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RICHARD B. NETTLER
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May 22, 2003

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: BZA Application No. 17014 of EastBanc, Inc.
2110 M Street, N.W.
Our File No. 091852.00000

Dear Mr. Griffis:

On behalf of our Eastbanc., enclosed you will find the original and twenty (20) copies of the Prehearing Statement for the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

Enclosures (as stated)
cc: Mary Mottershead (by hand; w/encl.)
Arthur Jackson, Office of Planning (by hand; w/encl.)
ANC 2A (w/encl.)
Barbara Kahlow (by hand; w/encl.)

BZA
Case No. 17014
Exhibit No. 21

Word 45645230.1

Board of Zoning Adjustment
District of Columbia
CASE NO. 17014
EXHIBIT NO. 21

Prehearing Statement

on behalf of

EastBanc, Inc.

RECEIVED
D.C. OFFICE OF ZONING
2003 MAY 22 PM 4:25



For
Three Area Variances
at

2110 M Street, N.W.

BZA
Case No. 17014
Exhibit No. _____

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of:
EastBanc, Inc. (contract purchaser from 22nd & M Streets Associates, Ltd.)

BZA Application No.: 17014
Hearing Date: June 10, 2003

STATEMENT OF THE APPLICANT

I.
Introduction

This is an application pursuant to 11 D.C.M.R. §§ 3103.2 for three area variances. The subject property is located at 2110 M Street, N.W., Square 71, Lots 11, 19, 21, 23, 26-28, 801-806, 812, 816 and 817 (the "Property"), as well as Lot 34 (the "Exxon Site"). At the time of the filing of the application in the instant matter, the Property was owned by 22nd & M Streets Associates, Ltd. and under contract by EastBanc, Inc. ("EastBanc"). As of May 15, 2003, EastBanc is the owner of the Property. Lot 34 continues to be owned by Exxon but is part of an assembly with the Property.

EastBanc proposes to construct a mixed-use retail and residential building on the Property, with a canopy over the existing filling pumps at the Exxon Site. Due to the uniqueness of the property and the practical difficulties inherent in this uniqueness, the proposed project requires area variances from the height, FAR and residential recreation space requirements of sections 770.1, 771.2 and 773.3 of the zoning regulations, respectively, to allow the development as proposed.

II.
Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to 11 D.C.M.R. §§ 3103.2.

III.
Background Information

A. The Property and Surrounding Neighborhood.

1. The Property.

The Property is located in Square 71. Square 71, which is triangular in shape, is bounded by New Hampshire Avenue, N.W. to the southeast, M Street, N.W. to the north and 22nd Street to the west. The northwest section of Square 71, the Exxon Site, is improved with an Exxon gas station. The Property, which is currently utilized as a surface parking lot, occupies all but the southern lot of the remainder of Square 71. *See* Exhibit B. The Property and the Exxon site, combined, contains 28,373 square feet of land.

2. The Surrounding Neighborhood.

The surrounding area is characterized by medium to high density mixed-use buildings. The northeast corner of 22nd and M Streets is improved with a nine-story Marriott hotel. Adjacent to the Marriott hotel to the east is a mixed-use retail and office nine-story building. Directly across 22nd Street at the southwest corner of 22nd and M Streets is the eleven-story Ritz Carlton PUD. Across New Hampshire Avenue at Square72, Lot 74, is the Sheraton City Centre Hotel, with a nine-story office building to its north and east. Also in Square 72, at the southwest corner of that square is the Savoy Apartments and at the southeast corner of Square 72 a nine-story office building.

B. The Applicant.

EastBanc, which is based in Washington, D.C., is headed by Georgetown resident Anthony Lanier. EastBanc specializes in the acquisition, redevelopment and management of commercial real estate assets. Its long-term appreciation strategy emphasizes the creation of enterprise value in targeted markets through targeted deployment of investor capital. The cornerstone of EastBanc's

enterprise value strategy incorporates its unique ability to influence sizeable portions of urban streetscape with significant capital upgrades and master-planned leasing. With a focus on urban mixed-use investment, EastBanc's developments include upscale retail, luxury residential, Class A and Class B office and luxury hotel property types.

In addition to investment for its own account, EastBanc serves as an advisor and management agent for institutional and high-net worth individuals. EastBanc maintains strategic alliances with TMW Real Estate Group/TMW Immobilien AG, Millennium Partners, The Mark Winkler Company, ING Real Estate, Jonathan Rose Companies LLC, and Moll KG. Since 1987, EastBanc and its partners have acquired nearly three million square feet of office, retail and residential properties in the District of Columbia. Washington's West End and Georgetown neighborhoods, as well as its Central Business District, are the core markets for the group's most recent development projects.

Integration of historic detail with modern design typify EastBanc's creation of value through real estate development. EastBanc's team of experienced professionals create unique tenant environments, enhance urban fabric integrity and foster positive community relationships. EastBanc is known for its many redeveloped historic buildings in the heart of Georgetown that are leased to upscale national retailers. One such project is Cady's Alley, which is a 150,000 square foot retail and residential historic redevelopment in the heart of Georgetown that features the nation's most exclusive home furnishing and accessories retailers. Other projects currently under construction by EastBanc include: (1) 3303 Water Street – a 50,000 square foot 72-unit luxury residential condominium project in Georgetown along the Potomac River and C&O Canal; and (2) 1875 Pennsylvania Avenue – a 524,000 square foot building being undertaken by EastBanc, working with The Mark Winkler Company, for the new headquarters office building for Wilmer Cutler and

Pickering.

C. The Proposed Development.

By this application, EastBanc proposes to construct a mixed-use development for retail and residential use on the Property. The proposed building will contain approximately 6,500 of retail space on the ground level; 114 residential units on levels 1-9, consisting of approximately forty percent (40%) 1-bedrooms and 1-bedroom dens, fifty percent (50%) 2-bedrooms and 2-bedroom dens, and ten percent (10%) 3 bedrooms; and 145 parking spaces on levels B1-B3. The residential lobby will be located off of 22nd Street, N.W. with parking access off both 22nd Street N.W. and New Hampshire Avenue, N.W.

The proposed project will include a replacement canopy to be constructed over the filling pumps at the Exxon Site. The height of the proposed building is 110 feet and the total FAR 6.26, consisting of 5.68 FAR of residential use and .58 FAR of commercial use, including the .26 FAR attributed to the Exxon replacement canopy.

The proposed project includes residential recreation space of between 7,020 and 7,800 square feet, for a total of four and one half to five percent (4.5 to 5.1%) of residential recreation space. Of this space, approximately seventy percent (70%) will be outdoors and thirty percent (30%) will be indoors. In addition to the residential recreation space provided, approximately ninety percent (90%) of the apartment units will contain private balconies.

D. Zoning.

The Property is in the C-2-C zone district. The C-2-C zone district is designed to serve commercial and residential functions and permits matter-of-right high density development, including office, retail, housing and mixed-uses. C-2-C districts are to be compact and located in or

near the Central Employment Area. Buildings in the C-2-C zone district may be entirely residential or a mixture of commercial and residential uses.

The maximum height in the C-2-C is 90 feet. However, given that the southeastern edge of the Property is along New Hampshire Avenue, N.W., under the Act to Regulate the Height of Buildings of 1910 (D.C. Code § 6-601.05), the maximum allowable building height is 130 feet.

The maximum FAR in the C-2-C zone district is 6.0 for residential use, with a maximum of 2.0 FAR allowed for other permitted uses. Although the residential recreation space requirements have been reduced to reflect a realistic goal in the Downtown Development District, the current requirement for the C-2-C zone district is fifteen percent (15%) of the residential gross floor area, of which at least fifty percent (50%) must be located outdoors.

E. Comprehensive Plan.

The Property is located in West End section of Ward 2. This area has been targeted for the enhancement of the M Street corridor thus providing for connection of Georgetown with the Connecticut Avenue area. *See* D.C.M.R. § 1359.2.[1]

Objectives for residential land use in Ward 2 include the conservation and enhancement of existing residential neighborhoods and the creation of new residential neighborhoods. 10 D.C.M.R. § 1326.1(a)&(b). Objectives for housing in the Comprehensive Plan for Ward 2 include stimulating the production of new housing to meet all levels of need. 10 D.C.M.R. § 1304.1(a). It is recommended that the District encourage the private sector to provide new housing at locations consistent with District land-use policies and objectives. 10 D.C.M.R. § 1305.1(a). The Comprehensive Plan further provides for the encouragement of housing in appropriate locations in

[1] Specifically, the Comprehensive Plans targets the construction of a major mixed-use development in Square 51, which project, as mentioned above, was undertaken and completed by a joint venture including EastBanc.

commercial areas. 10 D.C.M.R. § 1305.1(e)(1).

With regard to economic development, one of the objectives for Ward 2 is to "enhance the image of Ward 2 as a place to do business and to reside." 10 D.C.M.R. § 1301.1(a).

IV.
Area Variance Considerations

The standard for obtaining an area variance is well settled. In the leading case of *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972), the Court interpreted D.C. Code, §§ 5-420, 5-424(g)(3) and the corresponding provision of the Zoning Regulations, 11 D.C.M.R. § 3103.2, which permits the Board to grant variances, pursuant to the following:

> Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial determent to the public good and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the zoning regulations and map.

The above regulation sets up separate statutory requisites to the granting of variances, i.e., a showing of "practical difficulties" or "undue hardship". The court adopted the dichotomy recognized in other jurisdictions between area variances and use variances, applying the statutory requisite of "practical difficulties" to a showing of the former, and applying the separate statutory requisite of "undue hardship" to a showing of the latter. *Id.* at 541. Because "an area variance, relating to restrictions such as side yard, rear yard, frontage, set-back or minimum lot requirements, does not alter the character of the zoned district, whereas a use variance seeks a use ordinarily

prohibited in the particular district", the court held that a "more stringent showing is warranted with respect to the more drastic relief inherent in a use variance". *Id.* at 541. In short, the Board is empowered to grant an area variance where it finds three conditions:

> (1) The property is unique because, *inter alia*, of its size, shape or topography;
>
> (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied;
>
> (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

Roumel v. District of Columbia Bd. of Zoning, 417 A.2d 405, 408 (D.C. 1980); *see also Association For The Preservation Of 1700 Block Of N Street, N.W. v. Board of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978)(the applicant must demonstrate that compliance with the area restriction is unduly burdensome and the practical difficulties are unique to the property).

Reviewing the criteria for an area variance recently, the Court, in *Capital Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 941-942 (D.C. 1987), stated that the

> threshold requirement to show that the property is unique with respect to the hardship or difficulty asserted as grounds for the variance means the property owner must present proof that "the circumstances which create the hardship *uniquely* affect the *petitioner's property* * * * ." *Taylor, supra* note 6, 308 A.2d at 234 (emphasis in original).

Id.; see also Russell v. Board of Zoning Adjustment, supra, 402 A.2d at 1235 (the requirement that the practical difficulty be caused by the uniqueness of the property "insures relief for problems peculiarly related to the * * * land or structure, and not shared by other property in the neighborhood, thus avoiding a de facto amendment of zoning laws.").

In other words, the Applicant must demonstrate that compliance with the area restrictions is unduly burdensome and the practical difficulties are unique to the site. In finding an extraordinary or exceptional condition, the Board may rely upon a confluence of factors.

A. Uniqueness -- The Shape, Location and Improvements to the Property Make it Unique.

In this case, the Property is indeed unique, as that term has been applied to area variances, and a practical difficulty does result from the strict application of the Zoning Regulations. Moreover, the requested variances can be accurately described as minimal.

At the outset, it should be noted that the Property is one of the few vacant properties remaining in the West End area of Ward 2, an area characterized by several large-scale PUD developments. However, the various factors contributing to the uniqueness of the Property make infill development of the Property difficult.

The Square has been improved with an Exxon gas station for many years. However, the gas station was previously located on another portion of the site. Due to a fire on the site and the underground spillage of gasoline, Exxon and the prior owner agreed that the Exxon station would be move to its present site, Exxon would transfer its development rights to the adjacent sites, now owned by EastBanc, and that Exxon would indemnify the prior owner for losses related to the consequence of having to remediate the site. At present, the site still needs complete remediation. And, as a consequence of the transfer of development rights, this insured the inclusion of the Exxon site and structures in any adjacent development to take advantage of the matter of right floor area ratio since nothing can be built above the Exxon station.

Although the entire site subject to this application is 28,373, the Exxon station, which is to remain, occupies 8,468 square feet, or thirty percent (30%) of the site, leaving less than 20,000 square feet of land available for development by EastBanc. In addition to its relatively small size, the shape and narrow width of the Property makes it unique, as does the impact of the existing Exxon station and the environmental condition of the site. In comparison to the larger development projects in the surrounding area, the Property is, indeed, very small and narrow. Finally, the need to incorporate the existing Exxon station into the development contributes to the uniqueness of the Property. *See Capitol Hill Restoration Society, Inc. v. Board of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987)(a condition inherent in the structures built upon the land itself may serve to satisfy an applicant's burden of demonstrating uniqueness).

B. The Uniqueness of the Property Results in Practical Difficulties if the Zoning Regulations Are Strictly Applied and the Requested Relief Will Not Adversely Affect the Surrounding Neighborhood or Substantially Impair the Intent, Purpose or Integrity of the Zoning Plan.

The exceptional and unique condition presented by the size, shape and narrowness of the Property, as well as the need to incorporate the Exxon station in the development, has created practical difficulty in designing an efficient building that fully complies with the Zoning Regulations. In other words, strict application of the Zoning Regulations is unduly burdensome due to the uniqueness of the Property. As illustrated in detail below, strict application of the zoning regulations would result in practical difficulties to EastBanc.

1. FAR Variance.

The maximum FAR for the site is 6.0 for residential use, with a maximum of 2.0 FAR allowed for other permitted uses. The FAR of the proposed project is 6.26. Practical difficulty in meeting the FAR requirement stems from the necessity of constructing the replacement canopy over

the filling station on the Exxon Site that acts as a roof over the gas station.[2] The FAR of the space below the replacement canopy is .26. The top of the canopy will be landscaped and act as a visual buffer from the residential units to the street and the gas station below the canopy. This buffer is also required by Exxon for any adjacent residential development. Nevertheless, the new residential and retail building to be owned by EastBanc will, however, comply with the FAR limitation.

The area variance of approximately four percent (4%) from the FAR provisions is *de minimus* and, as such, will not adversely affect the surrounding neighborhood. Furthermore, because the variance is slight, it will not impair the intent, purpose and integrity of the zoning plan.

2. Height Variance.

The practical difficulty arising from the strict application of the height restrictions arises from the compressed area available on the Property for development. It is not possible to utilize the full FAR on the Property without exceeding the height limitation. Because of the height of the canopy, EastBanc must begin construction of the second floor at a height in excess of a normal first floor height. Also, the floor heights have been altered to meet building development requirements. As a result of the location of the Exxon station, the EastBanc cannot avoid the need for this variance by enlarging the size of the building foot print. The alternative of eliminating two (2) floors to comply with the height requirement would result in the loss of twenty-eight (28) residential units. Not only would such loss be inconsistent with the goals of both the zoning regulations and Comprehensive Plan of increasing available housing in Ward 2, it would make the project financially infeasible.

As noted above, the southern elevation of the proposed new building faces New Hampshire Avenue, N.W., which has a width of 130 feet. Thus, the proposed height is consistent with and well

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[2] If the canopy had an opening to the sky, even a small one, it would not count as a roof and there would be no need for an area variance as to FAR.

within the limitations of the Act to Regulate the Height of Buildings of 1910 (D.C. Code § 6-601.05). Additionally, the proposed height is compatible with the buildings in the immediate surrounding area, which range in height from 90 to 110 feet.

3. Residential Recreation Space Variance.

The practical difficulties in complying with the residential recreation space requirements of the zoning regulations are even more compelling than with the height and FAR requirements. In this instance, the existing of the Property make it physically impossible to meet the requirements of the zoning regulations.

The C-2-C zone district requires private recreation space for fifteen percent (15%) of the gross floor area devoted to residential purposes, of which approximately fifty percent (50%) must be located outside of the building. 11 D.C.M.R. §§ 773.3 and 773.8. With approximately 156,000 square feet of residential space, the proposed development requires 23,400 square feet of residential recreation space, of which at least 11,700 square feet must be located outside. The project will provide for 7,020 to 7,800 square feet – four and one half to five percent (4.5 to 5%)[3] – of residential recreation space. Seventy percent (70%) of the residential recreation space provided will be located outside.

Recent history has proven that the residential recreation space requirement is extremely difficult (if not impossible) to comply with. More importantly, this requirement is contrary to the goals of the underlying zoning to encourage high density housing and mixed-use projects. In fact, both the Board and the Zoning Commission have recognized that this requirement is inappropriate for an urban neighborhood. *See, e.g.* Exhibits G and H (wherein the esteemed Chairman of the

[3] The five percent (5%) residential recreation space can be provided if an area variance from the requirement that roof top recreation space have an area of twenty five feet (25') is waived. *See* 11 D.C.M.R. § 773.7.

Commission have requested that OP further study these "onerous and impractical" requirements and recommend appropriate amendments to the Zoning Regulations to remedy the outdated nature of the requirements for residential recreation space. *Id.* However, until such amendments are adopted, applicants are forced to seek relief from the Board to reduce the amount of residential recreation space provided at a given project.

The residential recreation space provided at the Property will be between four and one half and five percent (4.5 to 5%) of the total residential area, of which seventy percent (70%) will be provided outdoors. As a mitigating factor, private residential space is provided by way of private balconies on ninety percent (90%) of the units. As a result, EastBanc is complying with the spirit of the Zoning Regulations.

The practical difficulty in providing the required fifteen percent (15%) residential recreation space arises from the configuration of the Exxon Site in relation to the Property and the limited vacant land available for development (*i.e.,* the small size of the Property, as well as the narrowness of the Property). As a result of these factors, there is little to no ground level space available for residential recreation space. Although the nature of the Property precludes compliance with the residential recreation space requirements of the Zoning Regulations, EastBanc is providing an ample amount of outdoor private residential recreation space in the nature of private balconies.

Just as the unique conditions of the Property preclude providing additional outdoor residential recreation space, it is not possible to provide additional interior recreation space. There is no below-grade space available for residential recreation space, as EastBanc is providing three (3) levels of below-grade parking. Although the parking provided is in excess of that required by the zoning regulations, neighborhood constraints on parking require such additional parking for the

residents of the proposed new building, as well as to avoid overburdening the limited available on-street parking. Because of the high water table and rock, additional below-grade space cannot be provided. Adding additional interior residential recreation space would either eliminate retail or additional residential units. Again, because of the small size of the project, this would make the project financially infeasible.

In addition to the private recreation space provided in the project, there is ample public recreation space in the surrounding neighborhood. For example, across 22nd Street in the Ritz Carlton (Square 51) PUD, there is a 100,000 square foot Sports LA fitness club. Additionally, the Property is located less than two (2) blocks north of Washington Circle, approximately three (3) blocks south of Dupont Circle and three (3) blocks west of Rock Creek Park and two (2) blocks south of public tennis courts.

In light of the recreation space provided in the project, as well as the many public amenities in the surrounding neighborhood, there will be no harm to the neighborhood by the requested variance. Additionally, the grant of the variance from the residential recreation space will not impair the intent, purpose or integrity of the zone plan.

4. Economic Considerations.

As demonstrated by the above discussion, the physical limitations of the Property not only result in a practical difficulty, they prevent full compliance with the zoning regulations. Even assuming that, despite the uniqueness of the Property, the proposed building could be designed so as to fully comply with the zoning regulations, full compliance with the regulations would render development of the Property economically infeasible, as it would require significant reconfiguration of the building and a corresponding significant reduction in the number of apartment units provided.

Such consideration of the economic viability of the proposed project, which consideration has contributed to the need of EastBanc to seek relief, is relevant to the practical difficulty aspect of the area variance issue.

In *Tyler v. District of Columbia Board of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992), the court held that the Board could rely on economic factors to evaluate this issue, even if it was not relevant to the uniqueness issue. *Id.* at 1365-1366. In *Tyler*, the court held that the Board had failed to demonstrate how the admittedly unique factors applicable to the property in that case also created practical difficulties. Rejecting petitioners' claim that the Board could not rely on economic factors, the court merely stated that it could not determine whether the decision was based on non-economic or economic factors where, in its decision, the Board had rejected the economic justification. *Id.* at p. 1365-1366. With regard to economic considerations, the court said that it eliminated, in its decision in *Gilmartin v. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990), "any doubt that '[e]conomic use of property' may properly be 'considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in [area] variance cases . . . ' ". *Id.* at 1367; s*ee also Wolf v. Board of Zoning Adjustment*, 397 A.2d 936, 943 (D.C. 1979) (Board properly granted area variance to permit conversion to three-unit apartment where "marketability" of property would otherwise be "unfeasible" and investment would yield loss rather than profit). *See generally* Arden H. Rathkopf & Darren A. Rathkopf, The Law of Zoning & Planning § 38.04, at 38-48 to 38-53 (1991) (discussing need to prove "significant economic injury" in order to show practical difficulty).

In the instant matter, reconfiguring the proposed building so as to fully comply with the FAR, height and residential recreation space requirements of the zoning regulations is not only infeasible

due to the narrowness and small size of the Property, the requisite reduction in apartment units and/or retail space would render the Property unmarketable and the development economically infeasible.

This is not a situation where the applicant has sought to manufacture unique conditions. To be certain, the unique conditions of the Property make it physically impossible to design a building which fully complies with the Zoning Regulations. Those conditions, namely the shape of the Property and the location of the Exxon station are pre-existing conditions of the Property and are the primary reason why the project cannot be constructed without resort to the Board.

V.
Community Support

By letter dated May 8, 2003, EastBanc introduced its project to its neighbors, informing them of the hearing date and inviting them to a presentation of the proposed project on Monday, May 19, 2003, in advance of the May 21, 2003 presentation to the ANC. Approximately twenty-five (25) neighbors attend the May 19 presentation. At its May 21, 2003 meeting, the ANC voted five to zero (5-0) to support the application.

VI.
Exhibits In Support of the Application

Exhibit A: Self -Certification Form

Exhibit B: Baist Atlas Map of Square 71

Exhibit C: Architectural Plans

Exhibit D: March 19, 2002 BZA Transcript (BZA Application Nos. 16841 & 16848) pp. 1-3, 41 and 75-76;

Exhibit E: December 18, 2001 BZA Transcript (BZA Application No. 16809) pp. 1-3 and 97-99

Exhibit F: May 8 Letter to Neighbors

Exhibit G: Traffic Report

Exhibit H: Resume and Testimony of Architect

Exhibit I: Resume and Testimony of Traffic Expert

VII.
Witnesses

A. Anthony Lanier
President
EastBanc, Inc.

or

Mary Mottershead
Executive Vice President
EastBanc, Inc.

B. Robert Sponsellor or Shalom Baranes
Shalom Baranes Associates

C. Lou Slade
Vice President and Principal Associate
Gorove-Slade Associates

or

Nicole White
Gorove-Slade Associates

VIII.
Conclusion

For the above reasons, the Applicant respectfully requests that the Board grant the relief sought. Given the lack of adverse impact on the surrounding area, the Applicant requests a bench decision, if the Board feels such a decision is justified.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, L.L.P.

Richard B. Nettler

Jeannine Rustad Zigner

1801 K Street, N.W.
Suite 1200
Washington, D.C. 20006
(202) 775-0725

A

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

ZONING SELF-CERTIFICATION FORM

Project Address(es)	Square	Lot(s)	Zone District(s)	ANC(s)/Single Member District(s)
2110 M Street, N.W.	71	11, 19, 21, 23, 26, 27, 28, 801-6, 812, 816 & 817	C-2-C	
2150 M Street, N.W.	71	34	C-2-C	

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 - Use Variance	☐ §3103.2 - Area Variance	☐ §3104.1-Special Exception
Pursuant to Subsections		770.1, 771.2 & 773.3	

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print): EastBanc, Inc. (Contract purchaser from 22nd & M Streets Associates, Ltd.) By: Anthony Lanier, President
Agent's Signature	Agent's Name (Please Print): Shalom Baranes, Shalom Baranes & Associates

Date	03/04/2003	D.C. Bar No.		or	Architect Registration No.	2858

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature		Date	

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

ZONING SELF-CERTIFICATION FORM

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(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print): EastBanc, Inc. (Contract purchaser from 22nd & M Streets Associates, Ltd.) By: Mary Mottershead, Executive Vice Pres.
Agent's Signature	Agent's Name (Please Print): Shalom Baranes, Shalom Baranes & Associates

Date	03/04/2003	D.C. Bar No.		or	Architect Registration No.	2858

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature		Date	

Jerrily R. Kress, FAIA – Director
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Side 2

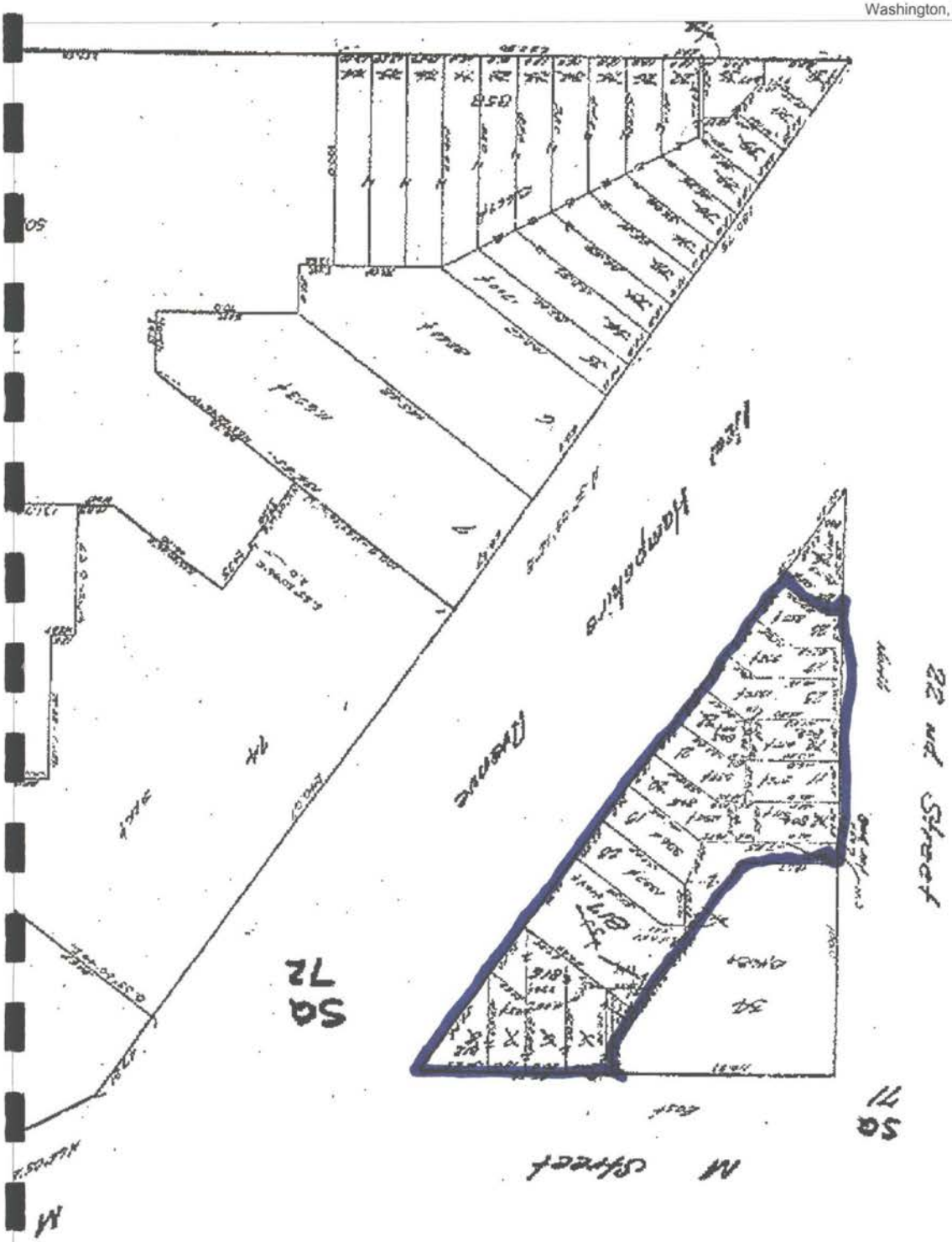
INSTRUCTIONS

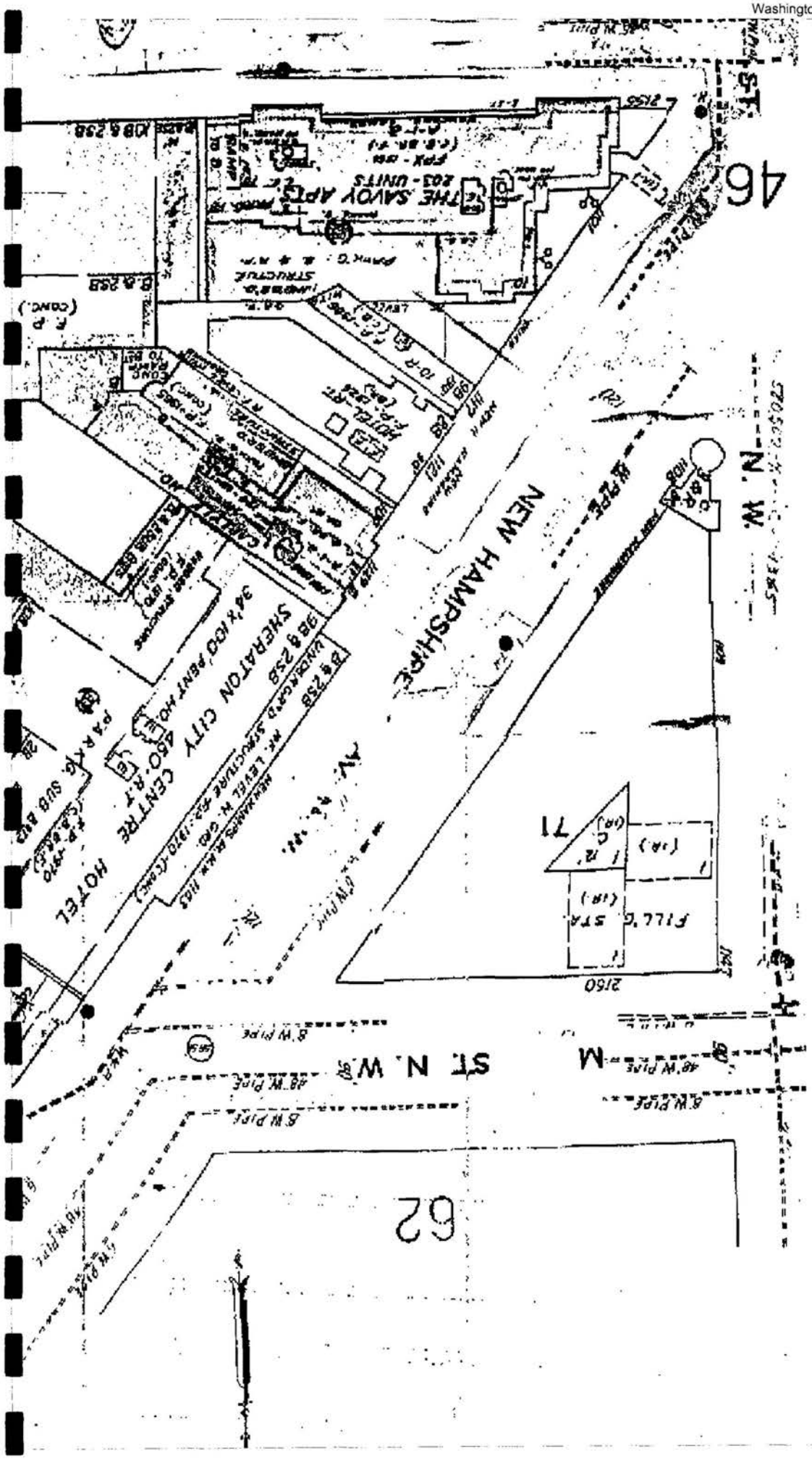
Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on Form 135. All certification forms must be completely filled out (front **and** back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 Application to the Office of Zoning, 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

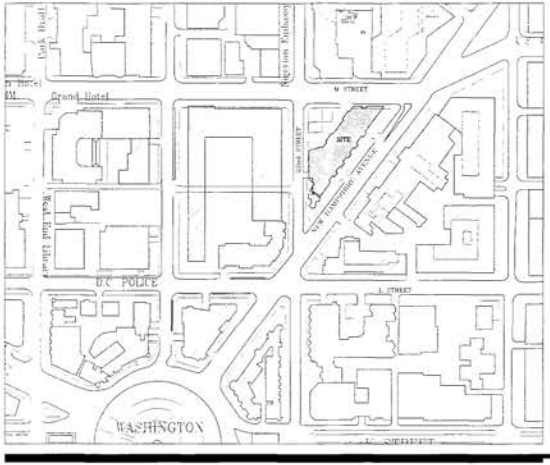
ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE *Deviation/Percent*
Lot Area (sq. ft.)	28,373	n/p	n/p	28,373	None
Lot Width (ft. to the tenth)	100' (Lot 34) 200' (remaining)	n/p	n/p	200'	None
Lot Occupancy (building area/lot area)	50% (Lot 34) 0 (remaining)	n/p	80%	72%	None
Floor Area Ratio (FAR) (floor area/lot area)	.5 (Lot 34)	n/p	6.0	6.26	.26 FAR
Parking Spaces (number)	4	35	n/a	145	None
Loading Berths (number and size in ft.)	None	Res: 1@55'; 1 platform @ 200 s.f.; 1 svc/delivery @ 20' deep	n/a	Res: 1@55'; 1 platform @ 200 s.f.; 1 svc/delivery @ 20' deep	None
Front Yard (ft. to the tenth)	n/p	n/p	n/p	n/a	None
Rear Yard (ft. to the tenth)	n/p	15'	n/p	+40'	None
Side Yard (ft. to the tenth)	n/p	n/a	n/p	n/p	None
Court, Open (width by depth in ft.)	n/p	n/a	n/p	n/p	None
Court, Closed (width by depth in ft.)	n/p	n/a	n/p	n/p	None
Height (ft. to the tenth)	n/p	n/p	90'	110'	20'




M Street
Hampshire
Pennsylvania
22nd Street
SQ 72
SQ 71


NEW HAMPSHIRE
ST. N. W.
46
71
62
THE SAVOY APTS
203 - UNITS
HOTEL
SHERATON CITY CENTRE
460 R.T.
34'x100' PENT HO.
2150





BZA SET - MAY 22, 2003

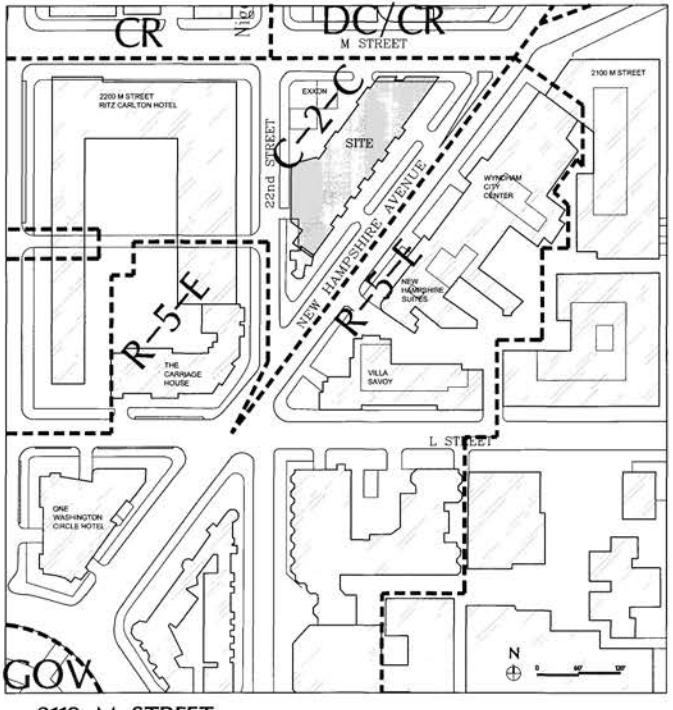
PROJECT: 2110 M STREET-SQUARE 71

DEVELOPER: EastBanc, Inc,

ARCHITECT: SHALOM BARANES ASSOCIATES

DRAWING INDEX

A-0.1	SITE PLAN, ZONING TABULATIONS	A-1.4	GROUND AND TYPICAL FLOOR PLAN
A-1.1	SITE SURVEY	A-1.5	PENTHOUSE AND ROOF PLANS
A-1.2	B1 LEVEL, B2 LEVEL	A-2.0	BUILDING ELEVATIONS
A-1.3	B3 LEVEL	A-2.1	BUILDING ELEVATIONS
		A-3.0	BUILDING SECTIONS



ZONING INFORMATION (1)

ZONE: C-2-C
SQUARE: 71(Lots:11,19,21,23,26,27,28, 34, 801-806,812,816,817)
TOTAL SITE AREA: 28,373 sf

ZONING REGULATION	ALLOWED / REQUIRED	PROVIDED
***Building Height*(2)**	90'	***110'***
***FAR* (3)**		
Commercial	2.0	***.58 (Including Exxon Canopy)***
Residential	6.0	5.68
Total	6.0	***6.26 (Including Exxon Canopy)***
Rear Yard(4)	15'	45'
Lot Occupancy(5)	80%max	71.8%
***Residential Recreation Space*(6)**	23,400 sf	***7,800 sf***
Parking		
Residential(7)	29 (1 per 4 Dwelling Units)	29 Minimum
Retail	5	5 Minimum
Total	34	34 Minimum
Loading		
Residential	1-55' 1-20' Service	1-55' 1-20' Service
Retail	None	None

Notes

1- Items listed in the table above which are in bold italic text are those which require a variance.

2- The maximum allowable building height by the 1910 height act is 130' based on the New Hampshire Avenue street width.

3- It is proposed that the Exxon station canopy (which accounts for .26 FAR) be excluded from the FAR total, which would reduce the total FAR to the permitted 6.0.

4-The rear yard is measured from the center of 22nd Street and is 45'.

5- Lot occupancy is measured at the lowest residential level, in this case, the second level.

6- The proposed recreation space is approximately 5% of gross floor area dedicated to residential use. 70% of the total will be outdoor recreation space.

7- The required residential parking space total is based on a total of 114 residential units. If the number of residential units changes, the parking space total will change to comply with the zoning requirement.

2110 M STREET

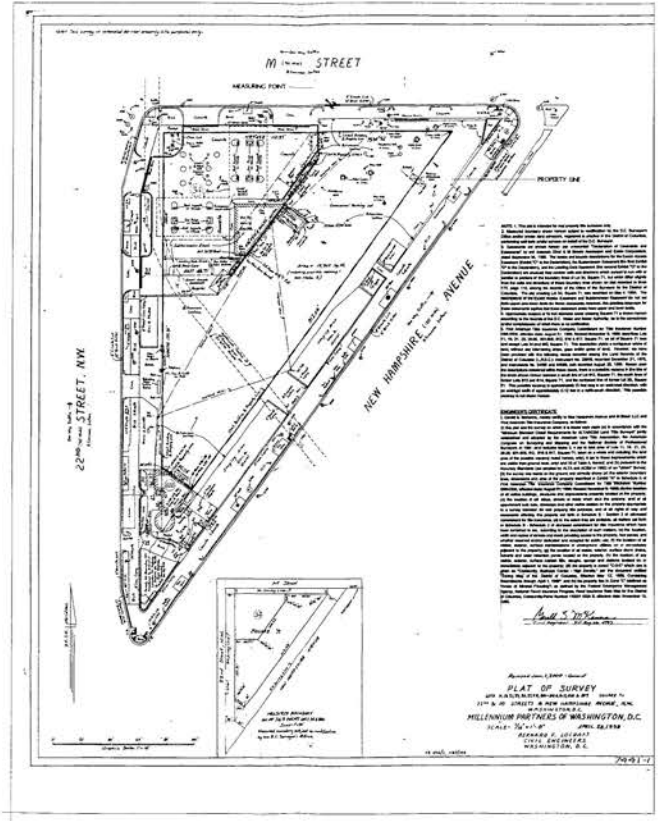
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SITE PLAN, ZONING TABULATING

BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

A-0.1



2110 M STREET

WASHINGTON, D.C.

SURVEY PLAN

SURVEY PLAN

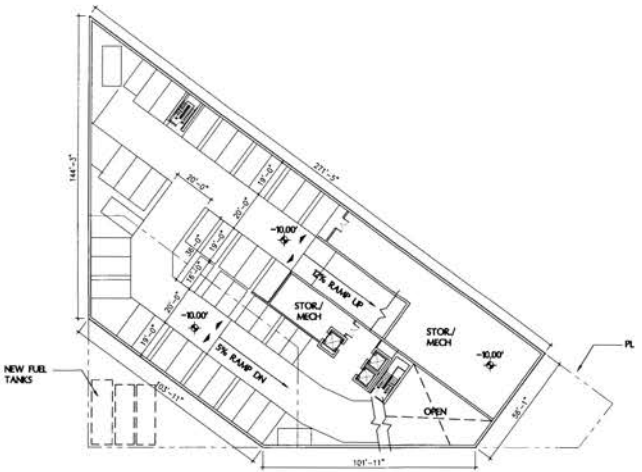
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SHALOM BARANES ASSOCIATES

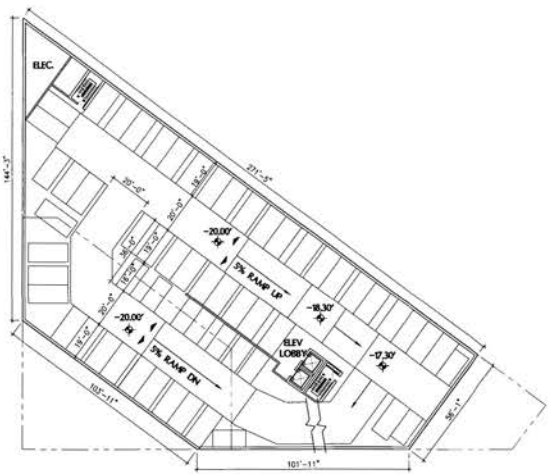
N

0 30' 60'

A-13



B1 LEVEL : EL -10.00'



B2 LEVEL : EL -20.00'

GENERAL NOTE

THE EXTERIOR ELEVATIONS, INCLUDING DOOR AND WINDOW SIZES AND LOCATIONS, THE INTERIOR PARTITION LOCATIONS, THE NUMBER, SIZE AND LOCATION OF RESIDENTIAL UNITS, STAIRS AND ELEVATORS IS PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. THE PARKING SPACE LAYOUT IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

2110 M STREET

WASHINGTON, D.C.

B1 AND B2 LEVEL

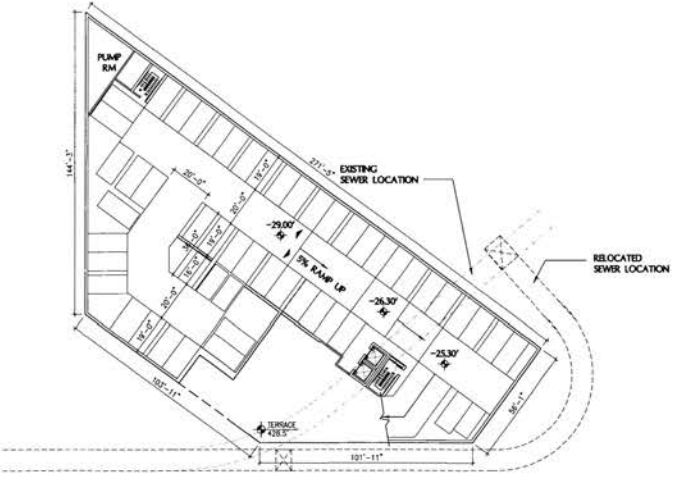
BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

N

0 20' 40'

A-12



B3 LEVEL : EL -29.00'

GENERAL NOTE

THE EXTERIOR ELEVATIONS, INCLUDING DOOR AND WINDOW SIZES AND LOCATIONS, THE INTERIOR PARTITION LOCATIONS, THE NUMBER, SIZE AND LOCATION OF RESIDENTIAL UNITS, STAIRS AND ELEVATORS IS PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. THE PARKING SPACE LAYOUT IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

2110 M STREET

WASHINGTON, D.C.

B3 LEVEL

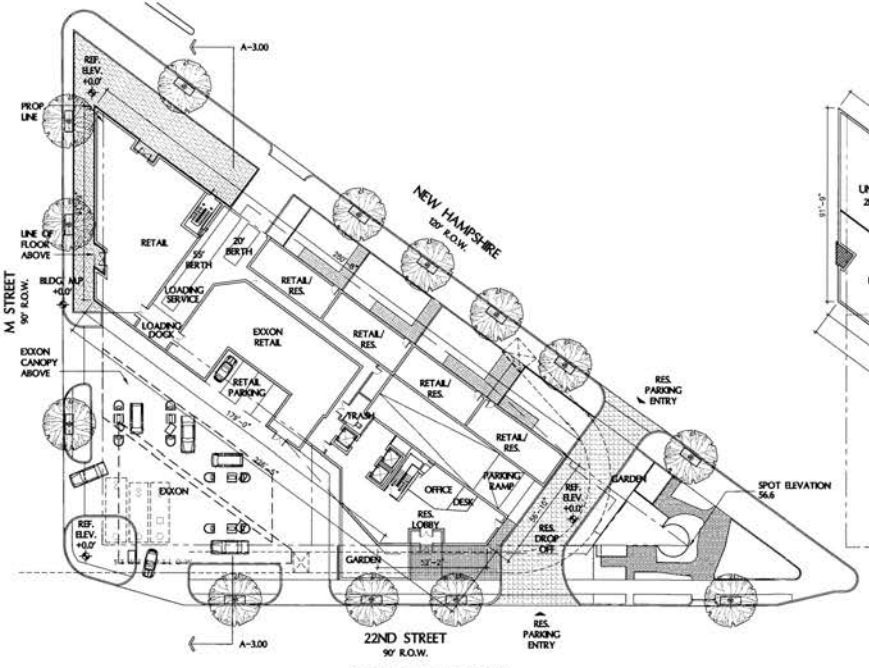
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SHALOM BARANES ASSOCIATES

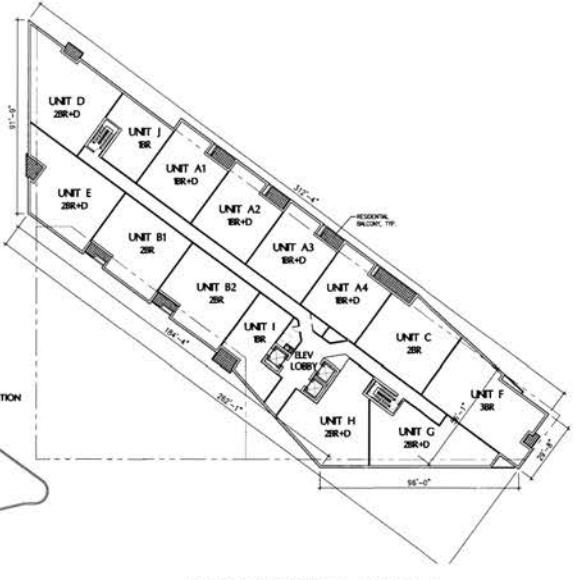
N

0 20' 40'

A-13



GROUND FLOOR PLAN



TYPICAL FLOOR PLAN : FLOOR 2-9

GENERAL NOTE

THE EXTERIOR ELEVATIONS, INCLUDING DOOR AND WINDOW SIZES AND LOCATIONS, THE INTERIOR PARTITION LOCATIONS, THE NUMBER, SIZE AND LOCATION OF RESIDENTIAL UNITS, STAIRS AND ELEVATORS IS PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. THE PARKING SPACE LAYOUT IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

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GROUND AND TYPICAL FLOOR PLAN

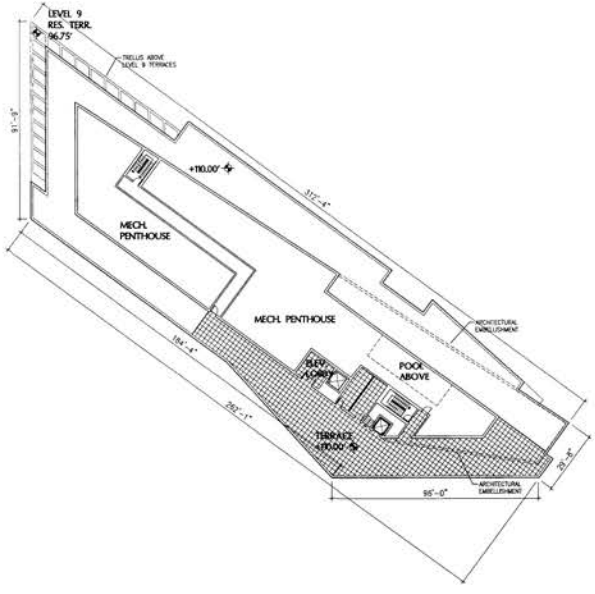
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SHALOM BARANES ASSOCIATES

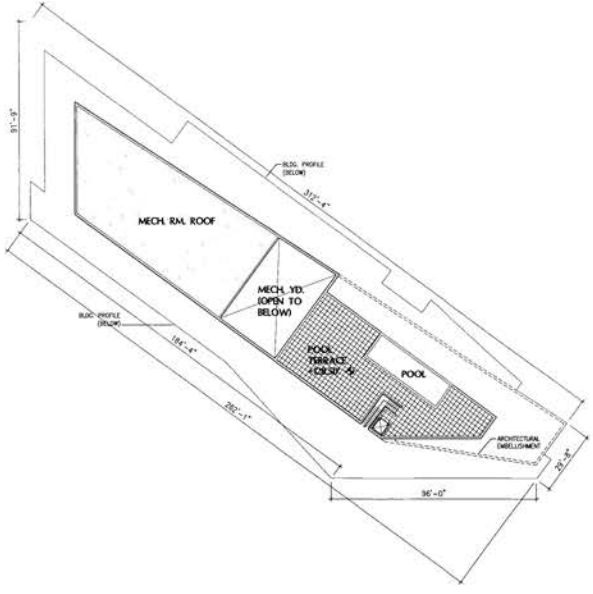
N

0 20' 40'

A-1.4



MAIN ROOF PLAN : EL.110.00'



PENTHOUSE ROOF PLAN : EL.128.50'

GENERAL NOTE

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WASHINGTON, D.C.

ROOF PLANS

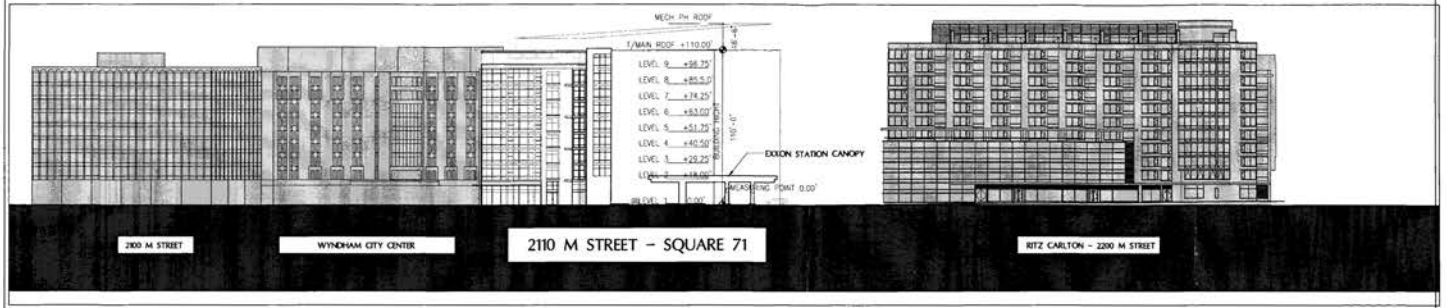
BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

0 20' 40'

N

A-1.5



M STREET ELEVATION (NORTH)



NEW HAMPSHIRE STREET ELEVATION (SOUTH-EAST)

GENERAL NOTE

THE EXTERIOR ELEVATIONS, INCLUDING DOOR AND WINDOW SIZES AND LOCATIONS, THE INTERIOR PARTITION LOCATIONS, THE NUMBER, SIZE AND LOCATION OF RESIDENTIAL UNITS, STAIRS AND ELEVATORS IS PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. THE PARKING SPACE LAYOUT IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

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WASHINGTON, D.C.

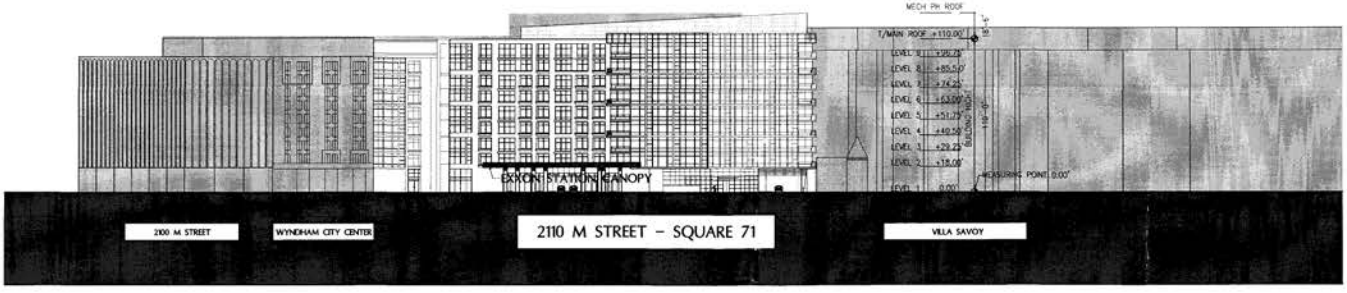
ELEVATIONS

BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

0 30' 60'

A-2.0



NORTH-WEST ELEVATION

GENERAL NOTE

THE EXTERIOR ELEVATIONS, INCLUDING DOOR AND WINDOW SIZES AND LOCATIONS, THE INTERIOR PARTITION LOCATIONS, THE NUMBER, SIZE AND LOCATION OF RESIDENTIAL UNITS, STAIRS AND ELEVATORS IS PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. THE PARKING SPACE LAYOUT IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

2110 M STREET

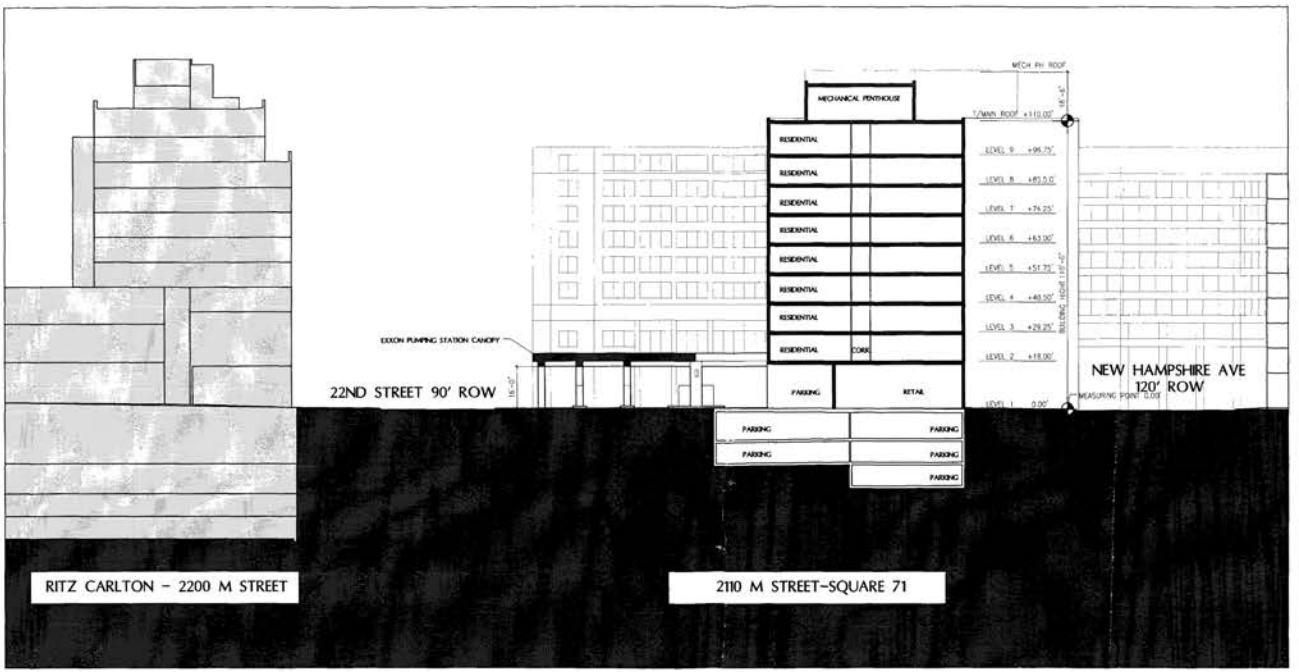
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BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

0 30' 60'

A-2.1



GENERAL NOTE

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2110 M STREET

WASHINGTON, D.C.

BUILDING SECTION

BZA SET - MAY 22, 2003

SHALOM BARANES ASSOCIATES

A-3.00



GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

Tuesday,
March 19, 2002

+ + + + +

The Public Meeting convened in Room 220, South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:56 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

Geoffrey H. Griffis	Chairperson
David Levy	Board Member (NCPC)
Curtis Etherly, Jr.	Board Member

ZONING COMMISSION MEMBER PRESENT:

Anthony J. Hood	Commissioner

COMMISSION STAFF PRESENT:

Beverly Bailey	Office of Zoning
Paul O. Hart	Office of Zoning
John K.A. Nyarku	Office of Zoning
Alberto Batisda	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

D.C. OFFICE OF PLANNING:

Maxine Brown-Roberts
John Moore
David McGettigy

C-O-N-T-E-N-T-S

	Page
Application of Robert Burchard - 16845	
Robert Burchard - Applicant	8
John Moore - Office of Planning	14
Application of 1440 Church Street LLC - 16841	
Application of 1425 P Street LLC - 16848	
Jacques DePuy - Applicant	22
Monte Hoffman - Applicant	26
Eric Colbert - Applicant	59
David Mayhood - Applicant	74
Maxine Brown-Roberts - Office of Planning	84
Wayne Dixon - Logan Circle Community Assoc.	97
Closing on behalf of the Applicant	100
Civil Infractions Appeal Case No. 99-OAD-1821E	
Intervenor Discussion	121
Argument of T. Damari	174
Argument of M. Green	193
Rebuttal of T. Damari	212
Application of Humberto Gonzalez - 16823	222

CHAIRPERSON GRIFFIS: I'm glad you bring that up actually. I just want to interject quickly because it seems to me that some of the residential requirements that we do, it is a very suburban concept and that is a self-contained entity where you conceivably can sell the unit by, "You'll never have to leave this building", which seems to fly in the face and I know we're going to get into it, of one; as you stated in the beginning, your kind of concept of defining urban lifestyle in your development but more importantly, I think, the city's direction of trying to reanimate and revitalize streets, P Street being a classic one, of used to be retail connected to 14th Street, strong retail corridor that needs to -- that needs some additions, let's say.

How do you say -- how do you balance the fact that you want to capture your people in the building, facilitate all their needs so they never have to leave, and yet, also balance the fact that we want strong vibrant people walking on the streets and businesses, retail businesses, that will come and that can only happen with people shopping there?

MR. HOFFMAN: We should want people shopping. The health clubs don't want the recreation space. This is a chart of the health clubs in the area and I'm sorry that's so small but there's approximately 40 in the general area. There's about a half a dozen right within walking distance and, you know, people are going to choose their own health clubs that they're going to

retail corridors with then requiring amenities to be provided within the building. So it is a bigger discussion, I think well worth having and I appreciate your comment in terms of your exact word was "could support this application", but you're looking to us for that. Okay.

Ms. Mitten?

MS. MITTEN: I guess I just want to -- I want to share with the Board some of what's been going on with the Zoning Commission and, you know, the zoning ordinance, everyone agrees in large part, is outdated. And when areas -- when we finally start to achieve the objectives that we -- that we set for certain areas the zoning ordinance, then evolves in response to that and we have seen that in the DD overlay. And there was relief granted through a change in the ordinance that came to our attention in part because there were these series of requests for variances in that part of town and I would guess that the six variances for relief from the recreational space requirement were, in fact, in the DD overlay.

Now, when we took that issue up, we asked and Ms. Brown-Roberts wasn't there, so she's not the messenger to take it back -- or she wasn't the messenger at the time to take it back to the Office of Planning, but we asked to take a look at this issue more broadly because it was clear that this is an onerous requirement and relatively impractical.

So I think there is already sentiment at the Zoning

Commission that this needs to change.

CHAIRPERSON GRIFFIS: Right.

MS. MITTEN: Now, what I very much appreciate from the Office of Planning report is that they are giving us and they have given us a very strict reading on the variance test and I'm not saying that we should put blinders on and adhere to that strictly but it's an important standard to recognize and I think there is flexibility in the ordinance to recognize extraordinary conditions that may be don't arise exclusively from characteristics of the property in question. But I would like, and I think there are certain constraints for these two projects that should be recognized.

I think what we need to do, however, is urge the Office of Planning, perhaps with the assistance of developers like Mr. Hoffman, to bring a case -- a text amendment case before the Zoning Commission very soon, because here's an area we wanted to evolve. It's finally evolving. There are handicaps in the ordinance that need to be dealt with and this is not the forum to do that. The Zoning Commission is the forum.

So I'm sympathetic to this case and let's move it to, you know, a forum where we won't have to put applicants through this. You know, if it doesn't work, let's fix it.

CHAIRPERSON GRIFFIS: Yeah, thank you for saying that because I know the Office of Planning has done a lot of look at one, doing the DD but also in the north of Massachusetts area



GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 18, 2001

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID LEVY	Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Commissioner
PETER G. MAY	Commissioner (Architect of the Capital)

COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning
Paul O. Hart, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Maxine Brown-Roberts, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

C-O-N-T-E-N-T-S

AGENDA ITEM	PAGE
PRELIMINARY MATTERS	6, 164
APPLICATION OF MR. AND MRS. JAMES R. KERR:	
16806 ANC-3C	7
WITNESSES	
JAMES KERR	9
APPLICATION OF JOHN PAUL AND DOLORES A. ROYSTON:	
16807 ANC-3G	34
WITNESSES	
DOLORES ROYSTON	36
PETER DONOVAN	41
APPLICATION OF AVALONBAY COMMUNITIES, INC.:	
16809 ANC-6A	46
RICHARD B. NETTLER, ESQ. Robins, Kaplan, Miller & Ciresi 1801 K Street, N.W. Washington, D. C. 20006 (202) 775-0725	47
WITNESSES	
RICHARD KOCH	52
SAMI KIRKDIL	59
WILLIAM LEE	123
APPLICATION OF ABIGAIL Y. PARKER,	
16808 ANC-8J	154
WITNESS	
ABIGAIL Y. PARKER	151

MS. SANSONE: But the text is exactly the same, and the regulation went into effect on August 3rd.

CHAIRPERSON GRIFFIS: Fabulous. So it was in enforcement.

And the quick overview of this, and perhaps others can chime in that know it even better than I, but obviously it was a reduction of the recreational requirement from 15 percent to five percent, which is what we're looking at now.

And actually I would ask the Office of Planning to speak briefly on residential requirements in that it seems to be a move that is happening -- well, how do I want to phrase this?

There seems to be -- and I'm talking overall in terms of planning ideas -- there seems to be a tension between requiring recreational, residential, recreational, or space, which is enclosed and private for a certain structure, and requiring retail space, which seems to animate and draw people onto the sidewalk.

So at one point we're asking, look, keep everybody inside and get them exercised, and we're saying, you know, we really want all of these people out on the street shopping, animating our urban blocks and all of that.

So I see this as -- one, do you agree that there is some inherent tension between the two requirements?

MS. BROWN ROBERTS: I don't know if I'd call it tension, but I think what happened is that originally we wanted for the recreational space is to have some sort of activity, you know, additional activity for the persons who live in the building so that -- to make it a real living space.

CHAIRPERSON GRIFFIS: I see.

MS. BROWN ROBERTS: I think there was -- the tension that occurred was between the percentage that we were requiring from under the C-2-1. Under the C-2-C it was 15 percent, and in some other denser zoning categories it wasn't -- we didn't think that it was equitable, and so --

CHAIRPERSON GRIFFIS: Yeah, it could be a huge amount.

MS. BROWN ROBERTS: Right. So that's why it was reduced.

CHAIRPERSON GRIFFIS: Okay.

MS. BROWN ROBERTS: But I think the overriding factor for the retail space is still there, that we do need to have the retail space.

CHAIRPERSON GRIFFIS: Oh, no question, and I would say this is pertinent to this case, but it is maybe a generality, but I mean, I think in terms of a retail requirement that is an excellent thing to have in some of these areas.

I absolutely support the reduction of the residential recreation in the fact that I think it is a fairly

antiquated idea of what cities should be and in terms of putting together a residential and encouraging residential buildings and projects downtown. The whole point is to bring people downtown, not to build buildings and keep them inside them, but to get them out, to go to the gyms that are three blocks away, to use the Metro that's two blocks, and then to shop in the stores to make our local entrepreneurs more affluent.

But that being said, that's my only sermon of the day, maybe.

Okay. Any questions of Office and Planning from the Board?

(No response.)

CHAIRPERSON GRIFFIS: Applicant cross examination of the Planning.

MR. NETTLER: Actually I just have one question.

CHAIRPERSON GRIFFIS: Yeah.

MR. NETTLER: Following up on what Mr. Griffis said, even if we were to put in an athletic facility on the first floor to satisfy the retail service requirement, that wouldn't satisfy the recreational requirement, correct?

MS. BROWN ROBERTS: Right, yeah. Being able to -- I don't -- this site is not one of the areas where we can accommodate both the retail and the recreation. I think that the applicant made the choice to go with the retail space, and we agreed with that.

F

May 8, 2003

RE: BZA Application No. 17014
2110 M Street, NW

Dear Neighbor,

As you may have heard, EastBanc, Inc. is the contract purchaser of the parking lot site at the corner of New Hampshire Avenue and M Street (adjacent to the Exxon gas station at 22nd and M Streets). As such, EastBanc plans to develop the site with approximately 115 residential condominium units with ground floor retail and below-grade parking for approximately 145 cars.

In order to minimize the impact of the neighboring Exxon gas station on the proposed residential project, and in order to improve the contextual appearance of the adjacent/new building, EastBanc is seeking relief from the Board of Zoning Adjustment (BZA) to build to 110' rather than just 90'. At the same time, EastBanc is also requesting relief from a portion of the recreational space requirements, while it is also asking that the Exxon canopy not count against the project floor area ratio (F.A.R.).

Because Exxon requires canopies above the gas pumps with minimum clearance of 16'-18' for tanker trucks and other equipment, the proposed project needs a much higher than normal ground floor in order to get the residential units on the second floor to clear above these canopies. Also, in order to make the canopies more attractive for the project and the community, there needs to be further room to accommodate signage bands and then slab thickness and landscaping area above.

A normal residential ground floor could be 9'-10' but because of the 16' canopy clearance requirements and then the necessary extra thickness requirements above (ranging from 5-7 feet), the ground floor of the proposed building needs to be almost 12'-14' higher than normal. Furthermore, in order to counteract some of the negatives of having residential units next to a gas station, EastBanc is preparing to build residential units with clear ceiling heights of 9'8".

The proposed height of the new building is consistent with surrounding building heights at the Ritz-Carlton Hotel and the Washington Marriott Hotel across the street to the west and the north (already at 110'). Additionally, buildings along New Hampshire Avenue are 90'-110'. Meanwhile, it should be noted that New Hampshire Avenue is an extra-wide street, which by the 1910 Height Act, actually would allow for building heights greater than that requested by Eastbanc.

EastBanc, Inc. is a local firm which develops office buildings, retail projects and residential condominium projects in downtown Washington DC and Georgetown. Currently, it is building a 72-unit luxury condominium project known as 3303 Water Street on the Georgetown Waterfront. Also, it is developing numerous retail projects in Georgetown, including Cady's Alley. Finally, EastBanc is working with The Mark Winkler Company to build a new headquarters office building for Wilmer Cutler and Pickering at 1875 Pennsylvania Avenue, NW. More information about those projects can be found at www.eastbanc.com and www.3303water.com. The project architect for the proposed residential project at New Hampshire and M Street is Shalom Baranes and Associates Architects (www.sbaranes.com), another local firm based in Georgetown.

Concept plans for the proposed project currently are underway and should be available for viewing shortly. EastBanc will be presenting these plans at the ANC-2A meeting on May 21, 2003 and then again at the BZA hearing on June 10th. **EastBanc has reserved a meeting room at the Ritz-Carlton Hotel at 22nd and M for 5:30-7:30 pm on Monday, May 19th to show these plans to any neighbors who might be interested in learning more about the proposed project ahead of time.**

EastBanc, Inc. is very excited about its new project in the West End and looks forward to working with the surrounding neighbors. We hope that you will join us at the Ritz next week to discuss this project with us. Until then, should you have any questions, please do not hesitate to contact us at (202) 737-1000.

Sincerely,

Anthony M. Lanier
President, EastBanc, Inc.

Mary E. Mottershead
Executive Vice-President



GOROVE/SLADE ASSOCIATES, Inc.
Suite 700 / 1140 Connecticut Ave., NW / Washington, DC 20036
Phone: (202) 296-8625
Fax: (202) 785-1276
Toll Free: (888) 212-4242

MEMORANDUM

TO: Mary Mottershead Eastbanc

FROM: Robert Schiesel
Nicole White, P.E.
Louis J. Slade, P.E., P.T.O.E.

DATE: May 21, 2003

SUBJECT: Traffic Impact of Proposed Square 71 Development

This memorandum presents the results of a traffic impact analysis of the proposed Square 71 development. The results of this analysis show that Square 71 development will have a negligible impact to drivers. The following paragraphs describe the analysis in further detail.

Square 71, shown on Figure 1, is located northeast of Washington Circle, in a triangular shaped block bordered by New Hampshire Avenue to the East, M Street to the north, and 22nd Street to the West. The proposed Square 71 development includes 115 residential units, and the addition of 10,000 SF of retail space. Currently on the site is a gas station that will be reconstructed as part of the development, and a public parking lot that will be removed. The development density is within the matter-of-right density allowed under zoning regulations. The study area for this analysis includes the three intersections adjacent to the site: (1) M St and 22nd St NW, (2) New Hampshire Avenue and M St NW, and (3) the intersection of New Hampshire Avenue, L St, and 22nd St NW.

This analysis compared three traffic volume scenarios: (1) the existing conditions within the study area, (2) background conditions, representing future traffic levels if no Square 71 development were to occur, and (3) total future conditions, representing background conditions with the addition of the Square 71 development. The following explains how the traffic volumes were compiled for each scenario:

- *Existing Traffic Volumes*
  - Turning movement counts were performed for the three study area intersections on Wednesday, May 7, 2003 between the hours of 7:00 to 9:00 AM, and 4:00 to 6:00 PM. The system peak AM and PM hours were used in this analysis (8:00 to 9:00 AM and 5:00 to 6:00 PM). Figure 2 shows existing lane designations and peak hour traffic volumes.

- *Background Traffic Volumes*
  - Included in the background scenario are eight pipeline developments located near Square 71; Figure 3 shows the locations of these developments:
    - (1) Columbia House Apartments
    - (2) Park Hyatt Hotel Apartments[1]
    - (3) Columbia Hospital Redevelopment
    - (4) Red Cross Headquarters[1]
    - (5) IMF Headquarters 2
    - (6) Square 43 GW Dorm
    - (7) Square 57 GW Townhouses
    - (8) GW School of Business and Public Management
  - Trips were generated and distributed for these background developments based on ITE trip rates, a reduction for transit usage and directions of approach based on traffic patterns and previous studies performed near the study area.
  - In addition, a 0.5% per year growth factor was applied for a duration of five years.
  - The background traffic volumes were attained by summing the existing volumes, pipeline development volumes, and the annual growth of traffic. Figure 4 shows the background development generated and total background development peak hour traffic volumes.

- *Total Future Traffic Volumes*
  - Trips were generated for the Square 71 development using ITE trip rates with a reduction for transit usage. ITE land use code 220 was used for the apartments, and 814 for the retail space. A fifty percent reduction was applied to both land uses to account for transit and other transportation modes. The total trips generated by the site are 36 in the AM peak hour and 66 in the PM peak hour.
  - The trip generation for the proposed development is conservatively high, given that residents in the study do not generally use their cars outside of evening and weekend use, and that the retail space is expected to generate mostly walk-in traffic.
  - No trips were generated or assigned for the gas station, as the proposed development does not include additional pumps. The re-built gas station will include more commercial space than before; this addition is part of the retail space included in the proposed development.
  - Currently, some trips are generated at the site through a public parking lot. Since this lot will be removed, a reduction to the proposed development trip generation could be taken, but to

[1] At the time of the traffic counts, the Red Cross Headquarters and Park Hyatt Hotel Apartments were partially occupied

be conservatively high, this analysis assumes these trips would continue to be made to this neighborhood and impact the study area as they do today.

- These peak hour trips were distributed through the study area and added to the background traffic volumes to attain the total future traffic volumes. Figure 5 shows the site generated and total future peak hour traffic volumes

The traffic volumes for each condition were analyzed with the software package *Synchro 4*, using the Highway Capacity Manual methodology. The lane configurations, signal timings, and pedestrian counts used in the analysis were gathered in the field during the turning movement counts. The following table shows the results of the capacity analysis.

Intersection	AM Peak Hour						PM Peak Hour					
	Existing		Background		Total Future		Existing		Background		Total Future	
	LOS	Delay[2]	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay
M St and 22nd St NW	B	15.7	B	16.1	B	16.4	B	14.2	B	17.5	B	18.8
New Hampshire Ave and M St NW	B	14.7	B	15.0	B	15.1	B	15.5	B	16.0	B	16.2
New Hampshire Ave, L St, and 22nd St, NW	D	42.6	D	47.9	D	48.6	D	45.7	D	46.7	D	47.2

The capacity analysis shows that the three intersections adjacent to Square 71 operate at acceptable Level of Service ('D' or better), and will continue to do so in the future.

The proposed site plan shows approximately 145 spaces, which is larger than both the number of residential units and the zoning requirement (35 spaces). The amount of parking provided should minimize the impacts of the development to on-street parking. Included in the site plan is a drop-off lane providing access to residential parking, and loading dock access from New Hampshire Avenue. An analysis of the drop-off lane and the loading dock access indicates trucks and automobiles using these features will not adversely impact the public roadway system.

In conclusion, this analysis shows that the Square 71 proposed development will not result in any adverse traffic or parking related impacts.

[2] Average control delay, in seconds per vehicle

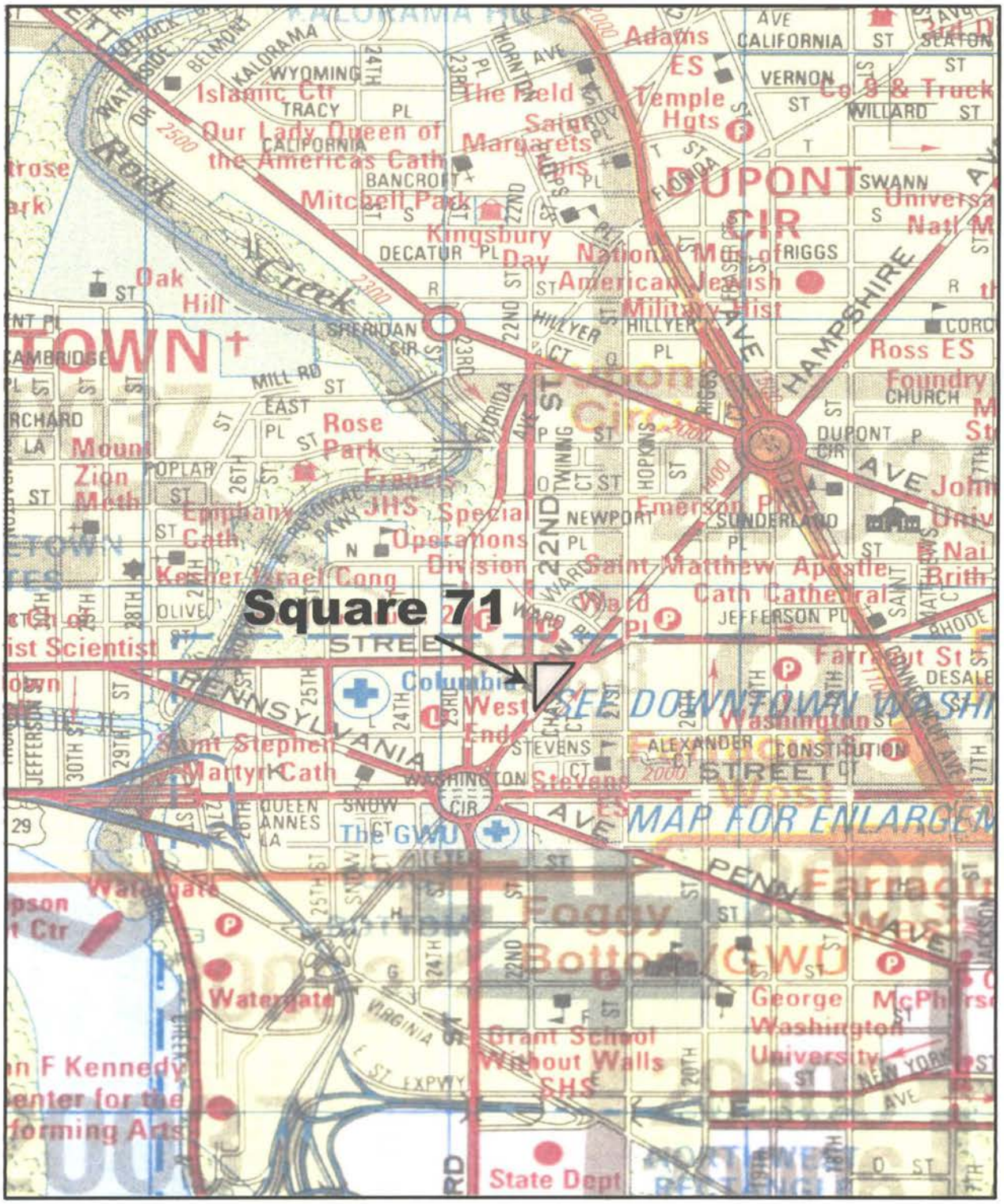


Figure 1
Site Location

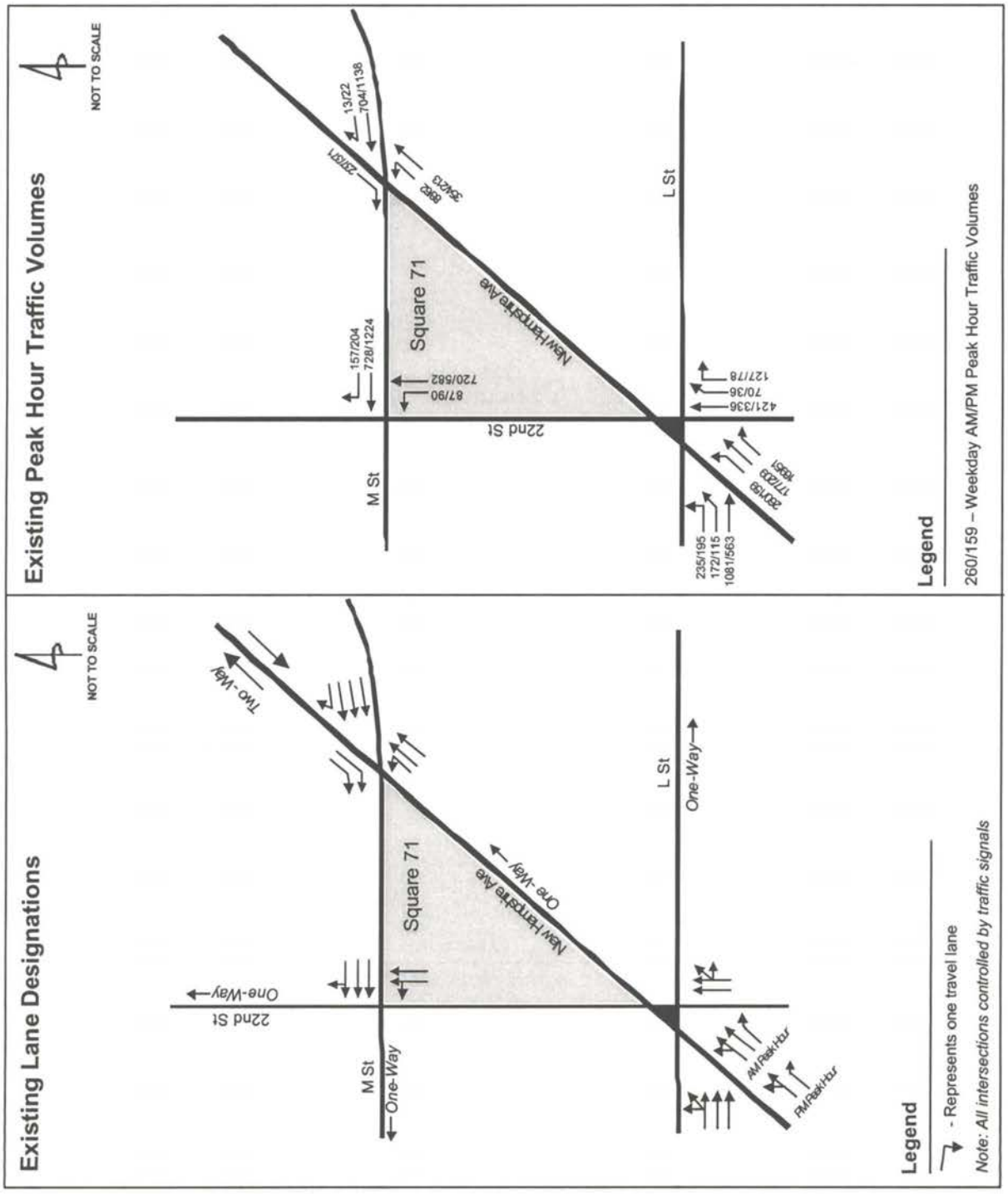


Figure 2

Existing Lane Configurations and Peak Hour Volumes

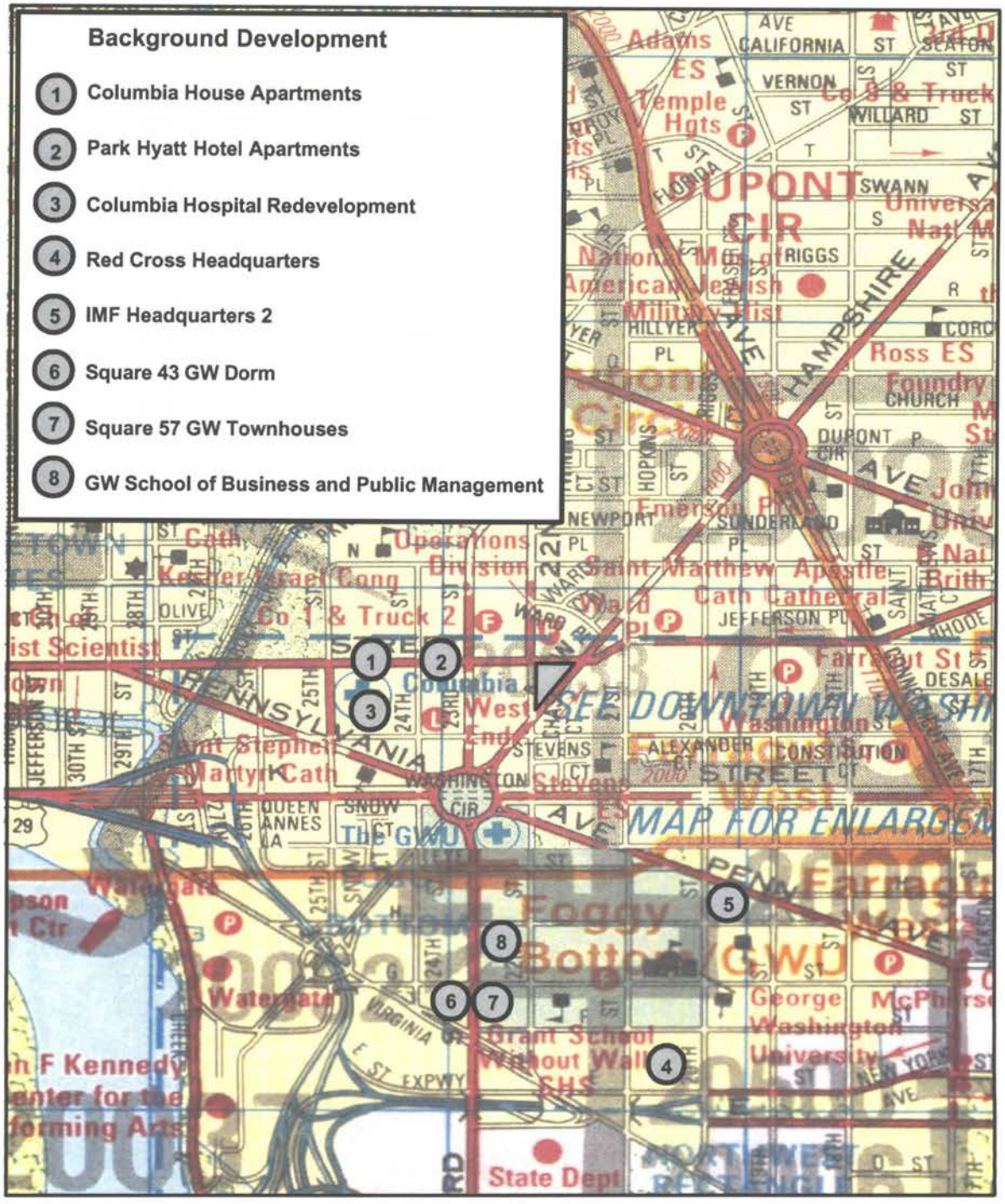


Figure 3
Locations of Background Developments

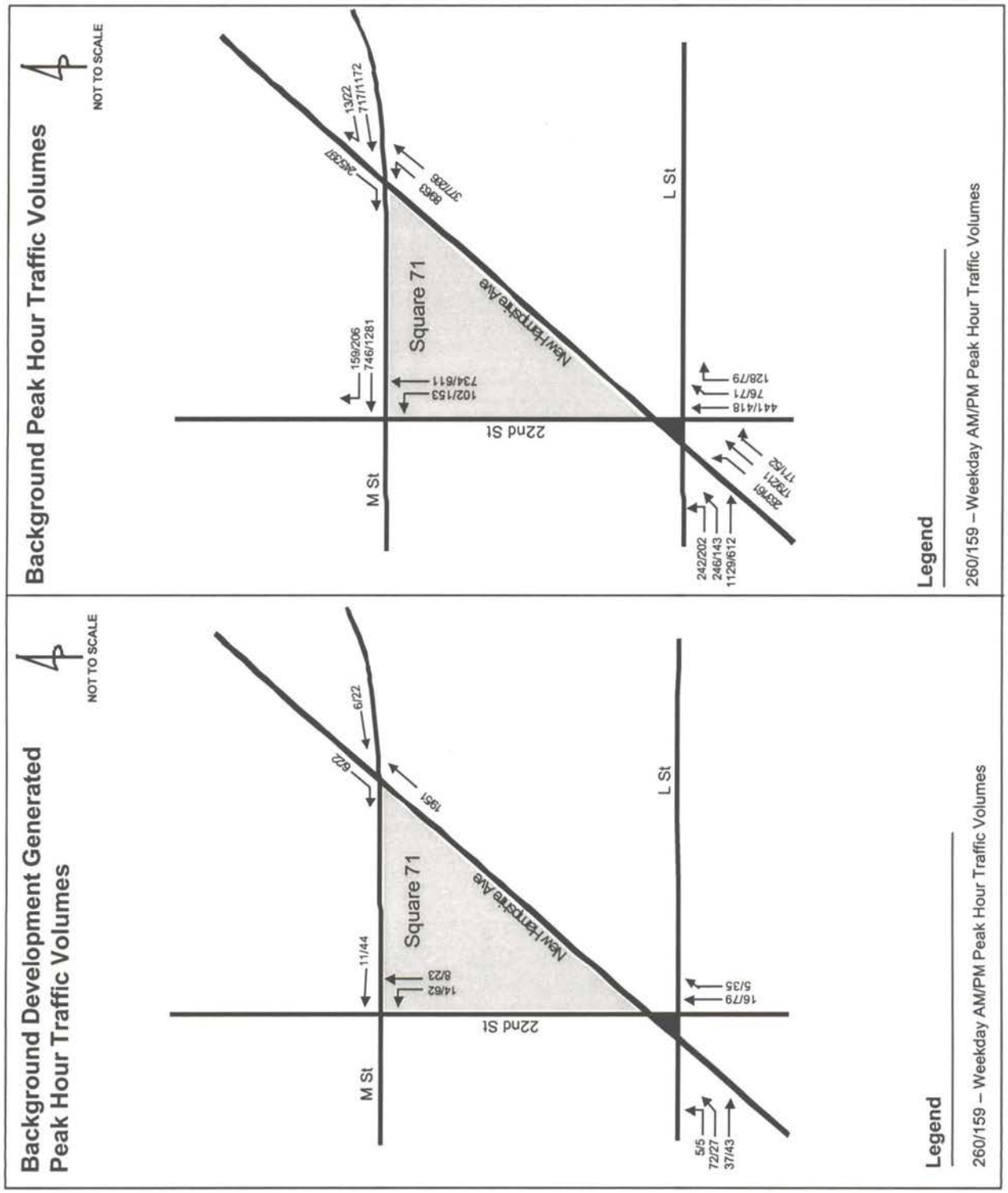


Figure 4
Background Development Generated and Background Peak Hour Traffic Volumes

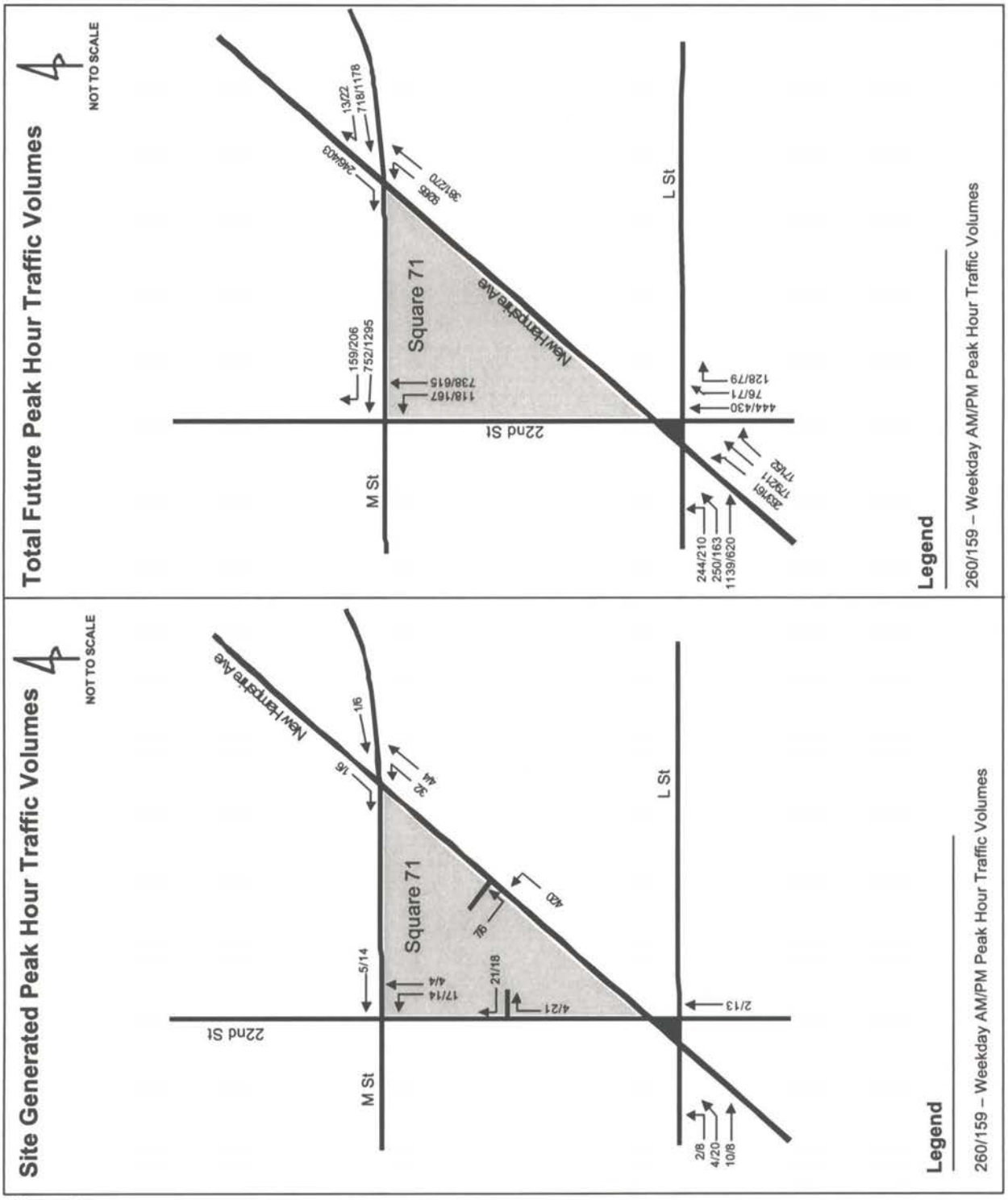


Figure 5
Site Generated and Total Future Peak Hour Traffic Volumes

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OUTLINE OF TESTIMONY OF ARCHITECTS

I. Introduction

A. Qualifications
B. Summary of Project

II. Consistency with requirements for area variances

A. Uniqueness / Practical Difficulty

1. Size/narrowness of Property
2. Exxon station

B. Zone Plan

III. Lack of Adverse Impact on Neighborhood

STATEMENT OF QUALIFICATIONS

SHALOM BARANES, FAIA

Principal

As founding principal of Shalom Baranes Associates, PC, Mr. Baranes has established a firm nationally recognized for its work on significant buildings in the nation's capital and surrounding regions. As director of all design work within the firm, he has won over forty design awards for projects involving renovation and new construction. He has an exceptionally strong background in commercial and governmental work, as well as an intimate familiarity with local and federal regulatory review processes.

Mr. Baranes has distinguished himself through his success in working through complicated reviews, and is highly regarded by members of local and federal review boards. His twenty-four years of experience in architecture have included serving as an expert witness before boards and commissions in the areas of preservation, zoning, and commercial development. He has served four terms on the Redevelopment Land Agency's Architectural Review Panel, two of them as its Chairman as well as co-authoring the Board of Realtors' leasing standards and several articles on preservation and development issues.

Mr. Baranes has also served as juror for the A.I.A. chapter awards, BOMA's International Office Building Awards, and the Northern Virginia N.A.I.O.P Awards. He has taught and been a guest lecturer at several Washington area universities, as well as at Yale University where he received both his B.A. and M.Arch. degrees. Mr. Baranes is N.C.A.R.B. certified and licensed in the District of Columbia, Virginia, Maryland, and Pennsylvania.

Mr. Baranes' recent projects have included:

101 Constitution Avenue, NW
Ritz Carlton 2200 M Street, NW
Ritz Carlton Georgetown Incinerator
1111 Pennsylvania Avenue, NW
American Geophysical Union
American Red Cross Headquarters
Army and Navy Club
Federal Courthouse, Pittsburgh, PA.
800 F Street, NW
816 Connecticut Avenue, NW
Square 677
Homer Building
Capitol Square
Turkish Chancery
Nigerian Chancery
Warner Theater
Westory Building
NAVAIR Headquarters

ROBERT M. SPONSELLER, AIA

PRINCIPAL

As a Principal Designer with Shalom Baranes Associates, Mr. Sponseller has extensive experience in the design, development and execution of both large and small-scale mixed-use urban projects. Among his recent projects are the 600,000 sf Georgetown Incinerator Project, a mixed-use residential and retail building on a historic site, the 800,000 sf Ritz Carlton at 22nd and M Street, and a mixed-use residential and retail loft building on Historic F Street. Additionally, Mr. Sponseller is currently designing a contemporary addition to a Historic Landmark building at 4500 Wisconsin Avenue above a metro stop which will include 100,000 sf of retail and 220 residential units. Mr. Sponseller has particular expertise in the mixed-use project typology on urban sites. Other projects, which Mr. Sponseller has recently designed, include the Nigerian Chancery at the International Center in Washington, DC, and a high-rise residential building on a prominent urban site at Courthouse in Arlington, Virginia.

Since joining SBA in 1994, Mr. Sponseller has been responsible for the design documents and approvals of over 4,000,000 sf of office, residential and retail space. He has gained considerable experience in working through the approvals process with neighborhood groups, review agencies, and developers on difficult urban sites. He is thoroughly knowledgeable of all local codes, zoning and standards. Mr. Sponseller and Mr. Baranes work closely together on the complex issues involving approvals, construction and developmental issues through all phases of the projects.

Prior to joining SBA, Mr. Sponseller worked in a prominent architectural firm in Rome, Italy on a number of international projects. He earned his B.Arch. degree from the University of Notre Dame and his M.Arch.degree from the University of Virginia. He has been a registered architect since 1989.

Among Mr. Sponseller's recent relevant projects are:

The Ritz Carlton Georgetown
2200 M Street, NW Master Plan and Building Design
The Nigerian Chancery
912 F Street Condominiums
4500 Wisconsin Avenue
2001 15th Street, Arlington, Virginia
Bachelor's Enlisted Complex, Anacostia Naval Station
NAVAIR Headquarters Master Plan and Building Design
Rushan International Village Master Plan

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TESTIMONY OF TRAFFIC CONSULTANT

A. Existing Traffic Conditions

B. Proposed Traffic patterns

C. Lack of Adverse Impact
- Traffic
- Parking

STATEMENT OF QUALIFICATIONS

MR. LOUIS J. SLADE, P.E.
Vice President and Principal Associate
Gorove-Slade Associates

EDUCATION

Master of Science, Civil Engineering
Northwestern University
Bachelor of Science, Civil Engineering
Northwestern University

PROFESSIONAL ASSOCIATIONS

Institute of Transportation Engineers
Urban Land Institute
Lamda Alpha International Land Economics Society

PROFESSIONAL REGISTRATION AND CERTIFICATION

Registered Professional Engineer: District of Columbia and Maryland
Certified Professional Traffic Operations Engineer

BACKGROUND AND EXPERIENCE SUMMARY

Prior to founding Gorove/Slade Associates, Inc. in 1979, Mr. Slade gained professional experience with national consulting firms in Washington, D.C. and Chicago, Illinois. His professional experience includes highway design, transportation planning, traffic engineering, and a broad range of transportation problem-resolution assignments.

Mr. Slade currently directs all Gorove/Slade Associates activities in the Washington, D.C. metropolitan area and oversees all regional operations. He has provided expert testimony throughout his career in legal transportation matters, zoning hearings, and public works project hearings. He has represented clients in negotiations regarding facilities design and project funding.

Mr. Slade's diverse experience bridges the disciplines of civil engineering design, urban transportation planning, traffic engineering, land development, environmental analysis, and transportation systems design. Mr. Slade has directed major regional comprehensive transportation planning studies and corridor studies, traffic circulation and transit studies, and parking needs and design optimization studies for central business districts and new developments. He has devised and analyzed alternative public transportation modal options. He has developed multi-modal transportation plans incorporating people mover systems. He is familiar with road rating and sufficiency evaluation systems for primary and secondary roads. He has performed analytical assessments of air quality and noise levels of transportation facilities and systems. He has performed

traffic impact assessments for residential, office, shopping and convention centers, and institutional complexes.

Mr. Slade has worked closely with public agencies and private developers devising transportation master plans and major thoroughfare plans. He has been instrumental in the creation of transportation systems and roadway networks for large acreage developments. As a leader in the transportation engineering field, Mr. Slade is widely published in leading transportation and planning journals and has been a guest lecturer at the University of Pennsylvania, Wayne State University, and Stockton State College.

REPRESENTATIVE PROJECTS

Downtown Project Planning - Mr. Slade has 25 years of experience as a consultant on projects in Washington, D.C. which include the MCI Center, Union Station, the Old Post Office, the Ronald Reagan Building, Market Square Georgetown Park, Washington Harbor, and a number of other private sector office buildings, hotels and residential projects. He is currently working on the personnel consolidation at the Washington navy Yard, the engineering and transportation management plan for the Southeast Federal Center and the Transportation Management Plan for the new D.C. Convention Center.

Rail Station Planning and Design - Mr. Slade has extensive experience with the planning and design of the vehicular and pedestrian components of commuter rail stations and bus terminals. This includes roadway access, circulation, and parking planning for several metrorail stations on the Washington, D.C. system for the Transit Authority, the planning of major commuter heavy and light rail stations at the Meadowlands Sports Complex and the Carlstadt New Town Center in Bergen County, N.J., the planning of the station modifications associated with the new MCI Center sports arena at the Gallery Place Station in Washington, D.C., and planning studies for joint public/private developments at several metrorail stations in the Washington Metropolitan area.

Transportation Planning Studies - Nashua Area Transportation Study, New Hampshire; Genessee/Finger Lakes Regional Study, Rochester, New York; Hartford County Thoroughfare Plan, Maryland; James City County Thoroughfare Plan, Virginia.

Transit Impact Studies and Transit Alternatives Analyses - Intermodal Transportation Center in Washington, D.C.; York County, Pennsylvania; Crystal City, Arlington, Virginia; Albany, New York.

Central Business District Circulation Studies - Washington, D.C.; Alexandria, Virginia; Herndon, Virginia; Leesburg, Virginia; Baltimore, Maryland; Atlantic City, New Jersey; Indianapolis, Indiana; Albany, New York; Quincy, Massachusetts.

Transportation Systems Management - Development of management programs to reduce peak hour traffic loads and parking requirements and development of traffic monitoring systems for various private developments in the Northern Virginia suburbs of Washington, D.C., and for federal agencies in the metropolitan area.

Traffic Analysis and Campus Planning - The George Washington University, Georgetown University, The Lowell School, The Georgetown Day School, The Maret School, Washington, D.C.; The Malvern Preparatory School, Malvern, Pennsylvania.

Major Residential Office, Shopping Center, Industrial, and Mixed-Use Projects/Site Planning - Washington, D.C.; New York City; East Windsor and West Windsor, New Jersey; Baltimore County, Howard County, and Baltimore City, Maryland; Suffolk, Norfolk, and Williamsburg, Virginia; Atlanta, Georgia; Baton Rouge, Louisiana.

Unique and Special Traffic Studies and Assignments - District of Columbia Comprehensive Bikeway Study; U.S. Army Museum, Arlington, Virginia; The Challenger Center for Space, Washington, D.C.; The Universal Ballet School, Washington, D.C.; The Capital Centre Arena, Prince George's County, Maryland; Convention Centers, Atlantic City and Trenton, New Jersey and Baltimore, Maryland; Casino Hotels, Atlantic City, New Jersey; Civil War Battle Reenactment, Fairfax, Virginia; Highway noise barrier design and design guidelines, Federal Highway Administration; Salvation Army Headquarters and Residence for the Homeless, Washington, D.C.

TRANSPORTATION MANAGEMENT EXPERIENCE

Over the last ten years, Maurice Slade has had an active role in the evolving field of demand management. The following paragraphs highlight his work.

The National Institutes of Health (NIH): As part of the Master Plan, Mr. Slade developed a cost-effectiveness matrix for candidate demand management programs which NIH used to advance their overall efforts to reduce trip generation. This work was presented at the I.T.E. Conference in February, 1994. Mr. Slade had an ongoing contract with NIH to monitor the effectiveness of their demand management program.

The City of Alexandria: Virginia passed a demand management ordinance in 1988 which required that all new development include a demand management program customized for the particular site based on proximity to transit, characteristics of the tenants, etc. Mr. Slade worked with a number of clients to help interpret this new ordinance and to prepare the required program.

Institutions: Mr. Slade developed an area-wide demand management plan for the Anacostia Waterfront in Washington, D.C., as part of a master planning study for the City Planning Department. This plan will be implemented by a transportation management association to be established by the city.

Southeast Federal Center: The United States Government General Services Administration is developing the Southeast Federal Center in the Anacostia Waterfront sector of Washington, D.C. Mr. Slade is responsible for the development of transportation management plans for each of the federal agencies which will be headquartered in this 75-acre enclave.

PUBLICATIONS

"Bikeway Planning Study: District of Columbia Bicycle Transportation Plan and Program," presented at the Eighth Bicycle/Pedestrian Seminar sponsored by the Metropolitan Association of Urban Designers and Environmental Planners, Toronto, July, 1976.

"Household Stratification Models of Travel Stimulation," (co-authored with A. Chatterjee and S. Khasnabis), published in the January, 1977 issue of the *Journal of the American Society of Civil Engineers*.

"New Rapid Rail Systems: Will They Do the Job?," (co-authored with G.H. Castel), published in the July, 1977 issue of *Planning*, the American Society of Planning Officials, Chicago.

"Atlantic City's Transportation Potential," presented at the Center for Environmental Research Conference on Traffic and Transportation in Atlantic City, Stockton State College, Pomona, New Jersey, August, 1978.

"Evaluation of Traffic Impacts of Neighborhood, Community, and Regional Shopping Areas," presented at a seminar on Traffic Considerations for Land Developments by the Department of Civil Engineering, Wayne State University, in cooperation with the Michigan Office of Highway Safety Planning and the U.S. Department of Transportation, Federal, Highway Administration, December 3 and 4, 1979.

"Reductions in Estimates of Traffic Impacts of Regional Shopping Centers," (co-authored with Frederick E. Gorove, P.E.), *ITE Journal*, January, 1981.

Faculty Members, International Council of Shopping Centers, 1982 University of Shopping Centers. January 27, 1982, Atlanta. Course: "New Parking Requirements for Regional Centers."

Guest lecturer at Center for Environmental Research, School of Design, University of Pennsylvania: "Guidelines for Transportation Access, Circulation and Parking Aspects of Multi–Use Land Development," February 17, 1982.

"A Market-Based Transportation Management Program for Developers," (co-authored with Geok Koon Kuah, Ph.D.), the ITE 58th Annual Meeting Compendium of Technical Papers, Washington, D.C., 1988.
"The Corridor Connection," NVBIA's Action magazine, September/October 1990 issue; subtitle: "Commuters May Get The Chance To Zip To Metro Or Work On New Bus Routes."