GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

MEMORADUM

TO: Board of Zoning Adjustments

FROM: Andrew Altman, Director
Office of Planning

DATE: September 25, 2002

SUBJECT: Waiver of Rules for Late Submittal of Final Report on Case No. 16920

The attached Final Report concerning the application for the Special Exception relief to permit an art gallery at 1629 21st Street, N.W., is being submitted less than 7 days prior to the Board of Zoning Adjustment's consideration of the item and scheduled public hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

Attachments

AA/kt

BZA
Case No. 16920
Exhibit No. 25

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Board of Zoning Adjustment
District of Columbia
CASE NO.16920
EXHIBIT NO.25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE August 21, 2002

SUBJECT: BZA Application 16920 – **Burton-Marinkovich Art Gallery**
Request for a special exception to permit an art gallery at 1629 21st Street, N.W.

APPLICATION

The applicant is seeking Special Exception relief pursuant to 11 DCMR § 361 to use the first floor and part of the second floor as an art gallery in the building located at 1629 21st Street, N.W. in Square 93 Lot 122.

SUMMARY RECOMMENDATION

The Office of Planning **recommends denial** of the special exception for the following reasons:

> The subject property and surrounding residential neighborhoods are zoned R-5-B, moderate density residential. Although this zone allows "those institutional and semi-public buildings that would be compatible with adjoining residential uses" (§350.1), OP cannot conclude that the proposed use meets the standards of "no adverse effects" on the adjoining neighborhood as required by §§ 3104 and 361.6 to approve the special exception.

SITE AND AREA DESCRIPTION

The subject property is located in square 93, which is bounded by R Street to the north, 21st Street on the west, Connecticut Avenue to the east and Hillyer Place to the south. The area is zoned DC/D/ R-5-B combined. The underlying zone permits as a matter-of-right the development of single-family dwellings, flats and apartment buildings. The building is currently a three-unit apartment building with an existing art gallery (Brown's Art Gallery) located in the basement with its entrance on R Street. The property is surrounded by like row houses, with mixed residential apartments, commercial and office

uses, and embassies. This property built after the Civil War contributes to the historic character of the Dupont Circle Historic District. The property is surrounded by like row houses and the neighborhood contains fifteen (15) galleries in a one-block radius, including the Phillips Gallery.

PROJECT DESCRIPTION

The applicant proposes to lease three floors, using the third floor and a part of the second floor as a residence, and the first floor and a portion of the second floor as a gallery. No structural changes of any kind are contemplated for exterior of the building. However, the applicant has indicated that a one-square foot permanent sign will be attached to the building. Periodically, a two-foot by six-foot banner will be displayed for special showings. Opening events would not exceed fifteen (15) per year and will have a maximum of 100 guests.

RELIEF REQUESTED and ANALYSIS

This relief may be granted in accordance with §361 and §3104 of the Zoning Regulations, and should not adversely affect the use of neighboring property. The following discussion includes an analysis of the applicant's proposal as it relates to the provisions of the §361 and relevant sections of the Comprehensive Plan.

361 ART GALLERIES (R-5)

361.1 An art gallery shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under §3104, and subject to the provisions of this section.

361.2 The art gallery shall be located and operated so that it is not likely to become objectionable to adjoining and nearby property because of objectionable noise, pedestrian and vehicular traffic, hours of operation, or other objectionable conditions.

The applicant informed OP that the current gallery rarely has openings of new shows and generates its business through mail notices to customers, and presentations by appointment at the client's location. Therefore, the gallery has not depended on foot or vehicular traffic for its business. Its current hours of operation are between 11 a.m. and 5 p.m., Tuesday through Saturday. The applicant has stated that there are a number of major events per year. OP has no information on the number of openings the gallery hosts at its present location. The gallery is within walking distance from the Dupont Metro Station.

The proposed art gallery will be located on the first and part of the second floor of the building. Currently, there is another gallery located in the basement, which has been in operation since 1987 and will continue its operation in the basement of the building.

The applicant has not provided any information on the exact number of events proposed at this new location, and how parking for these events will be accommodated.

Additionally, there are no accommodations for parking and loading /unloading of catering and art delivery trucks at the present site. It is unclear whether the existing 3 parking spaces will be allocated to the residential tenants.

361.3 The Board shall consider, and regulate, if necessary, the anticipated frequency, number of attendees, and other characteristics of show openings or other group gatherings.

The owner anticipates that there will be no more than fifteen (15) opening events per year, with a maximum of 100 guests, but informed OP that they are still negotiating this item with the neighborhood. This averages to more than one event per month. OP believes this would negatively impact the residential character of the neighborhood, since it effectively adds more events in the neighborhood on top of those already being staged by the 15 other galleries in the immediate vicinity. The application states that the gallery is not dependent of foot traffic for its sales "or walk-in traffic for its clientele". The application further states it encourages visitors to take Metro. However, OP is quite concerned about the fifteen (15) events with 100 guests per event and how art would be delivered, loaded and removed from the site. Information has not been provided detailing the delivery and set-up requirements of an art event.

OP is also concerned about the coordination between the Brown Gallery and the subject gallery, which could either result in more openings accompanied by more traffic or openings that are coordinated with potentially higher impact than projected by the application. There is also a concern that there will be a significant amount of pedestrian and vehicular traffic associated with these events.

OP concludes fifteen (15) events per year with 100 guests per event would significantly impact a neighborhood, which already has fifteen (15) other galleries within a one-block radius.

361.4 Adequate off-street parking, but not less than that required by chapter 21 of this title, shall be provided to accommodate occupants, employees, and visitors likely to come to the gallery by automobile.

The building has two outdoor parking spaces and a one-car garage. §2100.5 states: "No additional parking spaces shall be required for a historic landmark or a building or structure located in a historic district". The proposed location of the gallery falls within the Dupont Circle Historic District and the structure at 1629 21st Street contributes to the historic character of the district. These three parking spaces will continue to be provided. Additionally, §2101.1 requires art galleries in all districts, in excess of 3,000 square feet, to provide 1 space for every 300 square feet of gross floor area. The gross floor area of the proposed gallery is 913.38 square feet. Therefore, under this provision, no parking is required for the gallery use. However, it is unclear whether the parking spaces will be allocated to the residential tenants.

361.5 The proposed use shall not adversely affect the present character or future development of the surrounding area.

The neighborhood is a mix of residences and small institutions, including galleries and chanceries. A gallery and three other residences currently occupy the building. The existing gallery (Robert Brown) at 21St Street occupies 775 square feet, according to the Certificate of Occupancy issued in 1987. The proposed addition of the gallery adds another 2,394 square feet of gallery space contributing to a total of 3169.6 square feet of gallery space (58%) in what is currently a predominantly residential building.

OP concludes that the character or future development of the surrounding area will be adversely affected by the relocation of the gallery from 1506 to 1629 21st Street. The relocation of the gallery represents an increase in gallery space for the applicant. This erodes existing residential space, which is inconsistent with the purposes of the Dupont Circle Overlay, which is stated as follows:

§1501.4 The purpose of the DC Overlay District is to:

(c) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development.

In addition, the residential nature of 21st Street will be slowly eroded with the addition of another gallery to the 1600 block of 21st Street. Currently, the immediate neighborhood to the west of Connecticut Avenue has approximately 15 galleries (see attachment of gallery listings).

OP recognizes the community's concern about the abundance of galleries and other non-residential uses in the neighborhood. As can be seen from the attached map, a substantial portion of R Street has already been converted to galleries (virtually the entire southern half of the 2100 block) and the Phillips Collection occupies much of 21st Street. OP fears that the neighborhood is close to reaching a tipping point, where the residential character will be so eroded it will be destabilized. While we recognize this is a relocation of an existing gallery, there would be nothing to prevent the space being vacated from being filled by another gallery. One of the attractions of this neighborhood for galleries is the fact that residential space can be obtained more cheaply than commercial space. This puts a great deal of pressure on fragile neighborhoods, which are adjacent to commercial districts and Metro.

OP's review is guided by technical criteria, including the Special Exception definition, as follows:

- A **special exception** is a use that is pre-deemed compatible with the Zoning Regulations for that particular zone district, but which needs to be reviewed by the Board to ensure that certain negative impacts will not occur.

OP believes that an increase in commercial space negatively impacts the residential character of the neighborhood by the conversion of a predominately residential building to a predominately non-residential building.

There are special incentives, requirements and support, including the Comprehensive Plan (§§906.2 and 1130.2) for the location of arts in the Downtown Arts District, and Uptown Arts District. The Comprehensive Plan and current zoning encourage a mix of arts, commercial and entertainment uses in these two arts districts, making them a viable alternative for the location of uses such as galleries, which would not adversely impact or overwhelm an underlying residential zone were they to locate there.

361.6 The Board may require special treatment in the way of design, screening of buildings and parking, signs, exterior and interior lighting, or other requirements it deems necessary to protect adjacent and nearby properties.

Any signage proposed by the applicant will require approval of the District's Historic Preservation Office for compatibility with signage requirements for the Historic District, and DCRA's building code requirements before a permit is issued.

COMPREHENSIVE PLAN

§1131.2 of the Comprehensive Plan establishes the policies for the Dupont Circle Special Treatment Area as follows:

(d) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location and density of commercial and residential development.

OP believes that the relocation and expansion of the gallery to this site will create an imbalance between residential and commercial uses. Approximately 15 galleries in the immediate neighborhood, including along R, 21St, Q Streets and Hillyer Court, currently impact the neighborhood. While the business and operational aspects of the gallery are low volume, the events and openings are higher volume, and additional floor space of the gallery effectively displaces a residential unit in the neighborhood and adds to the erosion of the existing residential uses and general character of the neighborhood. OP believes the immediate neighborhood is approaching critical mass with respect to the number of commercial uses.

WARD 2 Strategic Neighborhood Action Plan

The number one neighborhood priority from the Strategic Neighborhood Action Plan workshop held on June 7, 2001, for this neighborhood was to "balance residential, non-residential and commercial development." Listed as an action for this priority was to "[C]onduct planning activities that preserve existing residential development patterns."

OP believes that the existing expansion of gallery use with the building will result in the loss of residential space and does not preserve the existing residential pattern.

COMMUNITY COMMENTS

The request was scheduled for ANC 2B's review on Wednesday, September 11th, 2002. The ANC has informed OP about its opposition to the proposal, but has not officially filed its position. The Historic Preservation Review Board offered no comments, since no structural changes are proposed.

RECOMMENDATION

The Office of Planning **recommends denial** of the special exception to allow the Burton-Marinkovich Fine Art Gallery to operate at 1629 21st Street N.W. The applicant had proposed to operate from the first floor and a portion of the second floor of the three-story building.

OP believes that an imbalance in favor of commercial uses will be further encouraged by the relocation of the gallery to this site. The immediate neighborhood west of Connecticut Avenue, between 20th and 22nd Streets is impacted with the operation and events of nine galleries along R Street. Preservation of the more residential nature of 21st Street becomes crucial to maintaining the balance between the residential and commercial uses of the neighborhood.

OP believes that this gallery, including the number of events, number of guests, and lack of parking accommodation for these events, would in combination with the operation of other neighborhood galleries and institutions, contribute to the erosion of the neighborhood's character, and would adversely affect the intent of the Zoning Regulations and Map.

Attachments:
Location Map
Floor Plan
Gallery listing

AA/kt



Feature Key

- Zoning Boundaries
- Square Index

Board of Zoning Adjustment
Application No. # 16920
Bass Art Gallery

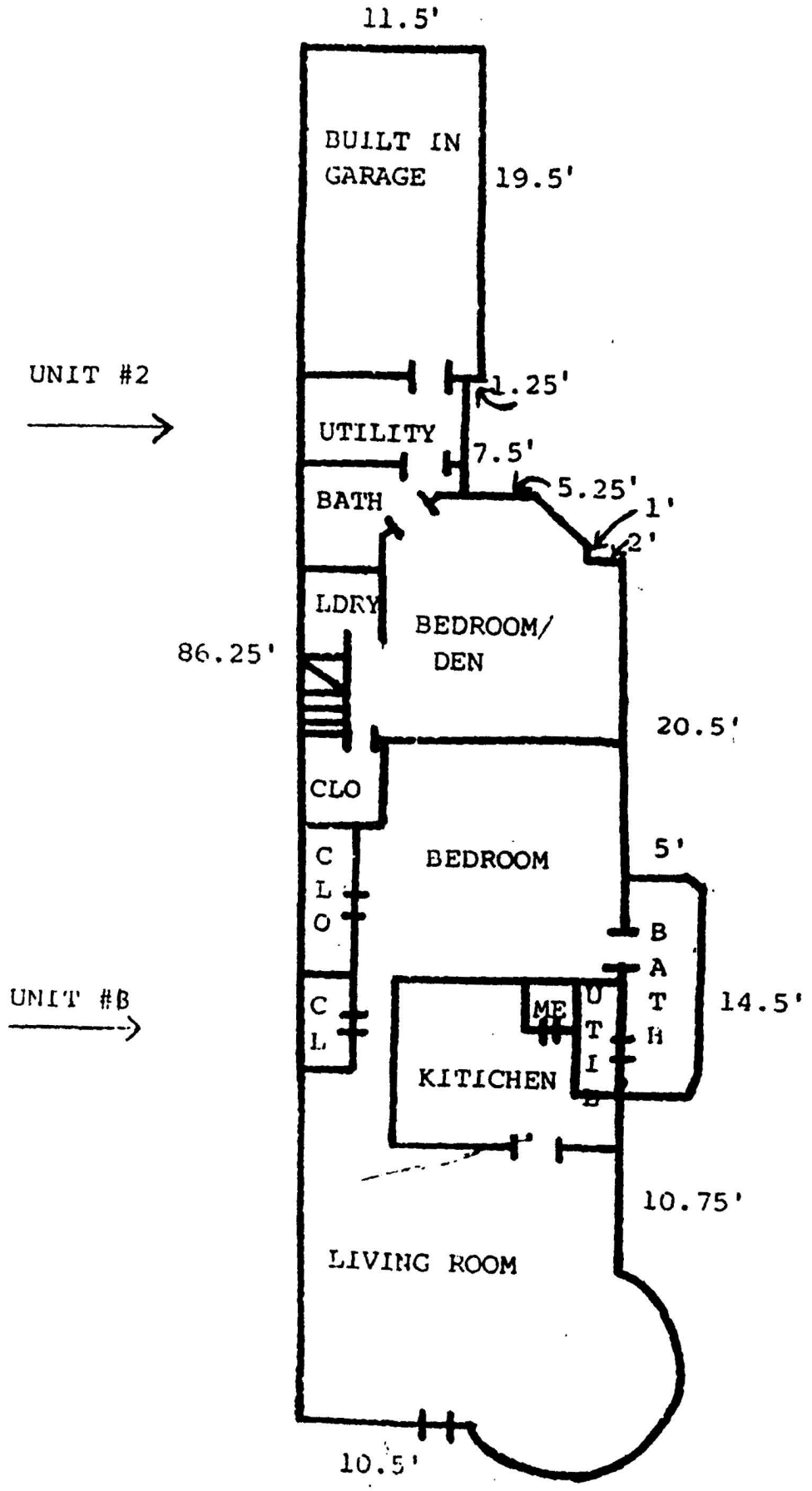
DC Office of Planning
September 11, 2002

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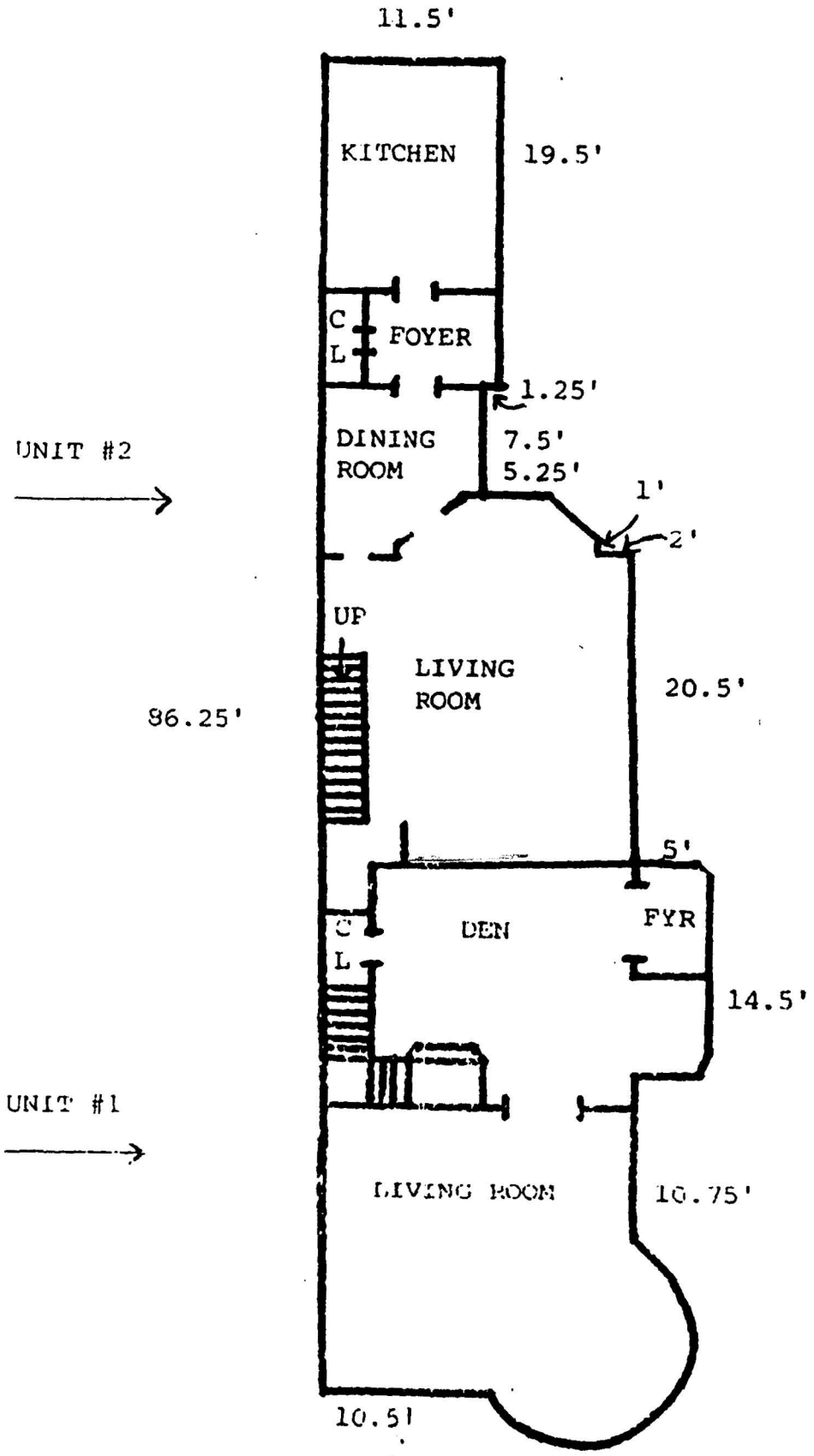
Attachment 1



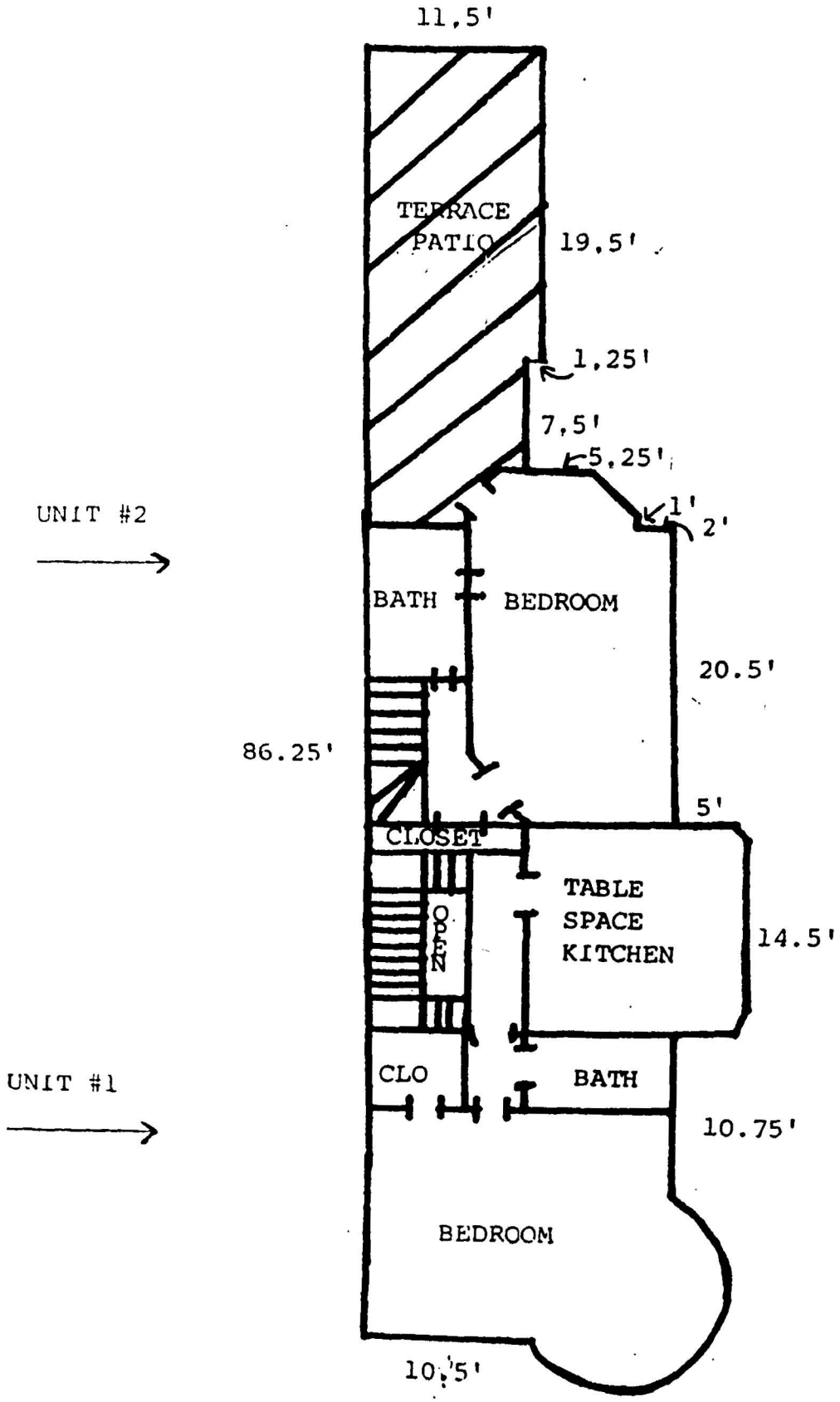
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Case No. 16920
Exhibit No. 9

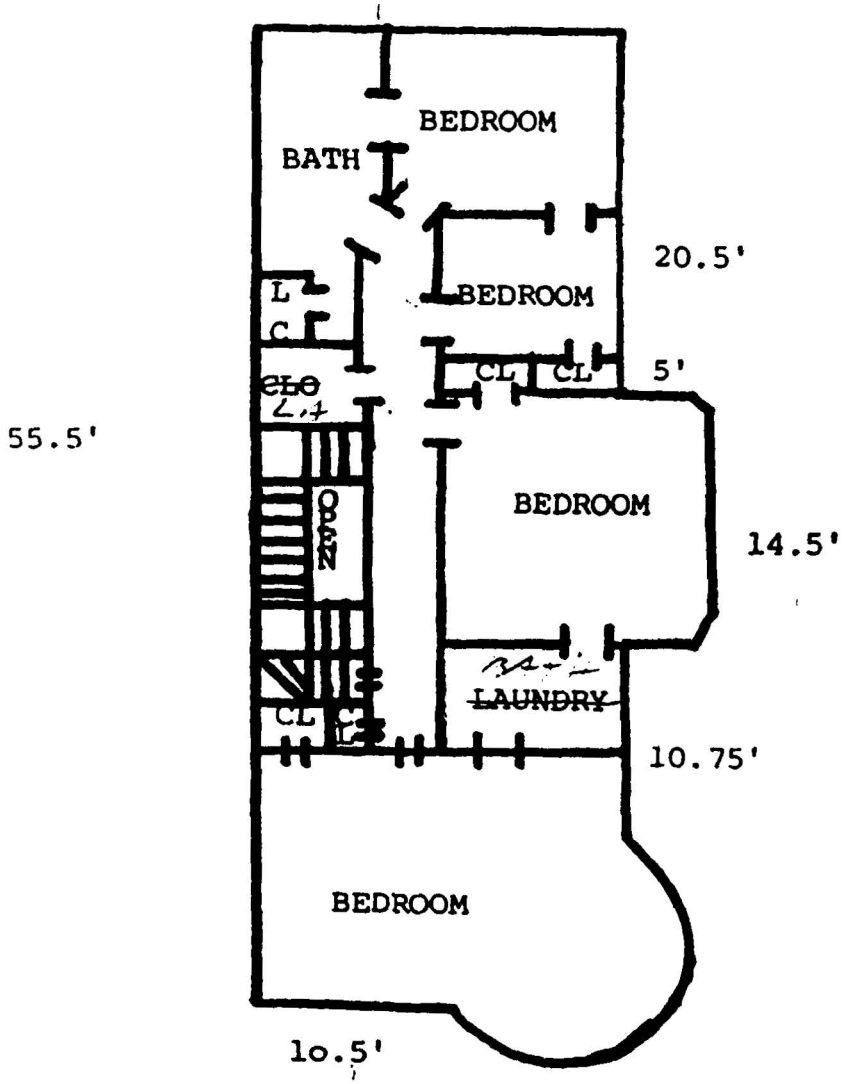
GROUND FLOOR


11.5'
KITCHEN
19.5'
C
L
FOYER
1.25'
UNIT #2
DINING
ROOM
7.5'
5.25'
1'
2'
UP
LIVING
ROOM
20.5'
86.25'
5'
C
L
DEN
FYR
14.5'
UNIT #1
LIVING ROOM
10.75'
10.5'

FIRST FLOOR



SECOND FLOOR



THIRD FLOOR

UNIT #1

List of art galleries within a block or two of the subject property and within the same R-5-B Zone District:

R Street:

Street No.

2010 Africa and Gallery K (2 galleries)
2012 Matcyka
2030 Robert Brown (basement of subject property)
2025 Haslem
2106 Alex
2108 Anton and Studio (2 galleries)
2112 Fondo del Sol
2114 Burdick

21st Street

1600-18 Phillips
1621 Pinto
1730 Diner Gallery

Q Street:

2023 Tartt
2029 Pensler

Hillyer Court:

9 Foundry Gallery