GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE October 15, 2002

SUBJECT: BZA Application 16943
1121 14th Street NW, Square 247, Lots 868 and 869

APPLICATION

Relief Sought: Pursuant to 11 DCMR 3103.2, the applicant is requesting variance relief from the following:

- Court requirement in the C-4 District to permit construction of an 11-story office building.

OP believes that a **special exception** is required to address the rear yard setback from the property line according to the conditions of §774.2.

SUMMARY RECOMMENDATION

The Office of Planning **recommends approval** of the variance requests to allow the construction of the eleven-story, office building at 1121 14th Street, NW. OP also recommends special exception approval to waive the rear yard setback requirements from the portion of the property abutting the 5 feet-wide easement.

SITE AND AREA DESCRIPTION

The subject property is located on 14th Street, NW between L Street, NW and Thomas Circle in Square 247. The currently vacant lot is approximately 8,938 square feet, is comprised of lots 868 and 869, and forms an L shaped configuration. The property fronts 14th Street, NW and extends east to a depth of approximately 101 feet along the north portion of 14th Street frontage and 128 feet on the southern portion of the frontage, which also runs along a public alley. The L shape of the property is created by the continuation of the alley in a north-south direction for approximately 30 feet. North of the subject property another alley begins on 14th street and dead ends as a boomerang-shaped spur to the east of the property, terminating into the spur of the subject property (Exhibit B).

BZA
Case No. 16943
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16943
EXHIBIT NO.25

This 10-foot wide alley was formally closed in 1993, with portions reverting to property owners abutting the alley, including to the applicant (lot 868), the Holiday Inn (lot 90), and the owners of the Thomas House Retirement Community (lot 91). The applicant included a comprehensive record of the alley closing, including the agreement and its conditions. The property is located in the C-4 zone District and is impacted by the Downtown Development District, which overlays other properties in the immediate vicinity.

PROJECT DESCRIPTION

The applicant proposes to construct an 11-story office building on 14th Street, NW on an 8,938 square feet lot (lots 868 and 869) with its building front to face 14th Street on the west and abutting an alley, which runs along the right side of the property and continues to the left for approximately 55 feet at the rear of the property. The applicant is requesting variance relief for a closed court, which will be inadvertently created by the rear walls of the proposed building and the property line, which also forms the centerline of an existing easement. (Figure 2)

ZONING REQUIREMENTS

C-4 Zone District

The C-4 zone District permits matter-of-right development in the downtown core comprising retail and office centers for the District of Columbia. It allows office, retail, housing and mixed uses to a maximum lot occupancy of 100%, a maximum FAR of 8.5 to 10, a maximum height of 110 feet and 130 on 110 foot adjoining streets.

DD Downtown Development District

"The purpose of the Downtown Development District is to help accomplish the land use and development policies of the Comprehensive Plan relating to the affected sectors of Downtown."

Section 776 references the requirements for closed courts. The table outlines the items, which deviate from the requirements of §§776.1 and 776.2

Section	Item	Required	Provided	Deviation
776.1	Court Width	32.5 feet	5 feet	-85%
776.2	Court Area	2,112.5 square feet (minimum)	213 square feet	-90%

ANALYSIS

The proposed construction plans created a non-conforming closed court in a C-4 zone District. The applicant has self-certified that the existing non-conformity of the lot due to court area and court width result in the need for variance relief.

DOES THE APPLICATION MEET THE VARIANCE TEST?

Is the property unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition?

The property became unique because of an exceptional situation resulting from closure of the alley in 1993 (D.C. Law 9-256) by the property owners of lots 90, 91 and lot 868 (Exhibit A). The former 10-foot wide alley's centerline divided the alley and half portions reverted to lots 90 and 91 (combined) and lot 868. The portion of the alley granted to lot 868 became known as lot 869. Lots 868 and 869 are now legally a lot of single record. However, the parties entered into a non-exclusive agreement, which stated that neither party to the agreement would build on the reverted portions to allow for ingress, egress and light and air to the properties that abut the easement. For the applicant, this agreement mandates a five-foot setback for any new above grade construction on that portion of the property now known as lot 869.

The existence of the easement which prohibits construction on lot 869, subjects the property to an exceptional condition, inducing a development restriction, since that portion of the property no longer abuts an alley but now abuts the Thomas House property, creating a closed court that would not have existed to require subsequent variance relief.

By reason of the aforementioned unique or exceptional condition of the property, will the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property?

A strict application of the closed court area requirements would result in a practical difficulty for the applicant. The development restrictions placed on the applicant's reversion parcel (lot 869) automatically creates a closed court on the site.

In an instance where a court is created in the C-4 zone District, §776.2 requires that the minimum area for such court be at least twice the square of the width of the court based upon the height of the court, but not less than 250 square feet. Based upon the proposed height of the building (130 feet) and the configuration of the property, this would require a court width of 32'6" and a closed court area of 2,112 square feet. The resulting width and area of the closed court created by the proposed structure are 5 feet and 213 square feet respectively. Providing the required closed court dimensions would restrict the applicant's use of the property by an additional 27.5 feet, (1,173.7 square feet), resulting in the inability to apply lot 869 to the FAR calculation of the proposed building.

If this building restriction were not placed on the site, the proposed building could cover the site. There are no side yard setback requirements in the C-4 zone District for office buildings. Therefore, denial of variance relief from the requirements of §776 would forego the use of the building density provided by lot 869 and this creates a practical an unintended difficulty for the applicant.

Will the variance cause substantial detriment to the public good and if granted, will it impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map?

OP believes that relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The project conforms in all other aspects including the height and density requirements of the C-4 zone District. No detriment to any other neighboring property including the Thomas House is anticipated and the applicant intends to honor the easement agreement entered into with residents of Thomas House and other signatories to the agreement.

The proposed development is approximately 46 feet from the Thomas House residence, at its nearest point measured from the rear wall, which faces the 30 feet wide public alley. The building exceeds the rear yard requirement by approximately 4.5 feet. The applicant has gained the approval of the Thomas House residents, with respect to the preservation of the light and air that the residents currently enjoy. Additionally, vehicular ingress and egress is maintained by preserving the alley agreement.

OP notes that the property can be developed as a matter of right at its proposed height and FAR. Variance relief only allows the applicant the ability to apply the building density from lot 869 to the development proposal.

SPECIAL EXCEPTION: REAR YARD REQUIREMENT

OP observed that the rear yard was measured from one section the rear property line, including the potion of the lot that abuts the 30-foot wide alley. OP questioned whether the rear yard measurement should extend through the entire section, including the portion that abuts the easement (in the proposed closed court area) (See Figure 2). The Zoning Administrator confirmed that the rear yard requirements should also be considered in this area. In anticipation of the Board's consideration of the rear yard relief, OP reviewed the proposed project against the relief standards of Section 774.

The rear yard requirements for the C-4 zone District are outlined in §774 as follows:

774 REAR YARDS (C)
774.1 Except as provided in this section, a rear yard shall be provided for each structure located in a Commercial District, the minimum depth of which shall be as prescribed in the following table:

ZONE DISTRICT AND STRUCTURE	MINIMUM DEPTH OF REAR YARD
C-3-A, C-3-B, C-3-C, C-4, C-5 (PAD)	
All structures	2-1/2 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet

774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

774.6 Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and if a historic district or historic landmark is involved, the State Historic preservation Officer.

In this instance, the Office of Planning recommends approval of the special exception, which allows the Board to waive the rear yard setback requirements, if the proposal meets the conditions stipulated in §§774.3 through 774.6. OP believes the proposal meets these provisions including:

§§774.3 and 774.4 require sufficient light, air, and protection of privacy, to be afforded the occupants of other buildings, in this case, residents of the Thomas House. The light, air and protection of privacy requirements are met in this proposal. OP understands that the residents of Thomas House and the applicant agree this requirement is upheld in its design, including the distance between the buildings, which are separated by additional space beyond the alley and easement widths.

§774.5 The building plan does provide the required off-street service functions, including parking and loading areas and access points. Both loading and servicing berths are provided, as shown in the ground level floor plan (Figure 3). The 10-foot wide easement area accessible to the lots abutting the former alley, as well as, through the 30-foot wide public alley provides access points. 50 underground parking spaces are provided where none was required.

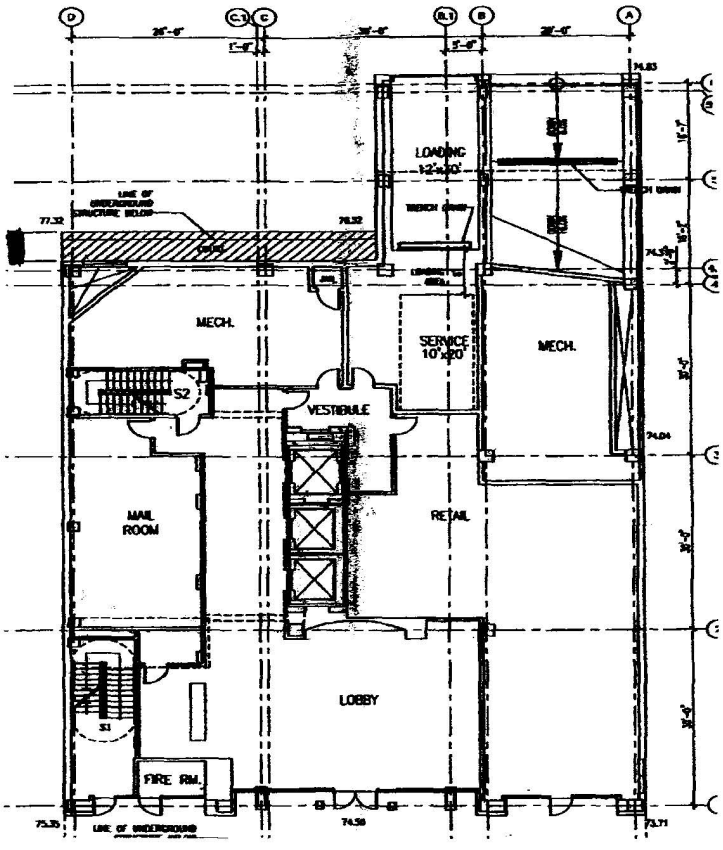


Figure 3

OP believes that the applicant has met the provisions of §§774.3 through 774.5 to fulfill the special exception waiver from the rear yard setback requirements. Should the Board consider this request, OP will coordinate the reviews of the application with other agencies, including DDOT and the Department of Housing and Community Development, as required by §774.6

COMPREHENSIVE PLAN
The Comprehensive Plan supports new office development in Ward 2, particularly as it relates to the wider economic development goals of the District of Columbia.

902.2 establishes the policies in support of the Downtown retail land use objective including:

> 902.2 (h) Encourage redevelopment of the 14th Street, N.W., area, between G Street, N.W., and Thomas Circle, by means of new development...

1328 WARD 2 OFFICE DEVELOPMENT
1328.1 The need for office space to house public and private sector employment is the major "driver" of other development in the ward. Much of the new development in the center of Ward 2, and in the Development Opportunity Areas, will be new office construction. It is important to achieve continuing office development in the District in the face of suburban competition.

1329 WARD 2 OBJECTIVES FOR OFFICE DEVELOPMENT
1329.1 The objectives for office development are as follows:

> (a) To encourage development of office buildings in appropriate locations in Ward 2, especially in the Central Employment Area...

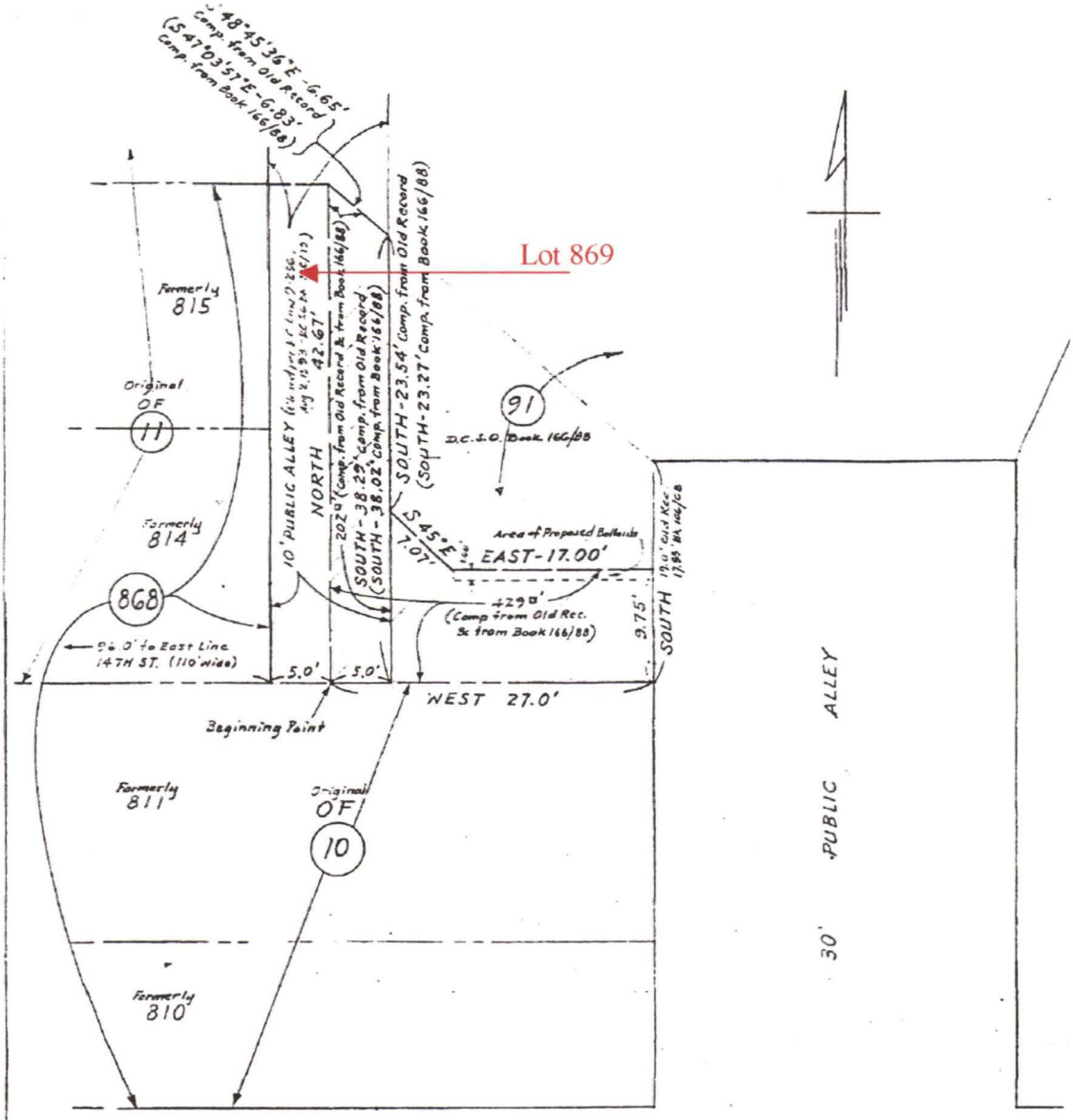
The development of an office building on this vacant site will generate revenue for the District as an increase in property tax assessment. OP believes the project complies with the goals for the Central Employment Area, which is established in the DD/C-4 zone District.

COMMUNITY COMMENTS
The Office of Planning contacted the Thomas House residents and confirmed that the proposal presented, including the issue of the closed court met with the residents' approval. The proposal will be reviewed before the full quorum of ANC 2F 03 in November. OP has not received comments from the District's Department of Transportation (DDOT).

RECOMMENDATION
OP **recommends approval** of the variance from the closed court area requirements of §§776.2, and 776.3. OP believes that the applicant has complied with the bulk requirements of the section and could have pursued the development of the site as a matter-of-right.

However, the alley closure agreement binds all parties against construction in the easement area, to provide for vehicular and construction access to the abutting properties, as well as for the perpetual enjoyment of light and air. In granting the variance relief, the applicant is able to use the allowable density of lot 869 and apply it to the proposed building area of lot 868.

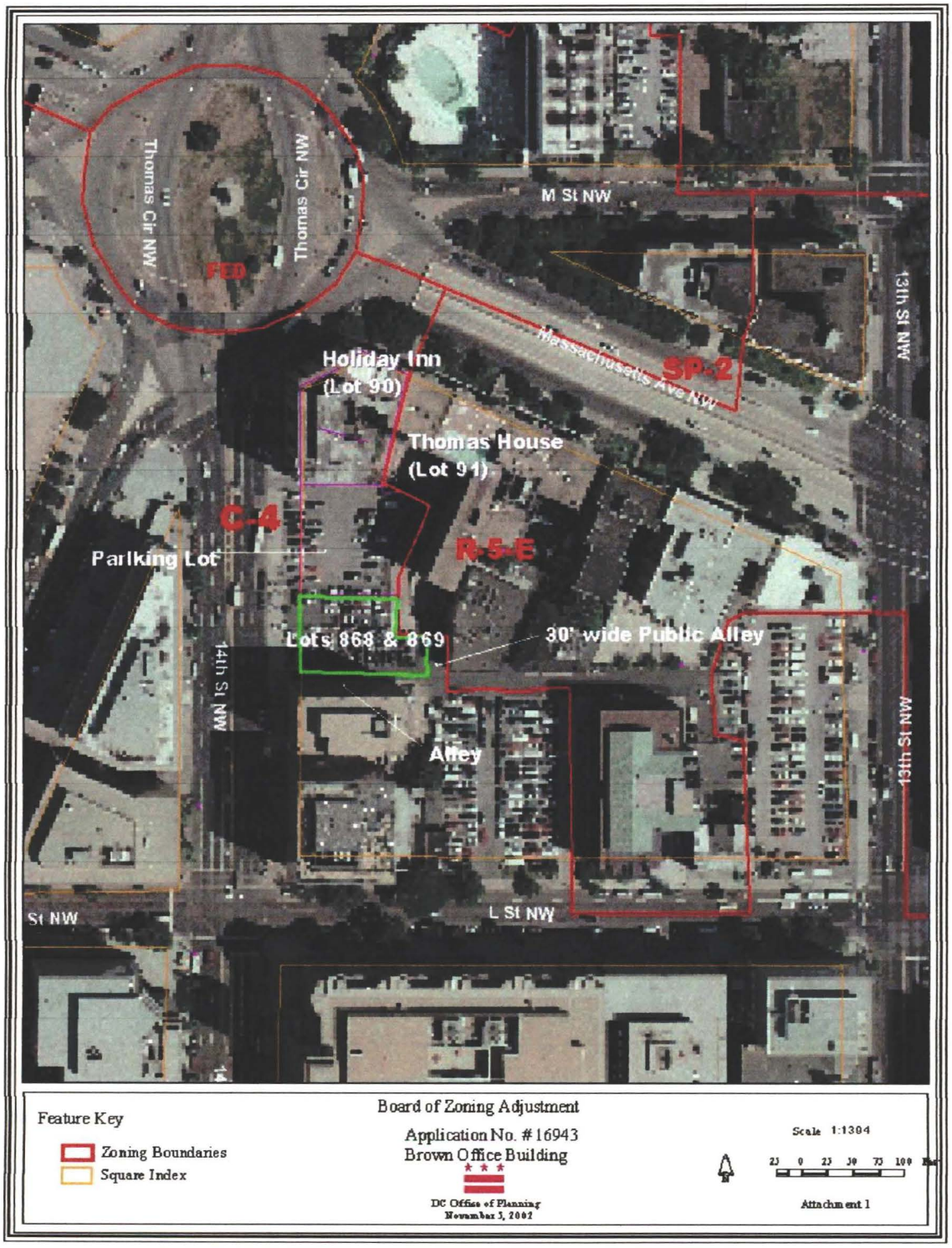
The application also meets the special exception requirements of §774.2



Note : Hatching designates easement area.

PLAT OF EASEMENT
PART OF LOT 91, SQUARE 247 &
PART OF PUBLIC ALLEY CLOSE
1100 BLOCK OF 14TH STREET, N.W., WASHING
WILKES, ARTIS, HEDRICK & LAN
SCALE: 1/8"=1'-0" JULY 21, 19
BERNARD F. LOCRAFT
CIVIL ENGINEERS

EXHIBIT B


Thomas Cir NW
Thomas Cir NW
FED
M St NW
13th St NW
Massachusetts Ave NW
SP-2
Holiday Inn
(Lot 90)
Thomas House
(Lot 91)
C-4
R-5-E
Parking Lot
Lots 868 & 869
30' wide Public Alley
14th St NW
Alley
13th St NW
St NW
L St NW
Feature Key
Zoning Boundaries
Square Index
Board of Zoning Adjustment
Application No. #16943
Brown Office Building
DC Office of Planning
November 3, 2002
Scale 1:1304
Attachment 1