GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: D.C. Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: May 20, 2003

SUBJECT: BZA Application #17017, Chinatown East LLC
609 – 613 6th Street, N.W. (Square 485, Lot 46)

I. SUMMARY OF APPLICATION

Chinatown East, LLC wishes to build a six-story, 30-unit condominium apartment building, with 12 parking spaces, on a 5,175 square foot surface parking lot in the Chinatown section of northwest Washington. The site is zoned DD/R-5-E and is part of the Downtown Development District. The project had originally been conceived as a matter of right structure. However, the applicant made design changes in response to Historic Preservation Review Board (HPRB) comments. The corresponding lower height and larger footprint of the new design requires zoning relief.

The relief sought under 11 DCMR, §3103.2 Area Variance and §3104.2 Special Exception, is:

Variances:

Maximum Percent of Lot Occupancy (§403.2)

Minimum Depth of Rear Yard (§404.1)

Floor Area Ratio [§§402.4 and 1707.4(t)]

Chinatown Preferred Use minimum (§1705.3)

Special Exceptions for Roof Structure (§411.11)

Set back from exterior walls [§400.7(b)]

Varied Height (§411.5)

BZA
Case No. 17017
Exhibit No. 26

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends approval of all requested relief.

Board of Zoning Adjustment
District of Columbia
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EXHIBIT NO. 26

Housing on this site would be consistent with the Comprehensive Plan and the underlying zone district. The applicant's proposal would provide such housing at a density slightly greater than that permitted as a matter-of-right. The greater density, as well as the other design features that prompt this case result primarily by the HPRB's suggested design changes to respond to the site's historic context.

III. SITE AND AREA DESCRIPTION *(See Attachment 1)*

The site is an approximately 60' by 90' parcel in the Chinatown section northwest Washington. The parcel slopes approximately 2 feet from north to south. The site is bordered by:

- West: 6th Street;
- North: a three story 19th century building at 815 6th St., used for offices;
- East: a 15' wide north-south public alley;
- South a 10' wide east-west public alley spur.

The site is part of Square 485, which is bounded by:

- West: 6th Street;
- North: I Street;
- East: 5th Street;
- South: H Street.

Square 485 contains several land uses, including small-scale commercial, institutional, and office. Residential uses are sometimes located above first-floor shops. The nearby area has an even greater variety of uses, and is experiencing considerable re-development. The Gallery Place mixed-use project, and the MCI Arena are nearby. Over 2,000 new housing units have recently been completed, or are under construction, within a 3-block radius of the site

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 1)*

The site is zoned DD/R-5-E, a high-density general residential zoning district with an overlay generally intended to achieve a mix of residential and commercial development. The R-5-E base zoning permits a density of up to 6.0 FAR, building heights of up to 90 feet, and residential lot occupancy of 75%. The Downtown Development (DD) Overlay district is divided into sub-areas. The applicant's site is in the Chinatown sub-area. It is also within a square where properties with underlying C-2-C or C-3-C zoning are included within the Residential and Mixed Use Development - Housing Priority Area "B" subsection. However, the Housing Priority Area provisions do not govern the applicant's property, which has an underlying R-5-E zoning designation.

The remainder of the Square is zoned DD/C-2-C.

The property is also within the Chinatown Historic District area of the Downtown Development District.

V. PROJECT DESCRIPTION

The applicant wishes to develop a 6-story, 30-unit condominium apartment building. The units would be on floors one through six, with a portion of the first floor being devoted to lobby functions. The basement would be devoted to lobby and service functions, as well as to12 enclosed parking spaces. The roof would contain a mechanical penthouse and a roof deck.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN AND OTHER PLANS *(See Attachment 3)*

The proposed development is consistent with the Comprehensive Plan's Generalized Land Use Map, as well as with the Comprehensive Plan's objectives for the Downtown and Chinatown areas.

The Generalized Land Use Map designates the area as suitable for high-density residential and commercial uses. The Downtown Plan element of the Comprehensive Plan text promotes a concentration of housing threading through the Pennsylvania Quarter, north along a corridor between 7th and 9th Street and connects to the Mt. Vernon Triangle and Shaw areas via Chinatown. Square 485 is an important link between housing in Downtown East and Mt. Vernon.

The purposes of the Chinatown element of the Comprehensive Plan are to protect and enhance this cultural area, by maintaining and expanding Asian-oriented retail operations, encouraging mixed-use development including substantial housing, and protecting housing and historic preservation through suitable preservation and residential controls.

VII. REQUESTED ZONING RELIEF

Proposed	Allowed / Required	Proposed	Relief
Variances:			
Maximum Percent of Lot Occupancy (§403.2)	75.0 %	100.0 %	33.3 %
Minimum Depth of Rear Yard (§404.1)	18.75 ft.	0.0	100.0 %
Floor Area Ratio (§§402.4 and 1707.4(t))	6.0	6.88	14.7 %
Chinatown Preferred Use minimum (§1705.3) *	0.5	0.0	100.0 %
Special Exceptions for Roof Structure (§411.11)			
Set back from exterior walls (§400.7(b))	1:1	0.0	100.0 %
Varied Height (§411.5) **	Equal	Equal (other than elevator overrun)	100.0 %

* Provision may not apply if exclusion at §1701.6 (DD area-wide design standards) exempting, among other uses, apartments, is deemed to supercede §1705.3

** Relief from provision may not be necessary if construction can be accommodated within overall roof of roof structure at or below 90' above building height measurement point.

A. Variance

The Board my grant the variance if the applicant demonstrates the project meets three conditions for each area of relief requested.

1. *Is the property exceptionally narrow, shallow or otherwise peculiarly shaped; does it possess exceptional topography or other extraordinary or exceptional situations or conditions?*

2. *Are there "practical difficulties" that would be "unnecessarily burdensome" to the Applicant should the application for variance relief not be approved?*

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

In OP's opinion, the answer is Yes for each of the variances requested.

1. Uniqueness

The following discussion covers the uniqueness test for all of the requested variances.

At 5,175 square feet, the site is relatively small for a downtown property, especially one in the high-density R-5-E zone. In order to develop the site with its matter-of-right square footage, a developer would typically construct an eight-story building with a central mechanical core that would preclude the need for a roof structure set-back variance. Parking-access would be located so any ground floor parking would not count against FAR.

The HPRB advised the applicant to lower the structure by two floors and move the parking entrance from the alley that borders the site on the south, to the alley that borders the site on the east. The HPRB has also suggested the applicant keep the roof structure as low as possible, even if that requires having two penthouse roof levels and two sets of walls, with the elevator shaft roof rising higher than that the roof over other mechanical penthouse functions.

According to the applicant, the HPRB height reduction meant that:

1. The building had to be redesigned as a shorter building that filled the entire site, thus leading to the application for a rear yard variance and a lot occupancy variance.
2. Moving the parking entrance to the east meant the applicant could not take advantage of the site's natural slope to the site, thus requiring that most of the parking enclosure be located more than four feet above grade. The applicant chose to enclose the parking on four sides for security reasons, and because it anticipated a negative reaction from HPRB if it left the south side of the parking area exposed, and visible from 6th Street. This meant that the enclosed parking, with walls that rose more than four feet above grade, counted towards FAR. This in-turn led to the request for relief from the FAR requirements.
3. Moving the parking entrance from the longer southern edge to the somewhat narrower eastern edge required the introduction of a center-parking aisle layout. This, in-turn for

this relatively small site, required moving the mechanical core to the outer wall of the building, thus necessitating the need for relief from the roof structure setback requirements

OP has examined the site and the series of concept design drawings the applicant submitted to HPRB, and has verified the applicant's description of the design changes that occurred during the HPRB review process. In OP's opinion, the site is unique due to the combination of its relatively small size, topography sloping to the south, and HPRB review requirements.

2. Practical Difficulties that are Unnecessarily Burdensome

General: The applicant would face unnecessarily burdensome practical difficulties in developing the property without the requested zoning relief. A building that simultaneously complied with the conditions imposed by the HPRB and the requirements of the Zoning Regulations could be no more than five stories high. Each 3883 gross floor area floor plate could, in an assumed net square footage of 3362 square feet[1], accommodate no more than four apartments. The first floor would need to devote 66% of its area (based on rear yard requirements) to a non-residential preferred use. Parking would have to be excavated and be located underground. Due to the building code, an apartment building on this site could not be stick-built construction, or without an elevator. For a sixteen unit building in Chinatown East, on a lot that requires entirely new construction, these requirements would impose considerable practical difficulties.

FAR: The applicant has also chosen to comply with accepted standards for parking within downtown structures, by enclosing the parking on all four sides of the building. Had the applicant not enclosed the parking, §402.5 would have permitted the applicant to exclude the essentially at-grade parking from the FAR count. The applicant has stated that the basement level comprises 4458.3 square feet and that 2/3 of this is devoted to enclosed parking The parking alone comprises approximately 2972 square feet towards FAR; i.e., 9% of the proposed building's square footage, and .54 of the .88 FAR relief the applicant is requesting. Over 60% of the FAR variance request stems from the decision to enclose the parking. Were the applicant not to enclose the parking, the project would likely not pass either Chinatown or Historic Preservation review.

Rear Yard and Lot Occupancy: With respect to lot occupancy, OP notes that the structure on the lot immediately to the north, as well as the Gospel Mission building immediately to the east, occupy close to 100% of their lots. The rear of the proposed building is also separated from the Gospel Mission building by a 15-foot alley.

Were the rear yard relief not to be granted, and the FAR relief to be granted, the applicant would still be able to develop only 4600 gross square feet on each floor. This would, again, net out to four 1,000 square foot condominiums per floor.

Were the 75% lot occupancy requirements not to be reduced, the approximately 3800 square foot resulting gross buildable area would also result in four, smaller, condominium units per floor.

Chinatown Preferred Uses: The applicant has applied for relief from the preferred-use requirements of §1705.3. For Square 485 and six other Squares, §§ 1705.2 and 1705.3 require

[1] Assumes 15% common and support area.

that .5 FAR of the first floor of a building north of H Street in Chinatown be devoted to preferred retail, service, arts and art-related retail uses, as those uses are listed in §§ 1710 and 1711. In OP's opinion, it is appropriate that the applicant apply for this variance if the applicant wishes to be relieved of these requirements: the exclusion from certain standards that §1701.6 articulates for an "apartment house" and certain other uses applies to Area-Wide *Design* Standards in the DD, not to Area-Wide *Use* Standards. While there are sections of the Comprehensive Plan that support concentrating retail uses in clusters such as Gallery Place and corridors such as 7th Street, rather than spreading such uses throughout Chinatown and the DD, the Zoning Regulations do not reinforce those elements of the Comprehensive Plan.

There are, however, practical difficulties for the provision of the required retail space that would be unnecessarily burdensome on the applicant and the eventual condominium owners. These include:

- Parking: Absent relief, the required preferred use space would occupy 2588 square feet, thus eliminating at least 6 of the proposed 12 parking spaces[2]. Of the remaining 8 parking spaces, §2101.1 requires anywhere from no additional parking spaces (for a use such as art gallery to 5 spaces (for a retail space in an R-5-E zone)[3]. This would leave between 1 and 6 spaces for 30 apartments, a number that, depending on the preferred use, thus possibly requiring zoning relief from the residential parking requirements in an R-5-E zone.
- Retail Space Management: The development is intended to be a condominium building. As noted by the applicant, the management of retail property is not something a condominium association usually handles, and it would be unusual to hire a commercial property manager for a building with only 30 units.

3. Detriment to the Public Good and Impairment to the Integrity of the Zoning Regulations

FAR: There would be no detriment to the public good or the integrity of the zoning regulations due to the requested .88 FAR variance. As noted above, 60% of this additional FAR is attributable to the combination of topography and historic preservation review that, in effect, require 2/3 of the parking area to be counted toward FAR. In terms of gross square footage, the applicant's project is no larger than the original matter-of-right building would have been.

Lot Occupancy and Rear Yard: The requested relief would pose no detriment to the public good or the integrity of the zoning regulations. The proposed structure would be 18.75 feet closer to the Gospel Mission than permitted by matter-of right. Portions of the Gospel Mission are contiguous with its rear lot line. However, the proposed structure and the Gospel Mission would still be separated by a 15' alley from the rear of the Gospel Mission Because the proposed building due to the request of the HPRB, would be a shorter building with greater lot occupancy and lesser rear yard rather than a taller, matter-of-right building, the light and air available to nearby structures such as the Gospel Mission would likely be affected less by the proposed building than by a matter-of-right structure.

Chinatown Preferred Uses: There are numerous retail and other preferred uses near the proposed apartment building. The square footage of such uses will increase dramatically next

[2] Assumes 400 square feet of parking and aisle space per vehicle.
[3] Absent clear guidance in the regulations for retail parking requirements in an R-5-E zone, this is based on the last box in the §2101.1 table "all other uses" in "all districts". However, this seems unreasonable, given retail parking regulations for other zones, which typically have a threshold of 3,000 sf. Chanceries require only 1 space per 1800 square feet in an R-5-E zone.

year with the opening of the Gallery Place mixed-use development. While some sections of the Comprehensive Plan recommends the provision of retail uses throughout Chinatown, other sections of the Comprehensive Plan, and the recent Downtown Action Agenda, identify 7th Street as the principal retail street in Downtown East. As discussed above, in the context of the DD outside of Chinatown, the construction of more residential space would constitute the substitution of one preferred use for another preferred use. Such a "substitution" on the applicant's site has been deemed acceptable under the Chinatown Design Review process. In OP's opinion, the proposed construction of residential space and the parking associated with it would not have a negative impact on 6th Street or the public good, nor would the granting of the requested relief impair the integrity of the zoning regulations or the zone plan.

B. Special Exception from the Roof Structure Requirements of Section 411 *(See Applicant Drawings A-6.0 through A 10.0)* [4]

§770.6(b) requires a roof structure to be set back from all exterior walls by a distance at least equal to the height of the roof structure. § 411.5 requires the roof structure to have one roof, and one set of exterior walls of equal height.

The applicant's drawings show the principal roof structure to be 8.67 feet high. On top of it is an elevator overrun that rises an additional 4 feet. The overall structure is well below the 18'6" permitted for a roof structure. The north wall of the lower portion of the roof structure would be flush with the north exterior wall of the occupied portion of the proposed building. The elevator overrun would be set back approximately 4 feet from the larger roof structure enclosure.

§411.11 allows the Board to grant a Special Exception if full compliance of the roof structure with §411 is "impractable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area...that would ...make full compliance unduly restrictive, prohibitively costly, or unreasonable". In OP's opinion the applicant has demonstrated that it meets the special exception criteria.

As an indirect consequence of the HPRB's concerns about the location of the proposed garage entrance, the applicant had to relocate the proposed location of its elevator lobbies and emergency stairwells from a central corridor location to a side-loading location. On this relatively small site, this precluded the applicant's meeting the Zoning Regulations' setback requirements. The HPRB also indicated it would prefer the roof structure to be as low and as small as possible. (*See applicant filing of HPRB staff comments*). Rather than have one taller and apparently larger roof structure, the HPRB recommended the elevator overrun enclosure to rise above the principal roof structure, even if requires different roof heights for the penthouse structures, and an additional set walls. To respond to this concern, the applicant is requesting a special exception from §411.5.

Even with the roof structure being flush with a portion of the north side of the building, the top of the roof structure would still be lower than would be the top of just the occupied portion of a matter-of-right building constructed on this site. Even without the 1:1 setback, the applicant's proposed roof structure would have less impact on the light or air of nearby structures than a

[4] The BZA should also note that drawing A 5.0 is mislabeled as "seventh floor plan", rather than "main roof plan"

matter-of-right building would have. The proposed roof structure would not be visible from the buildings to the north or south of the applicant's site, and would be at least 55 feet away from the building to the east.

VIII. OTHER AGENCY COMMENTS

Because of the parcel's location, the applicant is subject to both Historic Preservation review and Chinatown design review. The applicant has appeared before the Historic Preservation Review Board and received its conceptual approval. The substance of the HPRB comments has been incorporated, by reference, in this OP report.

The Chinatown Steering Committee reviewed the Chinatown design features of the building on December 3, 2002. The Committee recommended to OP that the Chinatown design features be approved. OP is recommending approval of these features.

There are no other Department reports on file.

IX. COMMUNITY COMMENTS

ANC 6C supports the project. Its letter is on file.

X. OP RECOMMENDATION

OP recommends the Board APPROVE all Variance and Special Exception requests.

Aa/slc
Attachments (4)

Attachment 4



SITE, and east side of 6th Street



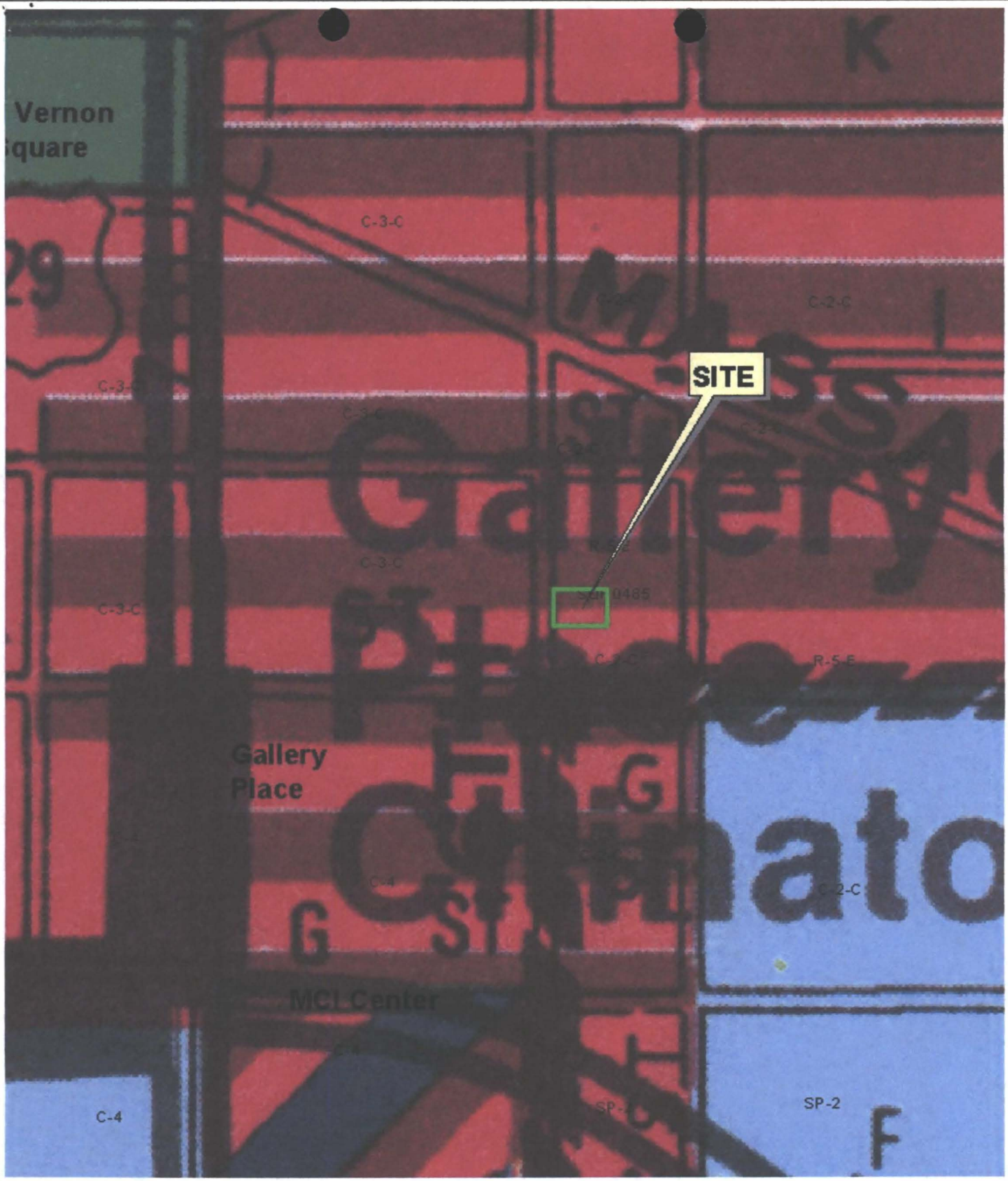
(Gospel Mission)



SITE of PROPOSED APARTMENT BUILDING



Across from Site, on West Side of 6th Street



Generalized Land Use Key

Comprehensive Plan Landuse

May 20, 2003

DC Office of Planning

Scale 1:2377

150 0 150 300 450

Attachment 4



Feature Key

Zoning Boundaries

Square Index

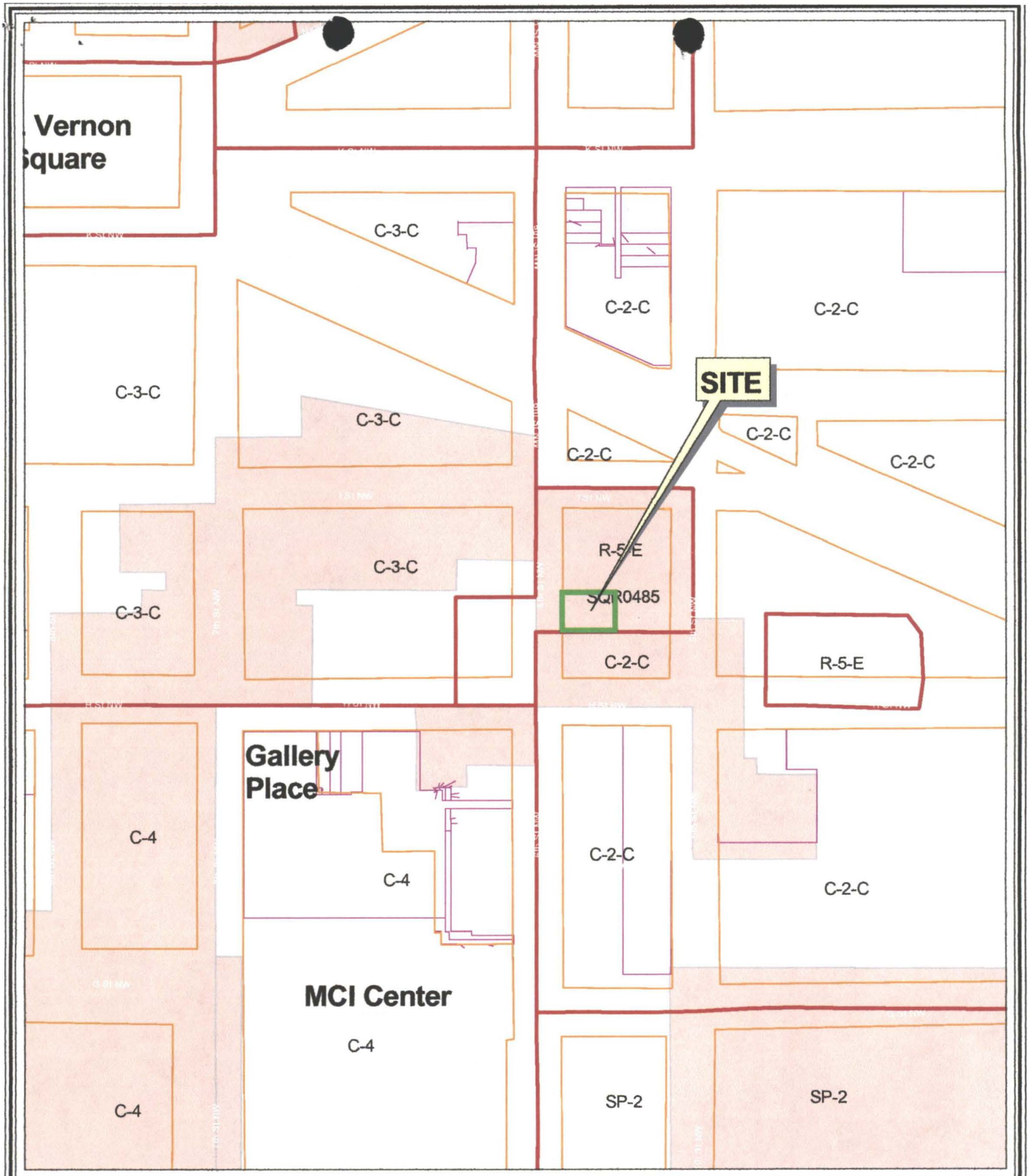
Board of Zoning Adjustment
Application No. #17017
609 - 613 6th St., NW

DC Office of Planning
May 20, 2003

Scale 1:697

25 0 25 50 Feet

Attachment 2



Feature Key

Zoning Boundaries

Square Index

Historic Districts in Pink

Board of Zoning Adjustment
Application No. # 17017
609 - 613 6th St., NW

DC Office of Planning
April 29, 2002

Scale 1:2752

25 0 25 50 75 100 Feet

Attachment 1