GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: February 17, 2004

SUBJECT: BZA Case #17108, Area Variance Request

I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

If the three lot subdivision is considered "valid", resulting in the lots being considered three "legal non-conforming" lots, the Office of Planning recommends the application be approved;

If the three lot subdivision is not considered valid, resulting in the property being considered one legal lot (which may permit subdivision into two legal lots), the Office of Planning recommends the subject application be denied as the variance test has not been adequately met.

II. APPLICATION-IN-BRIEF

Location	206 – 210 D Street SE, Washington DC Square 0763, Lots 26, 27, 28 38, Ward 6; ANC 6B
Applicant:	Folger Park North, LLC, owner and developer
Zoning:	CAP/R-4
Proposal:	Construction of three new two family flats.
Relief Sought:	Variance from §401.3, lot area and lot width for each lot, pursuant to §3103. Possible variance from §405.3, side yard for buildings on lots 26 and 28, pursuant to §3103.

III. EXECUTIVE SUMMARY

BZA case # 17108 has a complicated history. Following a subdivision in 2002, foundation permits and building permits were issued and construction of three new flats commenced in 2003. Subsequent to this, possible Zoning Regulations non-conformities were noted, and a stop-work order was placed on the property. DCRA and the owners reached an agreement that permitted continuation of construction, subject to the submission of this BZA variance application for lot area and lot width, as none of the three lots provide the minimum required lot width or area. Further confusing the issue is that an additional variance *may* be required for side yard, although OP feels that the zoning regulations are not entirely clear on this matter.

Central to the discussion of the merits of this application is the purpose and "validity" of the 2002 subdivision. The question is whether the subdivision created three lots that do not provide the currently required minimum lot width and area; or whether the subdivision plan is legal and reflects the historic use of the land area as three small lots. This issue

Board of Zoning Adjustment
District of Columbia
CASE NO. 17108
EXHIBIT NO. 33

BZA
Case No. 17108
Exhibit No. 33

may be resolved as part of BZA Case # 17085, which is an appeal by neighbors of the issuance of the permits for this development. Because of these questions, OP is not able to provide a standard recommendation. Rather, pending resolution of the subdivision question, there are two possibilities:

- If the subdivision is deemed valid, the Office of Planning (OP) feels that the requested variances for lot width and area are supportable as the flats are located on legal non-conforming lots. The possible variance for side yard would be supportable, due to the hardship resulting from the small lots (a 9.25 foot minimum side yard on the two end units would result in an 6.75 foot wide building).

- If the issuance of the subdivision is deemed invalid, OP feels that the requested variances are not supportable and do not meet the variance test, as it would be possible to subdivide the property into 2 larger, conforming lots for development as flats, for which the provision of the required side yard would be possible. A 2-lot subdivision would be more in keeping with current zoning regulations, and such larger lots would not be out of character with this particular portion of streetscape (which includes a large health club and other larger non-residential buildings).

IV. AREA AND SITE DESCRIPTION – Refer to Location Plan, Attachment I, and Context Photos Attachment II

Square 763 is located in Capitol Hill. The site is bounded by D Street SE to the south, 3rd Street SE to the east, C Street SE to the north, and 2nd Street SE to the west. Directly to the south is Folger Park; to the northwest of the square is the Library of Congress Madison Building. The square is predominantly developed with 2 to 3 story rowhouses, but also includes a 6-story apartment building facing C Street SE, and a sport club and an American Legion building along D Street SE. The square is served by an internal alley system with access from C Street, and normally from D Street. The square is within the Capitol Hill Historic District.

The property that is the subject of this application faces D Street, and is bound by alley to the north and east. To the west are the rear yards of properties facing 2nd Street, and a narrow walkway easement, collectively owned by a group of 2nd Street property owners. Maps from the early 1900's indicate that the property was subdivided into three lots, and developed with a rowhouse on each. (Attachment III). In 1942, PEPCO applied for a Building Permit to construct a one story plus basement substation, and the structure was constructed in 1943. Area maps are conflicting – some show the building located on one lot, Lot 4; some show three tax lots labeled "800, 801 and 802". (Attachments IV and V). At some point, the PEPCO substation was discontinued although the building remained in place.

V. PROJECT DESCRIPTION

The recent history of this site is complicated – a chronology, as best as could be determined by OP, is attached as Attachment VII. After purchasing the property, the new owners, Folger Park North LLC, received from the Office of the Surveyor a subdivision of the property into three lots, none of which conform to current zoning standards, labeled Lots 26, 27 and 28 (Attachment VI). These lots correspond to the former tax lots, 800, 801 and 802 on Lot 4.

Plans for a three unit – two family flat development were drawn up, and received approval by ANC 6B, the Commission of Fine Arts, and the Historic Preservation Review Board, although concerns were raised about the level of conformity of the lots to current zoning standards. The owner applied for and received a

demolition permit for the existing building in November of 2002. Foundation Permits for 3 - two family flats were issued in May of 2003, and the PEPCO Building was demolished the next month. Building Permits for the 3 - two family flats were issued in July, 2003. A stop work order was issued by DCRA one week later, but this was lifted three days after that. As second stop work order was issued in September, 2003. This came shortly after an appeal of the issuance of the Building Permit was submitted on behalf of a number of neighbors on 2nd Street SE (Appeal number 17085, hearing date also set for February 24, 2004). The second stop work order was also lifted, and construction commenced, in return for the owner agreeing to sign a "hold harmless" agreement and the submission of this BZA application for variances to lot width and area (a possible additional variance, for side yard setback, has also been identified by OP),

The flats are now nearing completion, a process that apparently included the excavation of the walkway easement owned by the 2nd Street property owners. At the request of the applicant, the originally scheduled hearing date of January 27, 2004 was postponed to February 24, 2004.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The property is designated "moderate density" residential (row houses and garden apartments being the predominant uses) on the Comprehensive Plan Generalized Land use Map. The proposed use of the site is not contrary to this designation. The level of conformity to the Comprehensive Plan, particularly Chapters 11, Land Use and Chapter 17, Ward 6 Elements, varies. The following Comprehensive Plan policies and objectives would be of relevance to the requested variances:

Comprehensive Plan Section	OP Comments
Chapter 11 – Land Use: *§1104 Policies in Support of the Residential Objectives:* *§1104.1 (a) Promote the conservation, enhancement, and revitalization of the residential neighborhoods of the District for housing and neighborhood-related uses;*	Provides residential development in a residential neighborhood; the former non-residential building did not warrant conservation.
(b) Conserve and maintain the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights;	Would be denser than would be permitted by current zoning regulations, and may be somewhat denser (due to smaller lot size) than nearby rowhouses. However, the square also includes an apartment building, non-residential buildings, and smaller-lot rowhouses.
Chapter 17 – Ward 6 Plan *§1705 Ward 6 Objectives For Housing* *§1705.1 (a) To maintain and strengthen the quality and construction of housing in the various neighborhoods throughout Ward 6, seek to provide incentives for infill housing constructed in an architectural style and of material compatible with the predominant Fairlawn brick row housing; and*	The overall form and design of the new flats are in keeping with the general area, and the Historic Preservation office has approved the design.

Comprehensive Plan Section	OP Comments
(b) To stimulate production in Ward 6 of new and rehabilitated housing ... to provide housing opportunities to accommodate and allow for residential growth and stability according to area needs, encourage row house construction compatible with existing neighborhoods ...	Provides new residential development, as would a conforming subdivision and development.
§1725 Ward 6 Objectives For Preservation and Historic Features *§1725.1 (c) To encourage new development and renovations of structures that are sensitive to the character of the historic districts in Ward 6;*	As noted, the design has received HP approval.
§1733 Ward 6 Objectives For Land Use *§1733.1 (a) To maintain the general level of the existing Ward 6 residential uses, densities and heights, and to improve the physical condition of Ward 6 through the provision of functional, efficient and attractive residential, commercial and open space areas;*	The small lots permit more density (in terms of number of units) than would now be permitted, but conform to height and lot occupancy regulations and would not be out of character with housing in the area.
§1734 Ward 6 Policies in Support of Land Use Objectives *§1734.1 (a) Stabilize and improve residential and commercial areas throughout Ward 6;*	The site is now vacant; residential development is appropriate.
(b) Ensure that the integrity of the Capitol Hill and Anacostia Historic Districts that are located in Ward 6 is maintained;	As noted, the design has received HP approval.

VII. AREA ZONING – CAP/R-4

The property is zoned R-4, row dwellings and flats, as is most of the surrounding land. The zone permits one family dwellings, rowhouses and flats. The remainder of the square is also zoned R-4, although the square includes a commercial health club enterprise and a 6 story apartment building.

The site is within the Capitol Interest Overlay District (Chapter 12 of the Zoning Regulations), "*established to promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress* ..." (§1200.1). Although the Overlay provides for restrictions on use, height and bulk of buildings, the proposed development conforms with overlay provisions.

VIII. REQUESTED ZONING RELIEF (refer to Project Profile, Attachment III)

The applicant has requested the following variance relief pursuant to §3103:

1.	Zoning Regulation:	Proposed:
	Lot Area: (§401.3) – 1,800 sq. ft. min.	1,447.3 – 1,529.3 sq.ft.– variance of 352.7 – 270.7 sq.ft. required
	Lot Width: (§401.3) – 18. ft. min.	16 feet - variance of 2 ft. required

The lot width and area variances are the result of the subdivision that created three non-conforming lots. However, at issue and central to the discussion of the variances is whether the subdivision:

- is "valid", in that it represents a continuation of three existing, or proper reestablishment of formerly existing, lots that do not conform to current zoning standards; or
- is "invalid", in that it created three new lots that do not conform to current lot area and width minimum requirements.

Of relevance to the discussion are the following subsections of Section 401 (Minimum Lot Dimensions, Residential Districts):

§401.1 Except as provided in chapters 20 through 25 of this title, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.

§401.1 deals with the enlarging or replacement of an existing building on a non-conforming lot. The definition of "building" is such that the three flats cannot be considered one building, and they are considerably larger than the former PEPCO building that was on the site. As such, this section does not appear to permit a replacement of a PEPCO substation (in existence in 1958) with three new flats.

The section also references Chapter 20 – Nonconforming Uses and Structures. The most relevant section of Chapter 20 would appear to be §2001 – Nonconforming Structures Devoted to Conforming Uses. However, this section addresses the construction of additions to existing nonconforming buildings, and the replacement of non-conforming buildings that were destroyed by "casualty or act of God"; it does not address the construction of new dwellings on non-conforming lots as is the case here.

§401.2 Except as provided in § 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than that specified in § 401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under § 401.3; provided, that the structure shall comply with all other provisions of this title.

This section deals with the construction of a new building on a non-conforming lot, provided the lot is at least 80% of that required by the zoning regulations. Assuming that the lots are "valid", the proposed flats meet this 80% requirement as noted in the Project Profile. However, in this case, each of the three lots does "*adjoin another unimproved lot in the same ownership*". The intent of this clause seems to be that the single owner of the multiple non-conforming lots is expected to re-

subdivide to create conforming lots. In addition, the lots were not unimproved in 1957, being developed with the PEPCO substation, and it is unclear if the property in 1957 consisted of one consolidated lot, or three adjacent lots.

§401.3 Except as prescribed in the other provisions of this chapter, the minimum dimensions of a lot in a Residence District shall be as set forth in the following table (excerpt)*:*

ZONE DISTRICT AND STRUCTURE	*MINIMUM LOT AREA (square feet)*	*MINIMUM WIDTH OF LOT (feet)*
R-4 - Row dwelling and flat	*1,800*	*18*
R-4 - One-family semi-detached dwelling	*3,000*	*30*

The three lots do not provide the minimum required lot area or lot width for a "flat" – the intended use.

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

If the subdivision is valid, the legal, non-conforming lots are regularly shaped but are narrower and smaller in area than currently required. The variances requested are, in essence, for the lots themselves – lot width and lot area. Since the property was improved in 1957, §401.2 does not appear to apply, therefore the exceptional situation is the narrowness and size of the legal, albeit non-conforming, lots.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant with regard to the lot area and width?

If the subdivision is valid, the lots could not be developed without variances as the lots themselves do not meet current standards. There is no form of development that would be permitted on these lots, without a re-subdivision. On the surface, this would represent a practical difficulty. However, the lots could have been (re)subdivided to create two larger lots. The applicant also notes the practical difficulty and the burden associated with receiving numerous District approvals for construction.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

If the subdivision is valid, development of these lots as flats is consistent with zoning regulation permitted uses, and the development appears to conform to height, lot coverage, and most or all setback requirements of the zoning regulations (refer to Section IX of this report). The development also conforms with the Comprehensive Plan. The buildings would physically not be out of scale with the rest of the block.

IX. POSSIBLE ADDITIONAL ZONING RELIEF REQUIRED

In addition, in reviewing this application, OP ascertained possible side yard nonconformities for the two end flats. §405.3 states that "***In** R-2, R-3, **R-4**, and R-5 Districts, **when a** one-family dwelling, **flat**, or multiple dwelling is erected **that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a***

side yard on each resulting free-standing side" (emphasis added). This section indicates an intent that a side yard be required for end units of rows of flats; in this case, on the east (facing the alley) side of the building on lot 28, and on the west (facing the easement / 2nd Street lots) side of lot 26. However, §§405.6 and 405.9, which establish the amount of side yard, do not reference §405.3, and do not establish what the side yard should be, specifically referencing §§405.1 and 405.2 which are not applicable to a flat in the R-4 District. The intent of the regulations, therefore, is not clear, but it appears to OP to be logical to assume that the side yard requirements of §405.9 were intended to apply to the end units of rows of flats. OP's following analysis is based on the assumption that a side yard for the two end units is required, and that the extent of the side yard is as required in §405.9.

Also supporting the requirement for a side yard is BZA Appeal # 16811 (for a property also in the R-4 District), in which the BZA ruled that the end units of a row of row dwellings are considered "semi-detached" units for the purposes of requiring a side yard, provided they are not "along a side street abutting a corner" (§405.5). However, as noted above, §401.3 and the definitions section of the zoning regulations clearly differentiate between a "row dwelling" and a "flat".

2.	Zoning Regulation:	Proposed:
§405.3 / §405.9	**Side Yard:** - 3" / foot of building height = 9.25'	0 feet for lots 26 and 28, variance of 9.25 feet required for each of those lots

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

If the subdivision is valid, the individual lots are narrower than otherwise required, making the provision of side yards difficult at best. OP notes, however, that a re-subdivision to two larger (24' wide) lots would provide the opportunity for side yards and appropriately wide buildings – i.e buildings with the required side yard would be more in keeping with the form and width of other buildings in the area, and would provide a normally desirable setback from the edge of the alley to the east, and the rear yards of the adjacent houses to the west.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant with regard to the lot area and width?

If the subdivision is valid, requiring the full side yard of about 9.25' would result in buildings of less than 7' in width. This would not only be out of character with this form of development in this and any other neighborhood, it would result in unlivable buildings. In essence, the two end lots would be unbuildable.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

If the subdivision is valid, OP feels that the buildings as proposed are generally in character with the neighborhood. The presence of the easement area to the west and that alley to the east lessen potential impacts on neighboring properties. However, the presence of the building elevation directly adjacent to the alley could affect its functionality, particularly access for service and emergency vehicles. The variance would also not generally impair the overall purpose or integrity of the Zoning Regulations and Map, which is to permit development which is in keeping with the prevailing neighborhood character.

X. ADVISORY NEIGHBORHOOD COMMISSION (ANC) COMMENTS

ANC 6B reviewed the then proposed building design at its February 2003 meeting, and adopted a motion in support of the design. The ANC voiced concern that the units would be used by lobbying firms, rather than as residences, and noted that the properties did not appear to meet current zoning standards. The ANC further reviewed this BZA application at its February 09, 2004 meeting and voted to support the variances. However, the ANC also voted to support Appeal 17085.

XI. OTHER AGENCY COMMENTS – refer to Attachment IX for complete comments.

- The **Metropolitan Police Department**, **Fire and Emergency Medical Services Department**, **DC Department of Transportation**, and **Department of Parks and Recreation** all noted no concerns with this application.
- The **Department of Health** (DOH) noted that the former use of the site would warrant soil investigation. The applicant completed separate Environmental Intake Forms for individual lots, although there appear to be errors regarding ownership of adjoining lots in the information supplied by the applicant on these forms. The applicant has also provided to OP a copy of a Phase 1 Environmental Site Assessment (ESA) prepared by Dominion Environmental Group, Inc for the current owners prior to sale of the PEPCO site and prior to demolition of the former PEPCO building. It is not clear to OP that this environmental review was submitted to any district or federal agency as part of an environmental assessment.
- The **Department of Housing and Community Affairs** notes support for the proposal, in that it provides 6 new units of housing.
- The **Water and Sewer Agency** notes a number of potential technical issues, normally dealt with through the building permit process, but does not note support or opposition to the proposal.

XII. OP SUMMARY RECOMMENDATION

OP feels that the level to which the proposed variances meet the zoning regulations test is significantly affected by the "validity" of the underlying subdivision to create (or recreate) the three non-conforming lots.

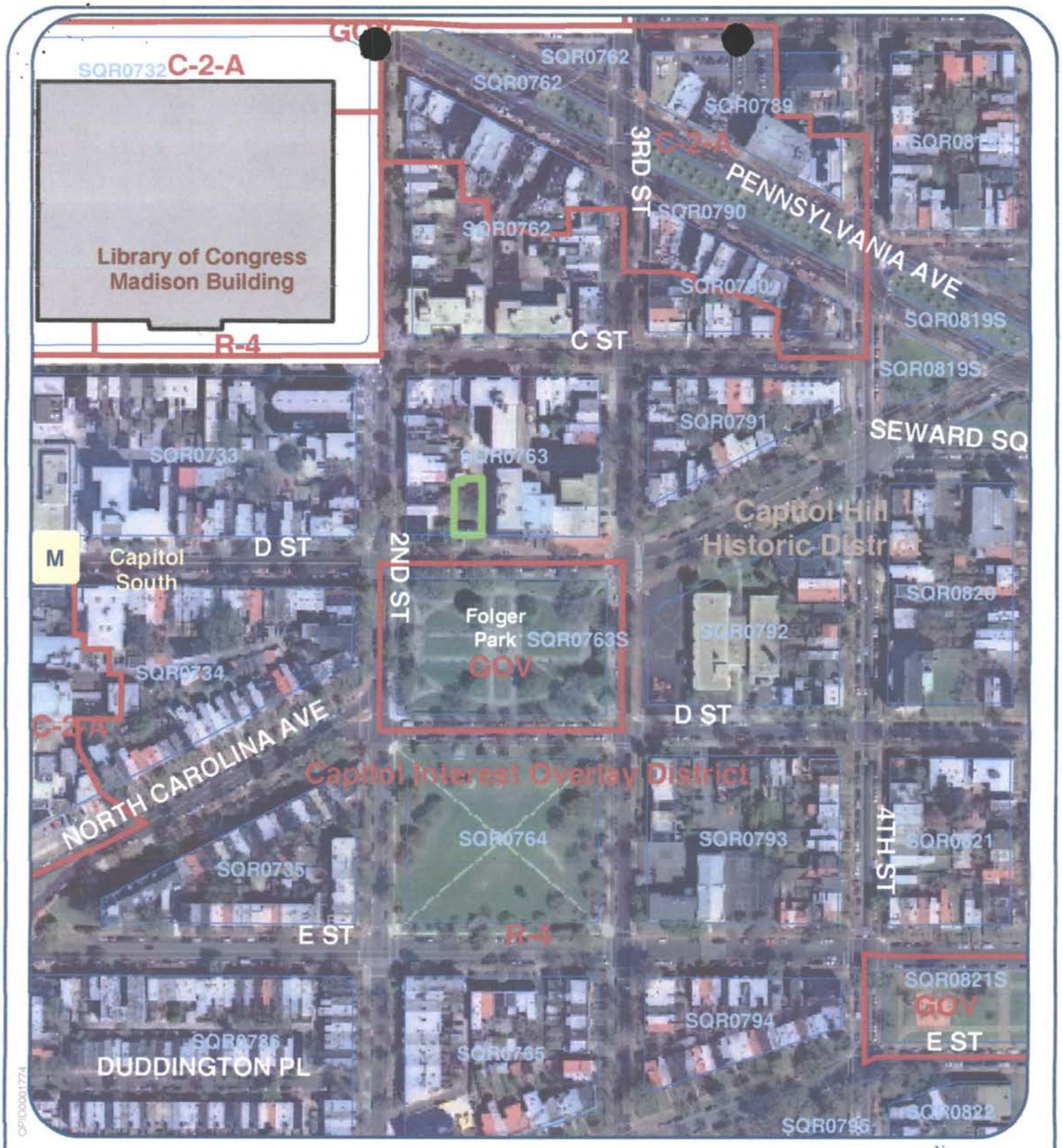
If the three-lot subdivision is considered "valid", making the lots "legal non-conforming", the Office of Planning recommends the application be approved;

If the three-lot subdivision is not considered valid, the Office of Planning recommends the subject application be denied as the variance test cannot be adequately met, as conforming alternatives for the property (i.e. a two lot subdivision) exist.

AA/jl

ATTACHMENTS:

I. Location Plan
II. Context Photos
III. 1927/28 Map
IV. Map showing PEPCO substation on one Lot 4
V. Map showing PEPCO substation on three tax lots
VI. Survey Plan, July 2003
VII. Chronology
VIII. Project Profile
IX. Agency comments



Legend

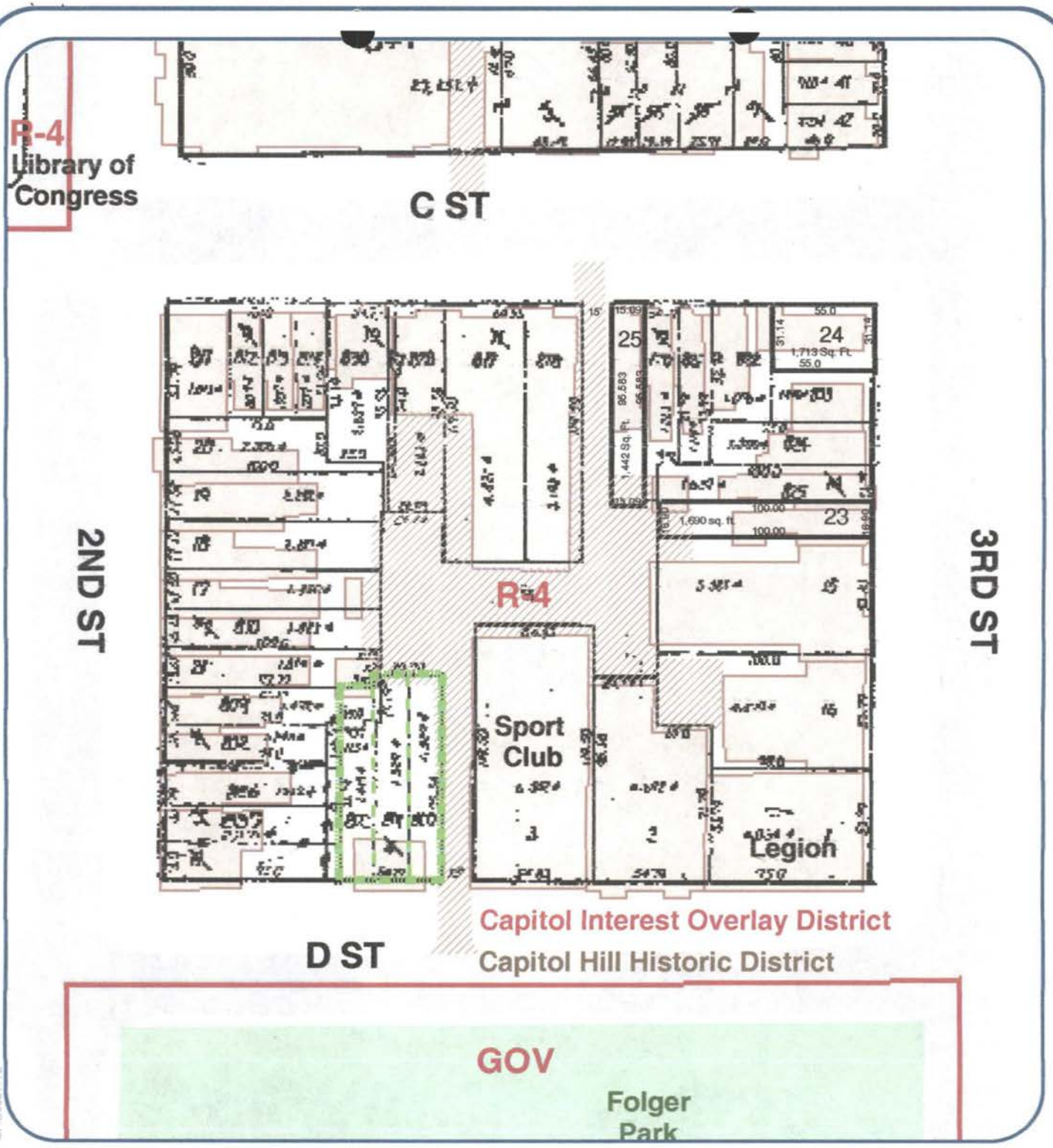
- SITE
- Zoning Districts
- Property Squares

Board of Zoning Adjustment
Case # 17108, 206 - 210 D Street SE

DC Office of Planning
February 17, 2004

1:2,750

ATTACHMENT I



Legend

- SITE
- Zoning Districts
- National Parks
- Alleys and Parking

Board of Zoning Adjustment
Case # 17108, 206 - 210 D Street SE

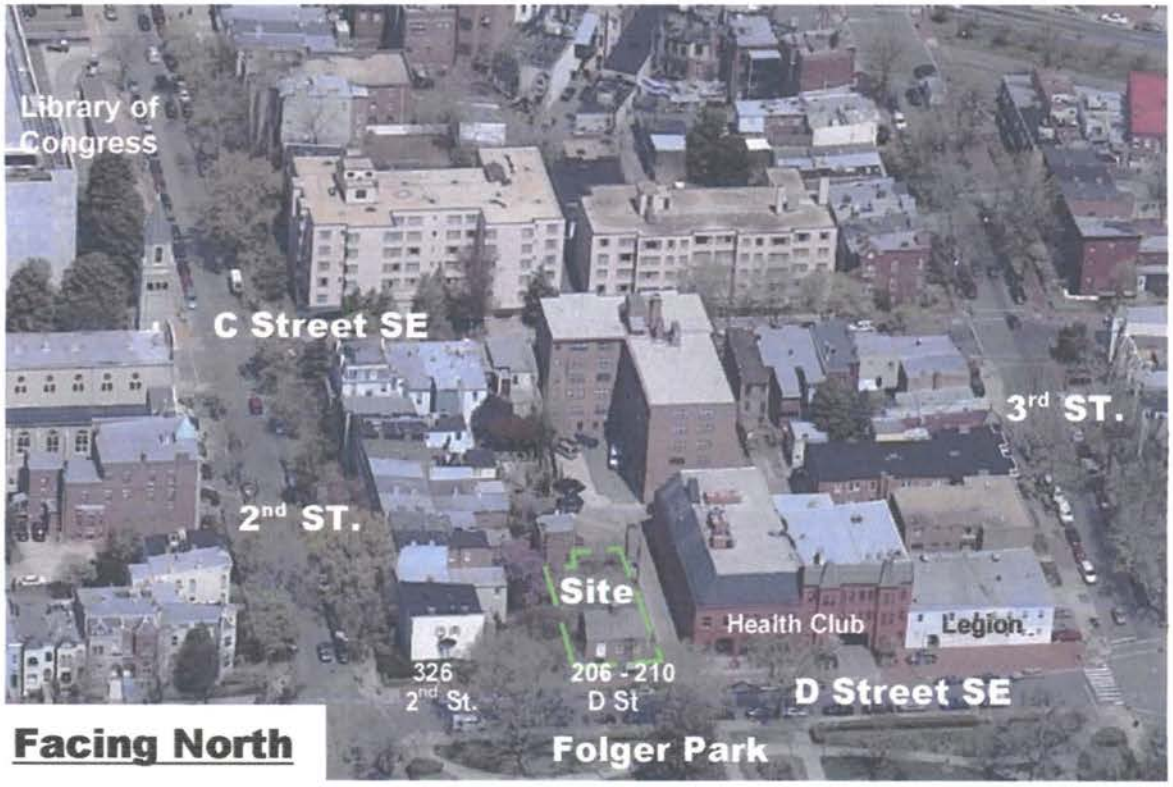
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DC Office of Planning
January 10, 2004

N W E S

1:800

Attachement I

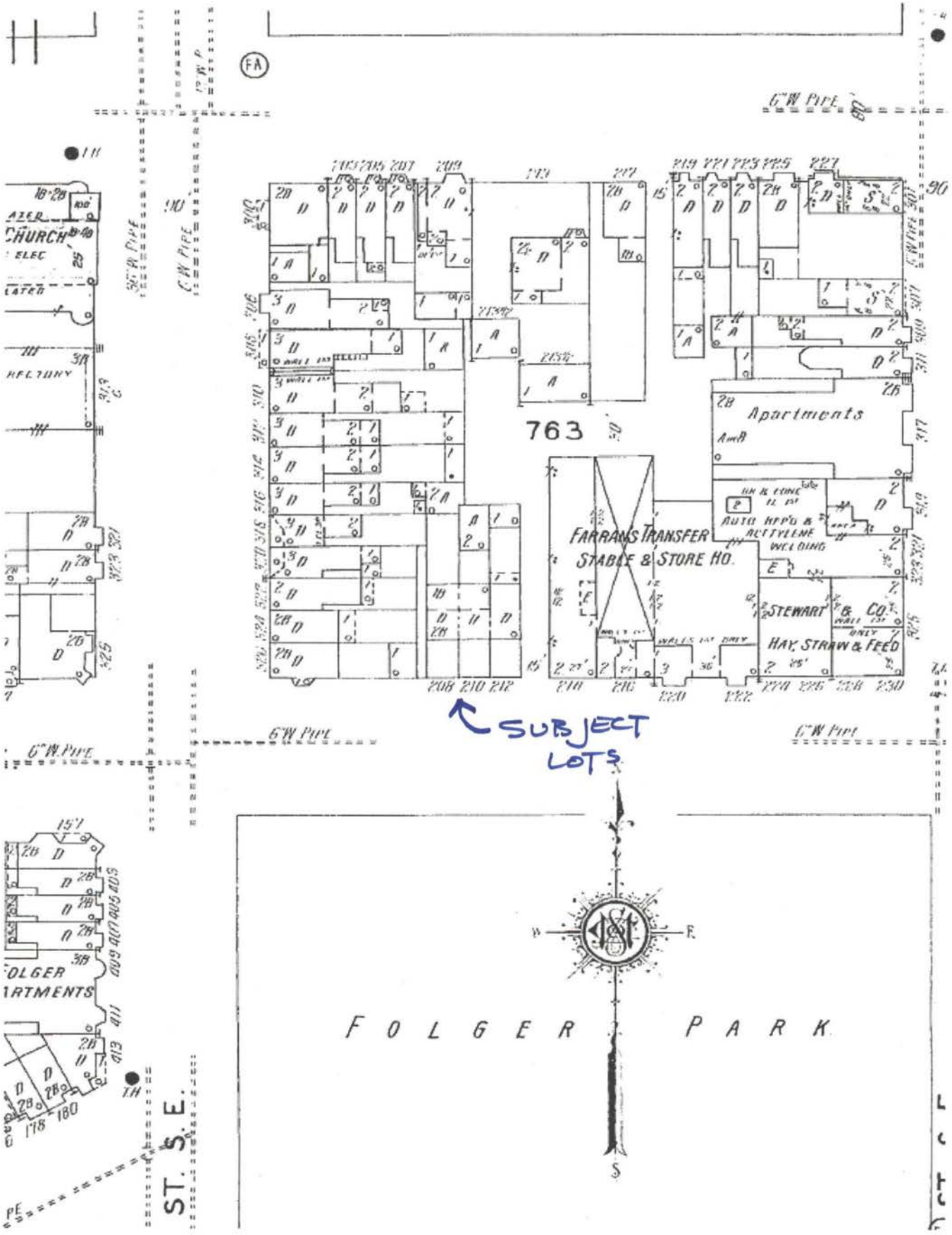


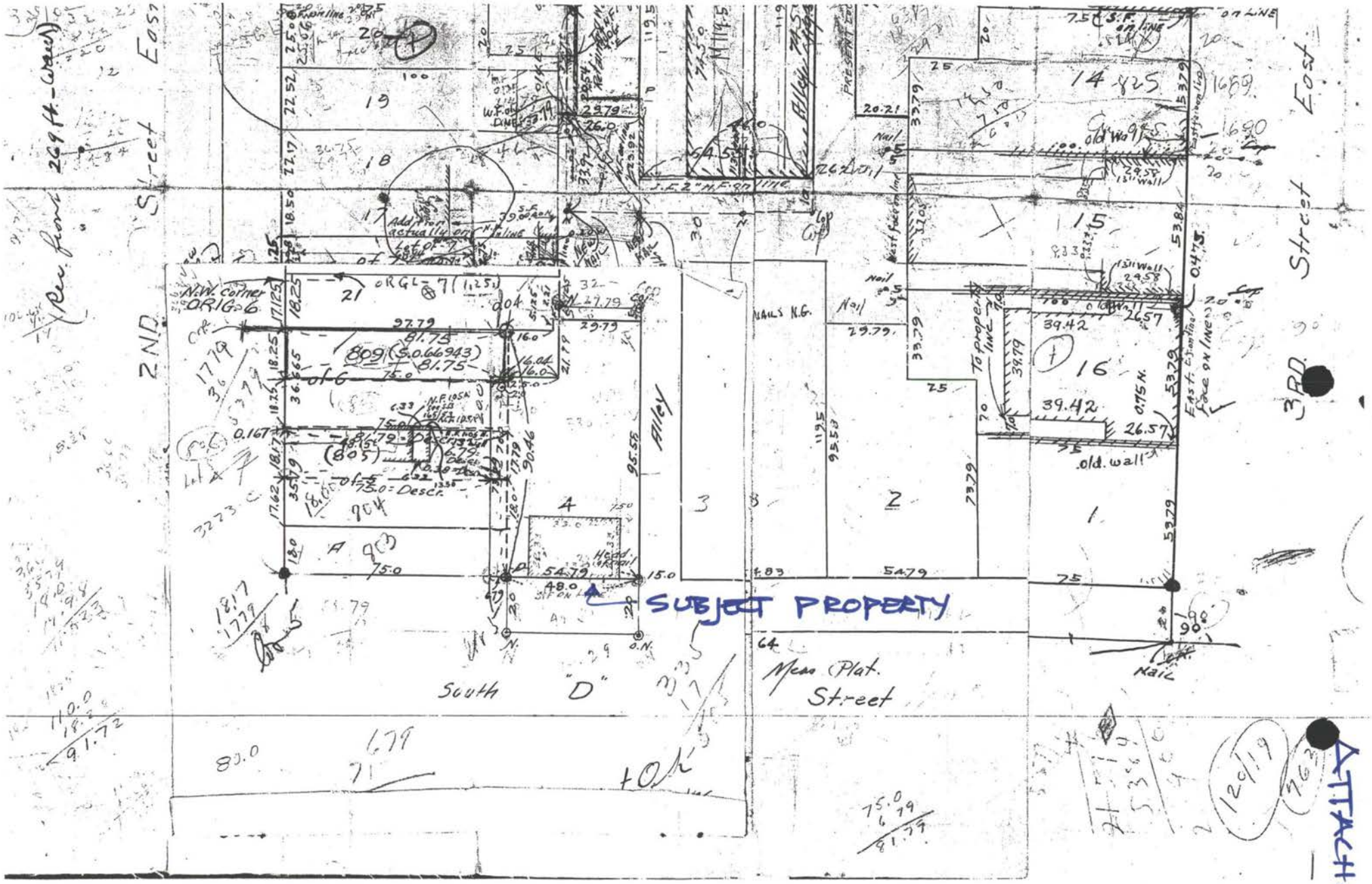
Facing North

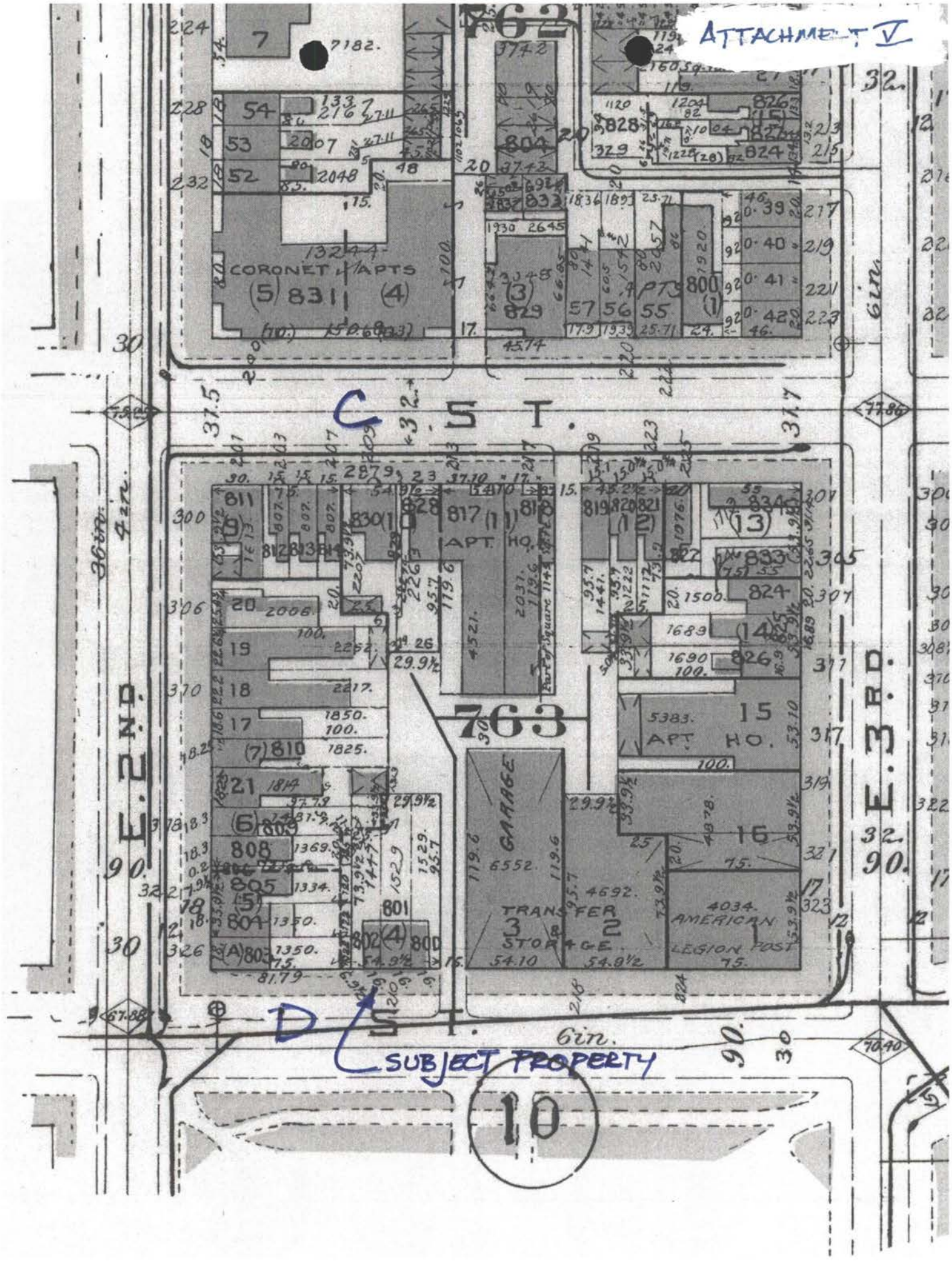


Facing East

ATTACHMENT III




SUBJECT PROPERTY
2ND
3RD.
Alley
South "D"
Mean (Plat.
Street
269 ft. (more)
East
Street
N.W. corner
ORIG. 6
809 (S.O. 66943)
81.75
75.0
Desc.
Old wall
Nail
Add'l Prop. actually on
Lot of
To property line
Face on line(s)
Hedd. wall
Old Wall
Nails N.G.
ATTACHMENT IV


ATTACHMENT V
762
763
C ST.
D ST.
E. 2ND.
E. 3RD.
CORONET APTS
APT. HO.
GARAGE
TRANSFER STORAGE
AMERICAN LEGION POST
SUBJECT PROPERTY
10

ATTACHMENT VI

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., July 10, 2003

Plat for Building Permit of SQUARE 763 LOT 26,27,28

Scale: 1 inch = 20 feet Recorded in Book 196 Page 42

Receipt No. 05735

Furnished to: ELIZABETH JOHNSON

Surveyor, D.C.

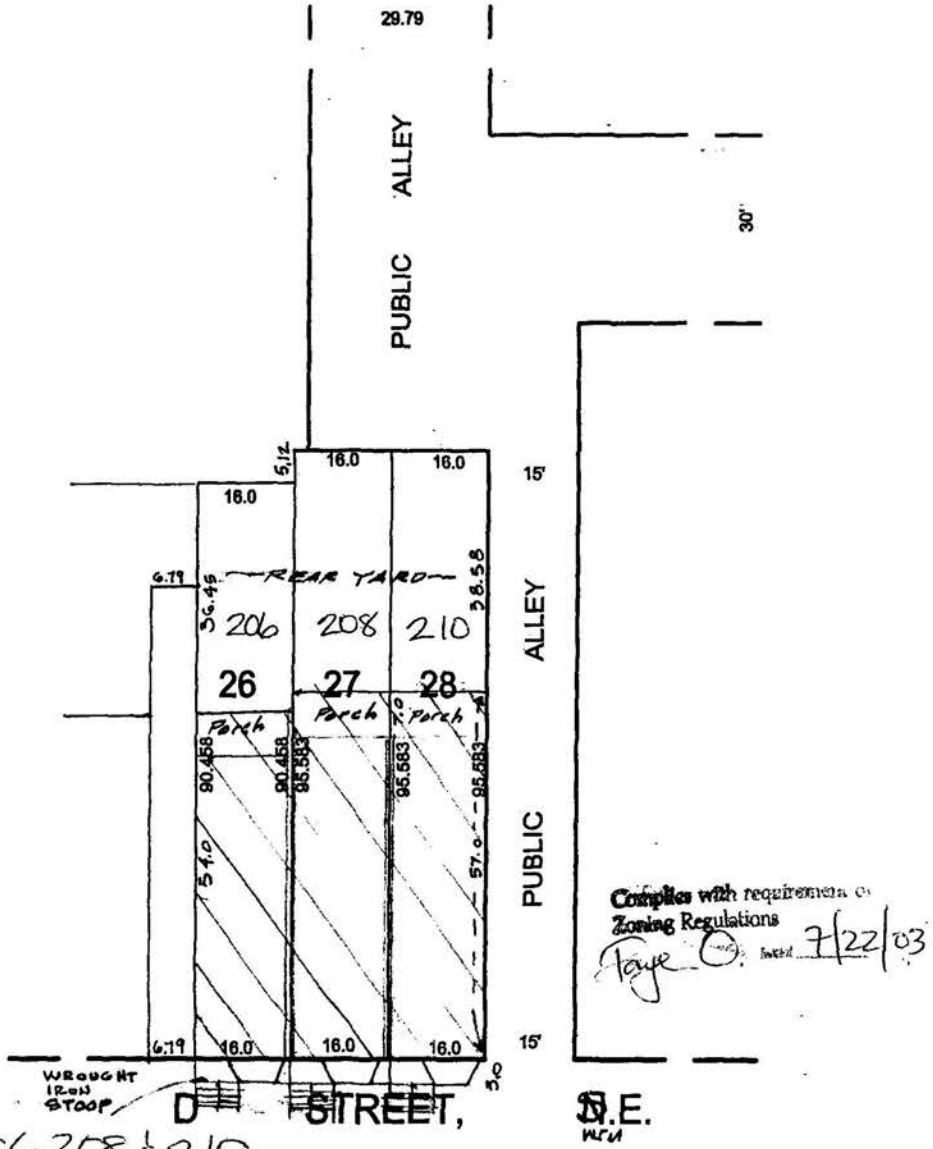
By: L.M.A. VTJ

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: 7.12.03

(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.



Complies with requirements of Zoning Regulations
Faye O. Date 7/22/03

SO-05735(2003)

DATE[1]	EVENT	DESCRIPTION
1910's	(and earlier) Sanborn maps	Show three lots with one rowhouse on each
1942/04/?	BP for a Pepco substation	On Sanborn maps, building is shown to exist on one single lot on some maps, and on three lots (800, 801, 802) on other maps, and others as Lot 4, tax lots 800, 801 and 802.
2002/07/?	Demo application	Application to remove Pepco substation
2002/9/30	**Subdivision**	Office of Surveyor issues survey map showing three lots – 26, 27, 28
2002/11/13	Demo application issued	Application to remove Pepco substation approved.
2002/12/27	**Plan submission**	"revised plans" submitted to DCRA – for a new flat with 2 units on each of three lots.
2003/2/7	ANC 6B	Presentation by applicants to ANC
2003/2/?	CFA review	Approval of preliminary design
2003/2/11	ANC 6B Meeting	ANC 6B votes to support flats application, but notes concerns with zoning issues such as non-conforming lot width
2003/03/?	HPRB review	Approval; noted possible lot size issues.
2003/4/29	Foundation Permit application	Three separate applications for lots 26, 27, 28
2003/05/?	HPO approval	HP notes concerns with possible non-conformities and discusses them with Zoning Administrator. HP advised lots are conforming.
2003/5/23	**Foundation Permits issued**	A permit for each of three new 2-unit flats issued by DCRA
2003/6/15	Pepco building razed	Date approximate
2003/7/1	Foundation construction	Commencement of excavation and construction of foundations for the three flats. Apparently, work extended beyond site boundary – into an adjacent easement area to the east, collectively owned by a number of 2nd Street homeowners.
2003/8/25	**Building Permits issued**	A separate BP for each of the three flats issued by DCRA.
2003/9/2	**Stop work order** issued	First stop work order issued by DCRA
2003/9/5	Stop work order lifted	
2003/9/12	**Appeal 17085 - of ZA issuance of BP**	Submitted on behalf of neighbors
2003/9/16	Second **Stop-work** order	
2003/9/30	DCRA letter to applicant	Notes non-compliance of project to §401.3
2003/10/30	(date approximate) – **"Hold Harmless" Agreement**	Agreement between applicant and DCRA to permit continuation construction of the three flats.
2003/11/7	**BZA application 17108 filed**	Per section 401.3, for lot width and lot area for each of the three flats. Subsequent review indicated a possible third variance required for side yard.
2004/1/27	BZA hearing re 17108	Applicant requested a postponement.
2004/2/24	BZA hearing	Case # 17108 and Appeal #17085.

[1] All dates and event descriptions are as best as could be determined by OP.

Standard	CAP/R-4 Zone Regulations	Proposed	Variance
Dwelling Type:	One row dwelling or flat per lot	One flat on each of three lots (3 flats total)	conforming
Height: (§400)	40 ft. max.	37.1 ft.	conforming
Stories: (§400)	3 + basement	3 + basement	conforming
Lot Size: (§401.3):	1,800 sq.ft. min.	1,447.3 – 1,529.3 sq.ft. (80.4% - 85% of required)	**352.7 – 270.7 sq.ft. – variance required**
Lot Width (§401.3):	18 ft. min.	16 feet (88.9% of required)	**2 ft. – variance required**
Floor Area Ratio: (§402)	1.8 max. [1]	approx. 9,850 sq.ft. enclosed space = a total FAR of approx. 2.12[2], or ave. .71 per flat building	conforming[3]
Lot Coverage: (§403)	60% max	60% on each lot	conforming
Rear Yard: (§404)	20 ft min.	conforming	conforming
Side Yard: (§§405.3 / 405.9)	3" / ft. of building height (37') for the end units	Lot 26 – 0 ft. Lot 27 – n/a Lot 28 – 0 ft.	**9.25 ft. – variance required** conforming **9.25 ft. – variance required**
Parking: (§2101.1)	1 per unit	1 per 2 dwelling units[4]	conforming

1 This zone does not establish a maximum FAR. The Overlay provides for an FAR maximum of 1.8 per building or structure (§1203.3).

2 Includes all enclosed space in the basement and three above grade floors.

3 In this case, the FAR of each individual flat building is well below the 1.8 FAR limit.

4 Accessed from the rear alley via a common driveway

Metropolitan Police Department (via email)

(The inspector) went by the locations and have no issues with the locations or variances, however the Fire Dept may. The only way to access the rear of the locations is from C Street, due to a low overhang in the parking garage next door, however their is ample room for a police car and the courtyard is large enough for us and is easily accessible.

Department of Health (via email)

It is unclear what work was done by whom - the fact that it is an old Pepco Substation would warrant some type of soil investigation.

Fire and Emergency Medical Services Department (via email)

This BZ Adjustment Application requests a variance and special exception to allow for reduction in the lot width and lot area for 206,208 & 210 D St. S.E. Lots 26, 27 & 28 Square 763.

Units of the DC Fire & EMS Dept. did a visual inspection of the site on 12/29/03. All 3 structures were under construction. The construction phase consisted of concrete and cinder block exterior walls with brick veneer on all 4 sides with cinder block walls between the units. Visible floor joists between the 1st and 2nd floors, with lightweight wood trusses. Accessibility to the buildings for hose line and laddering operations is acceptable.

It is therefore, my opinion that these buildings pose no significant challenge for fire suppression activities. I recommend approval of this request, provided that all current building and fire codes are met for the proposed occupancy class.

DC Department of Transportation (via email)

DDOT has no concerns with this application for lot width and area variances.

Department of Parks and Recreation (via email)

DPR has no comments on this application.

MEMORANDUM

January 6, 2004

TO: Joel Lawson, Development Review Specialist
Office of Planning

FROM: James J. Shabelski, Supervisor
Water and Sewer Design Section, DC WASA

SUBJECT: **BZA Application No. 17108,** 206-210 D Street, SE
Square 763; Lots 800, 801, & 802

The District of Columbia Water and Sewer Authority (DC WASA) has reviewed the information for the above referenced project. Before the consultants initiate a building design, DC WASA will have to carefully review the hydraulic loading that will be placed on the storm and sanitary sewers from each new building. Therefore, DC WASA will require the following:

- If the applicant intends to use existing water and sewer connections, these connections must be inspected to determine if they meet the current DC WASA standards.

- Proposed locations of the storm/sanitary sewers, and water lines connection. There are sewers within the alleys near this property. Note that DC WASA does not allow any connections to alley sewers, unless the applicant makes a request for a waiver.

- Future average and maximum daily water demand.

- Future average and maximum daily wastewater discharge from the new buildings.

- Water flow requirements for fire protection will be needed to evaluate impact of the new development on the water system.

- Erosion and sediment control plan approval from DOH.

- All new water and sewer facilities designed for public space must meet the DC WASA design criteria and specifications. At the appropriate time, the design consultant shall request a pre-design meeting with DC WASA to facilitate the permitting process for the proposed development.

If you have any question, please feel free to call me on (202) 787-2379 or please send an e-mail to jshabels@dcwasa.com.

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Lawrence C. Cager, Jr.
Deputy Director for Development Finance

DATE: January 9, 2004

SUBJECT: Department of Housing and Community Development (DHCD) Review of BZA Application No. 17108 – 206-210 D Street SE

DHCD has reviewed the above referenced BZA Application you sent by e-mail on December 24, 2003. This memorandum offers comments on the BZA application. After staff review of the application materials, DHCD is supportive of this BZA Application No. 17108 for the following reasons:

1. This project is providing 6 units of badly needed new housing units in the Capitol Hill neighborhood.
2. The three new two unit townhouses occupy the same building footprint on each of the three lots that was occupied in the early of the twentieth century by three similarly scaled townhouses.
3. All the townhouses are of a high quality of design that is appropriate to the Capitol Hill Historic District in which this project is located.
4. The parking requirement for residential flats in R-4 zones is 1 parking space for two flats. This project meets the parking requirement since there is one parking space for each of the two unit townhouses.
5. The scale and width (16 feet) of the project townhouses is the same as many townhouses in the immediately adjoining Capitol Hill neighborhood. Further, the three townhouse lots are located between two alleys and cannot provide any sideyards for the two end units.
6. Lot sizes smaller than the minimum required lot sizes are a common occurrence throughout the older neighborhoods of the District. Allowing smaller than minimum sized lots allows many new townhouses to fit better into these existing historic neighborhoods. Most of the neighboring existing townhouses in Capitol Hill are sitting on lots that are smaller than the minimum lot size.