot is paved with impervious asphalt with a thickness of at least four inches. This surface was repaired prior to the previous application, and currently is in excellent condition.

b. Appropriate Layout

Section 2303.1(b) further requires that the lot must be designed so that no vehicle or any part of a vehicle projects over any lot line or building line. Consistent with this section, the southern edge of the parking lot is bordered with landscaping, which prevents vehicles from projecting over the lot line. To the north and west, a metal railing acts as a similar barrier to vehicles. Thus, the lot is in full compliance with this requirement.

c. Limitation of Uses on the Site

The provisions of section 2303.1(c) prohibit any other uses from being conducted on the site, and do not allow any structures except for an attendant booth or an otherwise permitted use or structure. No other uses or structures are located on the parking lot, and thus the applicant is in compliance with this requirement.

d. Limitation on Proximity to Intersection

Section 2303.1(d) also prohibits any vehicular entrance or exit to be located within forty feet of a street intersection, as measured from the intersection of the curb lines extended. Consistent with this provision, the parking lot entrance is approximately 124 feet away from the intersection of MacArthur Boulevard and U Street, N.W.

e. Confinement of Light Rays to the Site

In order to protect adjacent property from unnecessary light wash, section 2303.1(e) requires that any lighting must be arranged so that all direct rays are confined to the surface of the parking lot. The lighting scheme utilized by CVS is consistent with this subsection. The light poles were installed in the center area of the lot to ensure that light rays are directed downward and away from adjacent residential properties. Further, CVS

adjusts the lighting intensity based on community input to ensure continuing compliance with this provision.

f. Maintenance and Landscaping of the Lot

Section 2303.1(f) sets forth several requirements regarding the appearance of the lot to maintain its compatibility with its residential surroundings. That section states that:

> The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.

CVS has a contract with a landscaping company that maintains the neat and orderly appearance of the landscaping on the lot and keeps said landscaping in a healthy growing condition. The natural vegetation and landscaping along the eastern edge of the site comprises approximately twenty-five percent of the property, well in excess of the five percent minimum standard. An evergreen screen was planted along this portion of the site to buffer adjacent residential uses from the parking lot prior to the previous application. A private hedge also borders the southern property line on either side of the entrance to the lot.

CVS also has a contract with a maintenance company that keeps the property free of refuse and debris.

g. Adequate Screening from Adjacent Residential Properties

Section 2303.2 further requires that a parking lot located in an R-1 District must be screened from all contiguous residential property by either a solid brick or stone wall at least one foot thick and 3.5 feet in height, or by evergreen hedges or trees, thickly planted and maintained, and at least 3.5 feet in height when planted. Consistent with these

provisions, the parking lot is screened from the residential properties to the north by a masonry wall 2.5 feet in height, which is topped by a stockade fence 3.5 feet in height. A wooded area is also maintained in front of this fence. Along the eastern border of the property, evergreen trees at least 3.5 in height have been planted, which supplement the thickly growing natural vegetation on the unpaved portion of the site.

Section 2303.2 also reiterates the need for maintenance of the lot. As noted above, CVS has service contracts for cleaning and maintenance and has continued its dialogue with the community to ensure its concerns are fully addressed.

3. Prohibition Against Dangerous Traffic Conditions

In order to protect the character and future development of the neighborhood, section 213.5 states that no dangerous or otherwise objectionable traffic conditions shall result of the use of the parking lot. Since 1946, the parking lot has been operated in a safe and orderly manner without creating any dangerous or objectionable traffic conditions. Further, CVS, pursuant to approval by the Department of Public Works, extended the sidewalk along U Street to the entrance of the parking lot in order to enhance pedestrian safety in the neighborhood.

4. Convenience to Other Neighborhood Uses

Finally, sections 213.6 and 213.7 require the parking lot to be reasonably necessary and convenient to other uses in the vicinity, so that the likely result will be a reduction in overspill parking on neighborhood streets. The majority of parking spaces shall serve residential uses or short-term parking needs of retail, service, and public facility uses in the vicinity.

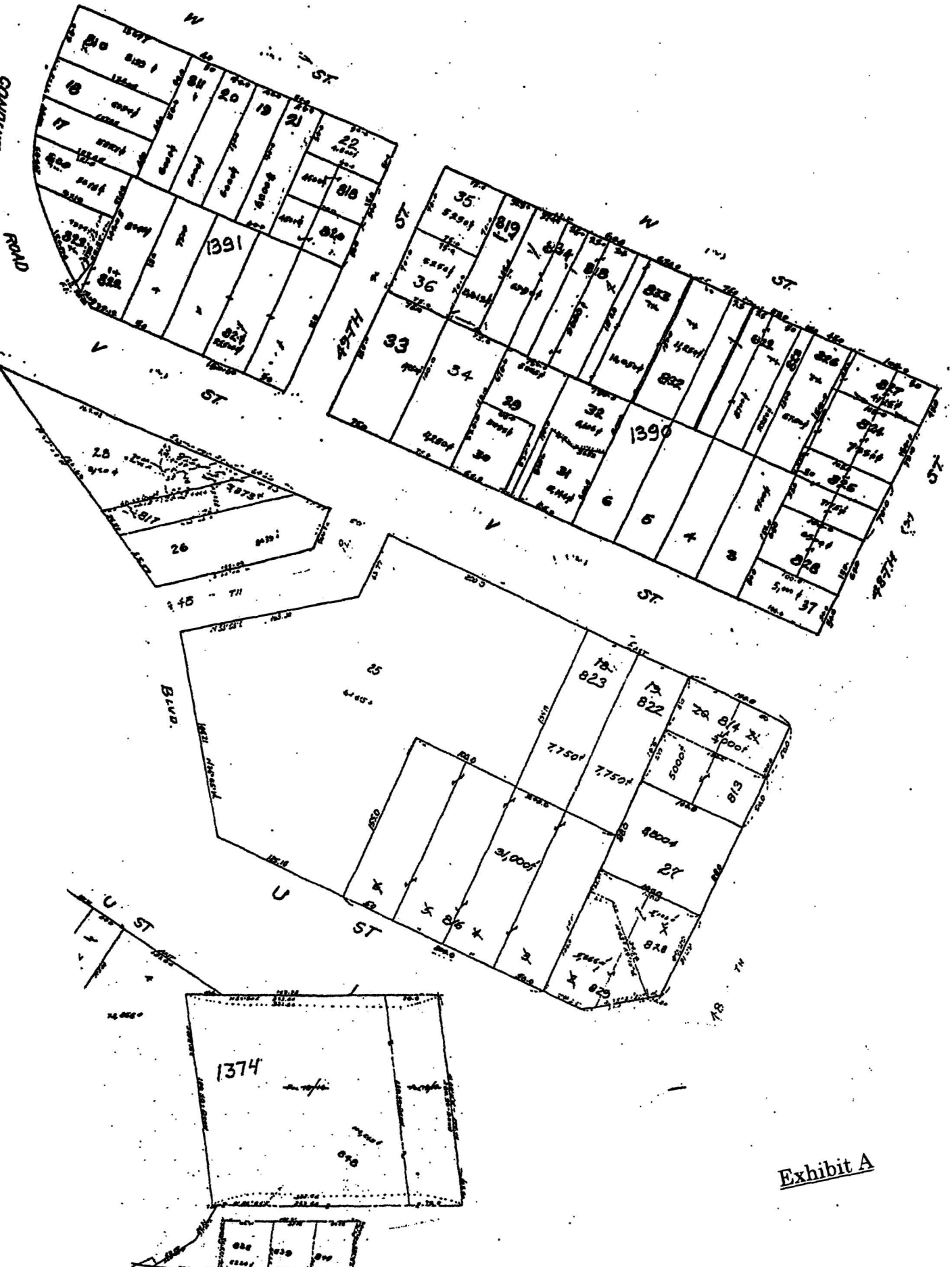
Consistent with these sections, the parking lot provides a vital service to area retail and service uses. A nearby catering business is able to park its delivery vans at the lot, thereby preventing overspill parking on neighborhood streets and at the same time

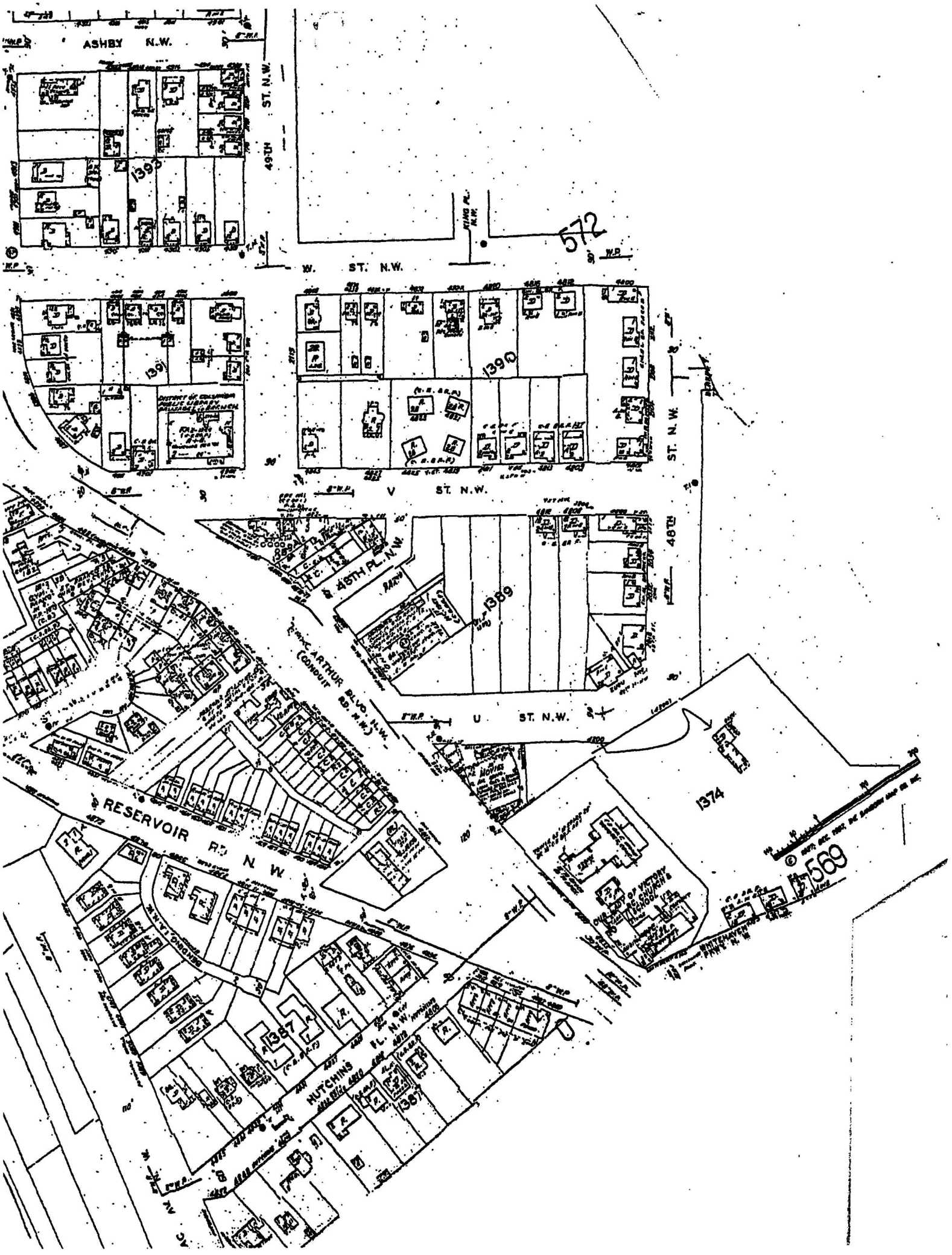
accommodating the needs of a local business. The automobile service station across MacArthur Boulevard is also able to use the lot to park vehicles that have been repaired on a short-term basis. Similarly, the lot provides supplemental space for weddings, funerals, or other special services at Our Lady of Victory Church located across U Street from the site. The lot also provides parking spaces for the school's teachers and visitors to nearby residences.

III. Conclusion

Inasmuch as CVS has demonstrated that the application is in compliance with the requirements of Section 213, the Applicant submits that the requested relief can be granted without materially impairing the intent and purpose of the Zoning Regulations, and the use will not tend to affect adversely the use of neighboring property.

WAS1 #1088382 v2


W V ST.
COMMERCE ROAD
V ST.
W V ST.
49TH ST.
1391
1390
1374
BLVD.
U ST
U ST
V ST.
49TH ST.
Exhibit A


ASHBY N.W.
49TH ST. N.W.
1393
572
W. ST. N.W.
1391
1390
V ST. N.W.
48TH ST. N.W.
S 46TH PL. N.W.
1389
U ST. N.W.
1374
RESERVOIR RD. N.W.
1387
1387
HUTCHINS PL. N.W.
569

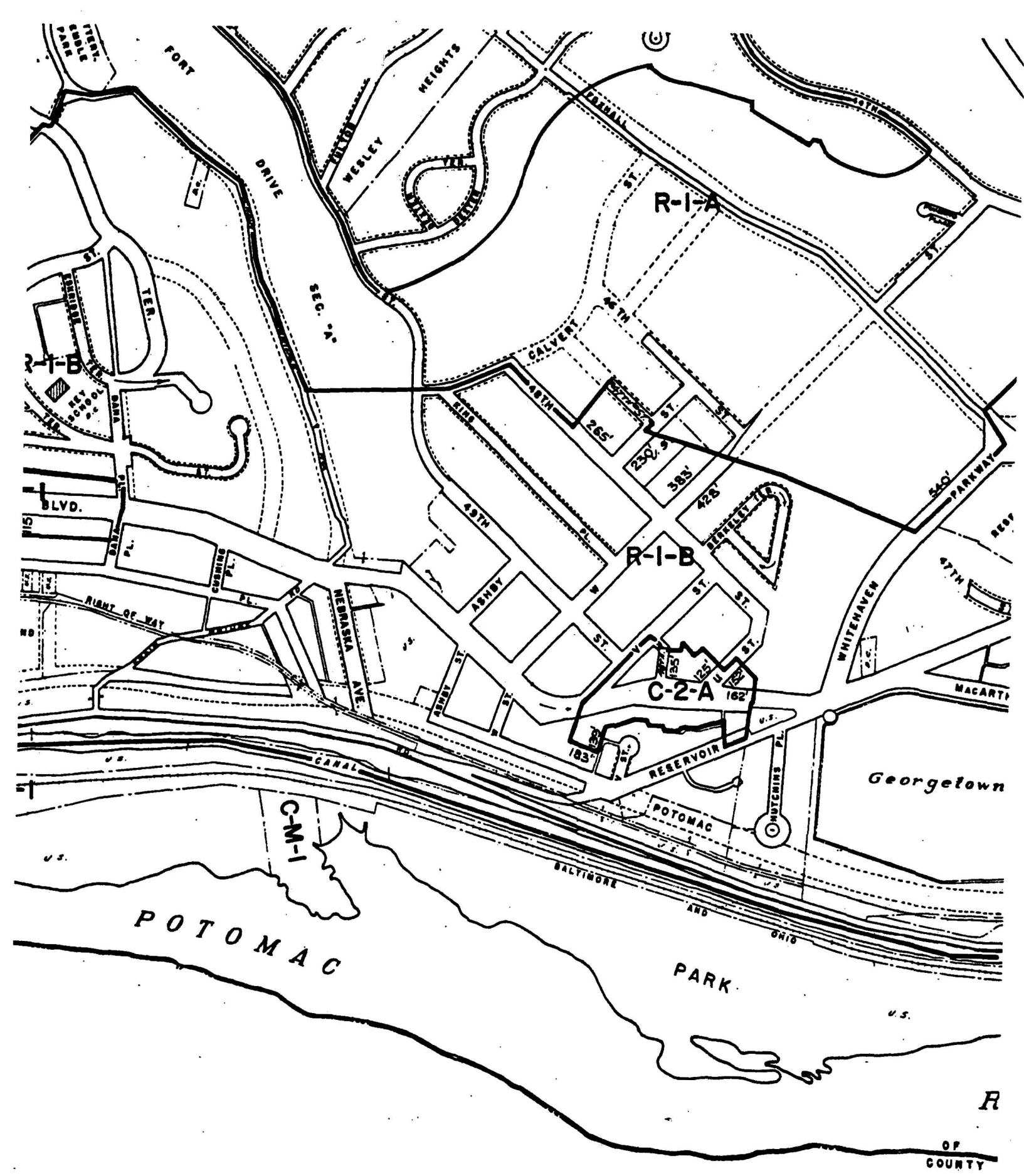

R-1-A
R-1-B
C-2-A
C-M-1
FORT DRIVE
SEC. "A"
WESLEY HEIGHTS
CALVERT
48TH
49TH
47TH
265'
230'
385'
428'
540'
PARKWAY
BLVD.
NEBRASKA AVE
ASHBY
WHITEHAVEN
RESERVOIR
POTOMAC
CANAL
Georgetown
BALTIMORE AND OHIO
POTOMAC PARK
MACARTH
OF COUNTY

Exhibit B