HAMILTON AND HAMILTON, LLP
ATTORNEYS AT LAW
1775 PENNSYLVANIA AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20006-4605

(202) 463-8282
FACSIMILE (202) 463-7282
EMAIL: MAILBOX@HAMILTONLAW.COM
WWW.HAMILTONLAW.COM

SUITE 204
401 EAST JEFFERSON STREET
ROCKVILLE, MARYLAND 20850

SUITE 201
400 NORTH COLUMBUS STREET
ALEXANDRIA, VIRGINIA 22314

MICHAEL A. CAIN

MEMBER D.C. AND MARYLAND BARS

WRITER'S DIRECT EMAIL: MAC@HAMILTONLAW.COM

December 30, 2002

RECEIVED
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By Hand

Mr Geoffrey H. Griffis
Chairperson
District of Columbia Board of
Zoning Adjustment
Room 210
441-4th Street, N.W.
Washington, D.C. 20001

Re: Application of NEST and Totah Venture, LLC
BZA Case No. 16966

Dear Mr. Griffis:

NEST and Totah Venture, LLC, applicant in the above-referenced case, submit this letter and the attachments hereto as their Prehearing Submission pursuant to 11 DCMR (Zoning) §3113.8:

(A) Statement of Richard A. Donnally, AIA (Attachment 1);

(B) Professional Résumé of Richard A. Donnally, AIA (Attachment 2)

(C) Statement of Alan E. Nessim (Attachment 3);

(D) Photographs of existing conditions (Attachment 4);

(E) Zoning Administrator Referral Memo (Attachment 5);

(F) Rendering of proposed new construction (Attachment 6);

(G) Site plan, proposed building plans and elevations (Attachment 7);

(H) Surveyor's plat - Lots 808 and 823, Square 218 (Attachment 8);

(I) Surveyor's plat showing existing and proposed improvements (Attachment 9);

BZA
Case No. 16966
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16966
EXHIBIT NO.27

(J) Tax map of Square 218 (Attachment 10);

(K) Zoning Map (excerpt) (Attachment 11); and

(L) BZA Order dated May 17, 1991, entered in Case No. 15169 (Attachment 12).

Mr. Donnally and Mr. Nessim will offer oral testimony at the hearing in support of the application.

Sincerely,

HAMILTON AND HAMILTON, LLP

Michael A. Cain

MAC:rhs
Enclosures

cc: Arthur Jackson, D.C. Office of Planning (w/attachments)
Ms. Helen Kramer, Chairperson ANC 2F (w/attachments)
Ms. Nicole Totah

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

In Re: Application of :

NEST and TOTAH VENTURE, LLC : Application No. 16966

STATEMENT OF RICHARD A. DONNALLY, AIA IN SUPPORT OF APPLICATION FOR VARIANCES/SPECIAL EXCEPTION FOR 1426-1430 K STREET, N.W.

Introduction

My name is Richard A. Donnally. I am a member of the architectural firm of Donnally Vujcic Associates. We have been engaged by NEST and Totah Venture, LLC to develop the plans for the redevelopment of NEST's property at 1426-1430 K Street, N.W. NEST proposes to demolish the existing structures on the subject property and to redevelop the site with a 130-foot tall 12-story commercial office building with ground floor retail space and parking for 36 cars in an underground garage. In accordance with the direction of the D.C. Zoning Administrator, NEST is seeking your approval of variances from Sections 771.5 and 774.1 of the Zoning Regulations, and a special exception pursuant to Sections 411.11 and 770.6(b).

I have been a licensed architect in the District of Columbia for more than 20 years and have substantial working familiarity with the D.C. Zoning Regulations and with the District's Comprehensive Plan. I am also licensed in Maryland and Virginia. Among other projects in the City, I designed the 600,000 square foot 8-story Level 3 Communications data center, which was to be located at 90 K Street, N.E. That design had the distinction of being the trend-setting project for data centers by meeting the District's goal of presenting an attractive, lively facade rather than a monolithic hulk.

Property Description and Neighborhood Setting

The subject site (the "Site") consists of two parcels in Square 218 that will be combined to form a single lot: Lot 823 (1430 K Street, N.W.) and Lot 808 (1426 K Street, N.W.). Lot 823 contains approximately 5,181 square feet of land; Lot 808 measures 2,015 square feet. The combined land area totals 7,196 square feet.

The Site is located in Downtown on the south side of K Street, N.W., in Square 218, one lot removed to the east from the intersection of 15th and K Streets, N.W. Square 218 is located between McPherson Square (across 15th Street to the west) and Franklin Square (across 14th Street to the east). The Site abuts the Orme Building, a 6-story structure at 1424 K Street, N.W. Adjacent to the Site on the west is a 12-story office building known as The Carry Building at 927-931 - 15th Street, N.W.

The Site currently contains two distressed abandoned structures. 1430 K Street (Lot 823) is a vacant 13-story precast and brick structure formerly used as an office building with ground floor retail space. 1426 K Street, N.W. (Lot 808) is a vacant 15-story cement structure built as a parking garage in 1951 and converted to a record storage facility in 1979. The total floor area of the existing structures above grade is 76,972 square feet, which equals a developed FAR of 10.7. Both structures have been vacant for at least 10 years and are very derelict in appearance.

Site Zoning

The Site is zoned C-4. The C-4 District encompasses the Downtown core of the City and comprises the retail and office center for the District of Columbia and the surrounding metropolitan area. The C-4 District generally permits high-density office, retail, service or residential uses or a

combination thereof, to a maximum floor area ratio ("FAR") of 10.0 and a maximum height of 130 feet for this K Street site due to the width of right-of-way, which exceeds 147 feet. 11 DCMR §§ 770.4, 771.5.

A building erected in the C-4 Zone District may occupy 100 percent of its site, except that a rear yard of 2-1/2 inches per foot of height, but not less than 12 feet, is required commencing 20 feet above the mean finished grade. 11 DCMR § 774.1. Roof structures in the C-4 District may rise to 18.5 feet above the roof and must be setback from each exterior wall of the building a distance at least equal to the height of the roof structure. 11 DCMR § 770.6(b), (d).

Zoning in the Vicinity of the Site

The C-4 District is mapped over the surrounding two block area to the north, the two blocks to the west, and a three-block area to the south. East of the site, the C-4 District is mapped over approximately 1-1/2 blocks before yielding to a DD/C-3-C District.

Surrounding Land Uses

The Site is located in an area characterized by high-rise office development with ground floor retail uses. There are a number of 12-story office buildings in the immediate vicinity.

The south side of K Street between 14th and 15th Streets, N.W., is developed with office buildings varying in height from 6 to 15 stories. The Orme Building on the east is a 6-story structure devoted to office/retail uses. Further east, at the southwest corner of 14th and K Streets, N.W., is the American Psychiatric Association Building, a 12-story office structure with ground floor retail space. The Carry Building to the west of the Site is a 12-story office building with ground floor

retail space. The North side of this block of K Street is developed with 12- to 14-story office buildings with ground floor retail.

The 15th, 14th and Eye Street frontages of Square 218 principally consist of 10- to 12-story office buildings with ground floor retail uses. Along 15th Street, there are two 6-story structures utilized for professional and trade association offices.

McPherson Square to the west and Franklin Square to the east are undeveloped open space. The squares fronting on McPherson Square are developed with 12-story office buildings with ground floor retail. The squares fronting on Franklin Square are principally developed with newer 12-story office buildings and the 13-story Crowne Plaza hotel, together with several smaller historic buildings.

Zoning History of the Site and Surrounding Area

Square 218 was zoned C-4 in 1958. The Site appears to have been zoned for commercial purposes prior to 1958.

Lots 823 (1430 K Street) and 808 (1426 K Street) have been the subject of prior BZA review.

By order dated May 17, 1991 entered in Application No. 15169, the Board granted a variance from the minimum rear yard requirements and a special exception to allow a mechanical penthouse which did not meet the applicable setback requirements and permitted redevelopment of the Site with a 12-story commercial office building with ground floor retail and underground parking.

On September 5, 1979, the Board granted a use variance allowing all floors of the structure on Lot 808 (1426 K Street) to be used as a record storage facility. Application No. 12954.

On October 5, 1961, the Board denied a request for a variance to extend the chimney of the

structure on Lot 823 (1430 K Street) into the required rear yard. However, the Board did approve a request to allow the building's mechanical penthouse to extend into the side yard setback area. Application No. 6529.

Elsewhere within Square 218, the building on the northwestern corner of 14th and Eye Streets, N.W. was reviewed by the BZA. In March 1967 the Board approved the location of the roof structure and granted a variance from the C-4 closed court requirements. Applications Nos. 8979 and 8980.

Proposed Redevelopment and Use

NEST proposes to demolish the existing structures on the Site and construct a 12-story Class "A" commercial office building with ground floor retail. The proposed structure will rise to a height of 130 feet. The building will contain 74,849 square feet of gross building area above grade, for a floor area ratio of 10.4.

We have designed the facade as a transparent glass plane with a projecting reflective glass tower and brushed alucobond metal fin. This fairly unembellished surface will enable 1430 K Street to not be in competition with its traditional neighbors. The setbacks for balconies at floors 11 and 12 reflect current conditions at the existing 1430 structure and insure that our new construction will not interfere with the overhanging cornice from 927-931 15th Street, which otherwise would have to be demolished due to its overhanging our side yard. The alucobond metal fin is placed at the dividing line between the existing 1426 and 1430 K Street buildings to maintain some of the Site's history. A night lit beacon will be placed at the site of the existing tiled tower element of the existing 1430 K Street.

Parking and loading are accessed from the public alley in the rear. Parking is provided for 36 cars; 2 loading berths will be provided.

Lot coverage will be 96%.

The regulations requires that we provide a minimum rear yard of 27.29'. Because of the Site's small size, however, NEST wishes to be allowed to provide a rear yard of 16.23 feet above the first floor, which matches the variance granted in 1991.

Side yards are not required and none will be provided.

Site constraints also limit NEST's ability to set back the proposed 18.5-foot roof structure the requisite minimum distance from each of the building's exterior walls. In order to provide an effective and efficient service core, the mechanical penthouse is designed to set back 6.0 feet from the rear (south) exterior wall. However, the proposed penthouse will be set back 30 feet from the K Street (north) frontage, which should be of primary concern, and 20 feet on each side. Both side and front set backs exceed the minimum requirement. The smaller rear setback will be extremely difficult to observe from the dead end alley.

Efforts to locate the roof structure the requisite 18.5 feet from all exterior walls would produce an inefficient internal layout of office space, and the proximity of the roof structure to the front of the site would result in increased visibility from K Street. In order to minimize the impacts of the penthouse on adjacent properties, we have reduced the floor area ratio of the roof structure from 0.37 (matter-of right) to 0.25. We believe that our proposed location of the penthouse would preserve the sight lines from K Street, the only public street on which the Site has frontage.

The additional 2,885 square feet of FAR is needed to accommodate the service core with a code compliant minimum core which requires 2 separate stairways, ADA-compliant bathrooms and

elevators. This layout will also provide adequate distance from the core to the exterior wall for a hallway and marketable depth of office space. The overall density will still be less than the existing condition.

Relief Requested

The Zoning Administrator's memorandum indicates a need for two variances in order to achieve this plan: (1) a variance from the C-4 rear yard setback requirements (Section 774.1); and (2) a variance from the C-4 maximum allowable FAR (Section 771.5). The Zoning Administrator also indicates the need for a special exception for relief from the roof structure setback provisions (Section 770.6(b)).

The requested variances are properly characterized as area variances. An area variance relates to deviations from dimensional requirements such as rear yard setbacks, floor area ratio (FAR) or minimum lot requirements. Palmer v. BZA, 287 A.2d 535, 541 (D.C. 1972).

The standard by which the BZA may approve an area variance is set forth in D.C. Official Code § 6-641.07(g) (3) (2001 ed.) and Section 3103.2 of the Zoning Regulations. The burden of proof for an area variance is met when the following conditions are shown to exist:

(a) the property is unique because of its size, shape, topography or other extraordinary or exceptional situation or condition;

(b) by reason of such unique or exceptional condition of the property, strict application of the Zoning Regulations will result in "exceptional practical difficulties"; and

(c) approval of the variance will not cause "substantial detriment to the public good" and will not "substantially impair the intent, purpose, and integrity of the zone plan" as embodied in the

Zoning Regulations and Map.

We believe that the NEST proposal satisfies these criteria. The application contemplates construction of an office building on a very small, infill Downtown site. Given a lot width of only 93 feet, provision of the requisite 27.29 foot rear yard setback would result in a shallow office building with a length of only approximately 65 feet. In a building with such shallow depth, a centrally located elevator core would produce an inefficient floor layout with a large percentage of unproductive office space. A front or rear core location would block valuable window line, and either side location would severely limit the ability to subdivide floors to accommodate multiple tenants.

The subject site is the only non-corner lot in the subject square and within the 13 surrounding squares which lacks public alley access running the length of its rear property line. Therefore, the rear yard must be measured from the rear property line instead of from the middle of the adjacent alley.

Given the small infill site, strict application of the Zoning Regulations would render it impractical for NEST to redevelop the site. We believe that our design responds effectively to the challenge to provide a meaningful amount of marketable office space while meeting modern ADA and building code safety requirements. Smaller floor plates are more expensive to construct (per square foot). We are already budgeting an extremely high cost per square foot due to the small footprint and cost to demolish the large existing derelict structures, which cannot be saved due to their existing 9'-6" floor to floor heights, which do not allow for ceiling heights consistent with modern Class "A" office space, along with the existing scissor stairs which are not acceptable to GSA requirements, and the 8'-8" floor to floor heights of the 1426 K Street building which preclude

proper floor alignment. Please also note that our proposed FAR is 2,123 square feet less than the existing density.

Because NEST intends to provide a rear yard setback, albeit at a slightly reduced dimension than that required by the Regulations, adjacent office buildings will not be adversely affected in terms of reduced light and air. The buildings on either side of the Site occupy 100% of their lots. This Site was granted a similar rear yard variance in 1991, which we have matched in our proposed design. Likewise, the roof structure has been placed with sufficient setbacks to minimize adverse impacts. The penthouse is set back from the north (K Street) exterior wall 30 feet to ensure no visual impact from K Street. Further, redevelopment of the Site in the manner proposed will help vastly improve the overall character and urban design of the 1400 block of K Street as well as the surrounding area.

Conclusion

For the foregoing reasons, we submit that approval of the relief requested in this application would not be substantially detrimental to the public good, and would not impair the intent, purpose or integrity of the Zoning Regulations and Map nor adversely affect the use of neighboring properties. The unique and exceptional conditions which affect the subject property create practical difficulties which would not allow NEST to achieve economically feasible redevelopment of the Site as a matter of right.

Granting the requested variances and special exception would permit economically feasible redevelopment of the Site and, hence, a productive use and aesthetically pleasing structure at this important Downtown location. Moreover, the proposed project is consistent with the Comprehensive

Plan, which generally seeks to encourage new office development in the Downtown, and specifically depicts the Franklin Square area as a priority office area. See 10 DCMR (Planning & Development)(Part 1) §§900.30, 905.2(a), 931 (Feb. 1999). The ground floor retail component is entirely consistent with adjacent and other neighboring structures and is encouraged in order to maintain and foster an active street life.

I will be happy to answer any questions you may have.

RICHARD A. DONNALLY, A.I.A

Mr. Donnally is the Senior Principal of Donnally Vujcic Associates, Architects in Gaithersburg, Maryland and is responsible for directing design and administration of the firm. He brings over 28 years of experience in planning, architectural design, and construction techniques to his direct supervision and involvement in every stage of project development.

Mr. Donnally received his Bachelor of Architecture with High Honors from the University of Maryland in 1975 and is a registered Architect in Maryland, the District of Columbia, and Virginia, as well as holding a national NCARB registration. He has received The American Institute of Architects Scholastic Award, The American Institute of Architects Henry Adams Award, and a Certificate of Scholarship from the University of Maryland. Mr. Donnally has served as Chairman of the East Bethesda Citizens Association Planning Committee and is a past member of the Phi Kappa Phi Honorary Fraternity. He has served on the Board of Directors of Potomac Valley Chapter A.I.A. and participated in a national study of energy conscious design for the U.S. Department of Energy.

Mr. Donnally is an active member of the Building Officials and Code Administrators, the National Association of Industrial And Office Properties, is a member of The Historic League of D.C., and is a member, contributing editor and frequent lecturer for The Urban Land Institute.

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

In Re: Application of :

NEST and TOTAH VENTURE, LLC : Application No. 16966

STATEMENT OF ALAN E. NESSIM IN SUPPORT OF APPLICATION FOR VARIANCES/SPECIAL EXCEPTION FOR 1426-1430 K STREET, N.W.

Introduction

My name is Alan Nessim. I am a manager for the Applicant in this case, NEST and Totah Venture, LLC. NEST owns the property which is the subject of this application at 1426-1430 K Street, N.W., also known as Lots 808 and 823 in Square 218. We propose to demolish the 2 existing structures on those lots, combine them and redevelop the site with a 130-foot 12-story commercial office building with ground floor retail space and parking in an underground garage. However, in order to carry out our plan, the Zoning Administrator has advised us that we need two variances from strict application of the Zoning Regulations: (1) a variance from the C-4 rear yard setback requirements (Section 774.1); and (2) a variance from the C-4 maximum allowable floor area ratio (Section 771.5). The Zoning Administrator also informed us that we need a special exception for relief from the roof structure setback provisions (Section 770.6(b)).

NEST is a single-asset limited liability company formed by the principals of the Oxbridge Group, a residential development and commercial construction company based in Rockville, Maryland. Although Oxbridge was formed in 1997, its principals have been working in real estate development and construction in the Greater Washington Metro area for more than 25 years.

Property Description and Neighborhood Setting

Our Site is located in the Downtown on the south side of K Street, N.W., in Square 218, one

lot removed to the east from the intersection of 15th and K Streets, N.W. Square 218 is located between McPherson Square (across 15th Street to the west) and Franklin Square (across 14th Street to the east). The Site abuts the Orme Building, a 6-story structure at 1424 K Street, N.W. Adjacent to our Site on the west is a 12-story office building known as The Carry Building at 927-931 - 15th Street, N.W.

Lot 823 contains approximately 5,181 square feet of land; Lot 808 measures 2,015 square feet, for a combined site land area of 7,196 square feet.

The Site is improved with two distressed structures. Lot 823 (1430 K Street) is improved with a vacant 13-story brick structure that was once used as an office building with ground floor retail space. Lot 808 (1426 K Street, N.W.) is developed with a vacant 15-story cement structure that was originally built as a parking garage in 1951 and converted to a record storage facility in 1979. Both structures have been vacant for at least 10 years and are in a general state of decay and disrepair.

Surrounding Land Uses

The Site is located in an area characterized by high-rise office development with ground floor retail uses. There are a number of 12-story office buildings in the immediate vicinity.

The south side of K Street between 14th and 15th Streets, N.W., is developed with office buildings varying in height from 6 to 15 stories. The Orme Building on the east is a 6-story structure devoted to office/retail uses. Further east, at the southwest corner of 14th and K Streets, N.W., is the American Psychiatric Association Building, a 12-story office structure with ground floor retail space. The Carry Building to the west of the Site is a 12-story office building with ground floor retail space. The North side of this block of K Street is developed with a new 12- to 14-story office

buildings with ground floor retail.

The 15th, 14th and Eye Street frontages of Square 218 principally consist of 10- to 12-story office buildings with ground floor retail uses. Along 15th Street, there are two 6-story structures utilized for professional and trade association offices.

McPherson Square to the west and Franklin Square to the east are undeveloped open space. The squares fronting on McPherson Square are developed with 12-story office buildings with ground floor retail. The squares fronting on Franklin Square are principally developed with newer 12-story office buildings and the 13-story Crowne Plaza hotel, together with several smaller historic buildings.

Proposed Redevelopment of the Site

Our plan is to demolish the existing structures on the Site and construct a 12-story commercial office building with ground floor retail. The proposed structure will rise to a height of 130 feet and have a floor area ratio of 10.4. The underground garage will accommodate 36 cars, which works out to 1 parking space for each 1,830 square feet of rentable office space.

Because of the Site's small size, we are unable to provide the requisite 27.29 foot rear yard setback and still provide enough desirable office space to make the project financially feasible. Instead, responding to site constraints, our architects have designed a structure that will provide a rear yard of 16.23 feet. Ours is a small, infill Downtown site. Given a lot width of only 93 feet, provision of the requisite 27.29 foot rear yard setback would result in a shallow office building with a length of only approximately 65 feet. In a building with such shallow depth, a centrally located elevator core would produce an inefficient floor layout with a large percentage of unproductive office space.

Site constraints also limit our ability to set back the proposed 18.5-foot roof structure the requisite minimum distance from each of the building's exterior walls. In order to provide an effective and efficient service core, the mechanical penthouse is designed to set back 6.0 feet from the rear (south) exterior wall. The penthouse will be set back 30 feet from the K Street (north) frontage and 20 feet on each side.

The additional 2,885 square feet of FAR is needed to accommodate the service core necessary to yield marketable office space. The additional FAR will create enough depth on the front of the building to accommodate offices which have a corner effect on K Street, thus increasing its marketability. Additionally, the building is set back on the 11th and 12th floors to preserve the historic ornate cornice of the adjacent building at 951-15th Street. These setbacks reduce floor space which is regained by the additional FAR.

Mr. Donnally will explain how our proposal satisfies the applicable legal criteria.

Because this is a small infill site, strict application of the Zoning Regulations would render it impractical for us to redevelop the site. Our analysis has convinced us that it is not financially feasible to renovate and re-use the existing structures. One serious problem is the inconsistency of floor heights in the existing structures; they vary from 9'5" to 8' and do not allow for installation of HVAC, electric and sprinkler systems and still achieve 8'6" floor-to-ceiling heights, which are standard for Downtown Class A buildings. Moreover, the "L shaped" floor plate lays out a very inefficient service core and the scissor stair is unacceptable. We believe our design responds effectively to the challenge to provide a meaningful amount of marketable office space while meeting modern ADA and building code safety requirements. If we are not able to proceed, the vacant office building and nonconforming storage facility, both of which are of questionable

architectural merit, would continue indefinitely in their extremely dilapidated condition.

Redevelopment in the manner we propose will help improve the overall character of the 1400 block of K Street as well as the surrounding area.

In May 1991, this Board approved a similar project for the previous owners of our Site. In Case No. 15169, the Board granted a variance from the minimum rear yard requirements and a special exception to allow a mechanical penthouse which did not meet the applicable setback requirements to permit redevelopment of the Site with a 12-story commercial office building with ground floor retail and underground parking. For reasons that are not known to us, the prior owners did not follow up on the Board's approval.

We have had the opportunity to discuss our project with our adjacent neighbors. They have both been receptive and enthusiastic regarding development of the proposed building since they believe it will improve the neighborhood and raise the value of their properties. Furthermore they have stated their willingness to cooperate and allow use of their buildings to facilitate our demolition and construction processes.

Conclusion

For the foregoing reasons, we ask that you approve the relief requested in this application. In our view, our project would not be substantially detrimental to the public good, and would not impair the intent, purpose or integrity of the Zoning Regulations and Map nor adversely affect the use of neighboring properties. The unique and exceptional conditions which affect our property create practical difficulties which would not allow us to achieve economically feasible use of the Site as a matter of right.

Granting the requested variances and special exception would permit economically feasible

redevelopment of the Site and, hence, a productive use and aesthetically pleasing structure at this important Downtown location.

Thank you for this opportunity to appear before you today. I will be happy to answer any questions you may have.



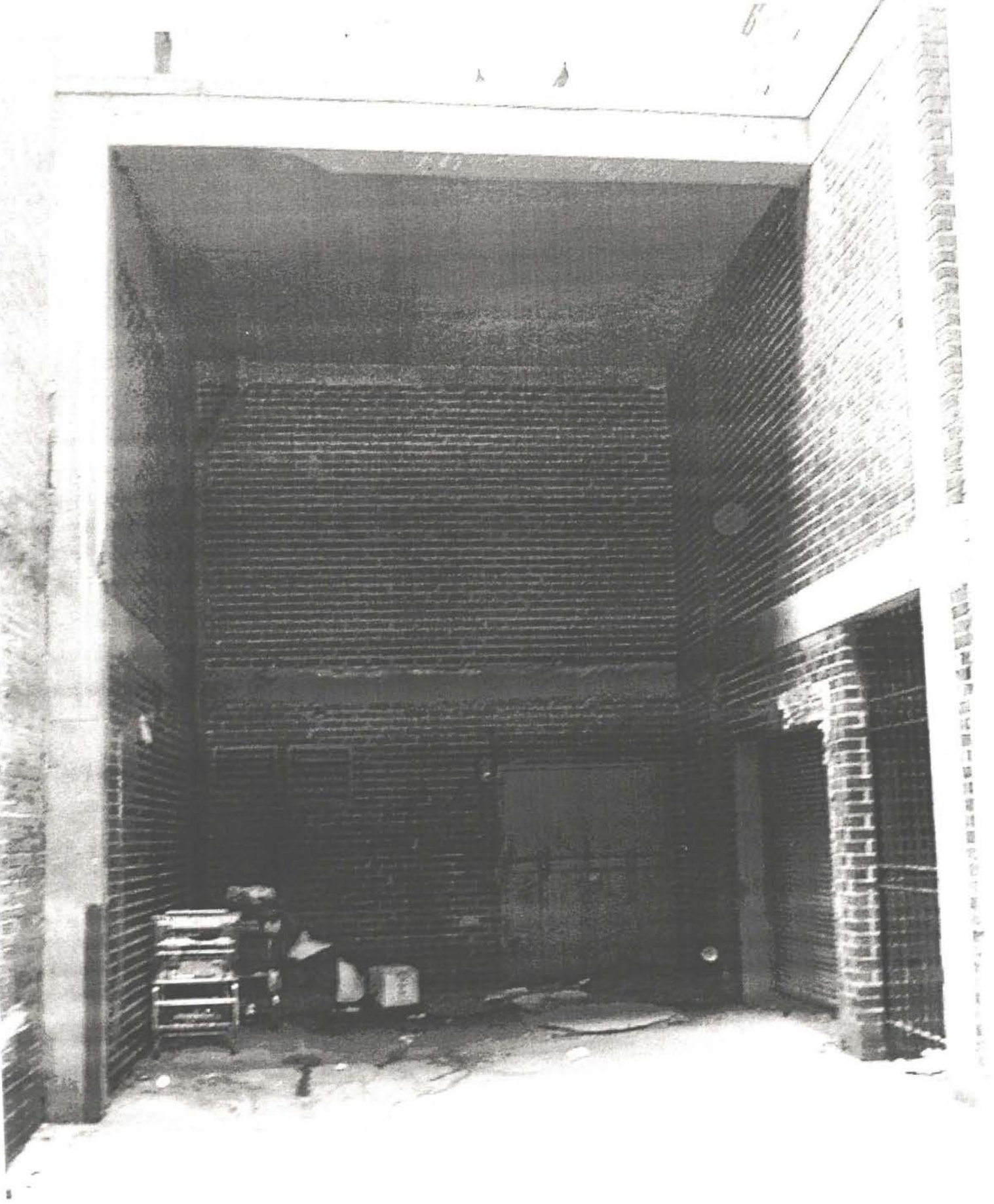
1426 and 1430 K St., N.W.
Sq. 218, Lots 808 and 823



South Facade (Rear)
1430 K Street, N.W.
Square 218, Lot 823



South Facade (Rear)
1426 K Street, N.W.
Square 218, Lot 808



Loading Area (Rear)
1430 K Street, N.W.
Square 218, Lot 823

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

October 28, 2002

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Robert W. Kelly
Zoning Administrator

SUBJECT: Proposed Construction of an Office/Retail Building with an Accessory Parking Garage located at premises 1430 K Street, N.W., Lot(s) 808 and 823, in Square 218, Zoned C-4

Review of plans for the proposed construction of a retail/office structure with accessory parking at the above subject premises indicates that the Board of Zoning Adjustment approval is required as follows:

1. Variance from Section 774.1 the minimum rear yard setback requirements for a structure in the C-4 Zone. (Section 3103.2)

2. Variance from Section 774.1 the minimum allowable Floor area ratio for a structure in the C-4 Zone facing or abutting a street not less than 110 square feet in width. (Section 3103.2)

3. Special exception pursuant to Section 411.11 and 770.6(b) the minimum setback requirements for a roof structure to setback an equal distance from all sides of a structure as its height in the C-4 Zone. (Section 4104.1)

RWK/FO/ee

NOTES AND COMPUTATIONS

ADDRESS: 1430 K Street, N.W. LOT(S): 808 and 823 SQUARE: 218

ZONED: C-4

	REQUIRED	ALLOWED	PROVIDED	VARIANCE
PENTHOUSE	Setback	18'-6" min.	South Side 6'-0"	12'-6" (67.56%)
LOT AREA	N/P		80'7,196.4 Sq. Ft.	
LOT OCCUPANCY (100%)		100%	100% (98%)	
FLOOR AREA RATIO ()		10.0	74,849.0 Sq. Ft.	2,885 Sq. Ft. (4%)
PARKING SPACES		N/A	36	
LOADING BERTHS		1 @ 30'	Platform 1 @ 100 Sq. Ft. Service Space @ 20'	
FRONT YARD	N/A			
REAR YARD	27.29'		16.23'	11.06" (40.53%)
SIDE YARD	N/A			
COURT, OPEN	N/A			
COURT, CLOSED	N/A			

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NEST L.L.C. @ 1430 K Street NW.

version E - left perspective

DVA ARCHITECTS, L.L.C.
ARCHITECTURE • PLANNING • INTERIORS
400 PROFESSIONAL DRIVE, SUITE 200, GAITHERSBURG, MD 20879
PH: (301) 590-8900, FAX (301) 590-8620

1430 K STREET NW

ZONING ANALYSIS

D.C. Municipal Zoning Regulations
DCMR, Title 11 July 1995

Board of Zoning Adjustment Hearing No.

Zone: C-4 Commercial Office
LOTS: 808, 803
SQUARE: 218
SITE AREA: 7196.4 Sq.Ft.

SECTION		PERMITTED/REQD.	PROVIDED
770.4	Height	130 Ft.	130 Ft
	Stories	No Limit	12
770.6	Penthouse Setback:		
	North	18.5 Ft. Min.	30.00 Ft.
	East	18.5 Ft. Min.	20.00 Ft.
	South	18.5 Ft. Min.	6.00 Ft.
	West	18.5 Ft. Min.	20.00 Ft.

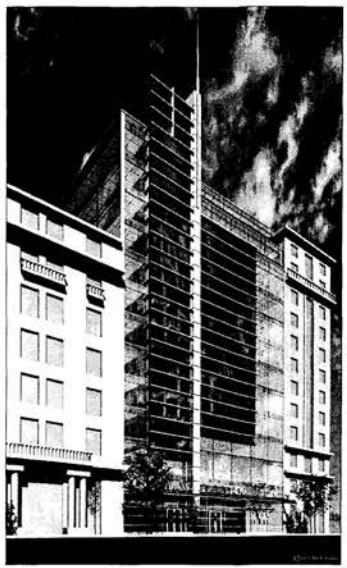
SECTION		PERMITTED/REQD.	PROVIDED
771.5	F.A.R.		
	Building	10.0	10.4
	Penthouse	37,(2662)	23(1627)
	GROSS FLOOR AREA:		
	1st Floor		6,951 SF
	2nd Floor		6,097 SF
	3rd Floor		6,139 SF
	4th Floor		6,259 SF
	5th Floor		6,259 SF
	6th Floor		6,259 SF
	7th Floor		6,259 SF
	8th Floor		6,259 SF
	9th Floor		6,259 SF
	10th Floor		6,259 SF
	11th Floor		6,021 SF
	12th Floor		5,798 SF
	Building	71,964 SF	74,849 SF
	Penthouse	2,662 SF	1,627 SF

SECTION		PERMITTED/REQD.	PROVIDED
772.1	LOT OCCUPANCY	100%	86%
774.1	REAR YARD	2.0 Ratio	16.23 Ft
775.5	SIDE YARD	none	None
2101.1	PARKING SPACES	None	34 Sp.
2201.1	LOADING BERTHS	1@30 Ft	1@30 Ft
	SERVICE BERTHS	1@ 20 Ft	1@20 Ft
	PLATFORMS	1@100 SF	1@100 SF

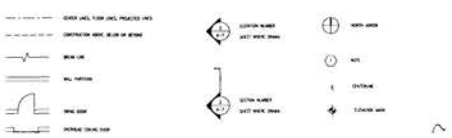
CODE ANALYSIS

1996 BOCA
DCMR 12, Construction Codes, 1999

		ALLOWED	PROVIDED
302.1	USE GROUP B: Floors 2-12 M: First Floor S-2: 2 Basement Parking Levels		
302.1.1	FIRE GRADING OF BUILDINGS: B: 2 Hours M: 2 Hours S-2: 2 Hours		
313.0	MIXED USE AND GROUPS: Construction Type 1B, Fully Sprinkled		
503.0	GENERAL HEIGHT AND AREA LIMITATIONS: B, M, S-2: Const. Type 1B, not limited		
BOCA 3203.12	VAULTS:	3 Ft From Curb	12'-10" From Curb
DCMR 3202.9.2	VAULTS:	Subject to Approval	
DCMR 3203.10.3.1	BAY WINDOWS: (Main)	22'-4"	50 Ft
3203.10.3.3	BAY WINDOWS: (Projection)	4 Ft	3'-3" to 4 Ft
DCMR 3203.10.6.1	COLONNADES: (Height)	Two Stories	Two Stories
3203.10.6.2	COLONNADES: (Projection)	8 Ft	4 Ft
DCMR 3202.12.1.1	CANOPIES: (Main)	WIDTH OF DISPLAY WINDOW OR SPACE AND A REASONABLE DISTANCE ON EITHER SIDE	80 Ft
3202.12.1.2	CANOPIES: (Height)	Min. 8 Ft	11 Ft
3202.12.1.3	CANOPIES: (Projection)	8 Ft	8 Ft
DCMR 3118.4	SIGNS ON AWNINGS OR SIMILAR PROJECTIONS:	12 IN HEIGHT	12 IN HEIGHT



GRAPHIC SYMBOLS



VICINITY MAP



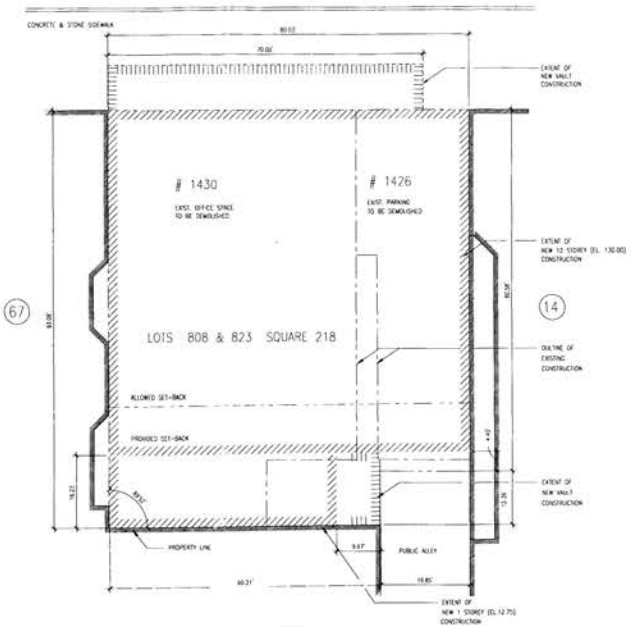
DRAWING INDEX

CS-1 COVER SHEET
C-101 SITE PLAN
A-100 PARKING GARAGE LEVELS P1 & P2
A-102 FIRST & SECOND FLOOR PLANS
A-103 THIRD & FOURTH TO 9TH FLOOR PLANS
A-104 10TH & 11TH FLOOR PLANS
A-105 12TH & PENTHOUSE PLANS
A-301 NORTH & SOUTH BUILDING ELEVATIONS
A-302 BUILDING SECTION & EAST ELEVATION

DVA
DONNALLY VUICIC ASSOCIATES, L.L.C.
ARCHITECTURE • INTERIORS

1430 K STREET NW
1430 K STREET VENTURE, L.L.C.
NEST AND TOTAH VENTURE, L.L.C.
600 JEFFERSON PLAZA, SUITE 406 ROCKVILLE, MD 20852
COVER SHEET

CS-1



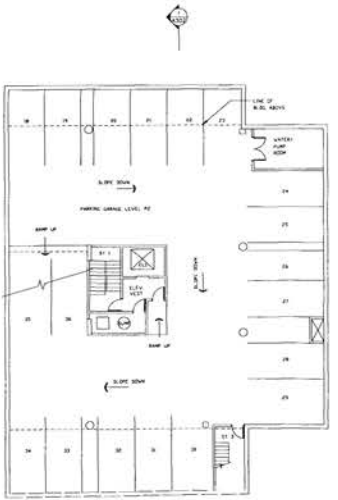
SITE PLAN

0 5' 10' 15' 20' 30'

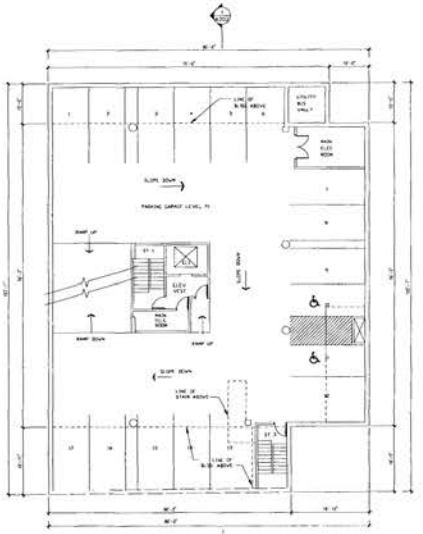
DVA
DONNALLY VUKCIC ASSOCIATES, L.L.C.

1430 K STREET NW
1430 K STREET, NW WASHINGTON, DC.
NEST AND TOTAH VENTURE, L.L.C.
600 JEFFERSON PLAZA, SUITE 600 ROCKVILLE, MD 20852
SITE PLAN

C-101



PARKING GARAGE LEVEL P2

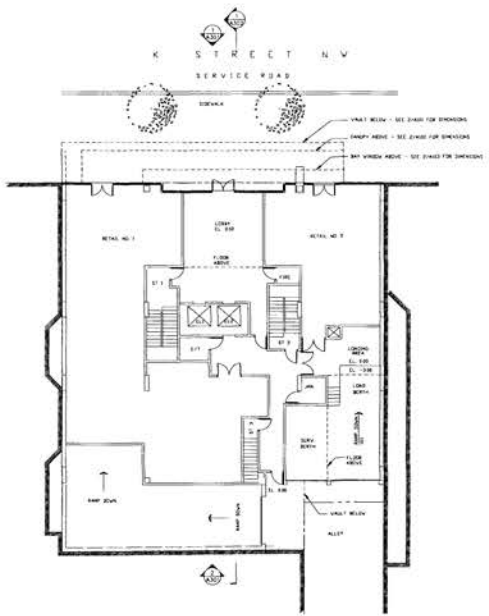


PARKING GARAGE LEVEL P1

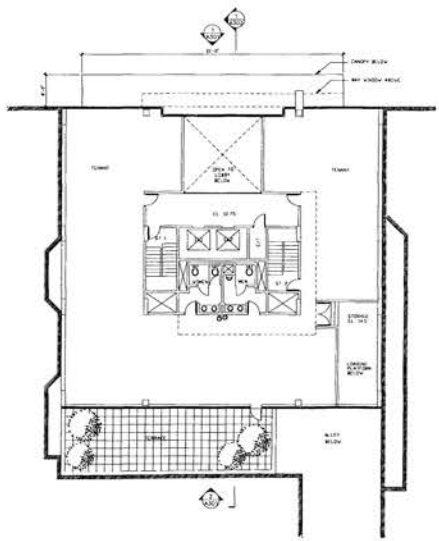
DVA
DONNALLY VUJCIC ASSOCIATES, L.L.C

1430 K STREET, NW
1430 K STREET, NW WASHINGTON, DC.
NEST AND TOTAH VENTURE, L.L.C
600 JEFFERSON PLAZA, SUITE 406 ROCKVILL, MD 20852
PARKING GARAGE LEVELS P1 & P2

A-101



1 FIRST FLOOR PLAN
SCALE: 1/8"=1'-0"

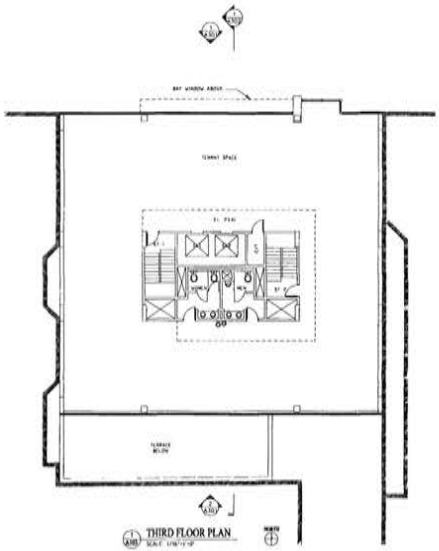


2 SECOND FLOOR PLAN
SCALE: 1/8"=1'-0"

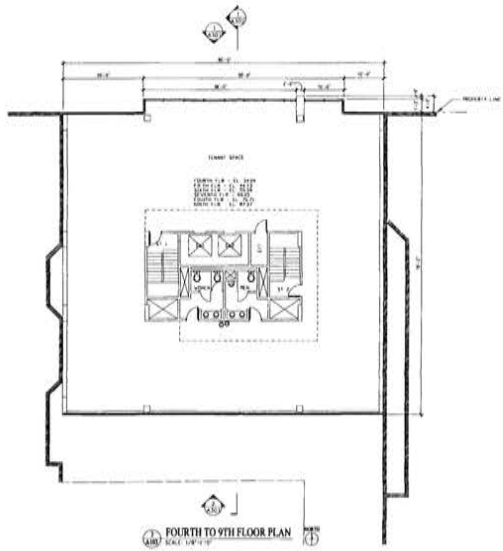
DVA
DONNALLY VUICIC ASSOCIATES, L.L.C.

1430 K STREET NW
1430 K STREET, NW WASHINGTON, DC
NEXT TO MARRIOTT MARQUIS HOTEL
600 JEFFERSON PLAZA, SUITE 400 ROCKVILLE, MD 20852
FIRST & SECOND FLOOR PLANS

A-102



THIRD FLOOR PLAN



FOURTH TO 9TH FLOOR PLAN

DVA
DONNELLY VELOCIC ASSOCIATES, LLC

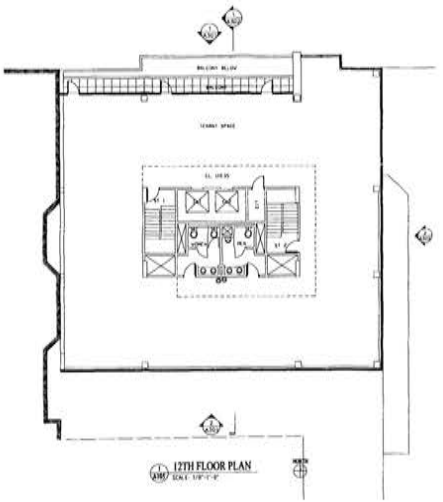
1430 K STREET NW
1430 K STREET, NW WASHINGTON, DC
NEW CONSTRUCTION FOR 1430 K STREET, LLC
600 JEFFERSON PLAZA, SUITE 300, ROCKVILLE, MD 20852
THIRD & 4TH-TENTH FLOOR PLANS

A-103

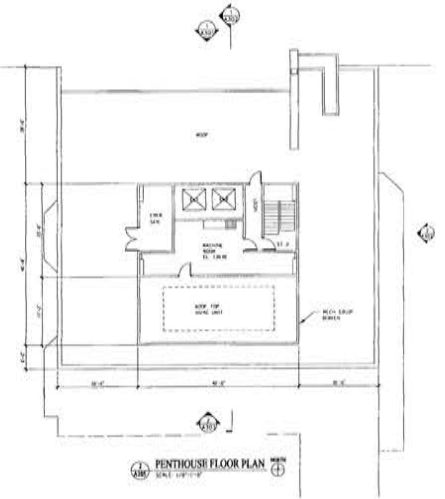
DVA
DONALD VLOCIC ASSOCIATES, L.L.C.

1430 K STREET NW
1430 K STREET TENANT IMPROVEMENTS, INC.
NEST AND 10TH/11TH FLOOR, L.L.C.
600 JEFFERSON PLAZA, SUITE 406 ROCKVILLE, MD 20852
10TH & 11TH FLOOR PLANS

A-104



12TH FLOOR PLAN

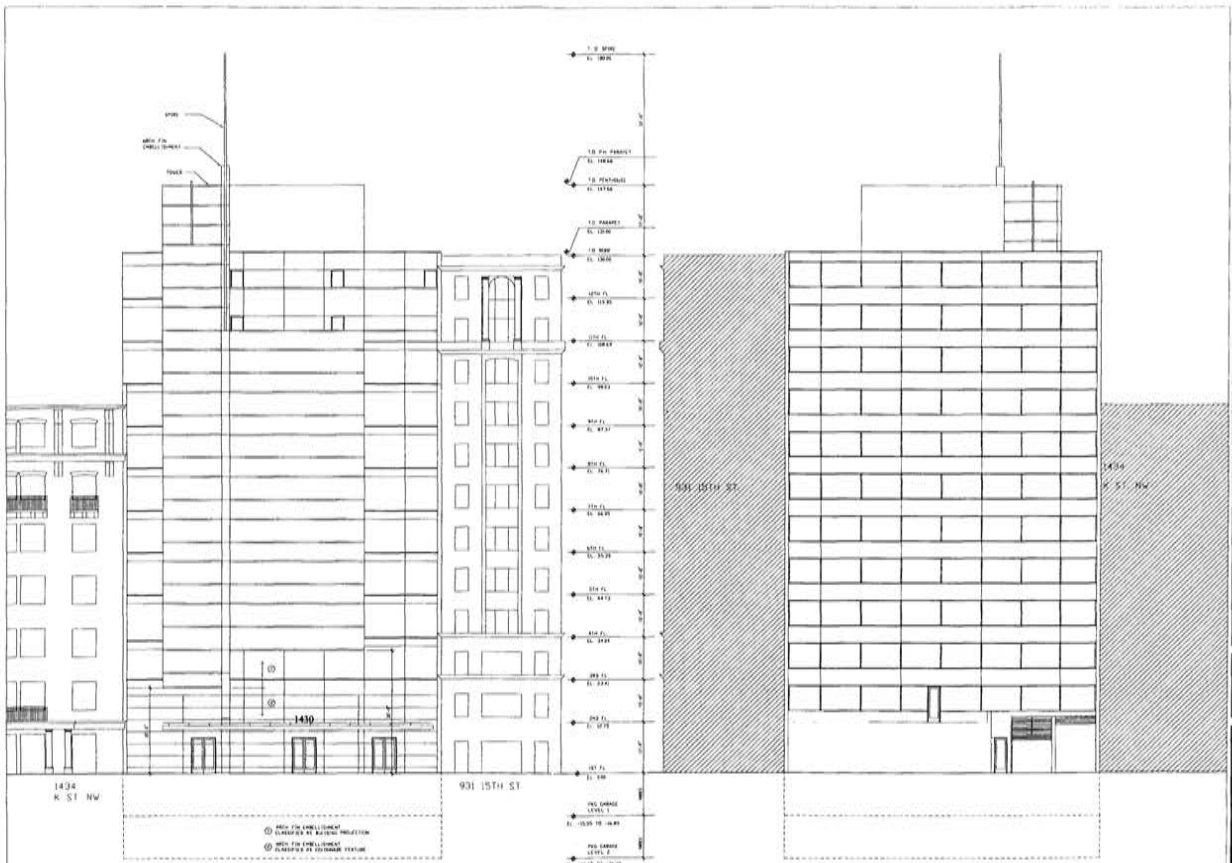


PENTHOUSE FLOOR PLAN

DVA
DONNALLY VELOCE ASSOCIATES, L.L.C.

1430 K STREET, NW
1430 K STREET, NW WASHINGTON, DC
NEST AND TOTAH VENTURE, L.L.C.
600 JEFFERSON PLAZA, SUITE 406 ROCKVILLE, MD 20852
12TH & PENTHOUSE FLOOR PLANS

A-105



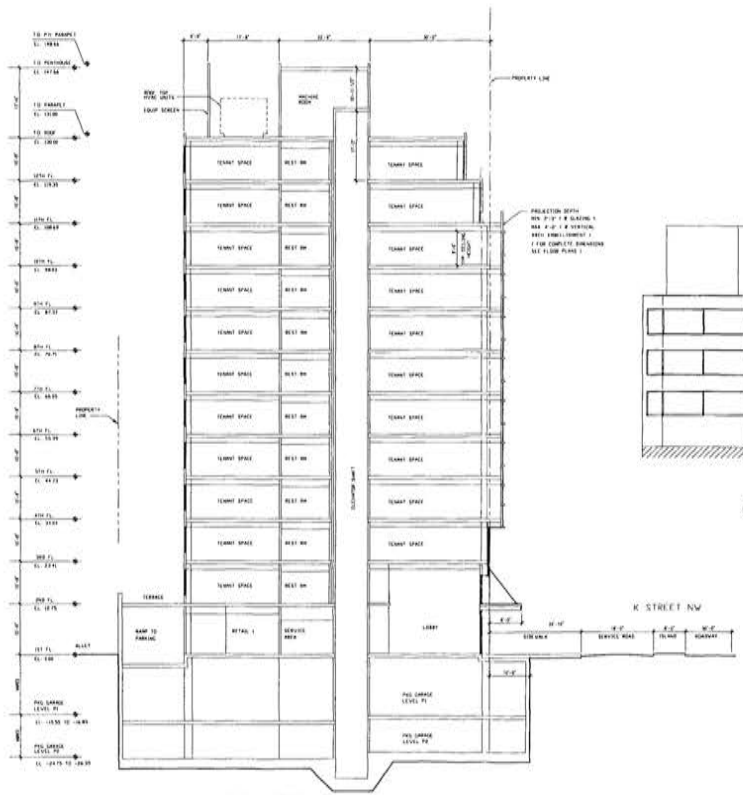
NORTH ELEVATION

SOUTH ELEVATION

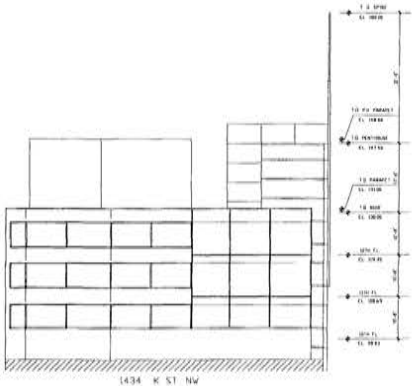
DVA
DONNELLY VEECK ASSOCIATES, LLC

1430 K STREET NW
NEW K STREET, NW WASHINGTON, DC
NEW K STREET OWNER, LLC
500 JEFFERSON PLAZA, SUITE 400 ROCKVILLE, MD 20852
NORTH & SOUTH BUILDING ELEVATIONS

A-301



BUILDING SECTION
SCALE: 1/8"=1'-0"



EAST ELEVATION
SCALE: 1/8"=1'-0"

DVA
DONNELLY VUCICH ASSOCIATES, L.L.C.

1430 K STREET NW
1430 K STREET WASHINGTON, DC
WEST END TOWER INVESTORS, LLC
600 JEFFERSON PLAZA, SUITE 400 ROCKVILLE, MD 20852
BUILDING SECTION & EAST ELEVATION

A-302

8

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., Aug 19, 2002

Plat for Building Permit of SQUARE 218 LOTS 808 & 823

Scale: 1 inch = 20 feet Recorded in Book Microfilm Page 2413

Receipt No. 00210

Furnished to: M. CAIN

Surveyor, D.C.

By: L.M.A.

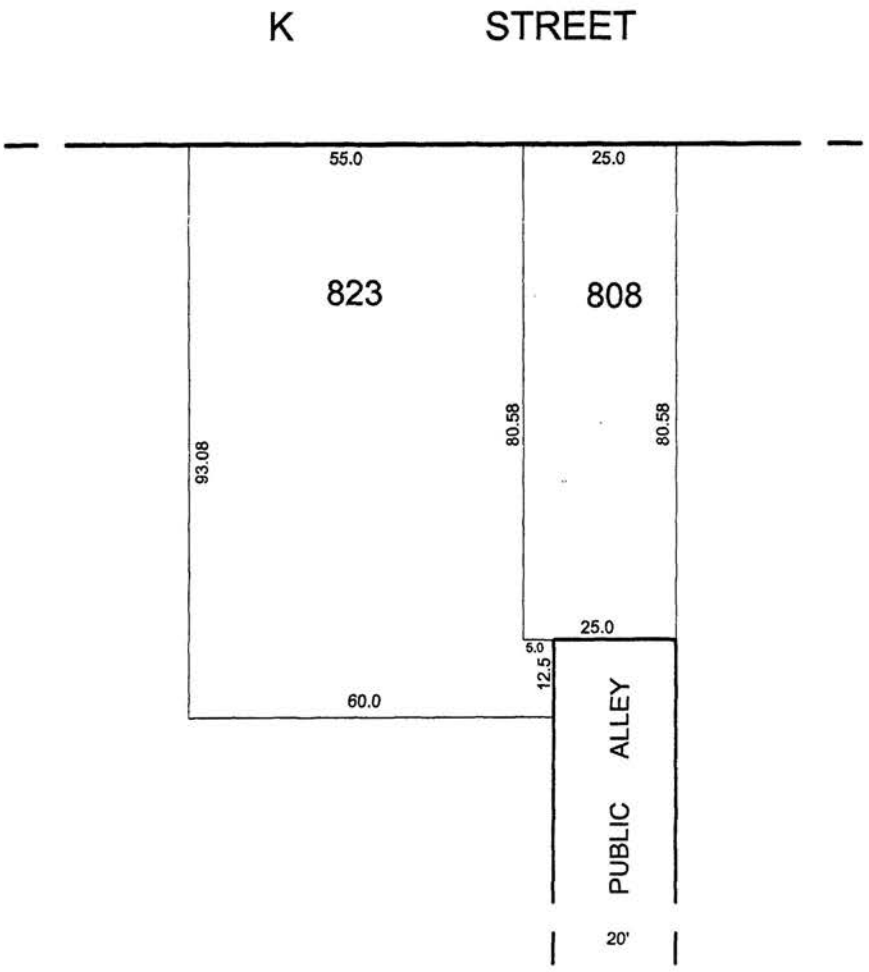
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that 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: _____

_____

(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.



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., Aug 19, 2002

Plat for Building Permit of SQUARE 218 LOTS 808 & 823

Scale: 1 inch = 20 feet Recorded in Book Microfilm Page 2413

Receipt No. 00210

Furnished to: M. CAIN

Surveyor, D.C.

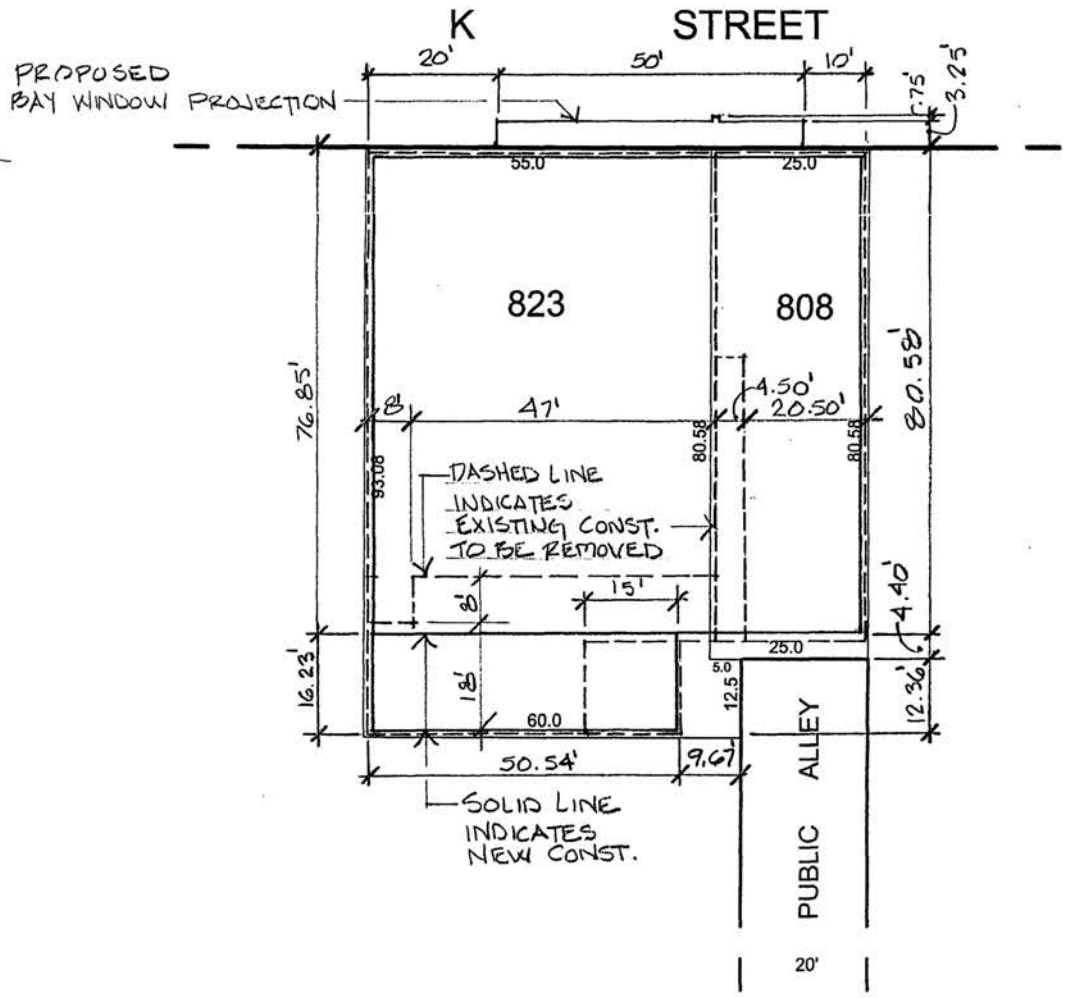
By: L.M.A.

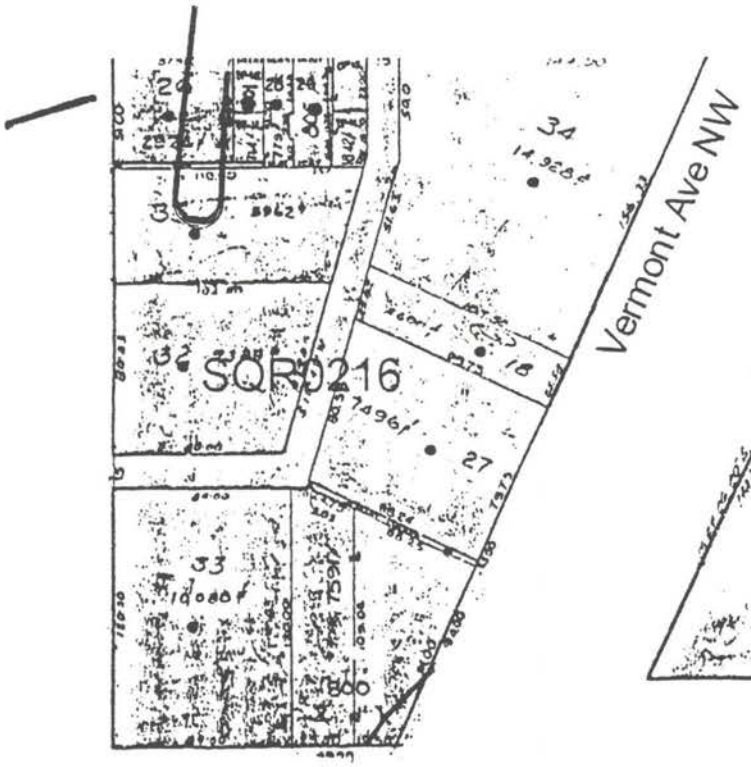
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Date: 8/22/02

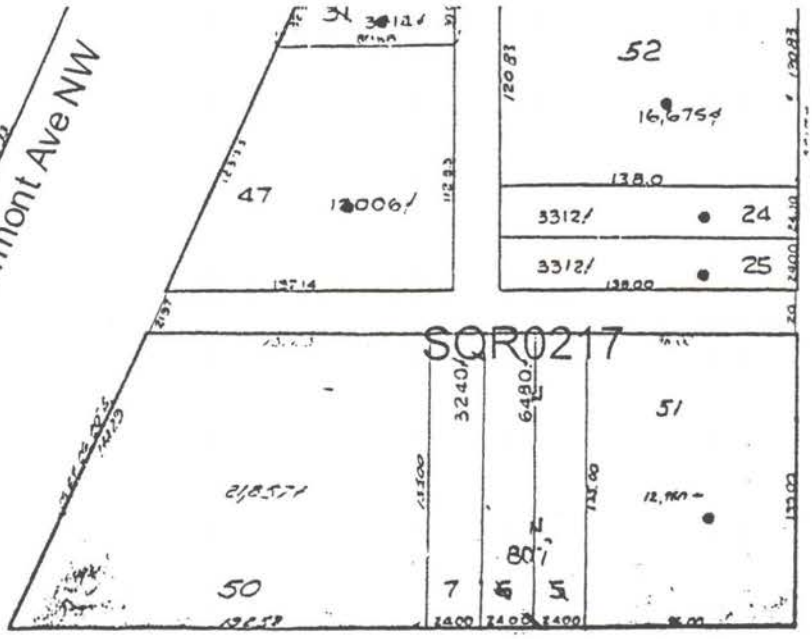
(Signature of owner or his authorized agent)

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.

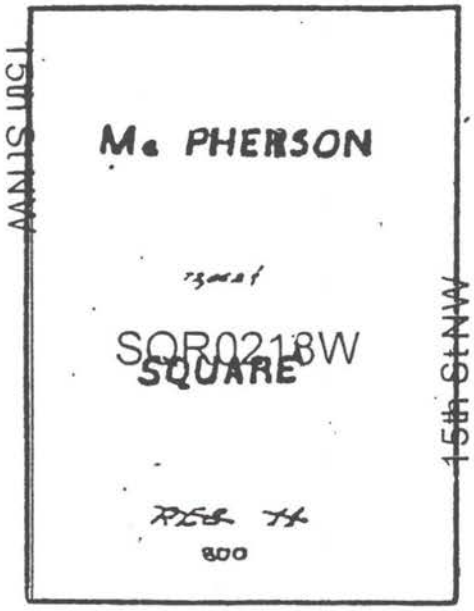


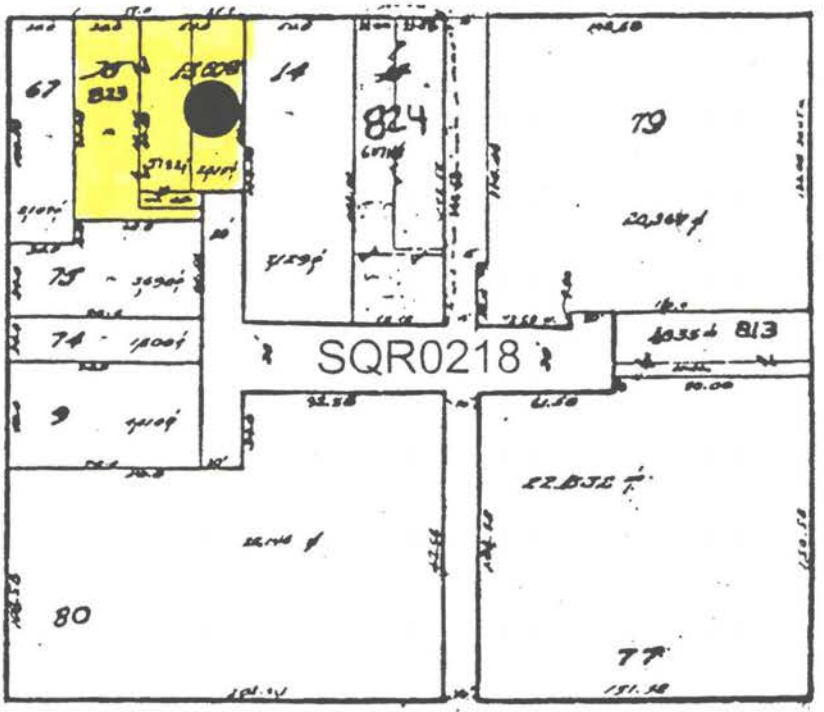


K St NW

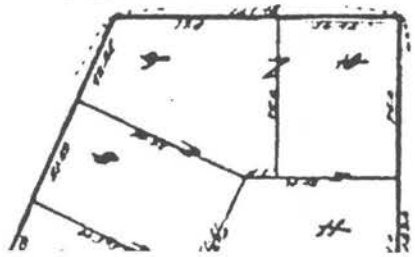


K St NW

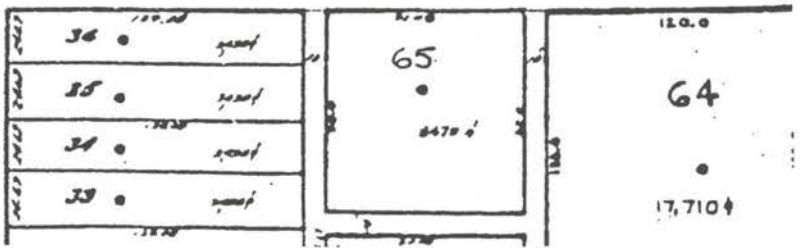


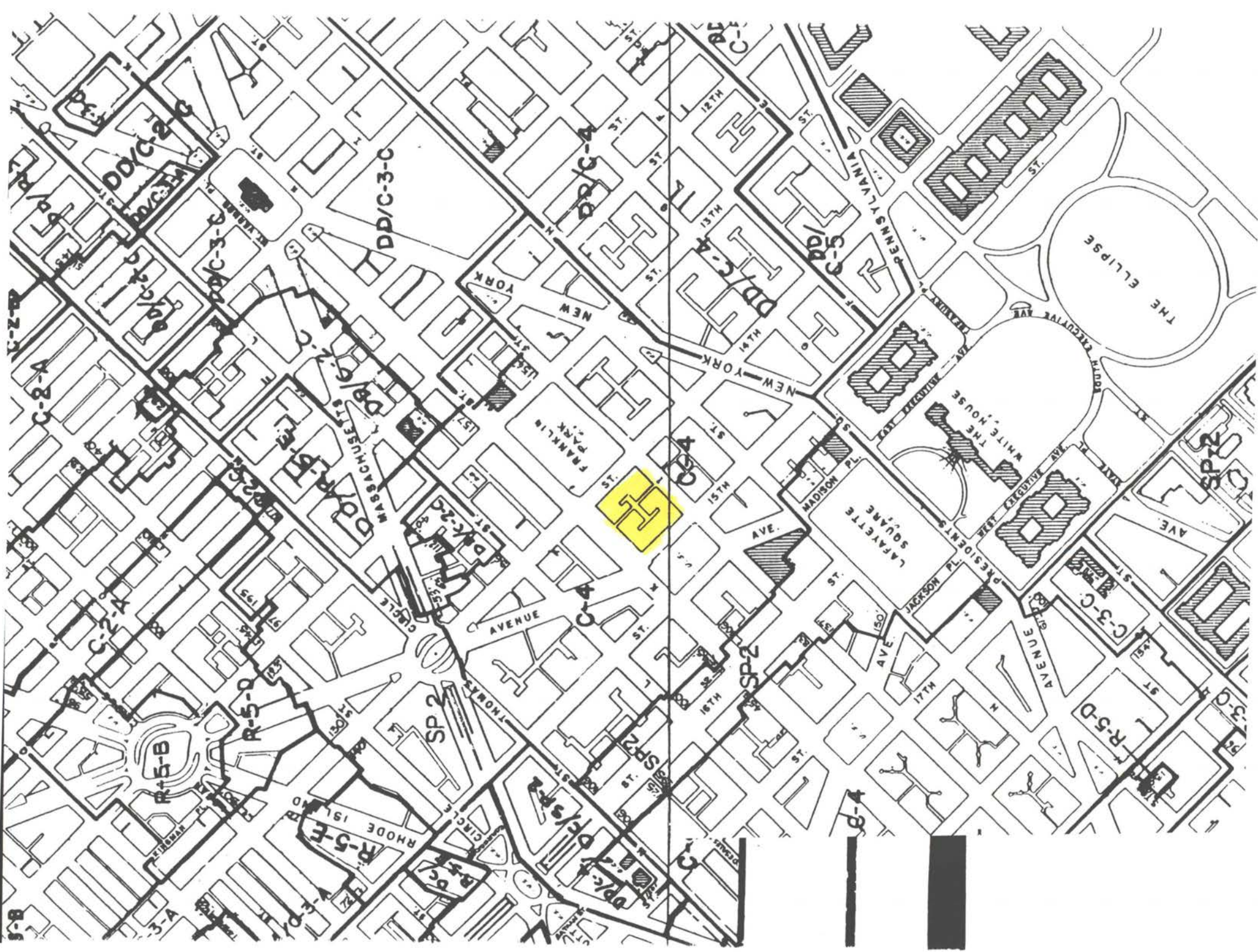


I St NW



I St NW




DD/C-2-C
DD/C-3-C
DD/C-4
C-2-A
C-4
SP-2
R-5-B
R-5-D
R-5-E
C-3-C
NEW YORK AVE.
15TH ST.
14TH ST.
13TH ST.
12TH ST.
PENNSYLVANIA AVE.
THE ELLIPSE
THE WHITE HOUSE
MADISON PL.
JACKSON PL.
PRESIDENTS SQUARE
LAFAYETTE SQUARE
FRANKLIN PARK
MASSACHUSETTS AVENUE
CIRCLE
RHODE ISLAND AVE.
THOMAS CIRCLE
17TH ST.
16TH ST.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

RECEIVED
MAY 20 1991
LINOWES AND BLOCHER

Application No. 15169 of the Copper Beach Valley Company, N.V., pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sub-section 411.11 to allow a mechanical penthouse which does not meet the setback requirements, and a variance from the rear yard requirements (Sub-section 774.1) for construction of a retail/office building with an accessory parking garage in a C-4 District at premises 1430 K Street, N.W., (Square 218, Lots 808 and 823).

HEARING DATE: **November 8, 1989**
DECISION DATE: **November 8, 1989 (Bench Decision)**

FINDINGS OF FACT:

1. The property is located on the south side of K Street between 14th and 15th Streets and is known as premises 1430 K Street, N.W. It is zoned C-4.

2. The site consists of two lots and is irregularly shaped with a frontage of 80 feet along K Street and a depth of varying dimensions ranging from 80 feet, 7 inches to 93 feet, one inch. The site has a total lot area of 7,196.4 square feet.

3. The site is located between McPherson and Franklin Squares in an area characterized by office development with ground floor retail. To the east of the site is a six-story office/retail structure known as the Orme Building. To the west of the site is a twelve-story office structure known as the Carry Building. The remaining frontages of the subject square are generally developed with 10 to 12-story office/retail structures consistent with the C-3 zone district.

4. The site is currently improved with two structures: (a) a 13-story office building with ground floor retail at 1430 K Street, and (b) a 15-story concrete structure originally built as a parking garage which was later converted into a record storage facility at 1426 K Street.

5. The applicant proposes to raze the two existing structures and construct a 12-story office building with ground floor retail. The proposed office building will be 130 feet in height and have a floor area ratio of 10.0. The project will include 35 parking spaces, one loading berth, one service delivery space, and one loading platform. Access to the parking garage and loading facilities will be via the public alley which deadends at the rear of the site.

6. The facade treatment and massing of the proposed building has been designed to relate to the neo-classical style of the surrounding buildings.

7. The C-4 District requires a rear yard of 2.5 inches per foot of vertical height but not less than twelve feet commencing twenty feet above the mean finished grade. The required rear yard may be measured from the middle of an alley abutting the rear property line. The proposed structure requires a rear yard of 27.08 feet. The applicant proposes to provide a rear yard of 16.23 feet measured from the rear property line. A variance from the rear yard provisions is therefore required.

8. The C-4 District provides for a maximum height of roof structures of 18.5 feet, set-back from the exterior walls of the structure a distance at least equal to the roof structure's height. The applicant is seeking special exception approval pursuant to Sub-section 411.11 in order to deviate from the 18.5 feet setback requirements at the sides and rear of the proposed structure.

9. As to the rear yard variance, the applicant testified that the property is affected by an exceptional condition based on the following:

a. The shallowness and irregular depth of the site limit the amount and configuration of useable office space on the site. The provision of a 27.08 feet rear yard would result in an office building with a depth ranging from 53 to 65 feet. The internal configuration of space which could be provided in a structure of those dimensions would be functionally impractical and would force the applicant to abandon plans to redevelop the site.

b. The subject site is the only non-corner lot in the subject square and within the 13 surrounding squares which lacks public alley access running the length of its rear property line, therefore, the rear yard must be measured from the rear property line instead of from the middle of the adjacent alley.

10. The applicant further testified that the proposed 16.23 foot rear yard is consistent with the 12 to 19 foot rear yards provided by other structures in the square. The building diretly east and west of the site occupy 100 percent of their lots. The proposed reduced rear yard will, therefore, not adversely impact immediate adjacent buildings in terms of reduced light and air.

11. As to the special exception, the applicant testified that the small in-fill nature of the site renders full compliance with the roof structure setbacks impractical. Efforts to locate the

roof structure the requisite 18.5 feet from all exterior walls produced an inefficient internal layout of office space and the proximity of the roof structure to the front of the site would result in increased visibility from K Street. The proposed roof structure would be setback 32 feet from K Street to the north, 16.33 feet on the east and west, and 4.5 feet to the south. In order to minimize the impacts of the penthouse on adjacent properties, the applicant reduced the floor area ratio of the roof structure from .37, which is permitted as a matter-of-right, to .25. In addition, the proposed location of the penthouse would preserve the sightlines from K Street, the only public street on which the site has frontage.

12. The Office of Planning (OP), by memorandum dated November 1, 1989, recommended approval of the application. The OP was of the opinion that the size and shape of the site produced a practical difficulty for the owner. The OP was further of the opinion that the proposed project would improve the urban fabric of the Franklin Square subarea and contribute towards meeting the goals and objectives of the Comprehensive Plan.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated November 6, 1989, supported the granting of the application. The ANC was of the opinion that the small size of the lot resulted in the need for the requested relief in order to provide a viable floor plan and to minimize the visibility of the roof structure from K Street.

14. One person appeared in opposition to the application at the public hearing. The opposition consisted solely of concerns related to treatment of and notification to the tenants of the existing building based on the proposed demolition and redevelopment. The Board notes that such concerns are beyond its jurisdiction.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing facts and the evidence of record, the Board concludes that the applicant is seeking an area variance and a special exception.

The granting of the requested rear yard variance requires the showing of an exceptional or extraordinary condition inherent in the property which creates a practical difficulty upon the owner. The Board concludes that the property is affected by an extraordinary condition by virtue of its irregular shape, shallow depth, and the lack of a public alley along the length of the rear property line. The Board further concludes that the strict application of the Zoning Regulations would create a practical difficulty upon the owner in that the design constraints imposed by the size and shape of the lot would result in a shallow,

As to the special exception, the applicant must demonstrate that it has complied with the criteria set forth in Sub-section 411.11 and 3108.1. The Board concludes that the applicant has so complied. The shallow and irregular depth of the lot renders full compliance with the roof structure setback requirements unduly restrictive. The setbacks, as proposed by the applicant, allow for a fairly reasonable and effective internal configuration of office space, minimizes any visual impacts on K Street and does not adversely impact on the light and air of the adjacent buildings.

The Board therefore concludes that the application can be granted without substantial detriment to the public good and as in harmony with the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore **ORDERED** that the application is **GRANTED.**

VOTE: 4-0 (Paula L. Jewell, Lloyd D. Smith, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY: Edward L. Curry by LJP
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAY 17 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ODER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15169/LJP