GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: D.C. Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: October 6, 2003

SUBJECT: BZA Application No. 17063, 450 H Street, N.W.

APPLICATION

Application of Jemal's Liggins LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, and a variance from the loading berth requirements under subsection 2201.1, to allow continued general office use in an existing building in the DD/C-2-C District at premises 450 H Street, N.W. (Square 518, Lot 103).

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of both requested variances: 1) a variance from the off-street parking requirements to provide less than the off-street parking spaces required, including a need to have less than standard parking spaces and to allow some stacking of some parking spaces and 2) a variance from the off-street loading requirements, provided that a program is provided to allow loading only in off-peak hours.

BACKGROUND

This variance application is for an existing ten-story building at 450 H Street, N.W. The entire building is now being used as an office building. The building is leased to the District of Columbia Youth Services Administration of the Department of Human Services. The building, described in more detail below under "Site and Area Description", is unusual in terms of its size, site, and development history.

The present owner, Jemal's Liggins LLC, purchased the building in December 1999. Up to that time, the interior finishes of the building had not been completed and the building had not been occupied since the basic building was completed in 1984 (i.e. the building had stood uncompleted on the interior and unoccupied for 15 years). In March 2001 the Applicant obtained a certificate of occupancy for office use and leased the building to the Youth Services Administration, D.C. Department of Human Services. The

Board of Zoning Adjustment
District of Columbia
CASE NO. 17063
EXHIBIT NO. 25

Case No. 17063
Exhibit No. 25

owner made tenant improvements and the Youth Services Administration received a certificate of occupancy on February 15, 2002.

By notice dated July 14, 2003, the Administrator, Building and Land Regulation Administration (BLRA) of the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), notified the owner of BLRA's intention to revoke the Certificate of Occupancy No. CO28793, issued to the Youth Services Agency (D.C. Department of Human Services, Youth Services Administration) for the property located at 450 H Street, N.W. (Square 518, Lot 103) based upon use-related issues (i.e., that the building should be a mixed-use, commercial/residential building, under the HR/SP-2 zoning existing in 1983 when the project was reviewed by the BZA). The BZA confirmed the mixed-use zoning (BZA Application No. 14002). The present existing zoning, DD/C-2-C, also requires a mixed-use building.

In order to address the use issues, the issues of parking and loading with an all office building, and the notice of intent to revoke the certificate of occupancy, the present owner of the 450 H Street, N.W. building (Jemal's Liggins LLC) is undertaking three actions:

1) **The owner is undertaking a combined lot process in accordance with Section 1708 of the Zoning Regulations**. In this process, the present zoning requirement for residential development in the building at 450 H Street (Lot 103, Square 518) will be satisfied by residential space in a new residential building (presently under construction) at 400 Massachusetts Avenue, N.W. (Lot 51, Square 517). This residential building with a triangular site fronts on Massachusetts Avenue and also has frontage on the north side of H Street. This receiving site for the residential development, in this case, is therefore across H Street and just somewhat to the east of 450 H Street. This combined lot process, which is underway, is separate from this parking and loading variance process. Once this combined lot process is completed, the 450 H Street building will legally be an all-commercial building because the housing requirement will have been met in the building at 400 Massachusetts Avenue.

2) **The owner has filed this application, BZA Application No. 17063**, for variances from the parking and loading requirements for an all-commercial building at 450 H Street, N.W. This report addresses that application.

3) **The owner has filed an appeal with the Board of Zoning Adjustment, BZA Application No. 17064**, to appeal the decision of the Administrator, Building and Land Regulation Administration (BLRA) of the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), dated July 14, 2003, notifying the owner of BLRA's intention to revoke the Certificate of Occupancy No. CO28793, issued to the Youth Services Agency (D.C. Department of Human Services, Youth Services Administration) for the property located at 450 H Street, N.W. (Square 518, Lot 103) based upon use-related issues. The owner has requested that the Board hold this appeal in abeyance until the Board has considered the variance appeal.

SITE AND AREA DESCRIPTION

The Site and Adjacent Development

The building site is Lot 103 in Square 518, located on the south side of H Street, N.W. between 4th and 5th streets, N.W., just west of the large General Accounting Office (GAO) Building, a federal office building on Lot 909. The General Accounting Building is 110 feet high. The building is bounded on the east by the GAO ramp, a ramp which slopes south from H Street and provides access to the parking and loading for the GAO Building. This ramp is also the only access to the parking level of 450 H Street.

The building site is bounded on the west and south by the St. Mary's Church complex (Lots 845, 846, 847, 848 and 104). St. Mary's church is a landmark building.

Across H Street to the north is Judiciary House, a senior citizen apartment building operated by the D.C. Housing Authority. To the northeast on the north side of H Street is the new apartment building at 400 Massachusetts Avenue, N.W. (under construction).

Technically, 450 H Street is in the Judiciary Square subarea of Downtown, just east of Chinatown (5th Street, N.W. is the eastern boundary of Chinatown). In reality, the building is somewhat cut off from the main part of the Judiciary Square area by the large GAO Building. In the past, and certainly when it was constructed in 1984, 450 H Street was somewhat on the northern fringe of Downtown. The attached aerial photograph gives some idea of the setting of 450 H Street. However, the aerial photograph (1999) is somewhat misleading today in view of major development changes in the past several years. The area is undergoing a tremendous revitalization and in fact is the focus of the major residential development now underway in Downtown. All of the large parking lots in the photograph no longer exist. They are now residential projects, either completed, under construction or proposed. This area along H Street will therefore soon be more oriented to the emerging Mount Vernon Square neighborhood, which generally extends north from H Street, N.W. and is destined to be the next great Downtown neighborhood.

The Building

In order to understand the current situation, and why the variances are being requested, it is necessary to have some understanding of the history of the lot and the building.

- The building is constructed on a relatively small piece of land (Lot 103) that is 54 feet wide along H Street with a depth of 71 feet in the north-south direction, providing a lot area of approximately 3,834 square feet.

- The building occupies the entire lot and has a gross floor area of approximately 31,685 square feet, resulting in an FAR of approximately 8.26. The building is ten stories high.

- Land in Square 518 was assembled by the federal government for construction of the General Accounting Office (GAO) in the 1940s. However, it was not possible for the federal government to acquire all of Square 518 because the St. Mary's Mother of God Church property occupied most of the northwest corner of the square. Therefore, as seen in the attached aerial photograph, the northwest corner of the square was left out of the GAO land assembly. In squaring off the

northwest corner property to be omitted, four other small lots (each 18 feet wide and 71 feet in depth) were included in the area that was omitted from the assembly for the GAO Building. The GAO Building was completed in 1950, one of the first modern new federal office buildings erected after World War II.

- By the early 1980s, the property was zoned HR/SP-2 which required mixed-use development. The original developer, Judiciary Tower Associates, requested several variances to construct a mixed-use office/residential building (BZA Application No. 14002) on the three eastern lots (Lots 5, 6 and 7). Note that at some later time, these three 18-foot wide lots were consolidated into the present Lot 103, 54-feet wide. The BZA held a hearing on August 3, 1983, reached a decision on September 7 and the order was issued October 13, 1983. The applicant's submission includes a copy of the order. In the order, the BZA confirmed the mix of office/residential required by the existing zoning and allowed a variance for reduced parking (eight spaces).



Figure 1 Front view of lobby of 450 H Street (reflection is Judiciary House on north side of H Street)

- The building was constructed and completed in 1984. However, the building was not completely finished inside and was never occupied. The original developer lost the property. Over the next 15 years (1985-1999), various proposals were suggested for use of the building, but none of these were realized. In 1990, Judiciary Towers Associates filed an application for a special exception to allow office use on all floors and variances from parking and loading requirements (BZA Application No. 15133). However, every being scheduled for two hearings, but the applicant's representative did

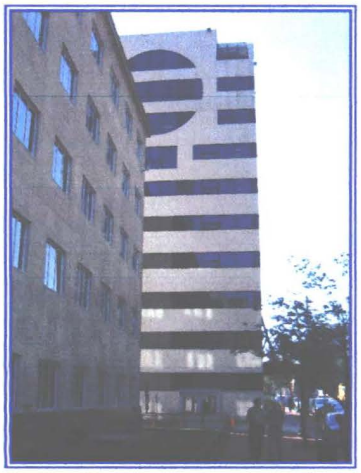


Figure 2 View of 450 H Street from east, General Accounting Office building on left

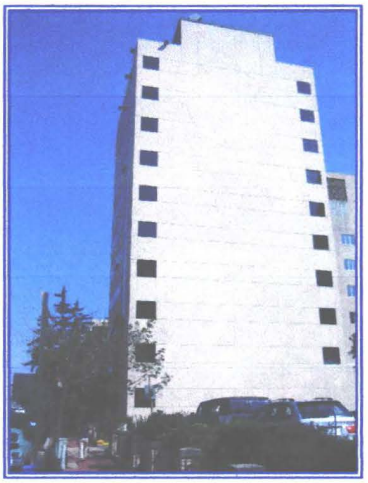


Figure 3 View of 450 H Street from west, near 5th Street, with St. Mary's Church parking lot on right

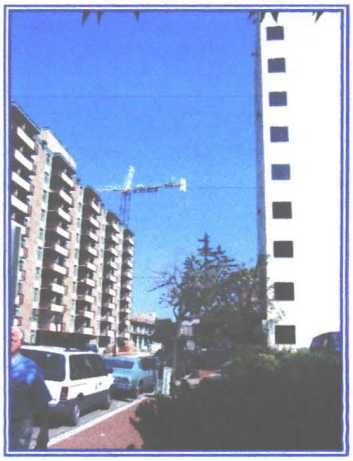


Figure 4 View looking east, 450 H Street on right, 400 Massachusetts Avenue under construction in distance (crane)

representative did not appear. On January 10, 1990 the BZA dismissed the application. In 1998, the Bucheit Children's Trust requested variances, including parking variances, for use of the building as a 72-room inn (BZA Application No. 16380). The Board approved those variances on September 16, 1998. However, that development proposal did not go forward.

- A solution to productive use of this building was not achieved until it was purchased by the present owner, Jemal's Liggins LLC, in December 1999. A tenant was found (the Youth Services Administration) and the interior fit out improvements were made, as described above.

- As noted above, DCRA subsequently determined that the Certificate of Occupancy to use the building for office space was granted erroneously, since the building did not conform to parking, loading or use requirements. DCRA issued a "Notice of Intent to Revoke Certificate of Occupancy C028793" on July 14, 2003. This variance request addresses the first two issues, and, as indicated previously, a combined lot covenant is being prepared to address the residential requirement.

- The 450 H Street building is tall (10 stories) but small in terms of site and floorplate. The façade is limestone and glass. Since the building is built to the property line, and the GAO building is set back, the 450 H Street Building has some prominence on the street. The view of the building from the east, with the large circular window design at the top, is especially noteworthy. The relationship of the building to the GAO building to the east and the St. Mary's Church buildings to the south means that all sides of the building get good light and there are some good views, especially to the east.

ANALYSIS

Standards for a Variance

Section 3103.2 of the Zoning Regulations provides three standards for a variance:

- The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition.

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

- The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Analysis of Variances Requested

Parking Variance

Background: The original building site was in an area zoned HR/SP-2 and that zoning required 11 parking spaces. The parking area in the proposed building could not accommodate 11 parking spaces and a parking variance was one of the variances requested in order to enable construction of the residential-commercial building. In BZA Order No. 14002 (October 13, 1983) a variance was granted to allow eight spaces. It was noted that some of these spaces would not be the standard 9 feet x 19 feet size.

The present situation is that the building exists and is in an area zoned DD/C-2-C. With the combined lot process completed, the building will be an all office building with a gross floor area of approximately 31,685 square feet. The parking requirement is therefore 17 spaces but only eight spaces are provided, the number that was originally approved by the BZA in 1983.

The eight parking spaces are on a level below the first floor of the building. Vehicular access to this parking level is through a door on the left (east) side near the rear of the building. This door opens onto the GAO access ramp that slopes down from H Street. Access to the parking level for 450 H Street is only possible by way of the GAO ramp, part of the GAO (federal) property. Since the GAO ramp provides the only access to the parking level, the applicant needs to complete an agreement with GAO to allow access to the parking level via the ramp.

The shape and size of the parking level, and the location of the building columns, provides a somewhat irregular parking area. While eight parking spaces can be provided, they will not be the required 9 feet x 19 feet spaces. This situation was recognized in BZA Order No. 14002 in 1983. To achieve eight spaces, it appears that two-three cars will have to be stacked. Section 2115.1 of the Zoning Regulations requires that parking spaces shall be nine feet in width and nineteen feet in length and shall be striped. Because of the limited and irregular space available for parking in this building, the Office of Planning recommends that the applicant indicate the size of the parking spaces that can be provided and stripe these spaces, and that the BZA recognize the irregular size of some spaces and the need to stack two-three vehicles in order to provide eight parking spaces.

Standards for a Variance: The Office of Planning believes the building meets the standards for a parking variance. The property, in this case a completed building, is unique by reason of its small size on a lot that is "boxed in" by the GAO Building and St. Mary's Church complex. It is not possible to provide additional parking spaces on the site. The strict application of the Zoning Regulations would result in exceptional and undue hardship on the owner of the property. It would mean that approximately half the building could not be occupied. Finally, OP believes that granting this variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan. As noted above, the number of parking spaces now being requested with the variance (8 spaces) is the same number that was approved by the BZA in 1983 when the building was first proposed. That 1983 BZA Order also noted that the parking spaces would not be the standard required size. Also, as noted in the 1983 BZA Order, the building is convenient to the Judiciary Square and the Gallery Place-Chinatown Metrorail stations and has excellent Metrobus service along H Street, N.W., literally at the front door of the building.

Loading Variance

Background: The original building site was in an area zoned HR/SP-2 and the proposed building was indicated as a mixed-use building (office/residential). However, since the office area of that building was less than 30,000 square feet, a loading dock berth was not required in a SP District. A loading berth was not provided in the building that was constructed. Now that the building is an all office building, with the gross floor area of approximately 31,685 square feet, there is a requirement for one loading berth at 30 feet deep, a loading platform at 100 square feet and one service/delivery loading space of 20 feet depth. However, as noted above, the building does not have a loading dock.

Standards for a Variance: The Office of Planning believes the building meets the standards for a loading variance. Because of the size of the building on a small lot that is "boxed in" by the General Accounting Office building on the east and the St. Mary's Church property on the west and south, there is no place that a loading dock could be located. Obviously it would not be desirable for the owner, tenant or the city to provide a loading dock off H Street. The strict application of the Zoning Regulations would result in exceptional and undue hardship on the owner of the property. Finally, OP believes that granting this variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan, since the office building is small and will not require servicing by large trucks.

The Office of Planning recommends that the Board require the applicant and the tenant to provide a loading plan so that whatever loading is required is done in off-peak hours so as not to cause a problem with traffic movement on H Street.

Relationship to Comprehensive Plan and Other Plans

Various objectives and policies in the Comprehensive Plan deal with obtaining residential development in Downtown and achieving economic development, with more detailed policies for various sub areas of Downtown.

However, in the case of the small and somewhat unusual office building in this case, there are not specific objectives and policies to provide specific policy guidance. What is clear is that it is not in anyone's interest to have a building stand empty and unfinished for a long period of time, especially next to a major federal building and on an important Downtown street. Having an owner able to complete the interior of the building and lease it to a tenant for productive use was a positive step in general, and more specifically for this section of Downtown. The actions which the owner is now undertaking address remaining issues. The combined lot development means that the residential requirement, which presently exists for the 450 H Street building, will be satisfied in full in the residential building now under construction at 400 Massachusetts Avenue. The parking and loading variances requested address remaining issues inherent in this small building on a small, restricted site.

ANC AND COMMUNITY GROUPS

The project site is within the boundaries of ANC-6C. On Wednesday, September 10, 2003, at its regularly scheduled public meeting, at which a quorum was present, ANC-6C voted unanimously (6-0)

to support Application No. 17063 for the parking variances and the loading variance for the building at 450 H Street, N.W.

In addition, ANC-6C also voted unanimously (6-0) to support the applicant's Appeal No. 17064 regarding the proposed revocation of the Certificate of Occupancy by the Building and Land Administration of the Department of Consumer and Regulatory Affairs for the building at 450 H Street, N.W. This indication of support by ANC-6C for the variances (Application No. 17063) and the Appeal from the decision of DCRA (Appeal No. 17064) was transmitted to the Office of Zoning in a letter dated September 22.

OTHER AGENCY COMMENTS

D.C. Department of Transportation

The Zoning Office referred the application to the D.C. Department of Transportation (DDOT) for review. DDOT is preparing a report on this application.

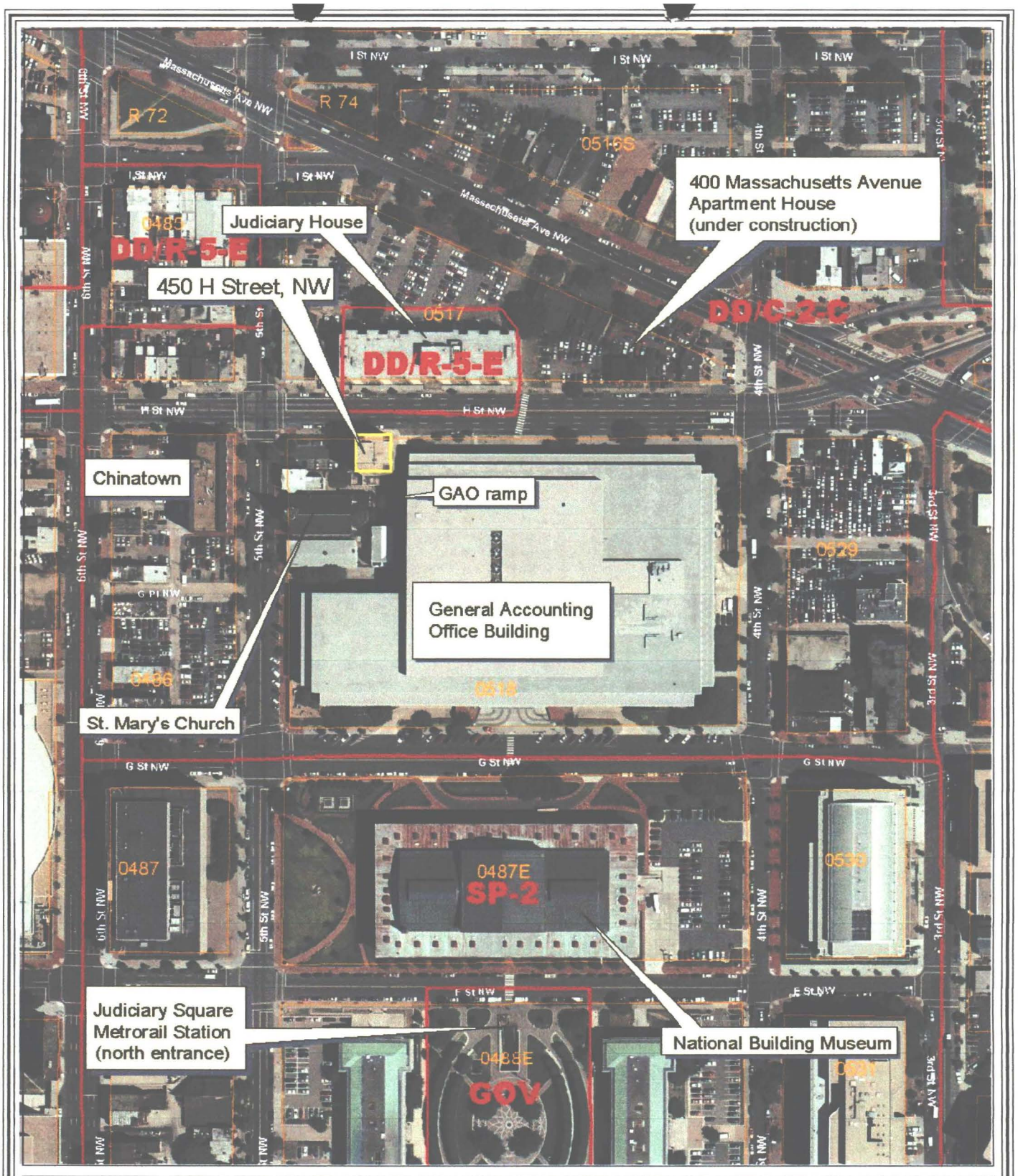
RECOMMENDATION

The Office of Planning recommends that the Board of Zoning Adjustment approve the two variances requested. The first variance is a variance from the off-street parking requirements under subsection 2101.1 to allow a reduction from 17 spaces to 8 spaces. In addition, OP recommends that the Board recognize that not all spaces will be standard size and to allow that variation, and to recognize that stacking of two-three parking spaces will be necessary.

The second variance is to allow use of the building to continue without a loading berth, since a loading berth cannot be provided for the existing building. The Office of Planning recommends that the Board require the applicant and the tenant to provide a loading plan to ensure that whatever loading is required would be scheduled to avoid peak traffic periods.

AA/jf

Attachment



Feature Key

Zoning Boundaries

Square Index

Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. 17063
450 H Street, N.W.

DC Office of Planning
October 6, 2003

Scale 1:2400

200 0 200 Feet

Attachment 1