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November 12, 2003

DENNIS R. HUGHES
202-419-2448
dennis.hughes@hklaw.com

2003 NOV 12 PM 3:35

Hand Delivery

Board of Zoning Adjustment
441 4th Street, N.W.
Room 210 S
Washington, D.C. 20001

Re: BZA No. 17078, Application of TC MidAtlantic Development, Inc.

Dear Members of the Board:

Enclosed please find an original and 20 copies of the Applicant's Statement in Support of the above-referenced application, scheduled for public hearing on November 25, 2003.

Please do not hesitate to contact us should you have any questions or require further information.

Very truly yours,

HOLLAND &KNIGHT LLP

Dennis R. Hughes

Enclosures
cc: Office of Planning
ANC 6C

BZA
Case No. 17078
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17078
EXHIBIT NO. 26

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of
TC MidAtlantic Development Inc.
on behalf of Avalon Bay Communities, Inc. and Ruby Restaurant, Inc.

BZA Application No. 17078
Public Hearing: November 25, 2003
ANC 6C

STATEMENT OF THE APPLICANT

I.
Nature Of Relief Sought

This is an application pursuant to 11 DCMR §3104.1 for a special exception under §§ 770.6 and 411.11 of the Zoning Regulations, to allow a roof structure not meeting the normal setback requirements. The requested relief is necessary to permit the construction of an office building in the DD/C-2-C District at premises 777 6th Street, NW (Square 486, Lots 10, 11, 12, 13, 36, 804, 805, 806, 807, and 808 (the "Subject Property"). This application is being filed on behalf of TC MidAtlantic Development, Inc., contract purchaser of the Subject Property (the "Applicant").

II.
Jurisdiction Of The Board

The Board of Zoning Adjustment has jurisdiction to grant the requested special exception pursuant to §3104.1 of the Zoning Regulations.

III.
Exhibits In Support Of The Application

Exhibit A:	Surveyor's Plat of the Subject Property.
Exhibit B:	A portion of the Sanborn Atlas showing Square 486.
Exhibit C:	A portion of the Zoning Map showing Square 486.
Exhibit D:	Architectural Drawings.
Exhibit E:	Outline of testimony of Frederick Rothmeijer, Representative of TC MidAtlantic Development Inc., Applicant.
Exhibit F:	Outline of testimony of Frank Durkin, Representative, Hickok Warner Cole, Architects.
Exhibit G:	Outline of testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.

IV.
Background Of The Case

A. Description of the Subject Property and the Surrounding Area

The Subject Property is rectangular in shape, measuring approximately 225 feet by 85 feet. The Subject Property is located in the northwest corner of Square 486. Bounding the Subject Property are 6th Street, NW to the west, H Street, NW to the north, a 30-foot wide public alley to the south, and a 16.75-foot wide public alley to the east. A plat of the Subject Property is attached at Exhibit A. With the exception of a vacant three-story row building at the southwestern corner of the site, the Subject Property is unimproved and is utilized as a surface parking lot.

The Subject Property is located in the heart of the DD's Chinatown subarea, at the southeast corner of the intersection of 6th and H Streets, NW. Immediately

east of the site, across a public alley is the 10-story Red Roof Inn hotel. Just south of the Red Roof Inn, at 770 5th Street, NW, is the 12-story Avalon at Gallery Place apartment house, with which the Subject Property is entering into combined lot development. North of the site, across H Street, are a number of smaller scale commercial row buildings. West, across 6th Street, NW, the Gallery Place mixed use development is under construction amidst a number of smaller scale commercial buildings. Diagonally northwest across the intersection of 6th and H Streets, NW, is the 90-foot Wah Luck House apartment building at 800 6th Street, NW. The MCI Center is located one-half block south of the Subject Property along 6th Street, NW. The Gallery Place/Chinatown Metrorail station is located one block west of the site, at the corner of 7th and H Streets, NW. An excerpt of the Sanborn Atlas showing the Subject Property and surrounding area is attached as Exhibit B.

The Subject Property is zoned DD/C-2-C, which permits general office and retail uses as a matter of right. A portion of the Zoning Map showing Square 486 is attached Exhibit C. The DD/C-2-C permits a building density of 8.5 FAR as a matter of right (0.5 FAR of which must be purchased with transferable development rights ("TDRs"), not less than 4.5 FAR of which must be devoted to residential use. Pursuant to §1701.7 of the Zoning Regulations, the maximum height permitted in the DD/C-2-C District is determined by the Act to Regulate the Height of Buildings in the District of Columbia, Approved June 1, 1910 (the "Height Act"). In the case of the Subject Property, the Height Act permits a building height of 120 feet.

B. Description of the Proposal

The Applicant proposes to improve the underutilized site in the heart of a particularly dynamic area of the District through the construction of a high-quality 10-story, 120-foot tall office building with ground floor preferred retail, service, arts or arts-related uses, as enumerated in §§ 1710 and 1711 of the Zoning Regulations. The building is also proposed to have four levels of below-grade parking. This Class A commercial project has been designed by the notable architecture firm of Hickok Warner Cole and will utilize a mixture of glass and cast façade materials in keeping with the standards of surrounding construction.

The building is designed to contain approximately 177,015 square feet of gross floor area, approximately 12,200 square feet of which will be devoted to ground floor §§1710, 1711 preferred uses. The resulting density for the building is approximately 9.25 FAR. The Applicant is utilizing the combined lot development process established in §1708 of the Zoning Regulations in order to construct the building. To that end, §1708.1(g) of the Zoning Regulations provides, "the maximum permitted gross floor area for all uses, the minimum required gross floor area for preferred uses, and bonus density, if applicable, shall each be calculated as if the combined lots were one lot, and the total project shall conform with the maximum and minimum gross floor area requirements."

The building includes a single penthouse structure measuring 18 feet 6 inches in height with a rectangular footprint. The penthouse structure accommodates rooftop mechanical and elevator equipment as well as two sets of stairs accessing the

roof level. While the penthouse structure is setback more than 55 feet from the building's most prominent frontages, along 6th Street and H Street, and also 57.5 feet from the building's southern edge, the penthouse is located flush along a portion of the east, alley, wall of the building. Because the penthouse structure is not set back at least 18 feet 6 inches from the building's east wall, special exception approval is required for the location of the structure.

With the exception of the rooftop special exception here requested, the Applicant's proposal fully complies with the Zoning Regulations applicable to the DD/C-2-C District. The Applicant has made every attempt to minimize the penthouse footprint while still providing the requisite components for the building. As will be discussed in greater detail at the public hearing, the proposed penthouse structure represents the Applicant's efforts to minimize any detriment to neighboring properties and the general public, while not incurring any impractical or unduly restrictive operating difficulties due to the narrow width of the building lot.

V.
The Applicant Meets the Requirements for Special Exception Relief Under Sections 770.6 and 411.11 of the Zoning Regulations

As set forth above, special exception approval is required from the penthouse structure setback requirements of §§770.6(b) and 411.2 of the Zoning Regulations. As the Board is aware, a special exception use is a use predeemed compatible with other uses permitted in that particular zoning classification provided that the specific regulatory requirements are met. In reviewing applications for a special exception,

the Board's discretion is limited to determining whether the proposed exception satisfies the requirements set forth in the appropriate section. If the Applicant meets its burden, the Board must ordinarily grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695 (1981); *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (1973). Through the exhibits, testimony and other evidence before the Board, the Applicant will establish that it complies with all applicable provisions under the Zoning Regulations.

In the instant case, special exception approval is required because the proposed penthouse structure does not meet the normal setback requirements of the Zoning Regulations. While the penthouse structure is 18 feet, 6 inches in height, and meets the 1:1 setback requirement on the north and west (H Street and 6th Streets, respectively) sides of the building, and on the south side (facing the 30-foot wide public alley), it does not meet the setback requirement on the east side of the building, running flush with the exterior wall along that side of the building, which fronts the 16.75-foot wide public alley.

§770.6:

Section 770.6 of the Zoning Regulations provides that, if housing for mechanical equipment or a stairway or elevator penthouse is provided on a building's roof, it must be erected or enlarged in compliance with the provisions of §770.6, as follows:

(a) It shall meet the requirements of §411.
(b) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;
(c) [Applicable only to C-5 zoned properties]; and
(d) It shall not exceed more than18 feet 6 inches in height above the roof on which it is located, nor shall mechanical equipment extend above the permitted 18 feet 6 inch height of the housing.

The penthouse structure for the proposed building measures 18 feet 6 inches in height and thus complies with §770.6(d). Because the penthouse structure does not set back from all exterior walls a sufficient distance, it does not comply with the provisions of §770.6(a) (by reference to §411.2) or with §770.6(b), and thus requires special exception approval by the Board pursuant to §411.11.

§411:

Section 411 establishes numerous criteria for penthouse structures in all districts. Section 411.11 provides the Board authority to approve as a special exception the location, design, and other aspects of penthouse structures, including setbacks. In order to obtain such special exception approval, an applicant must demonstrate that: (1) compliance with the penthouse structure regulations is impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable and (2) the intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired by the structure and the light and air of adjacent buildings are not adversely affected.

(1) Compliance with the roof structure regulations is impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable.

The placement of the penthouse structure is the direct result of the narrow width of the building lot, measuring only 85 feet. The penthouse structure has a width of 30 feet. Were the penthouse structure able to be located at the center of the roof, special exception would not be necessary and the required setbacks would be provided in all directions. However, in this case, such a placement of the structure cannot readily be accommodated within the column grid anticipated for the building without negatively impacting the functionality of the structure. Further, a central location of the penthouse structure would force the relocation of the elevator and facilities core to the center of the building footprint, significantly compromising the layout of the various floors for multi-tenant use. With respect to the layout of the upper floors for office use, a relocated core would result in unduly restrictive and unreasonably constrained tenant spaces.

The inefficiency relating to a relocated core would likewise extend to the ground floor preferred uses to be provided. As concerns ground floor preferred uses, the Zoning Regulations applicable to the DD require that any building on the Subject Property devote not less than 50 percent of the ground floor gross floor area to preferred retail, service, arts or arts-related uses (§1702.1) and 0.5 FAR equivalent to such uses (§1705.3). As the Applicant will demonstrate further at the public hearing, the relocation of the core to the center of the building, in order to provide a compliant penthouse structure setback, would severely compromise the

Applicant's ability to satisfy these ground floor preferred use provision requirements, as a significant amount of the limited ground floor footprint would be swallowed up by corridors needed to link the building's loading facilities to the building core, and as the ground floor of the building would be severed into smaller portions, rendering the footprint inefficient for such preferred uses.

(2) The intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired and the light and air of adjacent buildings are not adversely affected.

With the exception of the setback, the penthouse structure is fully compliant with the Zoning Regulations and harmonizes with the main structure in architectural character, material, and color. Likewise, any impact of the penthouse structure on light and air to adjacent buildings will be comparatively minimal.

While deficient in meeting the setback requirements along a portion of the east, alley, side of the building, the penthouse structure does set back significantly from the building's two most prominent frontages: approximately 55 feet from the building's 6th Street, NW, frontage and 58 feet from the building's H Street frontage. It also sets back 58 feet from its southern edge, which fronts a 30 foot-wide public alley. These setbacks from the building's two most prominent frontages will insure that the penthouse structure creates no visual impact upon the vistas for those streets.

Given the comparatively significant and equivalent heights of the proposed building and the neighboring Red Roof Inn to the immediate east, any impact of the

penthouse structure placement on the light and air to the hotel will be negligible. The Applicant notes that the Red Roof Inn appears to have chosen a similar approach for its penthouse structure, with at least a portion of the structure sited flush with that building's west wall, nearest to the Subject Property. (See Exhibit D, Sheet A2-01).

The Applicant's roof level plan is in harmony with that of neighboring structures and is in keeping with the purpose and intent of the Zoning Regulations. For the above stated reasons, special exception relief from the penthouse structure setback requirement of §770.6(b) is appropriate in the instant case, pursuant to §411.11.

VI.
Other Matters

The Applicant presented its proposal for consideration by Advisory Neighborhood Commission ("ANC") 6C on October 8, 2003. At its regularly scheduled monthly meeting, with a quorum present, the ANC voted unanimously to support Application No. 17087 to the Board, with certain conditions related to the design of the structure.

VII.
Witnesses

A. Frederick Rothmeijer, Representative of TC MidAtlantic Development, Inc., Applicant.

B. Frank Durkin, Representative, Hickok Warner Cole, Architects, Project Architect.

C. Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP

VIII.
Conclusion

For the reasons stated above, the requested relief meets the applicable standards of special exception approval under the Zoning Regulations. The Applicant therefore requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By _____
Norman M. Glasgow, Jr.

_____
Dennis R. Hughes

2099 Pennsylvania Avenue, NW,
Suite 100
Washington, D.C. 20006
(202) 955-3000

November, 2003

1337833_v2

A

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., August 27, 2003

Plat for Building Permit of SQUARE 486 LOTS 10,11,12,13,804,805,806,807,808,36

Scale: 1 inch = 30 feet Recorded In Book 30 Page 110
REC. 2 Page 486

Receipt No. 06808 MICROFILM

Furnished to: FREDA HOBAR

Surveyor, D.C.

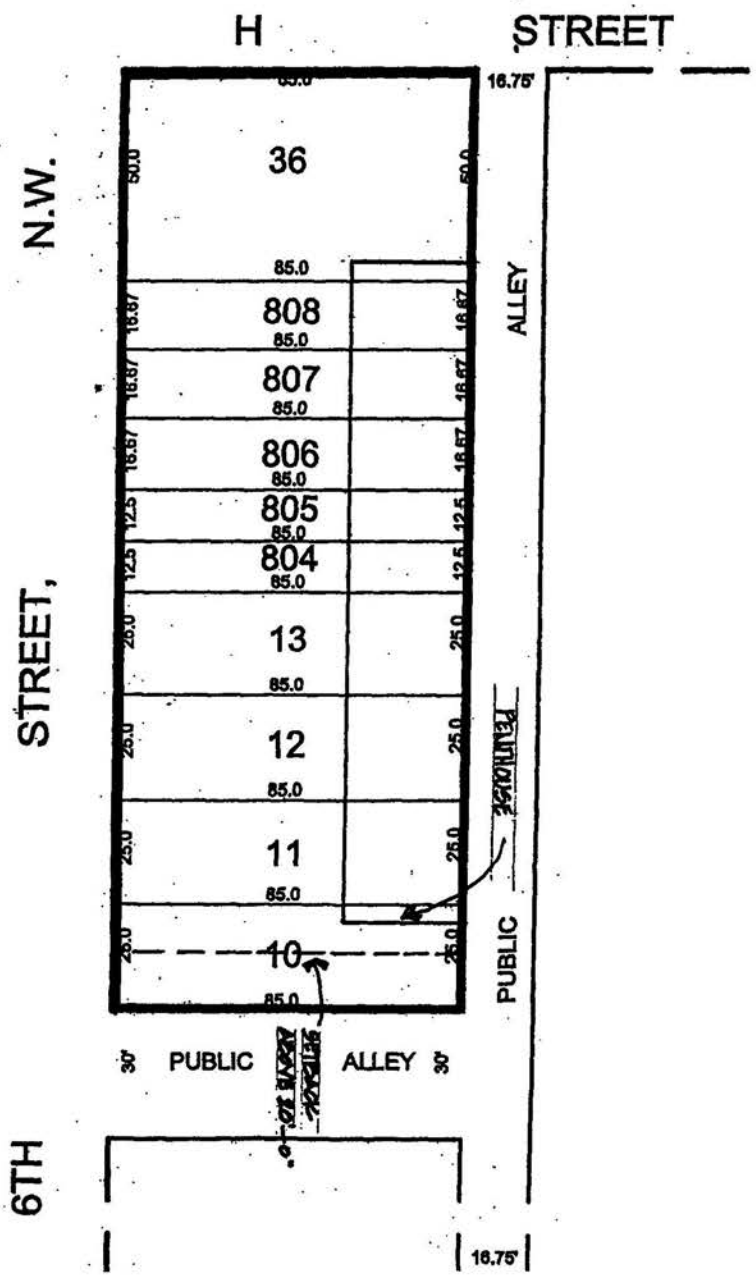
By: L.M.A. √TJ

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

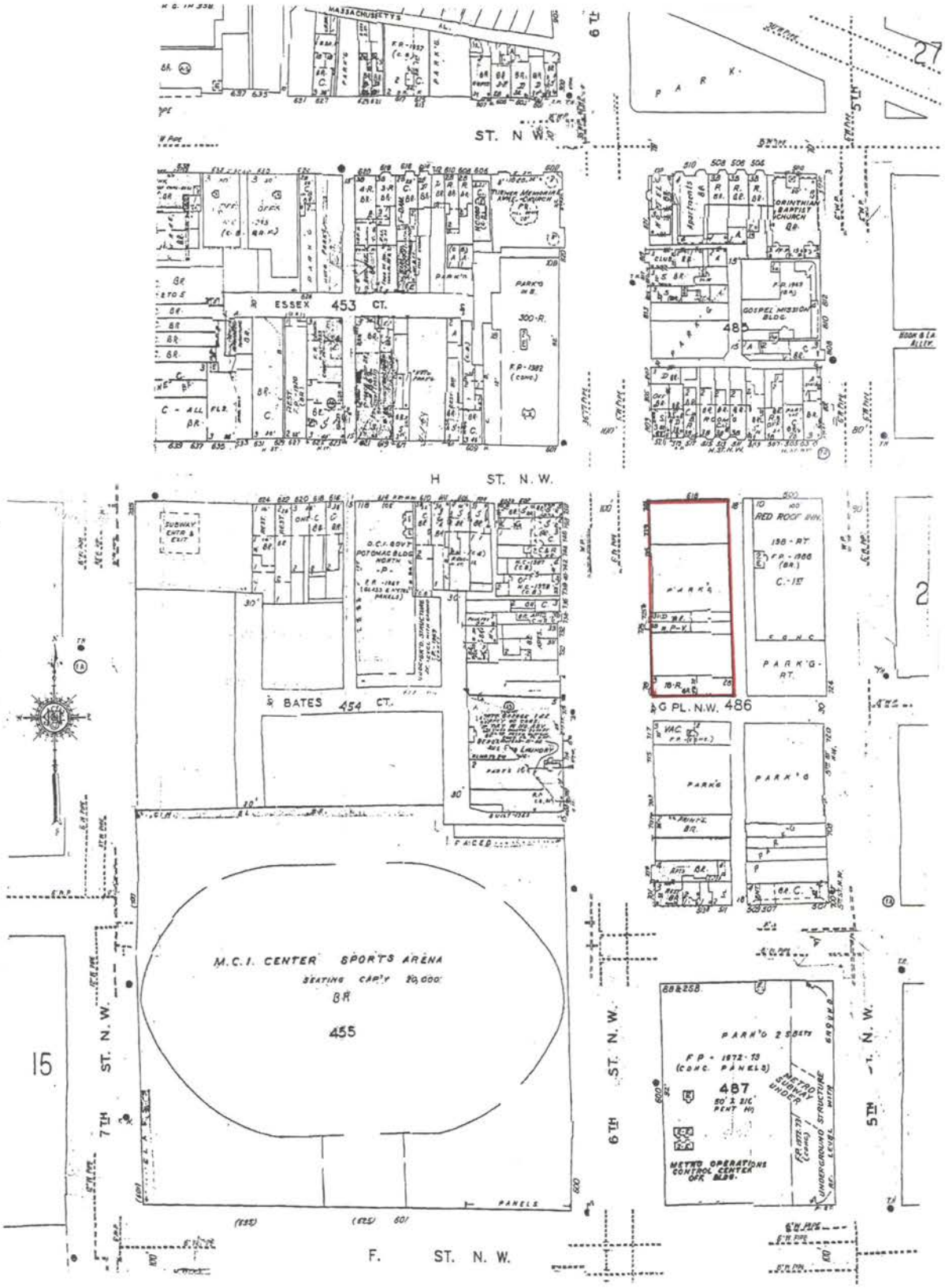
Date: _____

_____
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



B


MASSACHUSETTS AVE.
6TH ST. N.W.
5TH ST. N.W.
27
PARK
ST. N.W.
ESSEX 453 CT.
PARK'G
300-R.
F.P.-1982 (conc.)
C - ALL BR.
APTS.
CORINTHIAN BAPTIST CHURCH
GOSPEL MISSION BLDG.
48
ALLEY
H ST. N.W.
SUBWAY ENTR. & EXIT
D.C. GOVT POTOMAC BLDG. NORTH
BATES 454 CT.
RED ROOF INN
136 - RT.
F.P.-1986 (BR.)
C.-1ST
PARK'G-RT.
G PL. N.W. 486
VAC.
M.C.I. CENTER SPORTS ARENA
SEATING CAP'Y 20,000
BR
455
PARK'G 2 SEATS
F.P. - 1972-73 (CONC. PANELS)
487
50' X 210' PENT HO
METRO OPERATIONS CONTROL CENTER OFF. BLDG.
UNDERGROUND STRUCTURE
PANELS
7TH ST. N.W.
6TH ST. N.W.
5TH ST. N.W.
15
2
F. ST. N.W.

C


R-5-C
C-2-B
R-5-D
R-5-B
R-4
C-2-A
DD/R-5-E
DD/C-2-C
DD/R-5-B
DD/GOV
DD/C-3-A
C-3-C
GOV
DD/C-3-C
HR/C-3-C
SP-2
DD/C-4
PUD127
PUD142
PUD088
PUD016
PUD140
PUD068
PUD070
PUD093
MT VERNON PL
RIDGE ST
KIRBY ST
PIERCE ST
MORSE ST
NEW YORK AVE
INDIANA AVE
MADISON DR
7TH ST
9TH ST
10TH ST
12TH ST
13TH ST
The National Mall
GOV
US Ca

D

SQUARE 486

6TH & H STREET NW, WASHINGTON DC



VIEW OF SITE FROM CHINATOWN GATE



VIEW OF SITE FROM H STREET, FACING SOUTH



PROJECT TEAM

DEVELOPER
TRAMMELL CROW COMPANY
1055 THOMAS JEFFERSON ST. NW SUITE 650
WASHINGTON, D.C. 20007
(202) 337-1025

ARCHITECT
HICKOK WARNER COLE ARCHITECTS
1023 31st ST. NW
WASHINGTON, D.C. 20007
(202) 667-9776

CONSULTANTS
STRUCTURAL: HAYNES WHALEY ASSOCIATES
1943 ISAAC NEWTON SQUARE EAST SUITE 260
RESTON, VIRGINIA 20190-5002
703.391.0024, EXT. 135

MECHANICAL: B & A CONSULTING ENGINEERS
1908 LUDOVIE LANE
DECATUR, GEORGIA 30033
404.325.3120

DRAWING LIST

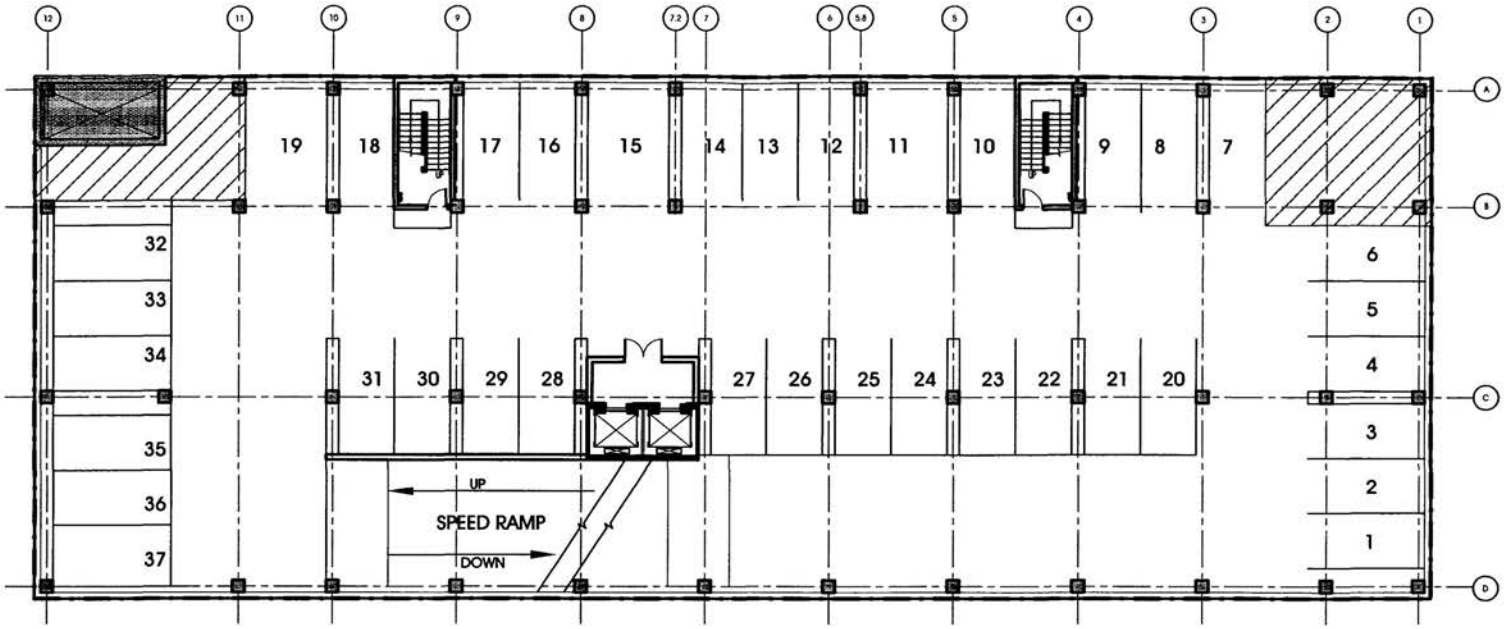
COVER SHEET
A1-01 P-2 (TYPICAL PARKING) FLOOR PLAN
A1-02 P1 FLOOR PLAN
A1-03 GROUND FLOOR PLAN
A1-04 TYPICAL (2ND-9TH) FLOOR PLAN
A1-05 ROOF PLAN
A2-01 NORTH & WEST ELEVATIONS

HICKOK WARNER COLE
Architects
1023 31st Street, NW Washington, DC 20007
P 202.667.9776 F 202.667.2260

Trammell Crow Company

ZONING REVIEW

DATE ISSUED: 25 NOVEMBER 2003
NOT FOR CONSTRUCTION
PROJECT NUMBER: 03022.00



Note: P-4 similar, with 39 spaces total.

1 FLOOR PLAN, TYP. P-2 & P-3
SCALE: 1"=20'-0"

0 20 40
Scale: 1"=20'

ZONING REVIEW

SQUARE 486

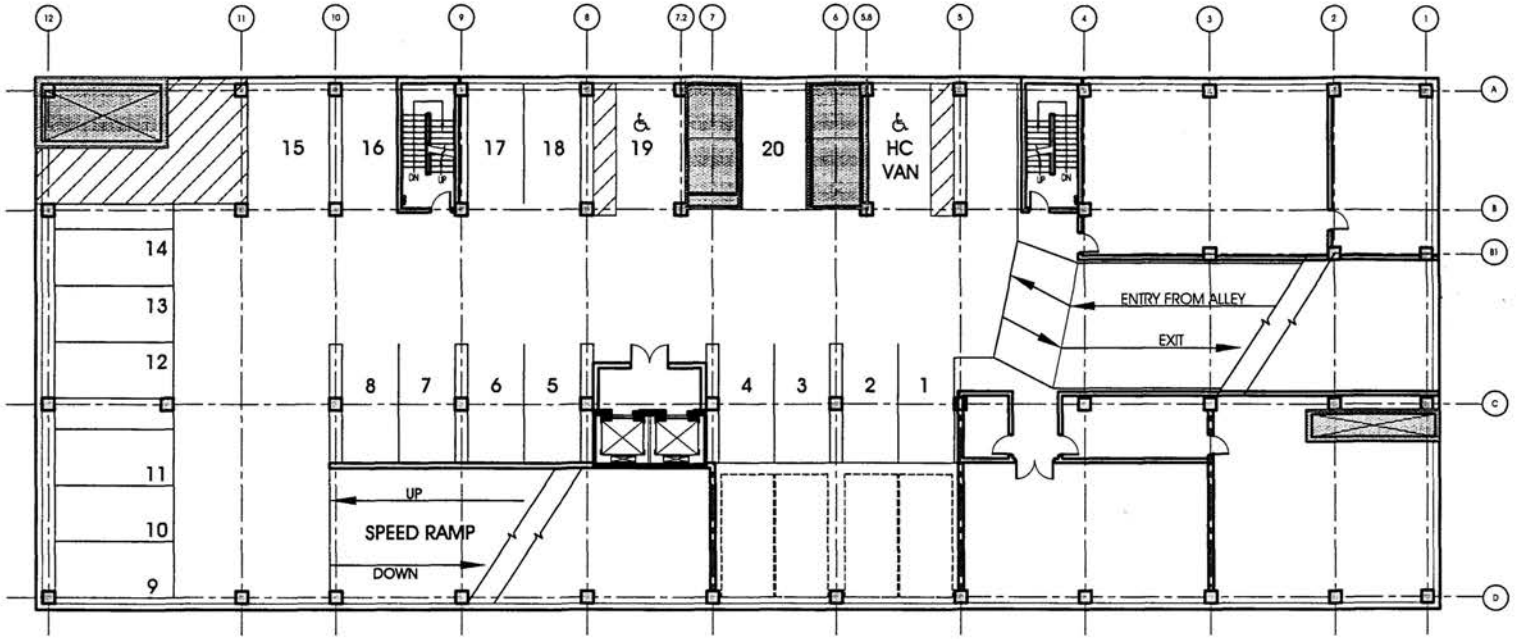
6TH & H STREET WASHINGTON, DC

03022.00 25 NOVEMBER 2003

HICKOK WARNER COLE Architects
1023 31st Street, NW Washington, DC 20007
P 202.667.9776 F 202.667.2260

NOT FOR CONSTRUCTION

A1-01



1 FLOOR PLAN, P-1 LEVEL
SCALE: 1"=20'-0"

0 20 40
Scale: 1"=20'

ZONING REVIEW

SQUARE 486

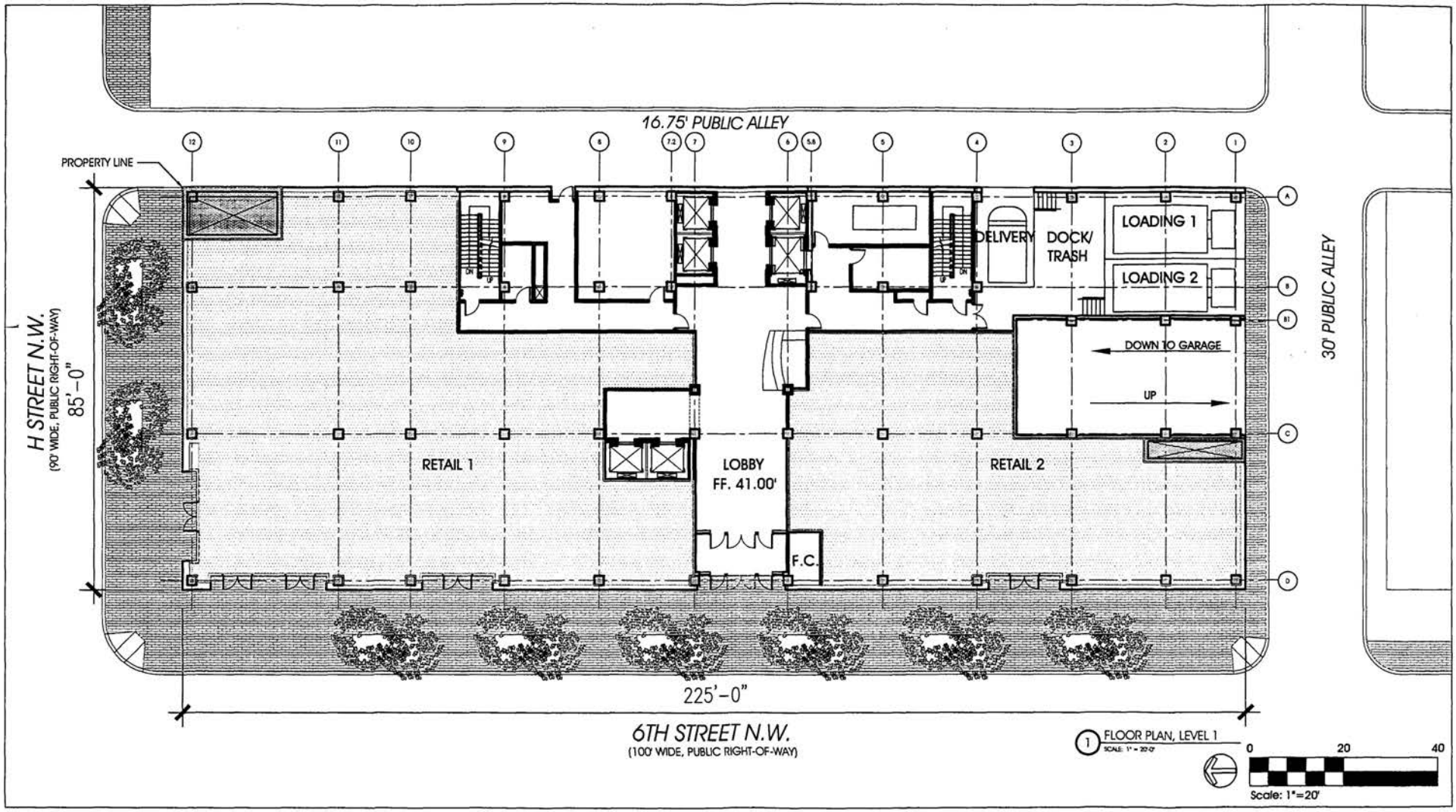
6TH & H STREET WASHINGTON, DC

03022.00 25 NOVEMBER 2003

HICKOK WARNER COLE
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NOT FOR CONSTRUCTION

A1-02



ZONING REVIEW

SQUARE 486

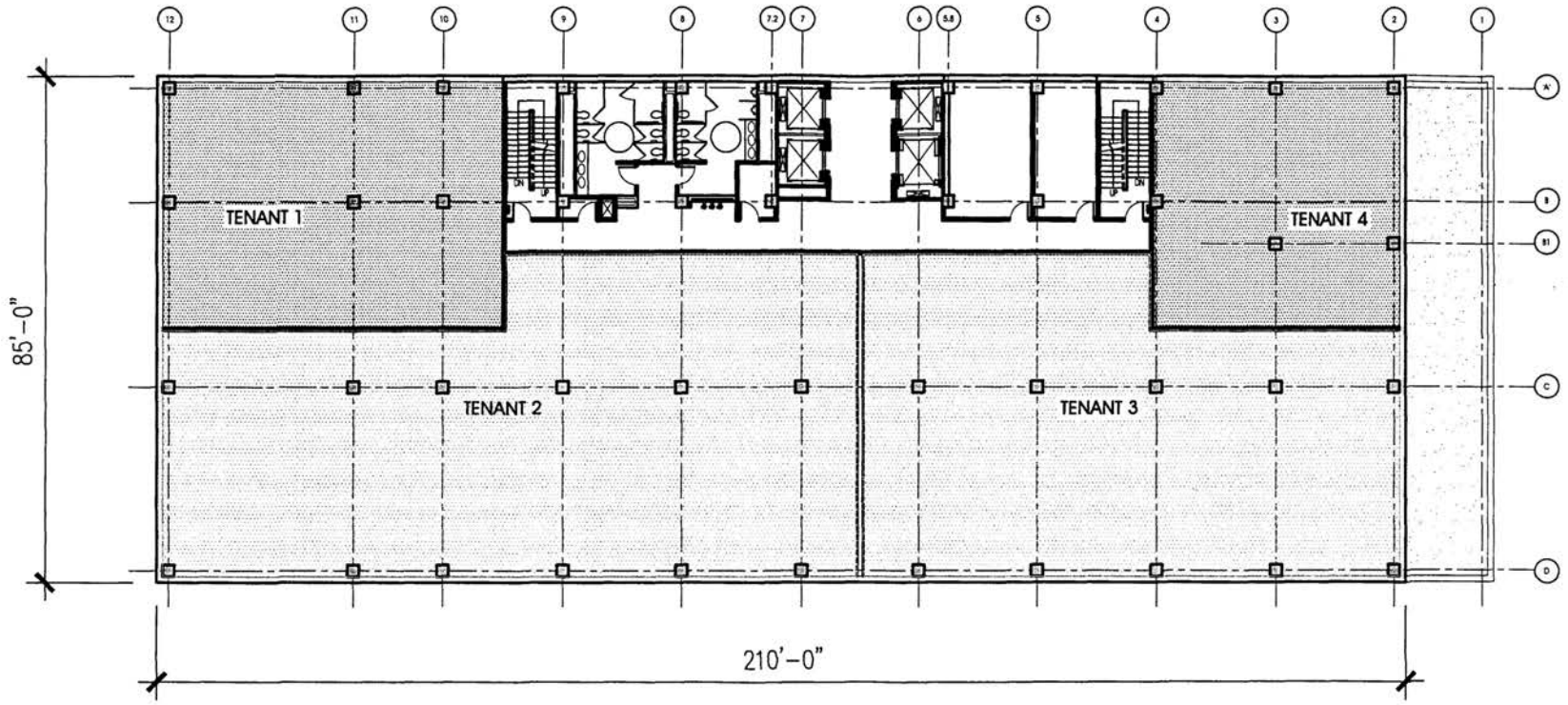
6TH & H STREET WASHINGTON, DC

03022.00 25 NOVEMBER 2003

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NOT FOR CONSTRUCTION

A1-03



1 FLOOR PLAN, TYP. (LEVELS 2-9)
SCALE: 1" = 20'-0"

0 20 40
Scale: 1"=20'

ZONING REVIEW

SQUARE 486

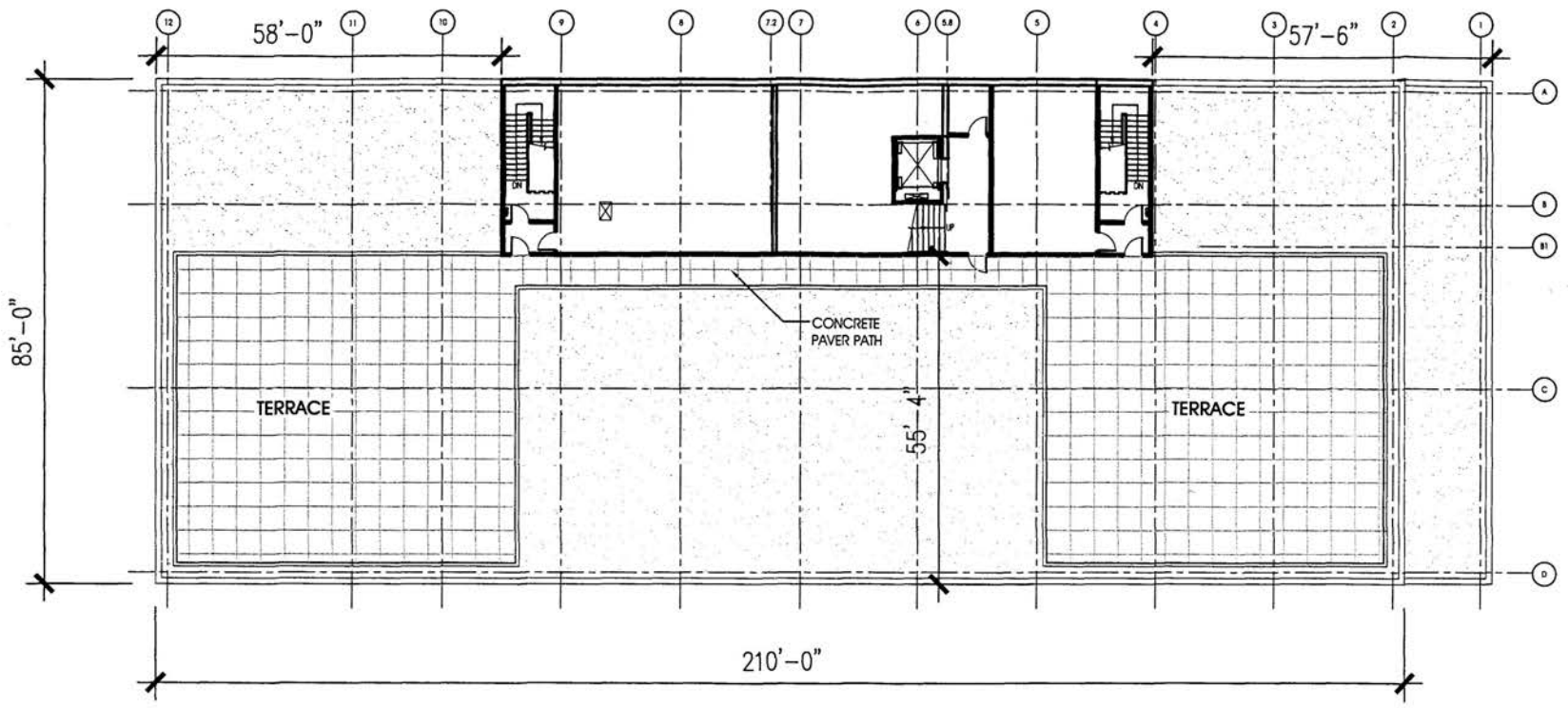
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03022.00 25 NOVEMBER 2003

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NOT FOR CONSTRUCTION

A1-04



1 FLOOR PLAN, ROOF LEVEL
SCALE: 1" = 20'-0"

0 20 40
Scale: 1"=20'

ZONING REVIEW

SQUARE 486

6TH & H STREET WASHINGTON, DC

03022.00 25 NOVEMBER 2003

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NOT FOR CONSTRUCTION

A1-05



1 NORTH ELEVATION, H STREET
SCALE: 1" 40'-0"



2 WEST ELEVATION, 6TH STREET
SCALE: 1" 40'-0"

ZONING REVIEW

SQUARE 486

6TH & H STREET WASHINGTON, DC

03022.00 25 NOVEMBER 2003

HICKOK WARNER COLE
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NOT FOR CONSTRUCTION

A2-01

E

OUTLINE OF TESTIMONY
FREDERICK ROTHMEIJER
REPRESENTATIVE OF APPLICANT
TC MIDATLANTIC DEVELOPMENT, INC.

I. INTRODUCTION

II. OWNERSHIP BACKGROUND

III. DESCRIPTION OF SITE

IV. DESCRIPTION OF PROPOSED OFFICE CONSTRUCTION

V. SPECIAL EXCEPTION IS NEEDED

VI. CONCLUSION

F

OUTLINE OF TESTIMONY,
FRANK DURKIN
REPRESENTATIVE,
HICKOK WARNER COLE, ARCHITECTS

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

- **A. Overview of Site, Vicinity, and Land Use/Zoning**
- **B. Site Planning – site size, location and configuration,**

III. PROJECT DESIGN

- **A. Design Considerations for Office Use**
- **B. Review of Massing of New Construction**
- **C. Review of Floor Plans**
- **D. Consideration of Any Impact on Adjacent Properties**

IV. SPECIAL EXCEPTION IS NEEDED FOR ROOF STRUCTURE SETBACK

V. CONCLUSION

1362090_v1

G

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*Holland & Knight LLC
**Representative Office

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17078
777 6th Street, N.W.

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP

November 25, 2003

I. Site location and description

A. Location

1. Southeast corner of the intersection of 6th and H Streets, N.W.

2. Project site consists of lots 10, 11, 12, 13, 36, 804, 805, 806, 807 and 808 in Square 486

3. Site located in the Gallery Place/Judiciary Square area of Downtown

B. Size

1. Total site area is approximately 19,125 square feet

2. Rectangular site with frontage of approximately 85 feet on H Street and 225 feet on 6th Street

3. 30 foot wide public alley to the south and 16.75 foot wide public alley to the east

C. Existing site condition:

1. Three story apartment building at 719 6th Street

2. Remainder of site used for surface parking lot

II. Description of surrounding area

A. Judiciary Square/Mount Vernon Square area of Downtown

B. Area contains mix of uses and building types

C. Remainder of Square 486

1. To the east: Red Roof Inn hotel (10 stories) at 500 H Street

2. To the southeast: apartment house (12 stories) at 750 5th Street, developed by AvalonBay Communities

3. To the south:

a. Three story retail building at 717 6th Street, now vacant, formerly used as a restaurant/bar

b. Apartment house (12 stories) under construction

c. Various two, three and four story buildings along 6th Street and at the corner of 5th and G Streets

D. Uses to the south:

1. WMATA headquarters building at 600 5th Street

2. National Building Museum at 441 F Street

E. Uses to the east:

1. General Accounting Office

2. St. Mary's Church

3. Commercial 90 foot building at 450 H Street

F. Uses to the west:

1. MCI Center

2. New Gallery Place development , including retail/office/ residential/parking (under construction)

3. Various 1 to 5 story commercial buildings, forming the east-west core of Chinatown along H Street, part of the Downtown Historic District

G. Uses to the north:

1. 2 and 3 story buildings devoted to residential and miscellaneous commercial uses

2. Parking lots

3. Corinthian Baptist Church at the corner of 5th and I Streets

4. Judiciary House apartments at 461 H Street (90 foot high rise housing for the elderly)

5. Two story vacant former D.C. Fire House (historic landmark on the D.C. Inventory)

6. Apartment house (130 feet) at 450 Massachusetts Avenue, currently under construction

7. Two and three story buildings used for offices at the northwest corner of 5th and H Street

8. Wah Luck apartment house (90 feet) at the northwest corner of 6th and H Streets

III. Existing zoning: DD/C-2-C

A. Uses (§§720 – 734)

1. Commercial use permitted as a matter-of-right, including retail, service and office use

2. Hotel

3. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of 90 feet (§770.1)

C. Density - maximum of 6.0 FAR, with nonresidential uses limited to 2.0 FAR (§771.2)

D. Rear yard – 15 feet (§774.11)

E. Side yard - not required (§775.5)

F. Parking (§2101.1) for office use: minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000 square feet

G. Downtown Development (DD) Overlay District

1. Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period

2. Height is maximum permitted under the Act of 1910 (110 feet for subject site)

3. Housing Priority Area B

a. No maximum FAR for residential uses

b. Minimum of 4.5 FAR required to be devoted to residential use (3.5 FAR available for commercial)

c. Additional 0.5 commercial FAR available through transferable development rights

IV. Zoning history

A. Property was zoned SP in 1958

B. Redesignated SP-2 in 1978

C. Included in the Hotel-Residential (HR) Incentive District in 1981

D. Rezoned to DD/C-2-C in 1991

V. Proposed development

A. Use: office building with ground floor retail, service, arts and entertainment uses

B. Maximum gross floor area of approximately 177,015 square feet (9.26 FAR)

C. Height: ten stories, maximum of 120 feet

D. Parking: 94 spaces on three levels with access from a ramp from the 30 foot alley on the south

VI. Special exception relief required for roof structure not meeting the normal setback requirements

A. Required setback: 18 feet six inches

B. Provided on the east side adjacent to the alley: 0 feet

VII. Standards for the roof structure special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

VIII. Compliance with the special exception standards for roof structure

A. Size of building lot and other conditions: lot is shallow (85 feet) for typical high rise office construction

B. Unduly restrictive and unreasonable

1. Roof structure is typical 18 feet, 6 inches in height and has an east-west dimension of thirty feet

2. With normal penthouse setbacks, core would be forced to center of floor plate

3. Location would not readily fit within column grid

4. Elevator core in center of building disrupts ground floor retail layout and multi-tenant office floors

5. Setback requirements cannot be waived along the street frontages due to the requirements of the Act of 1910

C. Impact on light and air of other buildings

1. Roof structure is setback from exterior walls by substantial distances on the north (58 feet), west (55 feet, 4 inches) and south (57 feet, 6 inches)

2. Public alley to the east is 16.75 feet wide and adjoining hotel is setback from the line of the alley

3. Adjoining hotel is already at 110 feet height but top portion has a blank brick wall facing the top of the proposed building

IX. Conclusions

A. Subject property is shallow for a high-rise office building

B. Placement of roof structure in accordance with setback requirements would significantly disrupt ground floor and office floors, causing operating difficulties for the building

C. Roof structure with no setback along the east wall would have no adverse affect on the existing hotel across the alley

D. The application should be granted

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