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October 8, 2002

CHRISTINE MOSELEY SHIKER
202-457-7167

Internet Address: cmshiker@hklaw.com

VIA HAND DELIVERY
Members of the Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Board of Zoning Adjustment Case No. 16930
500 New Jersey Avenue, N.W.
Prehearing Submission

Dear Board Members:

On behalf of the applicant in the above-referenced case, enclosed please find twenty copies of its prehearing submission in support of the above-referenced application for special exception and variance relief.

Should you have any questions regarding this matter, please do not hesitate to contact me at (202) 457-7167.

Sincerely,

Christine Moseley Shiker

Enclosures

cc: David McGettigan, Office of Planning (Via Hand Delivery; w/enclosure)
Ken Laden, DDOT (Via Hand Delivery; w/enclosure)
Abdoulaye Bah, DDOT (Via Hand Delivery; w/enclosure)

BZA
Case No. 16930
Exhibit No. 57

Board of Zoning Adjustment
District of Columbia
CASE NO.16930
EXHIBIT NO.57A1

BEFORE THE BOARD
OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF
LAWRENCE N. BRANDT, INC.
500 NEW JERSEY AVENUE, N.W.

BZA APPLICATION NO. 16930
HEARING DATE: OCT. 22, 2002
ANC 6A

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Lawrence N. Brandt, Inc. (the "Applicant") in support of its application to the Board of Zoning Adjustment for the following variance and special exception relief from the requirements of the Zoning Regulations pursuant to 11 DCMR § 3103.2 and 3104.1: (i) a variance from the floor area ratio ("FAR") requirement of Section 771; (ii) a variance from the height requirement under Section 770; (iii) a variance from the parking requirement under Section 2101; (iv) a variance from the loading requirement under Section 2201; and (v) a special exception from the roof structure requirement of Section 411.5.

As discussed below, this application is a modification to the previously approved Board of Zoning Adjustment Case No. 16744, in which development of the site was approved with almost identical relief. The relief will permit the construction of the new regional headquarters building for the National Association of Realtors ("NAR") with ground floor retail uses located at 500 New Jersey Avenue, N.W. (the "Site") and located in the HR/C-3-C District. As was determined by the Board in the previous case, development of the Site with this size of building is appropriate for the Site, fully compatible with the surrounding area, and consistent

with both the Comprehensive Plan and the Zoning Regulations.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the variance relief requested herein pursuant to Section 3103 and 3104 of the District of Columbia Municipal Regulations ("Zoning Regulations"). 11 DCMR §§ 3103 and 3104.

III.
BACKGROUND

A. Previous Approval

The Board previously granted approval for virtually identical variance relief for development of this Site in Board of Zoning Adjustment Case No. 16744. A copy of Board of Zoning Adjustment Order No. 16744 is attached hereto as Exhibit F. In that case, the Board approved the development of the Site with 92,350 square feet of gross floor area devoted to office and supporting retail use, or 11.11 FAR, a height of 130 feet, parking of five spaces, with an additional fifty-five spaces located in vault space, and one service delivery space. The development of the Site at that time was proposed on a speculative basis. Despite the merits of the previously approved design, the Site was not developed and was sold to the Applicant. The Applicant intends to develop and sell the Site with the new national headquarters building for the NAR.

B. Description of the Site

The Site is located at 500 New Jersey Avenue, N.W. It is a narrow, extremely, small triangle (8,312 square feet) and comprises the entire private land

area of Square 627 (Lots 7, 12, 801 and 802). Square 627 is bounded by New Jersey Avenue to the east, E Street to the south, First Street to the west, and Federal Reservation 196 and F Street to the north. The combination of private land area and public, open space comprises over 37,000 square feet of land. The Site is currently improved with a boarded and fenced gas station, vacant retail structures and incidental parking. The Site is located in the HR/C-3-C District and within the Downtown East Receiving District.

C. Description of Surrounding Area

The Site is located northwest of the Capitol along the New Jersey Avenue monumental corridor. The Generalized Land Use Map of the Comprehensive Plan designates the Site and the surrounding area in the highest density commercial designation. Similarly, the Site and the surrounding area are located in the Central Employment Area. The Site is a short walk from Union Station, with Metrorail, Metrobus, and regional rail service, as well as a short walk from the Capitol, the Supreme Court, and the Senate and House of Representative office buildings.

The area immediately surrounding the Site includes five high density hotels. They are the Hyatt Regency, the Holiday Inn, the Washington Court, the Hotel George and the Phoenix Park Hotel, with heights ranging from ninety to 130 feet. Georgetown University Law Center predominates the area to the west and northwest of the Site. Numerous high density office buildings are also in the area, including law, government, association and union buildings.

D. Project Description

The Applicant proposes to construct an office development with ground floor retail uses (the "Building") for use as the new regional headquarters building of the NAR. The Building will have twelve stories and a total height of 130 feet, containing approximately 87,995 square feet of gross floor area, or 10.52 FAR. As a design feature, the Building incorporates rounded sides projecting into public space which provides an additional 9,720 square feet of floor area. The total square footage of the Building is identical to the total square footage of the project approved as part of BZA Case No. 16744. The NAR will occupy the top four stories of the Building and will lease the remaining portions of the Building.

The Building was designed by Graham Gund and Associates, an internationally renowned architectural firm, and has been applauded by some of the most prominent architects in the Washington, D.C., area. The design was chosen by a panel of three prominent architects in Washington, including George White, former architect of the Capitol, Harry Robinson, III, former dean of architecture at Howard University and acting chairman of the Commission of Fine Arts, and Colden "Coke" Florence.

The dramatic and modern design of the Building is not only aesthetically pleasing but sets a new standard for environmentally "green" commercial structures in the nation. Among its state-of-the-art environmental features are the following: verification systems to measure air quality and other internal environs; specially designed curtain wall glazing for thermal heat dissipation; exterior sun control devices ('brise soleil"); a "grey water" recyclable water system; and state-of-the-at

lighting controls and systems. A comprehensive list of the environmental features of the Building is attached hereto as Exhibit G.

The Building fronts on wide streets, with New Jersey Avenue having a 160 foot right-of-way and E and First Streets having ninety foot rights-of-way. As a result, the Building is framed by wide sidewalks and landscaped public space areas to the east and west (approximately fifty-two feet and twenty-five feet, respectively). The sidewalk and public space area along E Street to the south is approximately seventeen feet. Federal Reservation 196 is adjacent to the Site to the north. To maximize the wide sidewalks and public space areas as well as the green space to the north, the Building is set back from the private property line approximately forty-four feet, which effectively enlarges the public, open space north of the Site. The Applicant and the NAR have begun working with the National Park Service for proposed improvements to this public space area. Once the improvements are made, the NAR will maintain this area as well.

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

A. Standards for Granting Area Variances

Under D.C. Code §6-641.07(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

(1) the property has unusual or extraordinary conditions affecting its size, shape or topography or other extraordinary or exceptional situation or condition;

(2) these conditions bring about practical difficulties if the zoning regulations were strictly applied; and

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

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

B. Overview of the Site's Exceptional Conditions

The Site has exceptional conditions as a result of its extremely small size and its unusual shape. First, the Site is unique because it is extremely small. In fact, no other square in the area comes close to the small size of the Site. As stated above, the total private land area of Square 627 is only 8,312 square feet. Yet, the 160 foot right-of-way along New Jersey Avenue, with in excess of fifty feet of sidewalk and public space area on each side, and the Federal Reservation area to the north create usable open space far in excess of a normal building. Similarly, a seventeen foot sidewalk is located along E Street, and the First Street right-of-way and public space area extend twenty-five feet from the curb line. Building out to the property lines (although cutting a small portion from the northern most tip of the triangle), the footprint of the building is only approximately 6,800 square feet, resulting in an extremely small amount of rentable square feet per floor. If only eight stories can be built under the matter of right zoning, seven of which would be

rentable office space, the Site would only produce approximately 54,000 square feet of gross floor area. As is discussed in detail below, this result is economically infeasible given extraordinary costs since the small, narrow site has streets on all sides. Therefore, the small size of the Site is an exceptional condition.

Second, the shape of the Site is an exceptional condition. The Site is a long, narrow triangle, which significantly affects the layout and configuration of the Building. The base of the triangle is only approximately sixty-eight feet along E Street, while the height is approximately 241 feet along First Street and the hypotenuse is approximately 251 feet along New Jersey Avenue. Thus, the Site is long and extremely narrow.

Furthermore, although there are other triangular-shaped sites in the District of Columbia (the "District"), the angle at which New Jersey Avenues cuts through the L'Enfant grid system renders this Site a one-of-a-kind. Both New Jersey and Delaware Avenues extend from the north-south axis at fifteen degrees, compared to most diagonals in the L'Enfant Plan being twenty degrees or greater. As a result, it was geometrically possible for only four squares to be the same shape as the Site. However, of these four possible squares, only one remains that includes private property: namely, the Site.

The coincidence of all of these attributes on one site creates a truly unique site, and the need for each of the variances described below is a direct result of the same. Each area of relief is described in detail along with a discussion of the practical difficulty associated with it and the impact of the relief on the public and

the Zone Plan. As is shown here and below, the Building satisfies each of the three requirements for the variance relief requested.

C. Variance Relief for Height and FAR under Sections 770 and 771

1. Basis for Variance

Sections 770 and 771 of the Zoning Regulations provide that any structure in the C-3-C District is permitted a maximum height of ninety feet and a maximum FAR of 6.5 for any permitted use. As stated above, the Site and the surrounding area are included within the HR Overlay District, which permits as a matter of right a height of 130 feet and a maximum FAR of 8.5, as long as at least 2.0 FAR is devoted to hotel or residential use. The Site and surrounding area are also located within the Downtown East Receiving Zone, and as a result, additional height and FAR are permitted through Transferable Development Rights ("TDRs"). Specifically, with TDRs, a building may be built to a height of 110 feet, with a maximum of 9.0 FAR, as a matter of right. In combination, the maximum theoretical height for a building constructed on the Site is 130 feet and the maximum theoretical FAR is 9.0.

The Applicant proposes a building with a total of approximately 87,995 feet of gross floor area devoted to office and supporting retail uses, or 10.59 FAR, with a height of 130 feet. Thus, the Applicant requests an area variance of 4.07 FAR and a height variance of forty feet from the matter of right provisions. Under the maximum permitted height described above, however, no height variance would be required, and an FAR variance of only 1.59 would be required. The variances allow the Building to fill the envelope of the Site yet result in a building that is

comparable in height with surrounding development but still unusually small in terms of gross square footage.

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

As a result of the unique size and shape of the Site, a strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty on the Applicant. First, the Building will be viable only with a certain critical mass of space. Due to the size and shape of the Site, the construction costs are significantly more expensive per square foot of gross floor area than a typical Class A office building in Washington, D.C. While a typical Class A office building ranges from 150,000 to 250,000 square feet, this Building is approximately 90,000 square feet. This significant size difference imposes considerable diseconomies of small scale on the Building. The requested additional square footage is absolutely necessary in order for the Building to be economically viable.

Additionally, the Building has street frontage on all four faces of the Site. A comparably sized building would have one or two party walls and a wall facing the alley; however, the Building incorporates no inexpensive party walls or alley facing walls which can be aesthetically downgraded. As a result, the façade cost per square foot of rentable area and the perimeter-to-area ratio are three times that of a typical office building in Washington, D.C.

The costs of the Building and the façade are further increased by the prominent location of the Site on a L'Enfant special street and in close proximity to the Capitol. Specifically, New Jersey Avenue constitutes an entryway to the Capitol

and is designated as a special street in the Historic Design Feature Element of the Comprehensive Plan for the National Capital (the "Element"). The ceremonial width of New Jersey Avenue and sidewalks in excess of fifty feet on each side emphasize the designation as a special street. The Element specifically states that it is a policy for distinctive buildings to be placed on special streets. Accordingly, a certain caliber building must be built on this Site, such as this significant building from Graham Gund.

Moreover, significant adverse economies of scale result because the Site is so small. The costs of the three elevators, plus the garage entry, ramp system, and extensive site work costs, are fixed costs for the Building, regardless of the size, and must be amortized over the square footage in the Building. Because the total square footage is so small (approximately 90,000 square feet of rentable area in the Building), these fixed costs cause the Building's cost per rentable square foot to be significantly higher than a typical Class A office building.

The economic viability analysis prepared by Bolan Smart Associates is attached hereto as Exhibit I. This report establishes that the Building is completely infeasible financially if only permitted to build to the matter of right height and density. In an extensive comparison of the Building proposed for the Site and a typical District office building, Bolan Smart found that to rent the Building in a competitive manner with the generic building would result in a loss of approximately $15.00 per rentable square foot. In its conclusion, Bolan Smart found that the high development costs will mandate rents per rentable square foot far above market competitive rents, which for this Building will actually need to be

significantly below market in order to compensate for chronic building inefficiencies. The result is a building that cannot be built.

Furthermore, Bolan Smart found that additional methods of achieving more height and density under the Zoning Regulations are infeasible in the present case. Specifically, the acquisition of TDRs is not feasible and indeed may only compound the problem at the Site. The acquisition of TDRs would add to the cost of the Building, worsening the underlying economic situation. Moreover, the Building would still be capped at less than 77,000 square feet of gross floor area, providing an insufficient increased size to create a financially viable office building. Furthermore, the incorporation of residential or hotel uses worsens the Building's economics and viability, as discussed in detail in the report.

For these reasons, the small size, unique shape, and grand public space setting of the Site render a matter of right structure practically difficult and, in fact, economically infeasible.

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

The variance relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map. To the contrary, the requested variances make considerable contributions to improving the public good by enabling the right building to be built on this small but prominent Site. The Comprehensive Plan designates the Site and the surrounding area in the highest

density commercial land use category. The high density commercial land use category includes a mix of employment, retail, office, cultural and entertainment centers which serves as the business and retail heart of the District and the metropolitan area. 10 DCMR §1106.5. Furthermore, the Site and the surrounding area are located within the Central Employment Area. According to the Comprehensive Plan, office use within the Central Employment Area should be, in terms of square footage, the largest commercial use in the area. 10 DCMR §1107.6(b). Therefore, the height and FAR variances are consistent with the Comprehensive Plan.

Second, the increased height and FAR of the Building are consistent and compatible with the surrounding structures. As set forth above, the HR Overlay District and the Downtown East Receiving Zone designations permit certain structures to be built to comparable heights and densities as the Building. This Building is unable to take advantage of either of those designations, as discussed above, and therefore, the Applicant must request these variances. However, the Building will be consistent with the surrounding development and, in fact, be lower in actual built height than the adjacent Washington Court Hotel (which is approximately seven feet higher) and the Georgetown University Law Center (which is approximately fourteen feet higher). The topography of the area enables this Building to have no adverse impact on the surrounding community. Specifically, New Jersey Avenue in the vicinity of the Site has a significantly lower elevation than surrounding areas, as is discussed in the report attached hereto as Exhibit H.

The design and environmental features of this Building suggest a building of the future and will enhance the neighborhood. In addition to the impressive design, the Building will help provide vitality to a corridor of the District which is currently unrealized. The Building will serve as a catalyst for the highest quality urban revitalization, and will bring considerable revenues and employment opportunities to the District.

D. Variance from the Parking Requirements of Section 2101

Section 2101 of the Zoning Regulations requires that an office building within the C-3-C District provide one parking space for each 1,800 square feet, after the first 2,000 square feet. The Building as proposed includes approximately 87,995 feet, which requires a total of forty-eight parking spaces on site [(87,955–2,000/1,800) = 47.775]. The Building includes sixty-eight parking spaces; however, only twenty-five parking spaces are provided completely within the property line. The remaining parking spaces are located within vault space, and, accordingly, the Applicant must request a variance.

As described above, the Site is affected by exceptional conditions due to its unique shape and size, and a strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty on the Applicant. The Site is extremely narrow, being only approximately sixty-eight feet wide at the widest portion of the site. Due to its narrowness, the parking garage ramp must be located at the widest point of the Site, which is on E Street. The resulting configuration of the garage permits only twenty-five parking spaces to be located within the property line. However, an additional forty-three parking spaces can be located

within vault space, yielding a total of sixty-eight parking spaces, which is more than that required by the Zoning Regulations.

Moreover, relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan, as embodied in the Zoning Regulations and Map. The Building exceeds the requirements set forth in the Zoning Regulations; however, because the parking spaces are not located completely within the property line, the parking provided does not satisfy the Zoning Regulations. The parking spaces are provided, however, in the same garage as all other parking spaces and with access to the Building from the garage. The small size and narrowness of the Site are the sole impediments to providing all spaces within the property lines and in strict compliance with the Zoning Regulations. Accordingly, because more than the required number of parking spaces will be provided, there will be no detrimental impact on the public or on the Zone Plan.

E. Variance from the Loading Requirement of Section 2201

Section 2201 of the Zoning Regulations requires that an office building with less than 100,000 square feet of gross floor area in the C-3-C District provide at least one thirty foot deep loading berth, at least one 100 square foot loading platform, and at least one twenty foot deep service/delivery loading space. The Building includes one ten foot by twenty foot service delivery space and one loading platform in excess of 100 square feet. However, because of the size and shape of the Site, the Building can not include the required loading berth. Accordingly, the Applicant requests a variance from Section 2201.

As described above, the Site has a unique size and shape which gives rise to an exceptional condition. Specifically, the small size and narrow width of the Site are the sole reasons for the requested variance. At its widest point, the Site is sixty-eight feet wide. Due to the entrance to the garage, the service area must be located along First Street. If a thirty foot loading berth were provided, the Building would be cut in half, due to the fact that the Building is only forty-five feet wide at the point where the service delivery is located. Accordingly, a strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty on the Applicant.

Relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan, as embodied in the Zoning Regulations and Map. The service/delivery space should adequately satisfy all of the loading needs for the Building. This type of Building has a comparatively low population density and should have a corresponding low level of deliveries. Similarly, the nature of this Building and the tenancy for the same will generate fewer deliveries and deliveries by smaller trucks (such as catering vehicles). Furthermore, an additional screened loading area within the public space will likely be provided along First Street, with the required approvals, to accommodate additional loading needs. Moreover, a loading zone is designated on First Street between 9:30 a.m. and 6:30 p.m. This additional loading area can be used as a third level of loading in the very rare situation that it may be needed. Accordingly, the requested relief will not have an adverse impact on the public or the Zone Plan.

V.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO ALLOW ADJUSTMENTS TO THE ROOF STRUCTURE REQUIREMENTS UNDER 11 DCMR § 411.

A. Standard for Approving Special Exception Relief

Due to the exceptionally small size of the Site, the proposed office building does not comply with the roof structure requirement that the walls be of equal height required by Section 411.5. Accordingly, the Applicant requests special exception relief to deviate from the strict compliance of Section 411.5 of the Zoning Regulations as permitted under Sections 411.11 and 3104.1 of the Zoning Regulations.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (*quoting Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Standard of Review for Roof Structure Special Exceptions

Under Section 411.11, the Board may grant special exception relief from the strict requirements for a roof structure requirement where full compliance is "impracticable because of operating difficulties, size of building lot, or other

conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR §411.11. The Board may approve deviations from the roof structure requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." *Id.*

C. Relief from Section 411.5 to Deviate from Roof Structure Requirements

The Applicant requests relief from Section 411.5 of the Zoning Regulations. That section requires the enclosing walls of a penthouse to be of equal height. The roof plans illustrates that the project incorporates one roof structure, with multiple heights. The multiples heights are necessary in order to reduce the size and bulk of the penthouse and to comply with the required setbacks. The tallest portion of the roof structure is 17'11¾", which encloses the elevator equipment. The penthouse steps down to sixteen feet surrounding the elevator core, stepping down further to nine feet, ten inches for the elevator lobby. On the eastern portion of the roof, the roof structure is ten feet, eight inches, in order to enclose the cooling tower.

The small size of the Site dictates this outcome. The width of the Building is only approximately sixty-eight feet, and the Building is long and narrow, following the shape of the Site. In order to enclose all of the required elevator and mechanical equipment, the penthouse must have a certain size. Due to the height of the elevator equipment, the center portion of the penthouse cannot be lowered any

further. In fact, the steps in height correspond to the maximum height necessary to house the required mechanical equipment in each area.

Furthermore, the steps in height are necessary to comply with the setback requirements set forth in both the Zoning Regulations and the 1910 Height Act. The roof structure is set back from the edge of the Building equal to or in excess of height in all places. Finally, the steps in height result in a well-designed roof, which permit access for its tenants, with views of the Capitol and surrounding areas.

The proposed elevator penthouse does comply, however, with the spirit and intent of the roof structure provisions and the Zoning Regulations by ensuring adequate light and air to adjacent property and abutting streets. The steps in height will not likely be visible from the street and have been designed to complement the massing and architectural quality of the Building. Furthermore, the steps in height reduce the overall height and bulk of the penthouse. Accordingly, the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Section 411.5.

V.
COMMUNITY CONTACTS

The Applicant presented the project to the ANC 6A Zoning and Licensing Subcommittee on September 11, 2002, and was prepared to present the project to the full ANC at its October 3, 2002, monthly meeting. The ANC 6A was unable to vote on the project due to the lack of a quorum. The project has received impressive support from the District at large. In addition, support letters from numerous

adjacent and nearby property owners have been filed, including letters from the Hyatt Hotel (400 New Jersey Avenue, N.W.), Hotel George (15 E Street, N.W.), the Holiday Inn Capitol Hill (415 New Jersey Avenue, N.W.), Greenhoot Cohen (500 First Street, N.W.), the Federal Trade Commission (601 New Jersey Avenue, N.W.), and the Lenkin Company (440 First Street, N.W.).

VI.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	Portions of the Sanborn Atlas showing the Subject Site highlighted in yellow;
Exhibit B:	A portion of the Zoning Map showing the Subject Site highlighted in yellow;
Exhibit C:	Surveyor's Plat of the Subject Site;
Exhibit D:	Updated Architectural Drawings and Elevations, including landscape plan;
Exhibit E:	Colored Elevations and Renderings of Building;
Exhibit F:	Board of Zoning Adjustment Order No. 16744;
Exhibit G:	Comprehensive Listing of Building's Environmental Features;
Exhibit H:	Report from Lindsley Williams, Land Planner;
Exhibit I:	Letter Report from Bolan Smart Associates, Inc.;
Exhibit J:	Traffic and Parking Impact Analysis
Exhibit K:	Outline of Testimony of NAR Representative;
Exhibit L:	Outline of Testimony of Graham Gund, Building architect;
Exhibit M:	Outline of Testimony of John B. Schlichting, CarrAmerica Development, Inc., development manager;
Exhibit N:	Outline of Testimony of Eric Smart, Bolan Smart Associates, Inc.;

Exhibit O: Outline of Testimony of Lindsley Williams, Land Planner; and

Exhibit P: Outline of Testimony for Osborne George, O.R. George & Associates.

VII.
WITNESSES

A. Representative from the National Association of Realtors.

B. Graham Gund, Project Architect.

C. John B. Schlichting, CarrAmerica Development, Inc., Development Manager.

D. Eric Smart, Bolan Smart Associates, Inc.

E. Lindsley Williams, Land Planner

F. Osborne George, O.R. George & Associates

VIII.
CONCLUSION

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

Respectfully submitted,

HOLLAND & KNIGHT, LLP

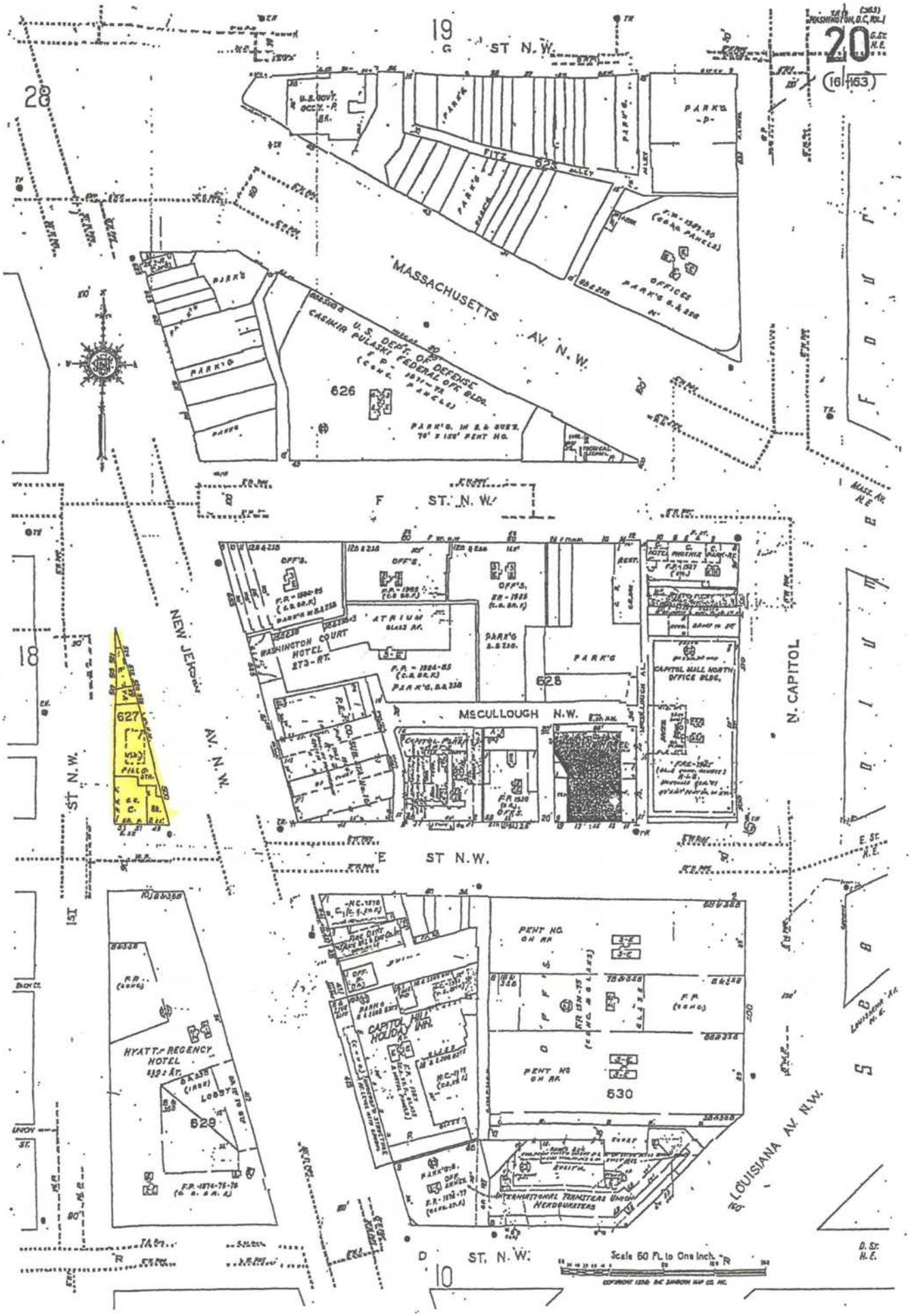
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Whayne S. Quin, Esq.

By: _____
Christine Moseley Shiker, Esq.

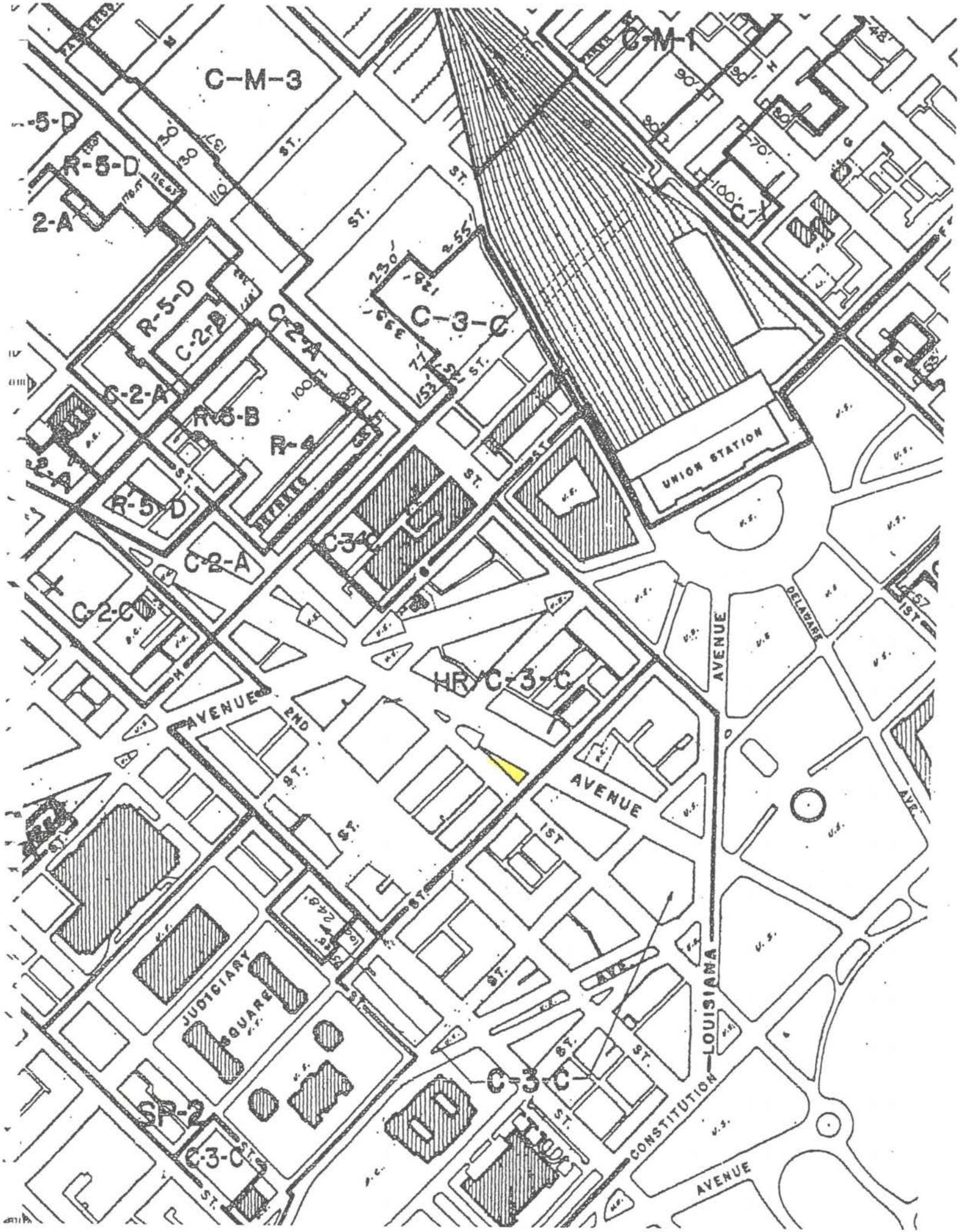
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PENNSYLVANIA AVENUE
DELAWARE AVENUE
1ST
JUDICIARY SQUARE
SP-2
C-3-C
CONSTITUTION AVENUE
LOUISIANA AVENUE



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., June 18, 2002

Plat for Building Permit of SQUARE 627 LOTS 7,12,801 & 802

Scale: 1 inch = 30 feet

Recorded in Book B Page 154 (LOT 7)
Book 164 Page 15 (LOT 12); A & T Book
Page 3220-G (LOT 801); A & T Book
Page 3745-Z (LOT 802)

Receipt No. 009232

Furnished to: HOLLAND & KNIGHT

Surveyor, D.C.

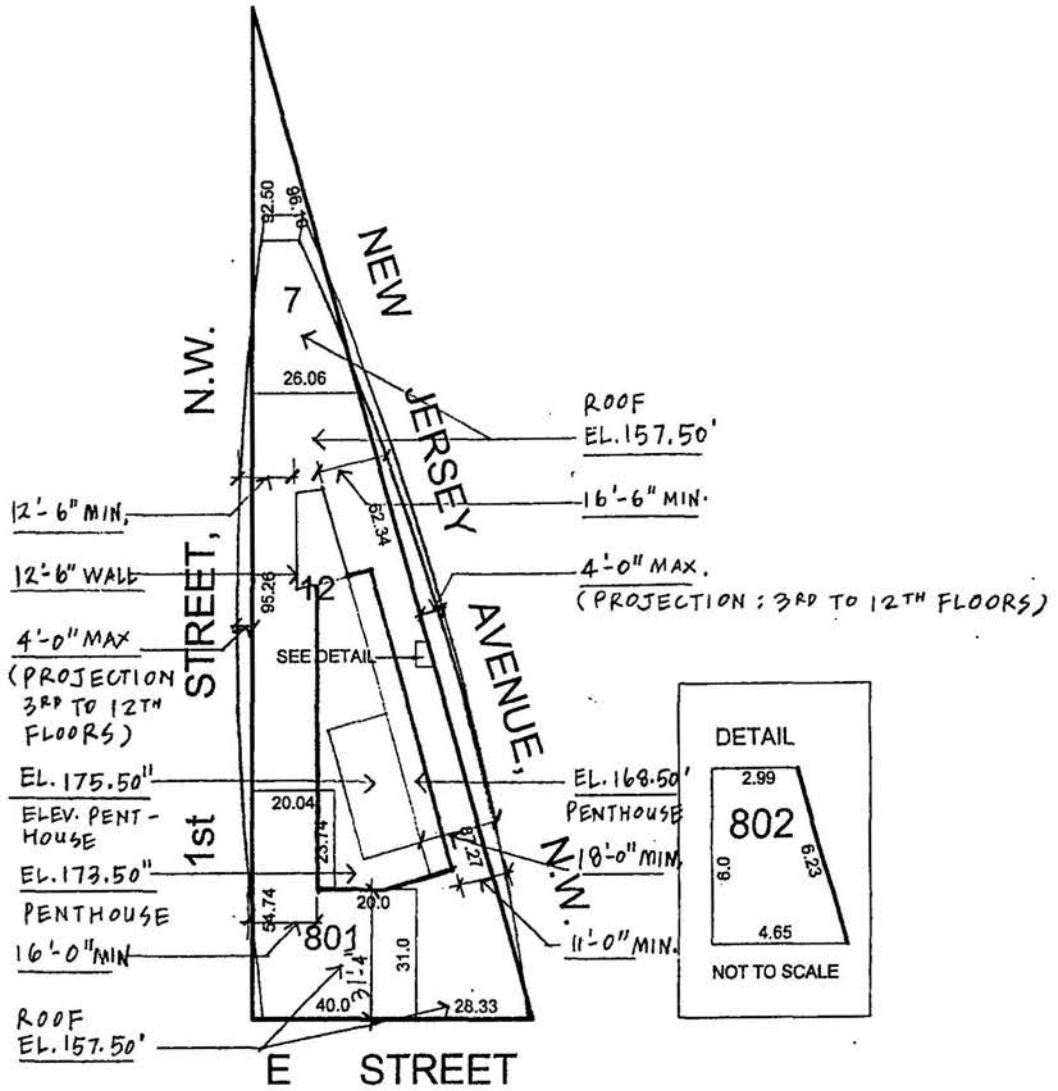
By: L.E.S.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: 7/9/02

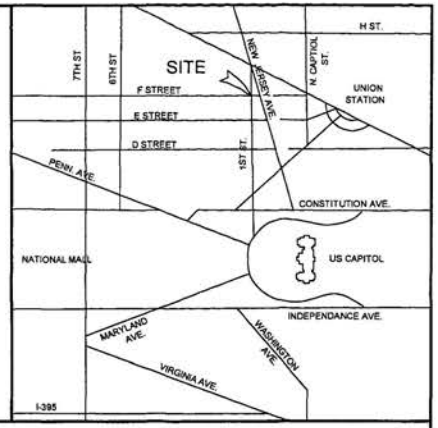
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.





500 NEW JERSEY AVENUE NW
Washington, DC



FLOOR AREA COMPILATION

Lot Area 8,312 SF

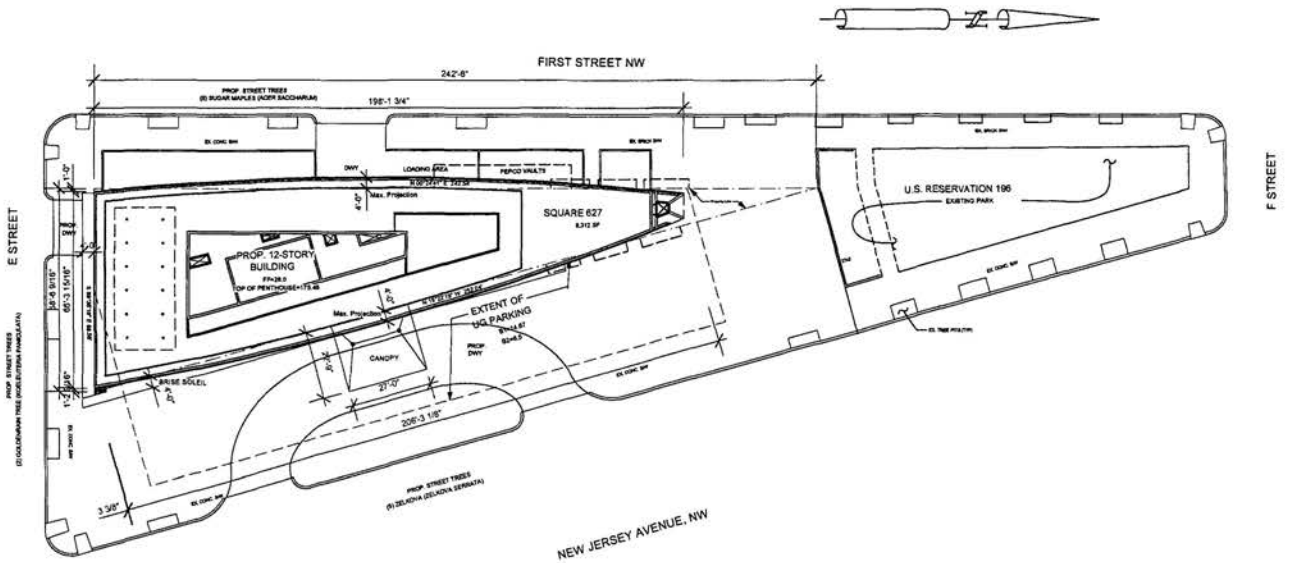
	Total GSF	Exclusions	Gross Floor Area
Ground Floor	6,816 SF	1,446 SF	5,370 SF
Second Floor	6,816 SF	261 SF	6,555 SF
Third Floor	7,868 SF	261 SF	7,607 SF
Fourth Floor	7,868 SF	261 SF	7,607 SF
Fifth Floor	7,868 SF	261 SF	7,607 SF
Sixth Floor	7,868 SF	261 SF	7,607 SF
Seventh Floor	7,868 SF	261 SF	7,607 SF
Eighth Floor	7,868 SF	261 SF	7,607 SF
Ninth Floor	7,868 SF	261 SF	7,607 SF
Tenth Floor	7,868 SF	261 SF	7,607 SF
Eleventh Floor	7,868 SF	261 SF	7,607 SF
Twelfth Floor	7,868 SF	261 SF	7,607 SF
TOTAL	92,312 SF	4,317 SF	87,995 SF

F.A.R.: 10.59

Penthouse:
Allowable Square Footage
.37 FAR x 8,312 SF Lot Area = 3,075 SF
Actual Square Footage 1,893 SF

VICINITY MAP

ADC MAP BOOK PAGE 16, GRID C-1

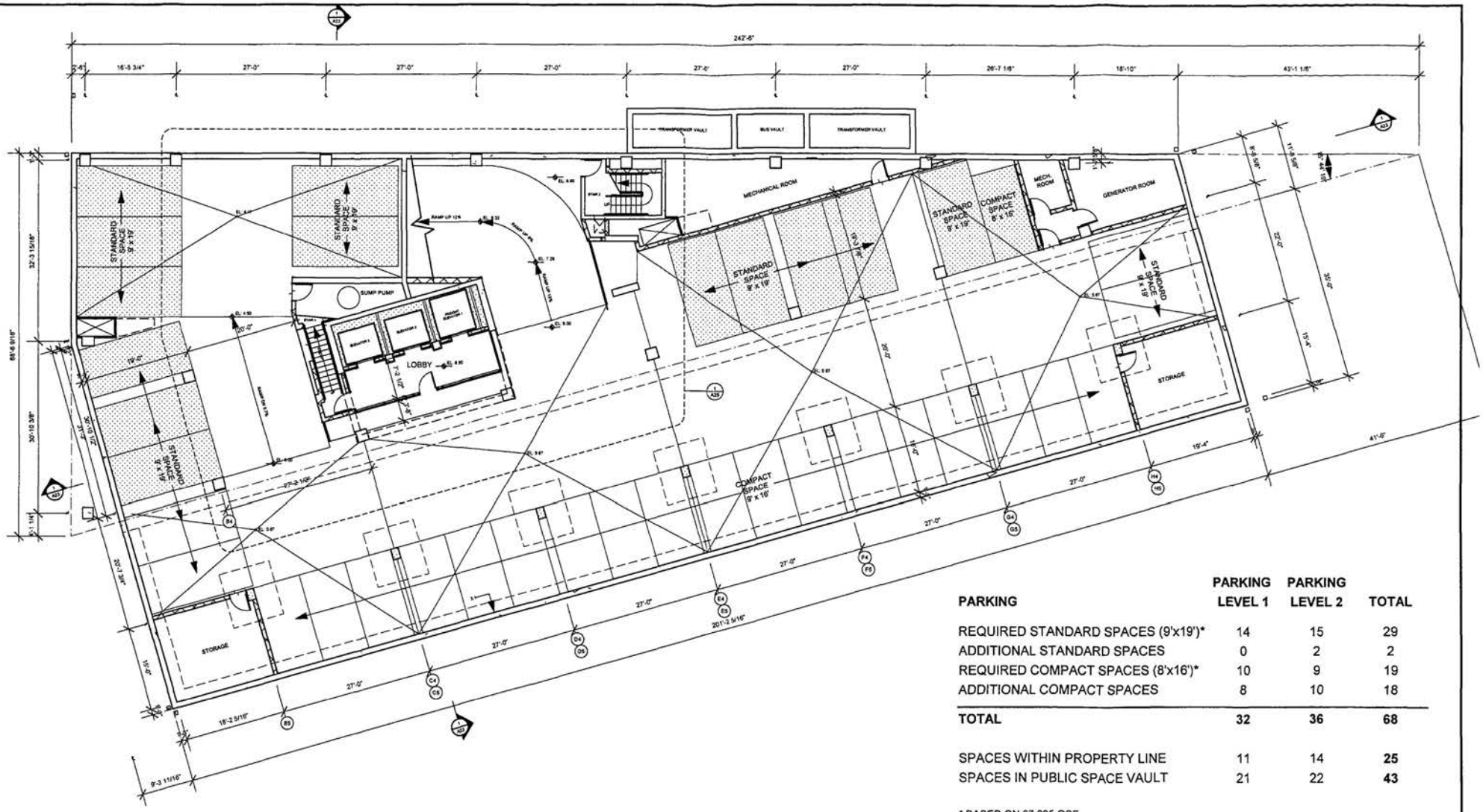


CO-1	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:500	© 2002 SMBA

Site Plan
Area Calculations

500 NEW JERSEY AVENUE, N.W.
Washington, D.C.
for Lawrence N. Brandt, Inc.

SMB ARCHITECTS, P.C.
3201 New Mexico Avenue NW, Suite 250
Washington, DC 20016 202-364-2603



PARKING	PARKING LEVEL 1	PARKING LEVEL 2	TOTAL
REQUIRED STANDARD SPACES (9'x19')*	14	15	29
ADDITIONAL STANDARD SPACES	0	2	2
REQUIRED COMPACT SPACES (8'x16')*	10	9	19
ADDITIONAL COMPACT SPACES	8	10	18
TOTAL	**32**	**36**	**68**
SPACES WITHIN PROPERTY LINE	11	14	**25**
SPACES IN PUBLIC SPACE VAULT	21	22	**43**

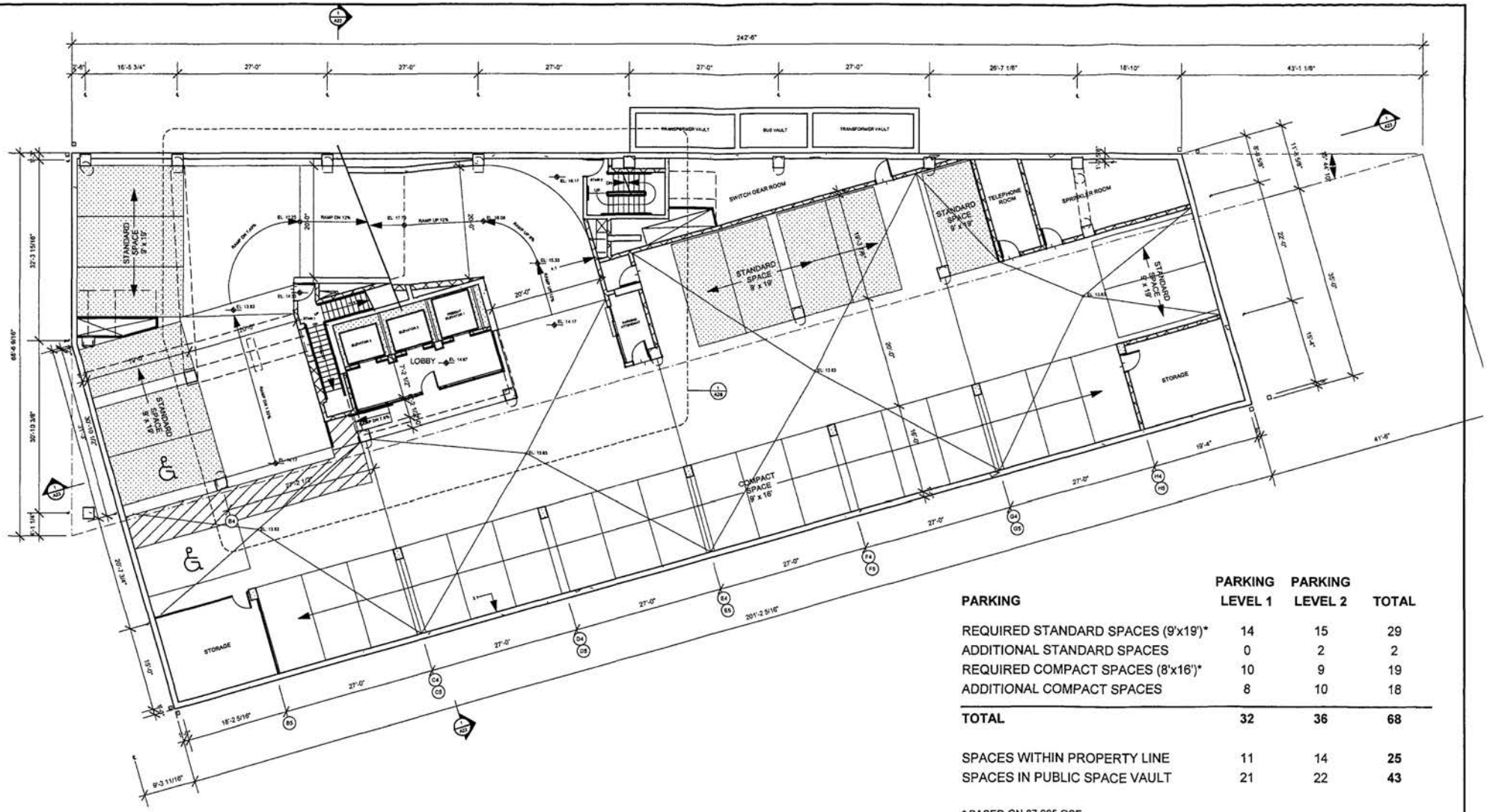
* BASED ON 87,995 GSF

1/A3 Parking Level 2

A3	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:200	© 2002 SMBA	Parking Level 2

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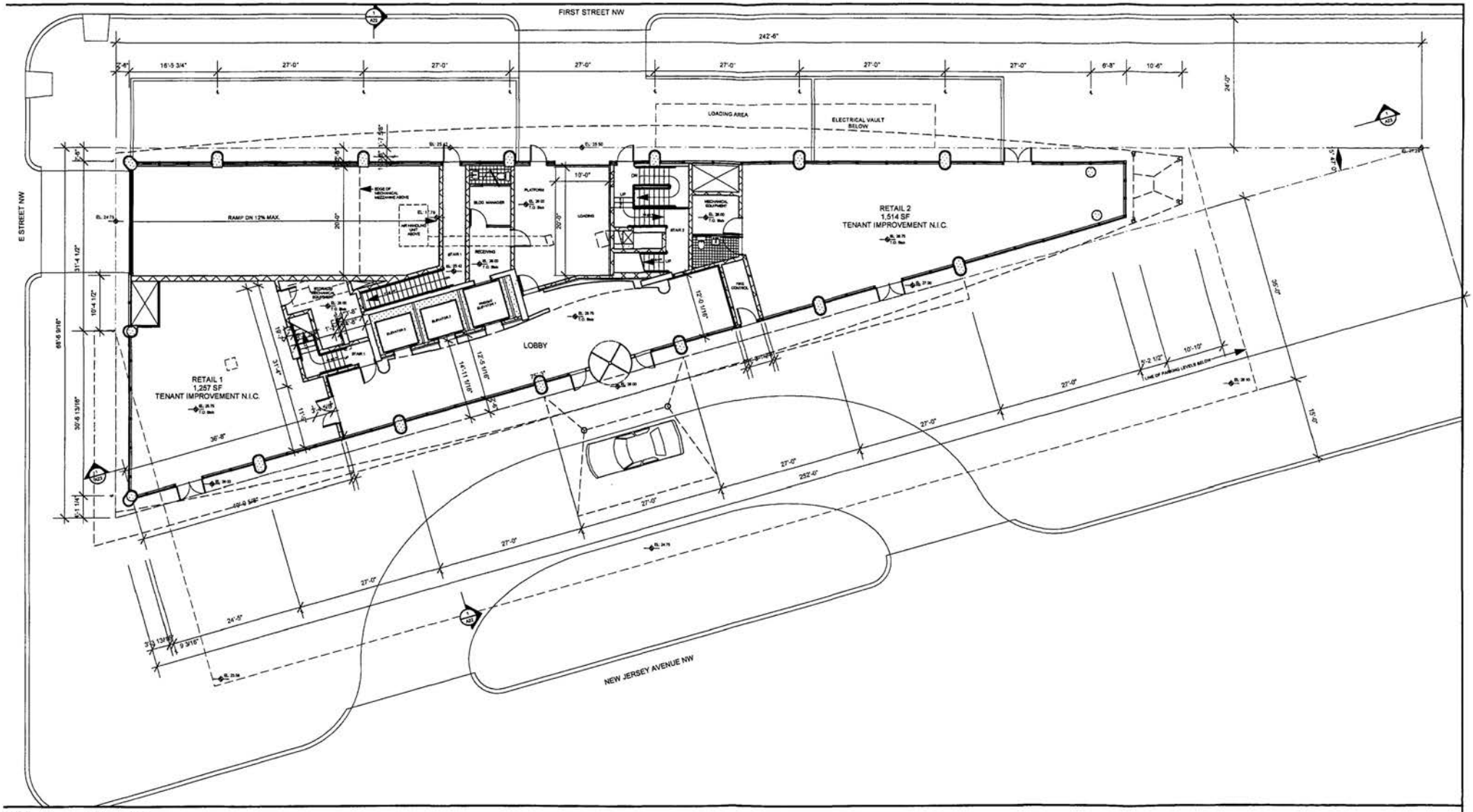


PARKING	PARKING LEVEL 1	PARKING LEVEL 2	TOTAL
REQUIRED STANDARD SPACES (9'x19')*	14	15	29
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* BASED ON 87,995 GSF

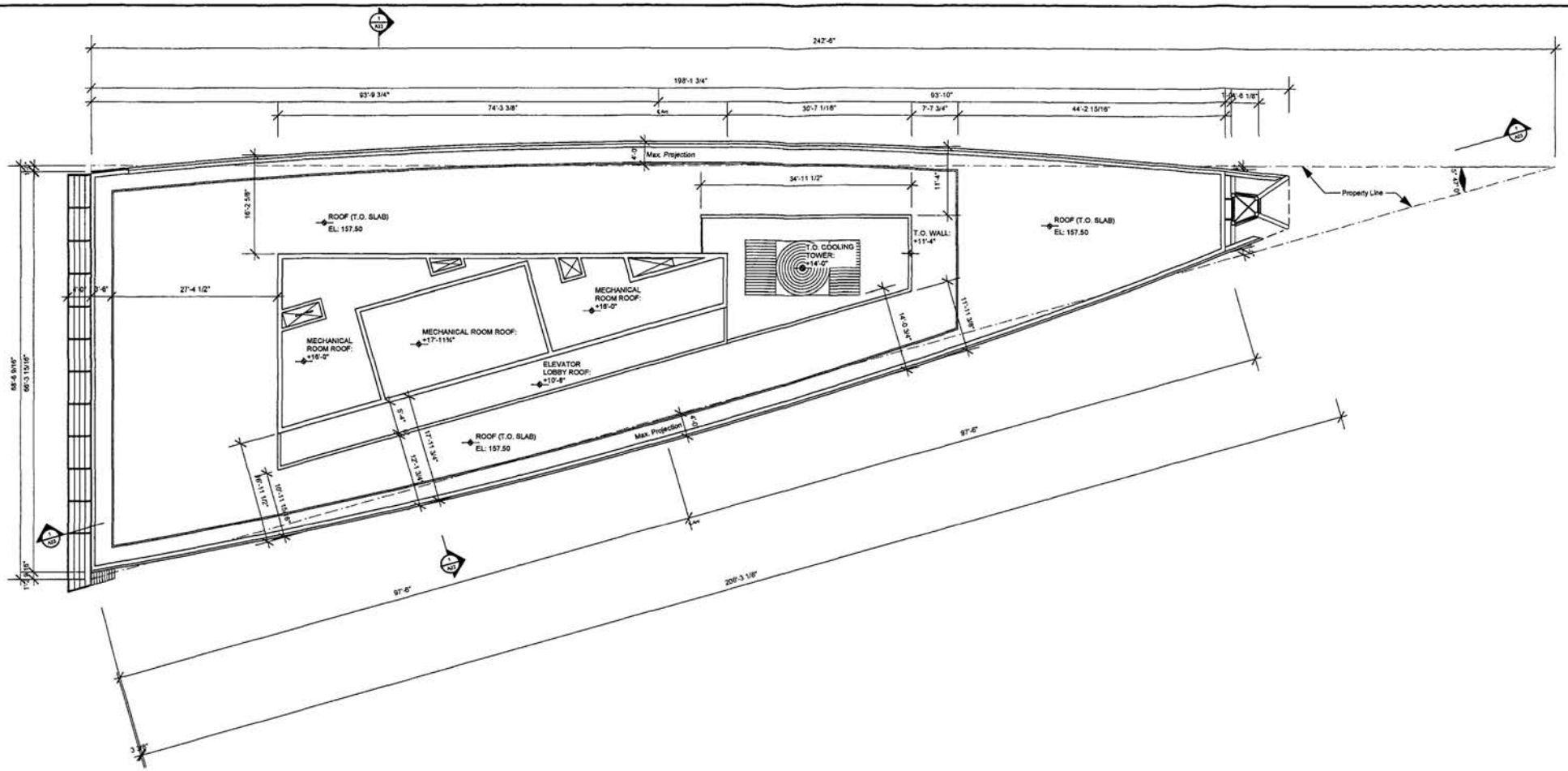
(1/A4) Parking Level 1

A4	Job No: 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:200	© 2002 SMBA	Parking Level 1	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.	SMB ARCHITECTS, P.C. 3201 New Mexico Avenue NW, Suite 250 Washington, DC 20016 202-364-2603



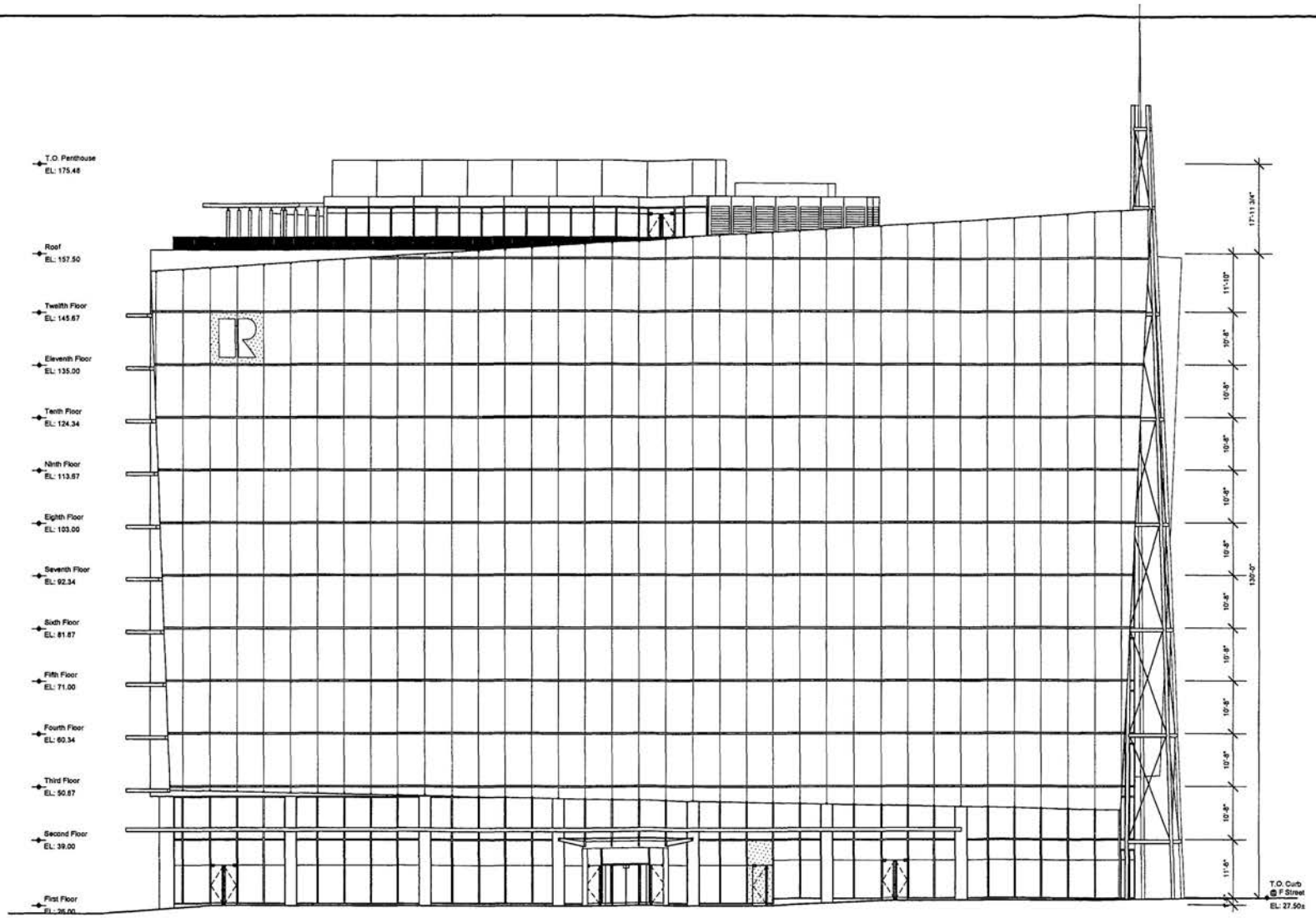
1/A5 Ground Floor Plan

A5	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:200	© 2002 SMBA	Ground Floor Plan	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.	SMB ARCHITECTS, P.C. 3201 New Mexico Avenue NW, Suite 250 Washington, DC 20016 202-364-2603



1/A18 Roof Plan

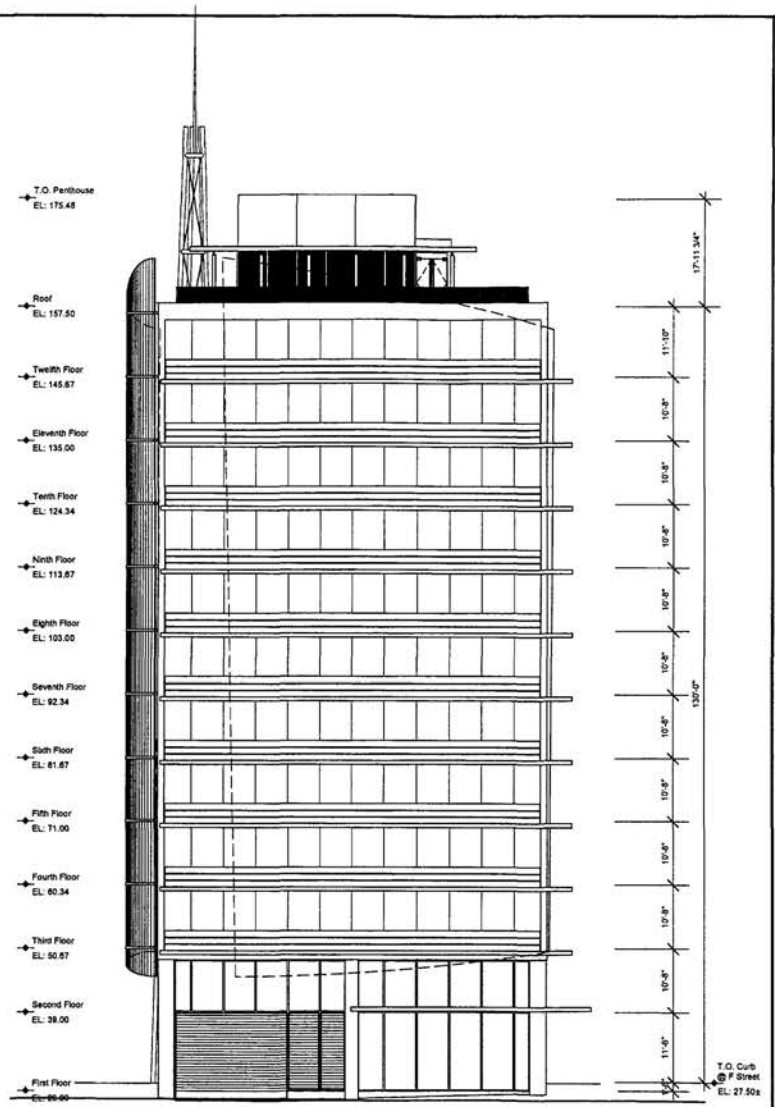
A18	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:200	© 2002 SMBA	Roof Plan	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.	SMB ARCHITECTS, P.C. 3201 New Mexico Avenue NW, Suite 250 Washington, DC 20016 202-364-2603



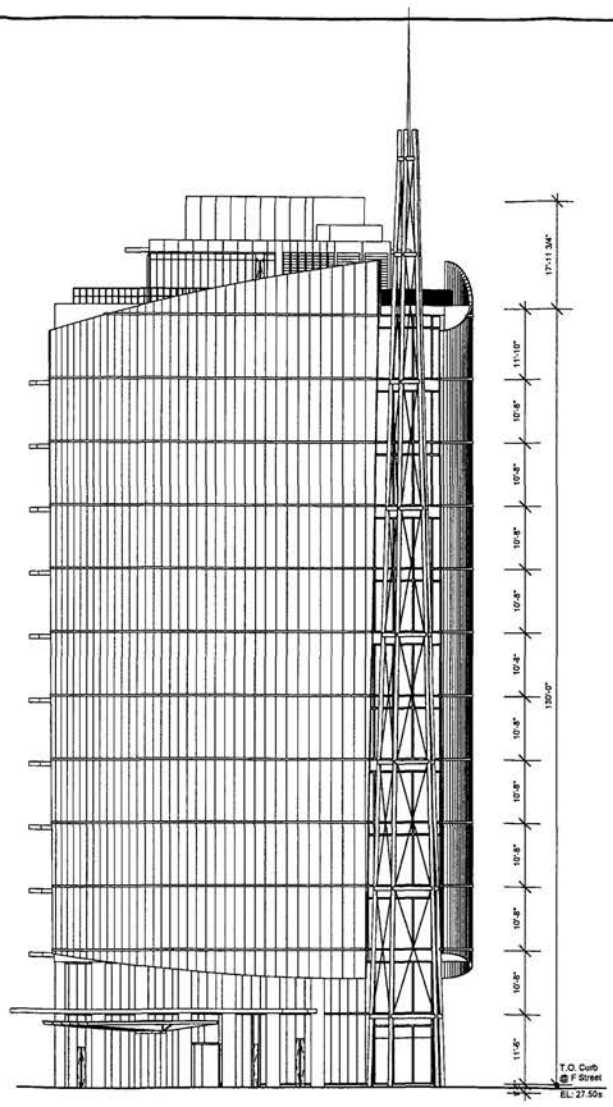
1/A19 New Jersey Avenue Elevation

A19	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:250	© 2002 SMBA	Elevation New Jersey Avenue	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.

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Washington, DC 20016 202-364-2603



1 A20 E Street Elevation



2 A20 F Street Elevation



3 A20 F Street Elev. (Partial)

A20

Job No. 1022

Preliminary:

Zoning: 10/08/02

Const:

Permit:

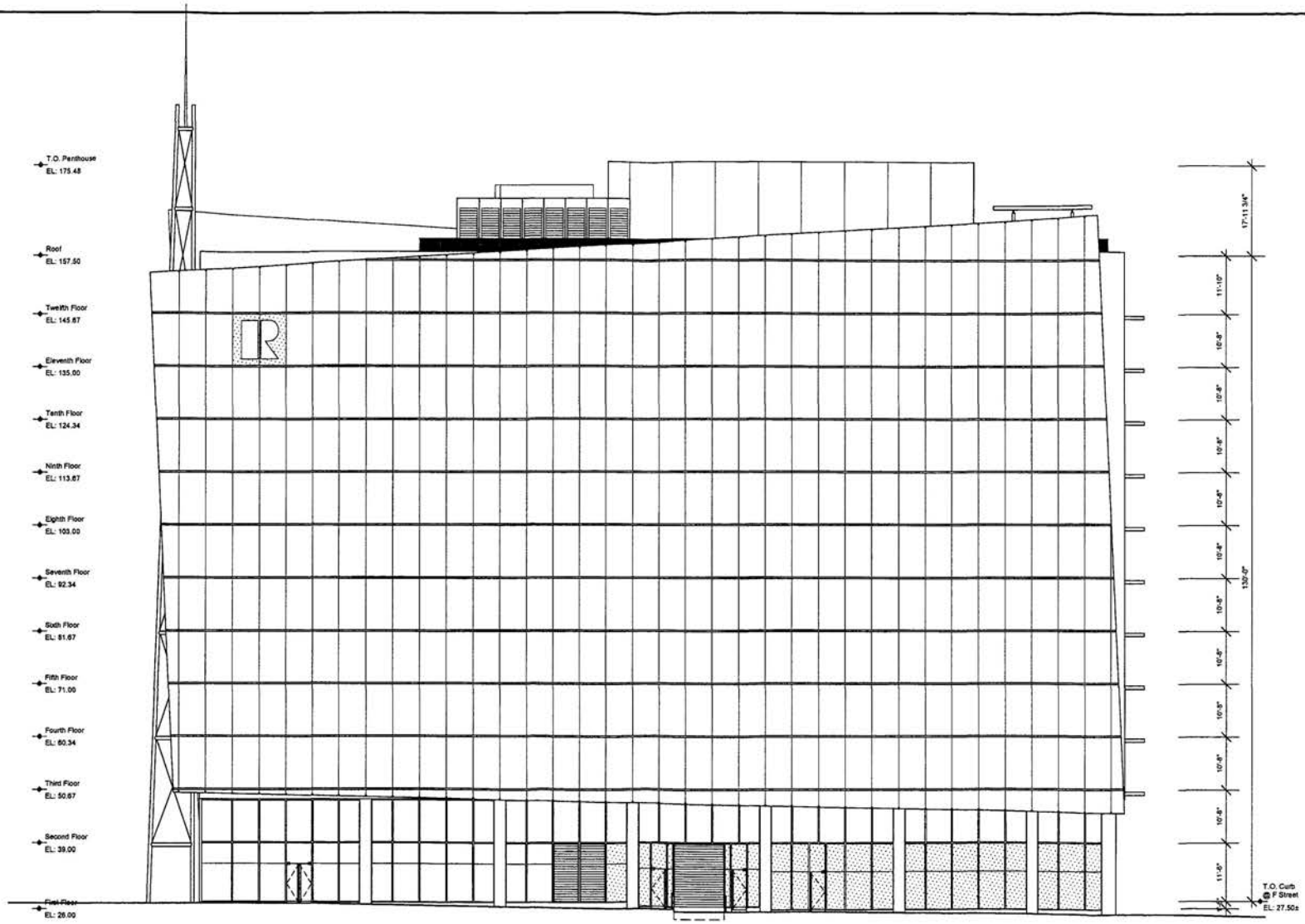
Scale: 1:250

© 2002 SMBA

Elevations
E Street and
F Street

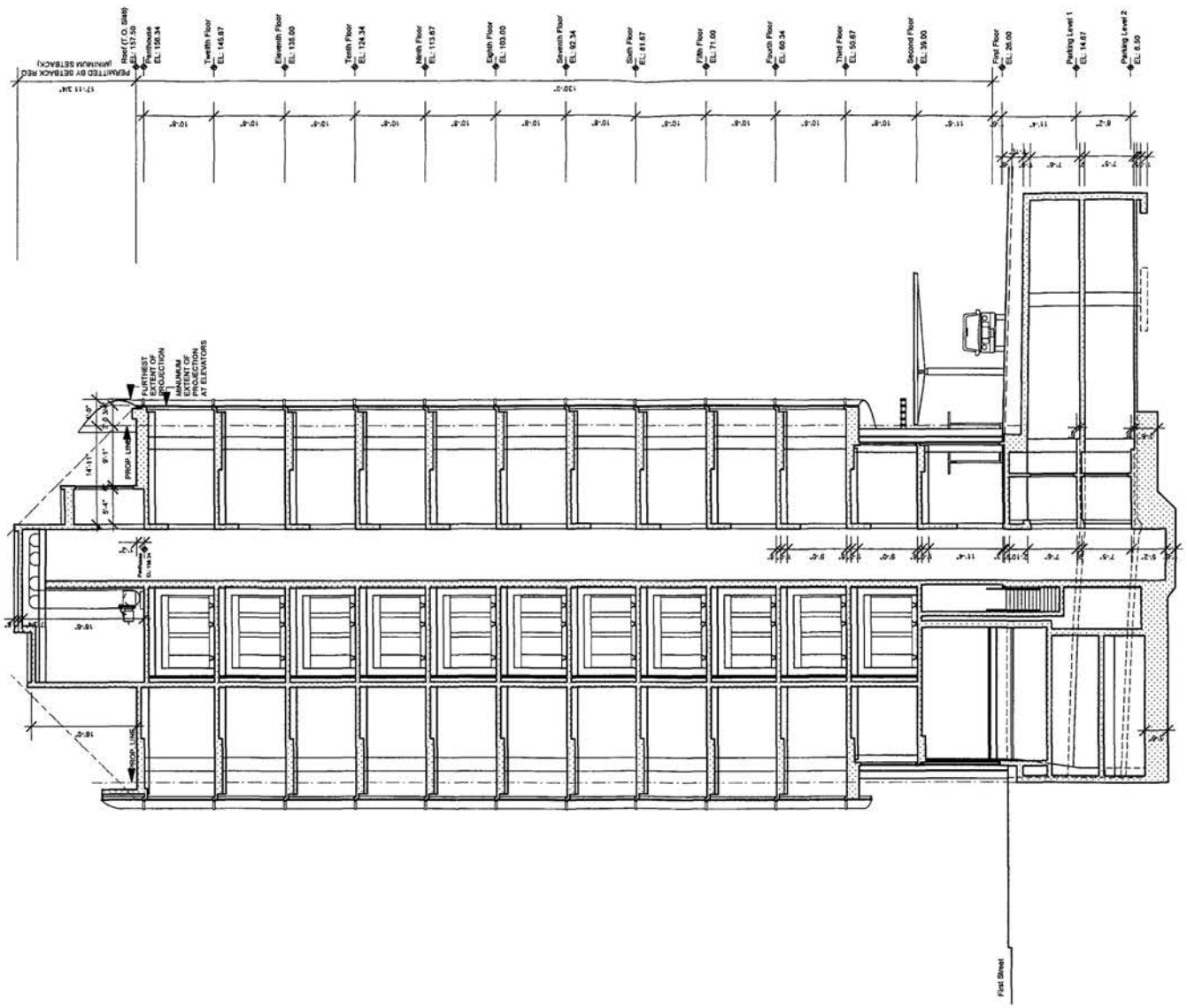
500 NEW JERSEY AVENUE, N.W.
Washington, D.C.
for Lawrence N. Brandt, Inc.

SMB ARCHITECTS, P.C.
3201 New Mexico Avenue NW, Suite 250
Washington, DC 20016 202-364-2603



1/A21 First Street Elevation

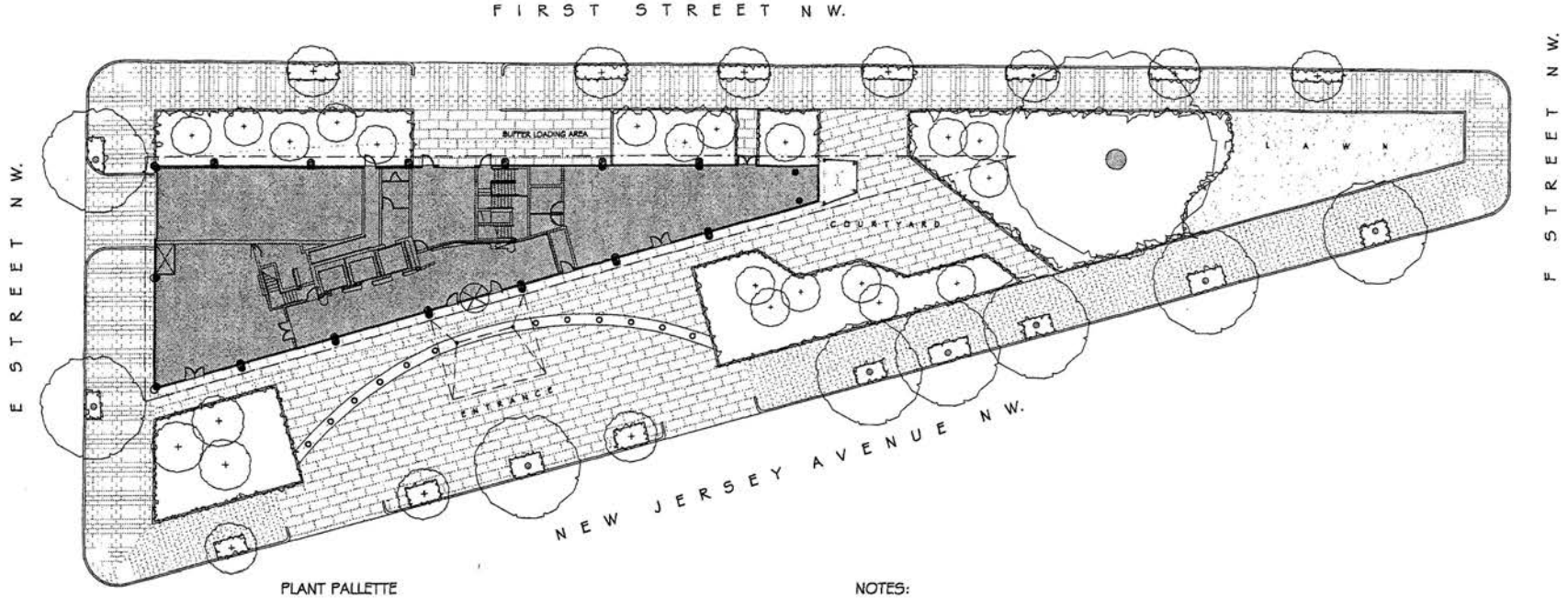
A21	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:250	© 2002 SMBA	Elevation First Street	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.	SMB ARCHITECTS, P.C. 3201 New Mexico Avenue NW, Suite 250 Washington, DC 20016 202-364-2603



East-West Section

A22	Job No. 1022	Preliminary:	Zoning: 10/08/02	Const:	Permit:	Scale: 1:200	© 2002 SMBA	East/West Section	500 NEW JERSEY AVENUE, N.W. Washington, D.C. for Lawrence N. Brandt, Inc.

SMB ARCHITECTS, P.C.
3201 New Mexico Avenue NW, Suite 250
Washington, DC 20016 202-364-2603



PLANT PALLETTE

ORNAMENTAL TREES:

BOTANICAL NAME	COMMON NAME
CARPINUS CAROLINIANA	AMERICAN HORNBEAM
MAGNOLIA VIRGINIANA	SWEETBAY MAGNOLIA
MAGNOLIA SOULANGIANA	SAUCER MAGNOLIA
MALUS 'SUGAR THYME'	WHITE CRABAPPLE

ORNAMENTAL SHRUBS:

BOTANICAL NAME	COMMON NAME
ILEX GLABRA	INKBERRY HOLLY
NANDINA DOMESTICA	NANDINA
VIBURNUM PRAGENSE	PRAGUE VIBURNUM

PERENNILAS / GROUND COVER/ GRASSES:

BOTANICAL NAME	COMMON NAME
CALAMAGROSTIS ACUTIFLORA	FEATHER REED GRASS
LIATRIS SPICATA	BLAZING STAR
LIRIOPE MISCARI	LILYTURF
PANICUM VIRGATUM	SWITCH GRASS
PEROVSKIA ATRIPLICIFOLIA	RUSSIAN SAGE
SESLERIA AUTUMNALIS	AUTUMN MOOR GRASS

NOTES:

1. NEW SIDEWALKS TO BE 2' X 3' X 2" THICK PRESSEED CONCRETE PAVERS TO MEET SPECIFICATIONS OUTLINED IN SECTION 1105.1 OF THE WASHINGTON, DC. DEPARTMENT OF PUBLIC WORKS DOWNTOWN STREETSCAPE REGULATIONS, UNLES OTHERWISE NOTED.

2. PAVING AT ENTRANCE, COURTYARD, AND BUFFER LOADING AREA TO BE SELECTED. SPECIFICATIONS TO MEET WASHINGTON DC. STREETSCAPE REGULATIONS.

3. ALL NEW STREET TREE PLANTINGS ALONG NEW JERSEY AVENUE NW. ARE TO BE ZELKOVA SERRATA, AS SPECIFIED IN EXHIBIT C OF THE MASTER STREET TREE PLAN OF THE WASHINGTON DC. DEPARTMENT OF PUBLIC WORKS DOWNTOWN STREETSCAPE REGULATIONS.

4. ALL NEW STREET TREE PLANTINGS ALONG FIRST STREET NW. ARE TO BE ACER SACCHARUM, AS SPECIFIED IN EXHIBIT C OF THE MASTER STREET TREE PLAN OF THE WASHINGTON DC. DEPARTMENT OF PUBLIC WORKS DOWNTOWN STREETSCAPE REGULATIONS.

KEY

- EXISTING TREE
- PROPOSED TREE (SEE NOTE #3
- PLANTING BED
- LAWN
- PROPERTY LINE

NORTH

Scale: 1/16" = 1'-0"

0 16 32 64



LOCATOR MAP

Oehme, van Sweden & Associates, Inc.
800 G Street, S.E. Washington DC 20003 202.546.7575 fax 202.546.1035
LANDSCAPE ARCHITECTS

500 New Jersey Avenue NW.

National Association of Realtors
Washington, DC

Schematic Streetscape/ Landscape Plan




Headquarters of the
National Association of REALTORS
GRAHAM GUND ARCHITECTS
CAMBRIDGE, MASSACHUSETTS

F

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16744 of THE HELLMAN COMPANY, INC. and AMOCO OIL COMPANY, pursuant to 11 DCMR § 3103.2 for variances from the floor area ratio requirement (Section 771), the height requirement (Section 770), the parking requirement (Section 2101) and the loading requirement (Section 2201) for the construction of an office building in the HR/C-3-C District at 500 New Jersey Avenue, N.W. (Square 627, Lots 7, 12, 801, and 802).

HEARING DATE: **July 24, 2001**
DECISION DATE: **July 24, 2001 (Bench Decision)**

SUMMARY ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 6A, and to owners of all property within 200 feet of the property that is the subject of this application. The application was referred to the Office of Planning (OP) for review and report. The Board waived the rules to accept the filing of the OP report, which supported, with conditions, the application. The application was also referred to the Department of Public Works (DPW) for review and report. The Board waived the rules to accept the filing of DPW's report. DPW had no objections to the project.

The subject property is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to the application, did not file a written statement. Robert L. Hall, Single Member District Commissioner for ANC 6A01, filed with the Board two letters in support (Exhibit Nos. 22 and 48). The Zoning and Licensing Committee of ANC 6A also filed a letter in support of the project (Exhibit No. 53).

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR §§ 771, 770, 2101, and 2201. No person or entity appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 under §§ 771, 770, 2101 and 2201, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations and Map, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED**, subject to the following **CONDITIONS:**

1. The Applicant will construct the building in substantial conformance with the architectural drawings presented in the Application with the following conditions:

   a. The roofline will be a mansard-type roofline similar to that depicted on plan 2.11; including a cornice line at the 130-foot level.

   b. The First Street façade shall have windows to the maximum extent feasible.

   c. The windows shall have a traditional scale.

   d. The façade will include distinguishing elements, such as balconies or bay windows, subject to the approval by the Public Space Committee of the Department of Public Works. The façade may also include other distinguishing elements not subject to the Public Space Committee's approval, such as French doors.

2. The materials to be used for the project will be high quality materials, such as granite, limestone, limestone-like pre-cast concrete, brick, or an equivalent high quality material, subject to the availability at the time, and generally in accordance with the plans submitted as part of this application.

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

VOTE: 5-0-0 (John Parsons, Anne Mohnkern Renshaw, Sheila Cross Reid, David Levy and Geoffrey H. Griffis to approve.)

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

Each concurring Board member approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
DIRECTOR

FINAL DATE OF ORDER: JUL 2 6 2001

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

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

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

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

BAB/7.25.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16744

As Director of the Office of Zoning, I hereby certify and attest that on JUL 26 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Whayne S. Quin, Attorney
Holland & Knight, LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, DC 20006

The Hellman Companies
Amoco Oil Company
1828 L Street, N.W., Suite 900
Washington, DC 20036

Ivette Basterrechea, Chairperson
Advisory Neighborhood Commission 6A
P.O. Box 76680
Washington, DC 20013

Robert L. Hall
Single Member District Commissioner 6A01
624 H Street, N.E., First Floor
Washington, DC 20002

Michael Johnson, Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20009

Kenneth G. Laden, Administrator
Office of Transportation Planning
Department of Public Works
2000 14th Street, N.W.
Washington, D.C. 20009

Ellen McCarthy
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, DC 20002

Alan Bergstein
Office of the Corporation Counsel
441 4th Street, N.W., 7th Floor
Washington, DC 20001

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning



MEMORANDUM

To: Richard Rosenthal – NAR RPOC
Dale Stinton - NAR

CC: Larry Brandt – Lawrence N. Brandt, Inc.
Steve Banigan – SMB Architects, P.C.
Laura Cabo – Graham Gund Architects
John Prokos – Graham Gund Architects
Ken Simmons – CarrAmerica Development
John Schlichting – CarrAmerica Development

From: Juan Powell – CarrAmerica Development, Inc.

Date: September 4, 2002

Re: National Association of Realtors
500 New Jersey Avenue
Summary of Sustainable Options

Sustainable Accepted List

The following is a summary of those sustainable features that have been approved by the National Association of Realtors for inclusion in the project.

1. **Light Colored Roof** – The light colored roof will reduce the energy gain through the roof.
2. **Environmentally Friendly Refrigerants** – Chloroflourocarbon compounds are damaging to the ozone layer. Instead, we will use hydrochloroflourcarbon refrigerants.
3. **Use of Free Cooling** - The base building design approach includes the specification of a self-contained HVAC system with a waterside economizer capability. Given the right weather conditions, this will allow "free cooling" to occur.
4. **Variable Frequency Drives on Mechanical Equipment** – The self-contained HVAC units, pumps and cooling tower will have variable frequency drives, which reduce energy consumption.
5. **High Efficiency Lighting** – Electronic ballasts have been specified as well as T-8 lamps. Both of which reduce energy consumption.
6. **Dry Type Transformers** – Dry type transformers have been specified.

7. **Water Conserving Fixtures –** Low consumption fixtures have been specified.

8. **Measurement and Verification** - This system provides additional sensors to advise on the indoor air quality.

9. **Grey Water Recovery** - This system will store and re-use roof runoff rain water to irrigate the landscaping on the site and the adjacent National Park Service park.

10. **High Performance Glazing -** Due to the extent of glazing in the building, energy codes require that we use a high performance glass. The range of options currently being considered are in the highest level of energy performance. At this point, the exact glass has not yet been determined.

11. **Garage and Stairway Automatic Lighting Control System** – This system will reduces energy consumption by automatically turning off the lighting at a predetermined time by use of a time clock.

12. **Tenant Floor Lighting Controls –** A four-zone lighting control system is to be installed on each of the tenant floors. Zones will be controlled through a timeclock through the Building Management System (BMS).

13. **Occupancy Sensors**. Occupancy sensors, which detect if a room is occupied, will be used in the base building bathrooms. Additionally, occupancy sensors will become a "Building Standard" item for the private offices created as a result of the tenant work. All tenants will be encouraged to use such devices in their build-outs.

14. **Main Lobby Lighting Controls**. The main lobby will also have an automatic lighting control system. The exact system will be determined as part of the design of the lobby lighting. It could be as simple as the contactor and timeclock approach referenced above, or could be integrated with a dimming control panel.

15. **Local and Recyclable Materials** - We will look for opportunities to use both local and recyclable materials in both the base building and tenant build-out phases of the project.

16. **Exterior Sun Control Devices** – The south elevation of the building will contain exterior sunscreens or a brise-soleil. This feature will serve to reduce the thermal load, and reduce energy costs.

H

Law Offices
HOLLAND & KNIGHT LLP

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*Representative Office

LINDSLEY WILLIAMS
LAND USE, PLANNING AND
ZONING CONSULTANT
AFFILIATED WITH THE LAW FIRM
OF HOLLAND & KNIGHT LLP
202-828-1873
Internet Address:
LWilliams@hklaw.com

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16930
500 New Jersey Avenue, N.W.

Lindsley Williams

October 08, 2002

Summary of Testimony and Report:

- Subject property is affected by a host of exceptional conditions, because of the size of the site, the configuration of the site, the three zone categories now applicable to the property and the requirements of Zoning and other Regulations as to public space and street design

- Strict application of the Regulations would create significant difficulties and impose exceptional costs for the construction

- The variances and Special Exception can be granted without substantial detriment to any surrounding properties or integrity of the underlying zone plan

- Each of the variances and the Special Exception sought in this application should be granted.

I. Site Location and Description:

Location:

The "Square," which forms a slender right triangle, is bounded by New Jersey Avenue, First, and E Streets, N.W. (F Street runs across the top of this triangle.) It is known as Square **627**.

Project site consists of all lots within Square 627, namely Lots 7, 12, 801 and 802 and some portion of below-grade contiguous public space in which vaults would be constructed. (Public alleys that had historically existed within the Square were closed previously and are now part of the lots cited above.)

Sizes:

The Square:

- Extended to its curb lines, exceeds not only 37,000 s.f. (prehearing submission), it actually scales out (photometrically) as exceeding 39,000 s.f.

- Excluding the sidewalks and curbside treebox areas that surround the entire Square, the area exceeds 23,000 s.f.

- Excluding what are effective building setback lines created by added public space ("public parking") along both New Jersey Avenue (37' 0") and First Street (estimated at 15' 0"), the residual area of the Square diminishes to under 9,000 s.f.

Specifically, the four Lots that are the focus of this Case, *combined*, have an area of 8,312 s.f. and:

- Constitute all private property within the Square.

- Have frontages of approximately 251 feet on New Jersey Avenue, approximately 241 feet along First Street, and approximately 68 feet on E Street with First and NJ converging at an angle of fifteen degrees (15°) at the northern end of the property.

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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16930
500 New Jersey Avenue, N.W.

Lindsley Williams

October 08, 2002

Summary of Testimony and Report:

- Subject property is affected by a host of exceptional conditions, because of the size of the site, the configuration of the site, the three zone categories now applicable to the property and the requirements of Zoning and other Regulations as to public space and street design

- Strict application of the Regulations would create significant difficulties and impose exceptional costs for the construction

- The variances and Special Exception can be granted without substantial detriment to any surrounding properties or integrity of the underlying zone plan

- Each of the variances and the Special Exception sought in this application should be granted.

I. Site Location and Description:

Location:

The "Square," which forms a slender right triangle, is bounded by New Jersey Avenue, First, and E Streets, N.W. (F Street runs across the top of this triangle.) It is known as Square **627**.

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Specifically, the four Lots that are the focus of this Case, *combined*, have an area of 8,312 s.f. and:

- Constitute all private property within the Square.

- Have frontages of approximately 251 feet on New Jersey Avenue, approximately 241 feet along First Street, and approximately 68 feet on E Street with First and NJ converging at an angle of fifteen degrees (15°) at the northern end of the property.

Existing Site Condition:

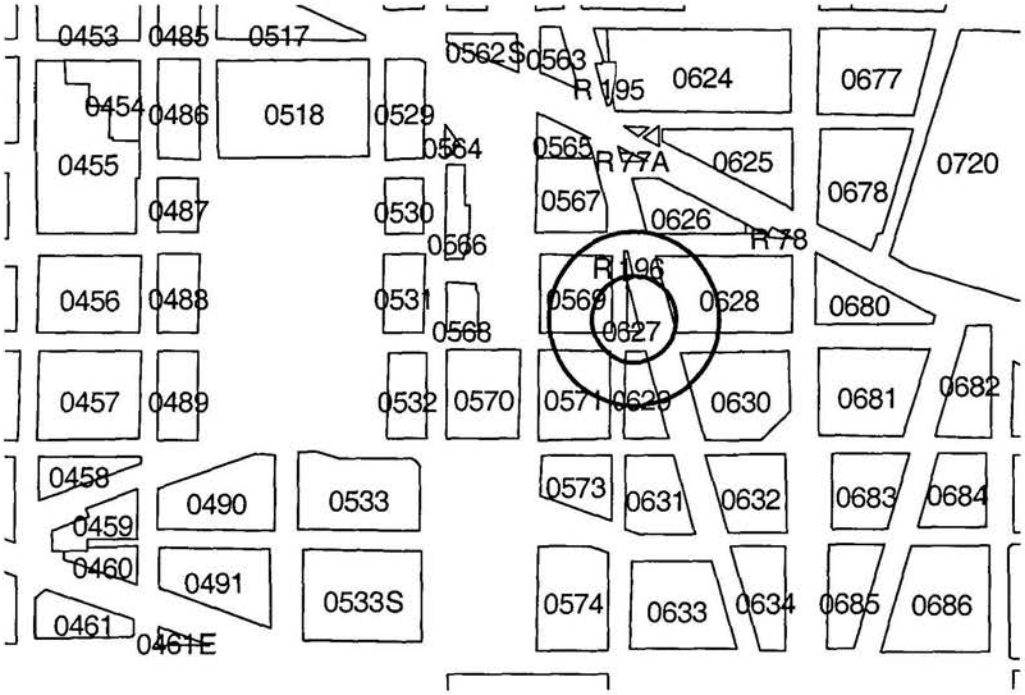
A. Gasoline station, closed and fenced off

B. Two other commercial buildings (both vacant and closed).

C. Reservation 196, under the jurisdiction of the National Park Service, occupies much of the northern part of the Square previously described. At this time, this Reservation is surrounded by a chain link fence approximately four feet high, with segments intentionally left unfenced serving as entrances, one park bench, and one mature deciduous tree; some of the fencing has vegetation in the form of hedges behind it. Assessment records indicate that this Reservation has an area of 3,814 s.f.

D. Taken as a whole, the project site is unattractive in its current condition.

II. Summary Map of Area, Showing Square and Reservation Numbers – Below is a map that outlines the perimeters of the Squares and Reservations in the area of the Site.* Site is within the "donut" superimposed on the diagram.



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* Detailed examination of area reveal a small triangular area now serving as a traffic island on the north side of F Street separating First Street and New Jersey Avenue. This area "completes" the triangle formed by the curb alignments of those rights of way. The area within that space is consistently noted within ***Baist*** atlases as Reservation 195, a designation that also appears in the Baist atlases for that area. The witness has not pursued the question of whether this is, or was, part of Reservation 195 or 196, or the question of jurisdiction of that small area.

III. Description of Surrounding Area – Use, Density and Height/Stories (see Tab G, a portion of which is depicted in a presentation panel within the hearing room)

A. Major frontage is along the New Jersey Avenue monumental corridor.

B. Area contains broad mix of commercial and institutional uses and building types, along with some utilities and public service facilities.

C. Overall area is east of I-395 tunnel and trench; south of Massachusetts Avenue, west of North Capitol Street, and north of Constitution and Louisiana Avenues, NW

D. Surrounding Square 627

1. To the west and northwest:

a. Georgetown University Law School consisting of three law school buildings, each of five stories approached by steps from New Jersey Avenue.

b. The Law School's high-rise dormitory building, apparently developed under prevailing HR/C-3-C zoning rules, a day care center, and three former residential structures.

c. The area immediately east of the Law School's dormitory is under construction at this time for additional law school functions that will become approximately half the height of the dorm, similar in scale to the law school building immediately north.

d. Parking lot, previously projected to be the site of "Capitol Square," an office building that would have been developed to thirteen stories by Tobishima Corporation that projected nearly 500,000 s.f. of "rentable" area).

2. To the southwest:

a. High-density, eight story office buildings (including office building for National Association of Counties ("NACO") at 440 First Street and to its south, another 8 story office building (400 First Street, NW).

b. Three-story U.S.-owned building, occupied and used by the Center for Creative Non Violence ("CCNV") as a shelter for homeless persons, and vacant lots listing CCNV as owner, but used for parking.

c. Federal Home Loan Bank Board, in a 9-story 90-foot building located between C and D Streets on the west side of First Street, NW.

3. To the south:

a. Hyatt Regency Capitol Hill Hotel (occupies entirety of Square 629, with over 61,000 square feet of land area). Hotel has 835 guestrooms, 10 levels at and above grade within 90-foot height envelope, with hotel function space below grade along with parking.

b. Offices of Jones, Day, a law firm (51 Louisiana Avenue, NW) five stories oriented to named avenue, but also facing First Street (seven stories) with parking deck.

4. **To the north and northeast**:

   a. A segment of (former?) Reservation 195 on the north side of F Street, now a traffic divider.

   b. Lowe Enterprises' new 250,000 s.f. office building at 601 New Jersey Avenue in Square 626; has 9 stories, an reaches or comes close to being 110 feet in height.

   c. Eight story office building facing Massachusetts Avenue (at 20 Massachusetts Avenue) and to its east a small branch bank in a single story structure at the tip of Square 626).

5. **To the east:**

   a. The Washington Court Hotel, with **fifteen (15) stories** of hotel rooms and facilities, built as part of a corner building measured off of F Street, NW, allowing it to rise 130 feet from that higher F Street measuring point but based on width of New Jersey Avenue, NW (Square 628) along with offices in same original building constructed after approval of BZA Case 13945.♦ Hotel is part of overall building on underlying record lot that includes 555 New Jersey Avenue (offices) and both 50 and 80 F Street, NW, also offices, all built to the limit permitted by HR/C-3-C.

   b. A mid-rise Pepco power distribution center, corner of New Jersey and E Street, NW.

♦ BZA Case 13945 was granted in 1983 as a Bench Decision on questions of reducing the amount of required parking (Special Exception) and variances in the number of parking spaces to be supplied, their geometry (size) and the geometry of the aisles leading to and from them. Significantly, the Order notes that providing all parking required would itself become a "practical difficulty" and goes on to note that three additional levels below grade would also face significant costs to keep the basements dry since water level at its location is only 13 feet below the ground level there.

c. Along E Street, NW three eight or nine story buildings first constructed for use as apartments or hotels, including the Capitol Plaza apartments (8 story, close to 90 feet, 35 E Street), the offices of the Children's Defense Fund (8 story, close to 90 feet, 25 E Street, earlier known as the Hotel Stratford) and The Hotel George (9 story, 90 feet, at 15 E Street, formerly known as the Bellevue Hotel).

d. Along the North Capitol Street frontage of the same Square, the Phoenix Park Hotel (at 520 North Capitol Street, and Dubliner Pub, the hotel formerly known as the Commodore), at 9 stories and, at 500 North Capitol Street, an 8 story office building, all at or approaching 90 feet, measured from North Capitol Street, which is significantly higher than New Jersey Avenue (details follow).

6. To the southeast:

a. High-density hotel ("Holiday Inn" with ten floors and 90 foot height) and high-density general offices, the latter primarily oriented toward North Capitol Street ("Hall of States", seven stories) and Louisiana Avenue ("Teamsters" headquarters).

b. District Fire station, recently re-opened following renovations: Battalion 1, Truck 6, Engine 4, and Ambulance 6. Marked on its exterior as erected 1916. This building is a designated historic landmark.

c. Small, one-story building now used for storage (427 New Jersey Avenue, owned by the D.C. Government).

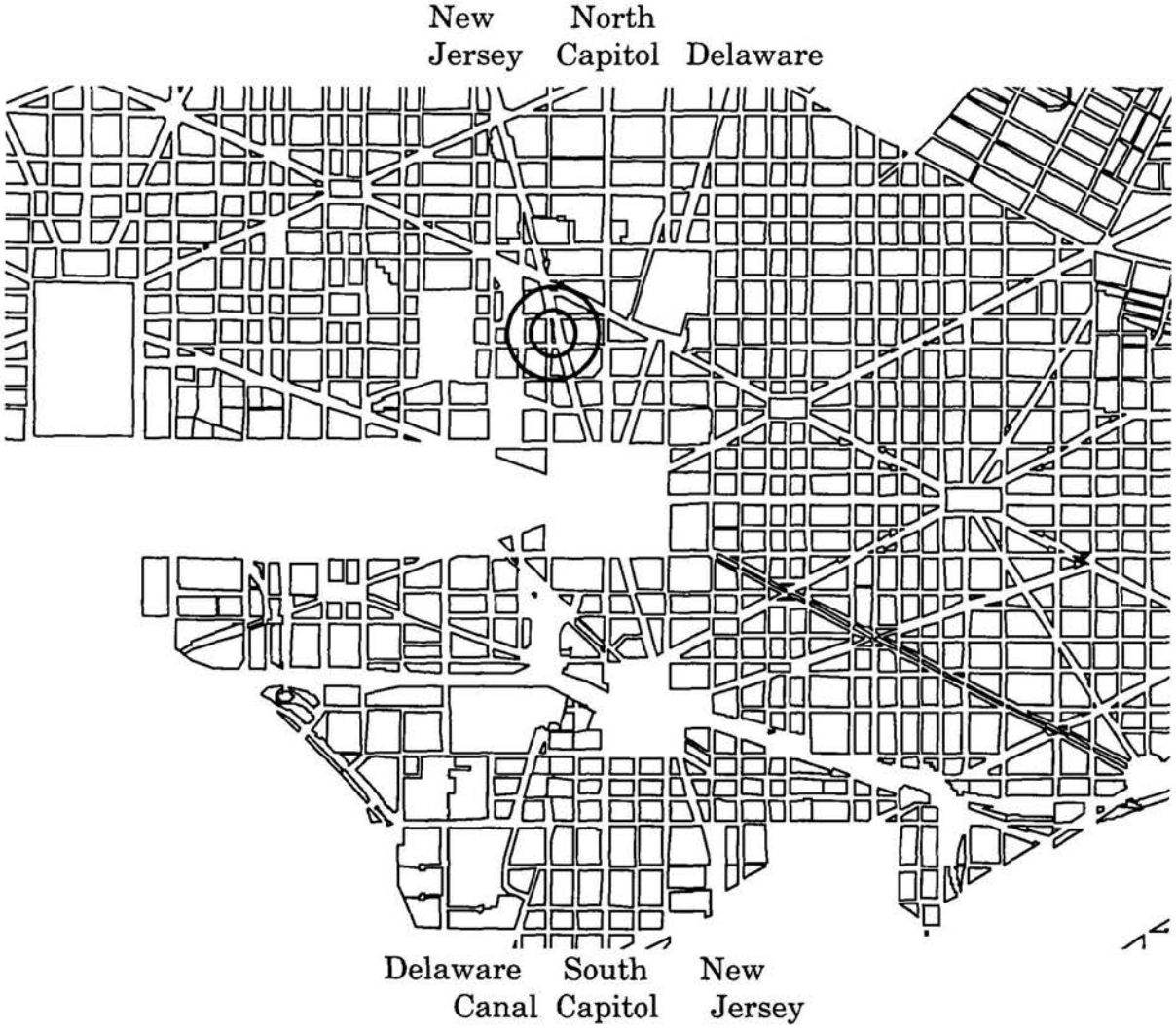
d. The recently completed Japanese-American war memorial, in the triangle formed by Louisiana and New Jersey Avenues, and C Street, NW.

IV. Topography of Area

A. New Jersey Avenue's elevation in feet above sea level at key intersections (from U.S. Army Corps of Engineers 1987 Photogrammetric Data 100 Scale Maps)

Intersections: East-West / North-South	Elev. At Third Street	Street & Elev.	Street & Elev.	Street & Elev.	North Capitol Street
M Street, NW	75.9	**NJ-78.8**	Kirby/2nd -79.0	1st-76.5	57.2
L Street, NW	*I-395*	**NJ-49.4**	2nd-49.4	1st-44.3	38.2
K Street, NW	47.1	**NJ-44.8**	**2nd-44.8**	1st-39.9	34.3
I Street, NW	52.8	2nd-55.8	**NJ-55.2**	1st-49.0	31.7
H Street, NW	44.8	2nd-41.x	**NJ-38.2**	1st-35.5	29.2
G Street, NW	41.8	2nd-39.2	**NJ-32.1**	**1st-32.1**	26.8
F Street, NW	38.5	2nd-40.9	***1st-29.0***	***NJ-28.7***	40.2
E Street, NW	34.4	2nd-25.5	***1st-25.5***	***NJ-23.1***	43.0
D Street, NW	29.7	2nd-31.2	1st-21.6	**NJ-19.2**	43.0
C Street, NW	29.3	2nd-20.7	1st-18.7	**NJ-27.5**	44.7
Constitution Avenue, NW	13.8	2nd-14.5	1st-16.5	**NJ-50.0**	57.9
The Capitol					**88.2**

V. **The Larger Context and the L'Enfant Plan --** Reproduced are outlines of the Squares that now exist in the area bounded by M Street and the north and south and by Seventeenth Street east and west. The Capitol building sits in the middle of the large blank reservation at the east end of the Mall. New Jersey and Delaware Avenues radiate from the Capitol, each at 15 degrees off the north-south axis.



At the scale of that diagram, which approximates 1" being 3,000 feet, the Subject Site is barely visible (within "donut"), but the overall L'Enfant plan is clear.

Here are the salient points:

- In the original L'Enfant plan, New Jersey and Delaware Avenues formed a tightly tapered "X" centered on the Capitol, each 15 degrees off the north south axis of North and South Capitol Streets.
- The alignment of north south numbered Streets and east-west lettered streets was symmetric and remains so.
- Thus, not taking diagonal streets into account, there should be four sites (or "theoretical Squares") of an identical form, but in four mirrored orientations.
- However, two other diagonal streets were also part of the L'Enfant plan, namely Boundary Avenue (now Massachusetts Avenue, to the north) and Virginia Avenue (to the south).
- Each of those two diagonals was established such that each split the "theoretical Squares" at First and E Streets in the Southwest and Northeast quadrants. In fact, neither now remains. Columbus Plaza and Union Station obliterated the theoretical Square in the northeast quadrant more than a century ago and the Square in the southwestern quadrant is now precisely where the northern spur of Interstate 395 mixes with the Southwest Freeway and only one small element of the original land, Reservation 120, survives in Federal jurisdiction, the other two (former Reservations 222 and 223 were transferred to the District Government in the 1960s for freeway construction and right of way, their current status).
- The southeastern "Square," which has and remains part of Reservation 17. While most of that Reservation was transferred to the District Government, the portion that remains in Federal hands is under the jurisdiction of the Architect of the Capitol, is unzoned, and is occupied by a two-story inverted L-shaped building that is the being renovated for use as the Capitol Page School.
- Thus, the Subject Square is the only one of the original four theoretical Squares in the L'Enfant plan including private property.

For a broader context, reproduced below is the same type of map but with the area expanded to run east-west from Georgetown to Anacostia River, east of the current RFK Memorial Stadium, and north south from Florida Avenue south to include nearly all of Buzzard Point. Again, the subject site is highlighted (within "donut").



Original L'Enfant Diagonal Avenue	Northern or Western Limit	Southern or Eastern Limit	Angle Relative to Axis
	Radiating from the	***Capitol Dome***	
New Jersey Ave.	**Florida Ave., NW**	**N Street, SE**	**15° / North Capitol St.** **15° / South Capitol St.**
Delaware Ave.	New York Ave., NE	P Street, SW †	15° / North Capitol St. 15° / South Capitol St.
Maryland Ave.	Maine Ave., SW The Capitol	The Capitol M Street, NE	20° / East Capitol St. 27½° / The Mall
Pennsylvania Ave.	The White House The Capitol	The Capitol Anacostia River	20° / The Mall 27½° / East Capitol St.
	Radiating from the	***White House***	
Connecticut Ave.	Columbia Road, NW	The White House	23½° / Sixteenth St., NW
Vermont Ave.	Florida Ave., NW	The White House	23½° / Sixteenth St., NW
New York Ave.	23rd Street, NW †	Sixteenth St., NE	23½° / E St., NW
Pennsylvania Ave.	M Street, NW The White House ‡	The White House The Capitol	23½° / The Mall 20° / East Capitol St.

† Extent represents furthest extent of specific avenue as depicted in ***Baist*** Atlas Volumes published in 1923 (Volume One) and 1924 (Volume Two).

‡ Segment forced off centerline from Capitol to White House, with western termination of Pennsylvania being at Fifteenth and Treasury Streets, NW.

VI. Existing zoning on Site: HR/C-3-C/ and Downtown East Receiving Zone

A. Base: C-3-C

1. Uses (§§741)

    a. Commercial uses permitted as a matter-of-right, including retail, service and office use

    b. Hotels

    c. Apartment houses and other residential use

2. Height/stories – maximum of 90 feet/no limit (§770.1)

3. Density - maximum of 6.5 FAR, with no limitation of nonresidential uses (§771.2)

4. Lot occupancy – 100% (§772.1)

5. Rear yard – 2½ inches per foot of height above the residential plane, but not less than 12 feet (§774.1); where there is a through lot, as here, this may be measured to the centerline of the street designated for that purpose.

6. Side yard - not required (§775)

7. Parking (§2101.1) – For general office use, minimum of 1 space for each 1,800 square feet of gross floor area in excess of 2,000 square feet.

8. Loading (§2201.1) – For office uses exceeding 30,000 square feet but less than 100,000 square feet:

    a. One loading berth, minimum depth of 30 feet, and with a minimum width of 12 feet.

    b. One loading platform, minimum area of 100 square feet.

    c. One Service Delivery Space, minimum depth of 20 feet, at least 10 feet wide.

B. **HR** (effective March 21, 1981).

1. Purpose: For "**immediate periphery of Central Employment Area**" to encourage construction of Hotels and apartment houses, and provide incentives for that.

2. Use, Height and Bulk

a. Uses – Not changed by **HR** rules, but any areas where hotels were only allowed as a Special Exception (not applicable here) become matter-of-right.

b. **Bulk – Maximum FAR increased from whatever applied in base zone (here 6.5) to 8.5**

c. **Height – Maximum height increased from whatever applied in base zone (and width of street) to 130 feet or the maximum allowed under Height Act of 1910**, provided that no portion of the building exceeding 110 feet would project into the plane formed at 45 degrees to the line at 110 feet.

C. **Transferable Development Rights and "Downtown East" Receiving Zone** (effective January 18, 1991, renumbered November 13, 1992; see §1709.15).

1. Purpose: To encourage historic preservation and bonus uses within the areas to which the DD overlay zone provisions apply, and declare areas where rights earned can be utilized.

2. Use, Height and Bulk in the Receiving Zones

   a. Uses – Not Change in use allowed or required under TDR's DD/Downtown East rules

   b. **Bulk – Maximum FAR increased from whatever applied in base zone (here 6.5) to 9.0** (see §1709.23).

   c. Height – Maximum height increased from whatever applied in base zone (and width of street) to maximum of 110 feet.

D. Conclusion: Area is deemed appropriate, at least under certain conditions, for development on a matter-of-right basis for commercial uses, to a height of 130 feet, and to a density of 9.0.

VII. Comprehensive Plan (adopted 1999, Enacted 2000, Mapped 2001)

A. Entire area east of Third Street, north to and past Massachusetts Avenue, east to North Capitol Street and south to Louisiana Avenue (but with some Squares changed to "Federal") designated in the "High Density Commercial Land Use Category in the Generalized Land Use Map. This designation is not "mixed" with any others.

B. The Generalized Land Use Policies Map depicts the area bounded by Massachusetts Avenue (to the north), North Capitol Street and Louisiana Avenue (to the east and southeast), Constitution and Pennsylvania Avenues (to the south) and Fifteenth Street (to the west) as being the "Downtown Plan Area." The project site is located in the eastern portion of this overall area. Thus, the precepts and policies of the "Downtown Plan Element" of the plan pertain (Chapter 9).

VIII. Proposed Development

A. Construction of new office building, with first floor below grade areas for other possible uses, including retail. Total gross floor area results in a requested approval for increasing maximum floor area ratio (FAR) to 10.59.

B. Height – the overall maximum height would be 130 feet (with 12 stories), plus a penthouse and embellishments.

C. Total of 68 parking spaces to be provided (25 within the ownership of the project, 43 more in vault space), and one (1) service delivery space on site.

IX. Relief Required

A. Variance for Height

B. Variance for Floor Area Ratio (gross floor area)

C. Variance from Parking Requirements (on site)

D. Variance from Loading Requirements (on site)

E. Special Exception for Unequal Height of Roof Structures.