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February 3, 2004

BY MESSENGER

Mr. Geoffrey H. Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 Fourth Street, N.W.
Suite 410
Washington, DC 2001

Re: BZA Application No. 17116 – 1701 18th Street, N.W.

Dear Chairman Griffis:

Attached please find the Statement of the Applicant that we have prepared in connection with the above-referenced BZA Application.

Sincerely,

Allison C. Prince

Allison C. Prince

Attachment

Document #: 1377932 v.1

BZA
Case No. 17116
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 17116
EXHIBIT NO. 24

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of 1701 18th Street, LLC

BZA Application No. 17116
Hearing Date: February 17, 2004
ANC 2B

STATEMENT OF THE APPLICANT

This is an application of 1701 18th Street, LLC ("Applicant") to further the proposed renovation and conversion of the existing building located at 1701 18th Street, N.W. ("Building"). The Building is a nonconforming chancery building that was constructed prior to the enactment of the 1958 Zoning Regulations. The Applicant wishes to convert the Building into nine apartment units, thereby returning the Building to its original residential use. The conversion of the Building requires the replacement of a three-story-high room with one-story floors and ceilings to integrate such space into the second and third floors of the Building. This renovation will increase the currently nonconforming floor area ratio ("FAR"). Additionally, the height of the existing open court will be increased through the addition of a ramp to serve parking, thereby increasing the required minimum width of that court. All proposed expansion is internal, with the exception of the reconfiguration of the penthouse, thereby only increasing the FAR by internal renovations.

I.
Nature of Relief Sought

The Building is located in Lot 132, Square 153, in the D/DC/R-5-B Zone District (the "Subject Property"). The Applicant requests variance relief from the Board of Zoning Adjustment (the "BZA" or "Board") from the maximum FAR (§§ 402.4), the minimum width of court (§§ 406.1), the limitation on expansion of an existing nonconformity (§§ 2001.3(a)), and the limitation on expansion of an existing nonconformity when the existing lot occupancy is nonconforming (§§ 2001.3(b)(2)), to permit the conversion of the chancery (a nonconforming

building) into a 4-story apartment building. The Applicant's satisfaction of the standards for granting variance relief is discussed in detail in Section IV of this statement.

II.
Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to Section 3103.2 of the Zoning Regulations (11 DCMR §3103.2).

III.
Background

A. Description of the Property and Surrounding Area

The Subject Property is located at the intersection of 18th and R Streets, N.W. in the historic Dupont Circle neighborhood. The 4-story mansion is in the Victorian style and contributes to the area's historic and architectural character. One of the more unusual features of the Building is a three story ballroom on the eastern portion. As shown in the photographs attached as Exhibit D, the Building is located approximately two blocks north and two blocks east of Dupont Circle. The Dupont Circle Metro Station is located approximately 4 blocks to the southwest. The 2 blocks to the west of the Subject Property along Connecticut Avenue and the 2 blocks to the east of the Subject Property along 17th Street include the major retail, restaurant and shopping areas of the Dupont Circle neighborhood. Copies of a plat depicting the Subject Property and the Zoning Map, are attached as Exhibits A and B.

B. History of the Building

The Building was originally constructed in 1906 as a 4-story mansion. The Building was used as a single family home from the time of its completion until 1945 when the Building was sold to the Disabled American Veterans Association ("DAV"). The Building was used as the DAV headquarters until it was sold in 1976 to the National Recreation and Parks Association (NRPA). The NRPA established their offices in the former mansion and rented many of the

rooms to various entities throughout its tenure. In 1986, the NRPA sold the Building to Henry Liu, who leased the former mansion to various entities of the Taiwanese Government for use as its Washington legation and myriad offices. For the past eight years, the property has been primarily vacant and has not been maintained.

C. Description of the Proposed Upgrades to the Existing Building

The proposed renovations will allow for a substantial renovation of the Building and a conversion into nine residential units, which will return the Building to its original residential use. The historically sensitive renovations will promote the preservation of the historic and architectural character of the Building and the greater Dupont Circle neighborhood. The roof structure will be reconfigured and will comply with all setback requirements. The proposed interior work includes the replacement of the three-story-high room with one-story floors and ceilings and conversion of such space into three separate floors, and well as new HVAC, electrical, plumbing systems, and appliances. Also, the lobby and common spaces will be restored, the existing fireplace mantles will be preserved, original doors and flooring will be reused where possible, and exterior doors and windows will be restored or replicated. Additionally, the Applicant plans to strip the paint and repair the exterior masonry, and landscape the adjacent public space by removing a parking pad at the north alley. The proposed renovations will have no impact on the existing footprint of the Building.

D. Areas of Necessary Relief

As previously discussed, the existing building is nonconforming as to height, FAR, lot occupancy and open court width. Therefore, in order to undertake any increase in FAR, variance relief from 11 DCMR §2001.3(a), §402.4, §2001.3(b)(2), and §406.1 is necessary.

IV.
The Application Meets the Requirements for
Variance Relief Under Section 3103.2 of the Zoning Regulations

The Application meets the requirements for variance relief under Section 3103.2 of the Zoning Regulations. The burden of proof for area variance relief is well established. The applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. BZA, 287 A. 2d 535, 541 (D.C. 1972). As set forth below, the application meets the three-part test for area variance relief.

A. The Subject Property is Affected by an Exceptional Situation or Condition

The D.C. Court of Appeals held in Clerics of St. Viator v. D.C. Board of Zoning Adjustment, 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that " . . . property generally includes the permanent structures existing on the land [footnote omitted]." Id. at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land).

The Building is subject to an extraordinary and exceptional situation because it is improved with a nonconforming building that was constructed prior to the enactment of the 1958 Zoning Regulations. As a result, the existing building is a nonconforming structure in many aspects, as described above. Most importantly for this application, the triple height space is highly unusual. The space was designed as a music room to house an organ. However, any reconfiguration of the floors affects the FAR of the Building and requires special relief. In addition, the existing ceiling heights of the first, second and third floors of the Building are

already generous, ranging from approximately ten to thirteen feet. As such, the existing nonconformities of the building and the triple height space in particular, certainly make the Subject Property subject to an extraordinary and exceptional situation.

B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty to the Applicant

First, we need to make clear what is required to demonstrate a "practical difficulty." The requested relief is for area variances. The test of a use variance is "undue hardship," which is a more stringent standard than required for area variances. In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. D.C. Bd. of Zoning Adjustment, 287 A.2d 535, 542 (D.C. 1972) that, "[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." In area variances, applicants are not required to show "undue hardship" but must satisfy only "the lower 'practical difficulty' standards." Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1365 (D.C. 1992), citing Gilmartin v. D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider " . . . a wide range of factors in determining whether there is an 'unnecessary burden' or 'practical difficulty' . . ." Gilmartin, 579 A.2d at 1171, citing Barbour v. D.C. Bd. of Zoning Adjustment, 358 A. 2d 326, 327 (D.C. 1976). See also, Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d at 1367. Thus, to demonstrate practical difficulty, the applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

As previously discussed, the Building on the Subject Property is a nonconforming structure as to FAR and lot occupancy. Compliance with the FAR limitations will result in

several practical difficulties when restoring the Building to its original residential use. It will be extremely difficult to create apartments within the triple height space without relief.

The practical difficulty that exists in converting the former office space into apartments is that there is a three-story-high room within the Building. In order to construct individual units within the Building and provide amenities to potential residents that are common in newly constructed residential buildings in the District of Columbia, it is necessary to convert this space into three separate floors. Further, given the configuration of the entrance of the Building, the elevator and exit stairs in the existing triple-height space could only be used in it current configuration as a single unit. Without relief, the configuration of the required smaller residential rooms would result in nonsensical proportions. Only a more efficient layout of the Building, which includes renovation of the three-story-high room, will allow sufficient interior space for the creation of apartment units. However, any reconfiguration of the floors affects the FAR of the Building and requires a variance.

Further, in order to create a lower level of parking in the existing basement level, a ramp must be installed in an existing court at the northeastern corner of the Building. The installation of the ramp will increase slightly the height of the court, thereby increasing the nonconformity of the court width. The ramp is critical to the ability to maximize parking on the site. The renovation will involve the creation of 5 parking spaces in the basement. The spaces will measure approximately 8 x 19 feet. While the spaces are slightly smaller than the 9 x 19 dimension required under the zoning regulations, the deficiency does not require a variance since parking is not required for a historic building.

For these reasons, the Applicant believes that a practical difficulty exists in satisfying the requirements of the Zoning Regulations that (i) the renovations made to the structure neither increase nor extend any existing nonconforming aspect of the structure; (ii) the maximum FAR is

1.8; and (iii) the minimum width of open court is at least 4 inches per foot of height but not less than 10 feet.

C. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

The requested variance can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan. Indeed, granting the requested variance relief advances numerous goals and policies of the District of Columbia Comprehensive Plan. One of the major policies of the Comprehensive Plan, for example, is the creation of additional housing opportunities in the District of Columbia. The Comprehensive Plan states:

> A central theme of the Housing Element [of the Comprehensive Plan] is that the District must stimulate a wider range of housing choices and strategies **through the preservation of sound older stock** and the production of new units . . . (emphasis added). (10 DCMR §300.2).

Further, in regard to the protection and enhancement of historic properties, the Comprehensive Plan notes:

> Every effort should be made to provide for the continued, appropriate use of all historic properties. (10 DCMR §805.1).

The granting of this variance request is entirely consistent with these objectives of the Comprehensive Plan, as the renovation will take into account and preserve the historic nature of the Building as well as produce new residential units. The proposed renovation will not detract from the Building's historic appearance, and will enhance the historic neighborhood of Dupont Circle. No adverse impact will occur to neighboring properties as there will be virtually no changes to the exterior of the building.

The Comprehensive Plan also sets forth objectives for economic development, land use and housing. One of the policies in support of the residential neighborhood objectives under the

Comprehensive Plan is the retention and expansion of residential uses in mixed use neighborhoods to help maintain the residential character of these areas, through modification of land use and related regulations when necessary (10 DCMR 1104.1(g). Further, under its plans for Ward 2, the District government shall encourage the private sector to provide new housing to meet the needs of present and future District residents (10 DCMR §1305.1(a)).

The granting of this variance request is entirely consistent with these objectives of the Comprehensive Plan. The conversion from chancery to residential use will help maintain the economic vitality of the Building and will provide additional residents for the District of Columbia. Further, the conversion from chancery to residential will increase the tax base in the District as the Building is currently exempt from taxes.

V.
Community Outreach

The Applicant has met with Rob Halligan of Advisory Neighborhood Commission (ANC) 2B on several occasions regarding the renovation and modification of the Building. The Applicant has also met with Bob Meehan, the ANC Commissioner in whose district the project is located, and presented the project to the full ANC 2B at its monthly meeting on January 14, 2004. The ANC voted unanimously to support the project.

VI.
List of Witnesses Expected to Testify

The following witnesses are expected to testify at the public hearing on behalf of the Applicant:

1) Keith Burgess, representative of the Applicant; and

2) Greg Zahn, Zahn Design Architects, Project Architect.

VII.
Exhibits in Support of the Application

Exhibit A: Portion of the Sanborn plat showing the Subject Property outlined in red.

Exhibit B: Portion of the Zoning Map showing the Subject Property outlined in red.

Exhibit C: Elevations and plans of the proposed modifications and improvements to the building, including photographs and a site line study.

Exhibit D: Photographs of the existing building.

Exhibit E: Outline of Testimony of Keith Burgess, representative of the Applicant.

Exhibit F: Outline of Testimony of Greg Zahn, Architect; Zahn Associates.

VIII.
Conclusion

For all of the above reasons, the Applicant is entitled to the requested variance relief in this case.

Respectfully submitted,

SHAW PITTMAN LLP

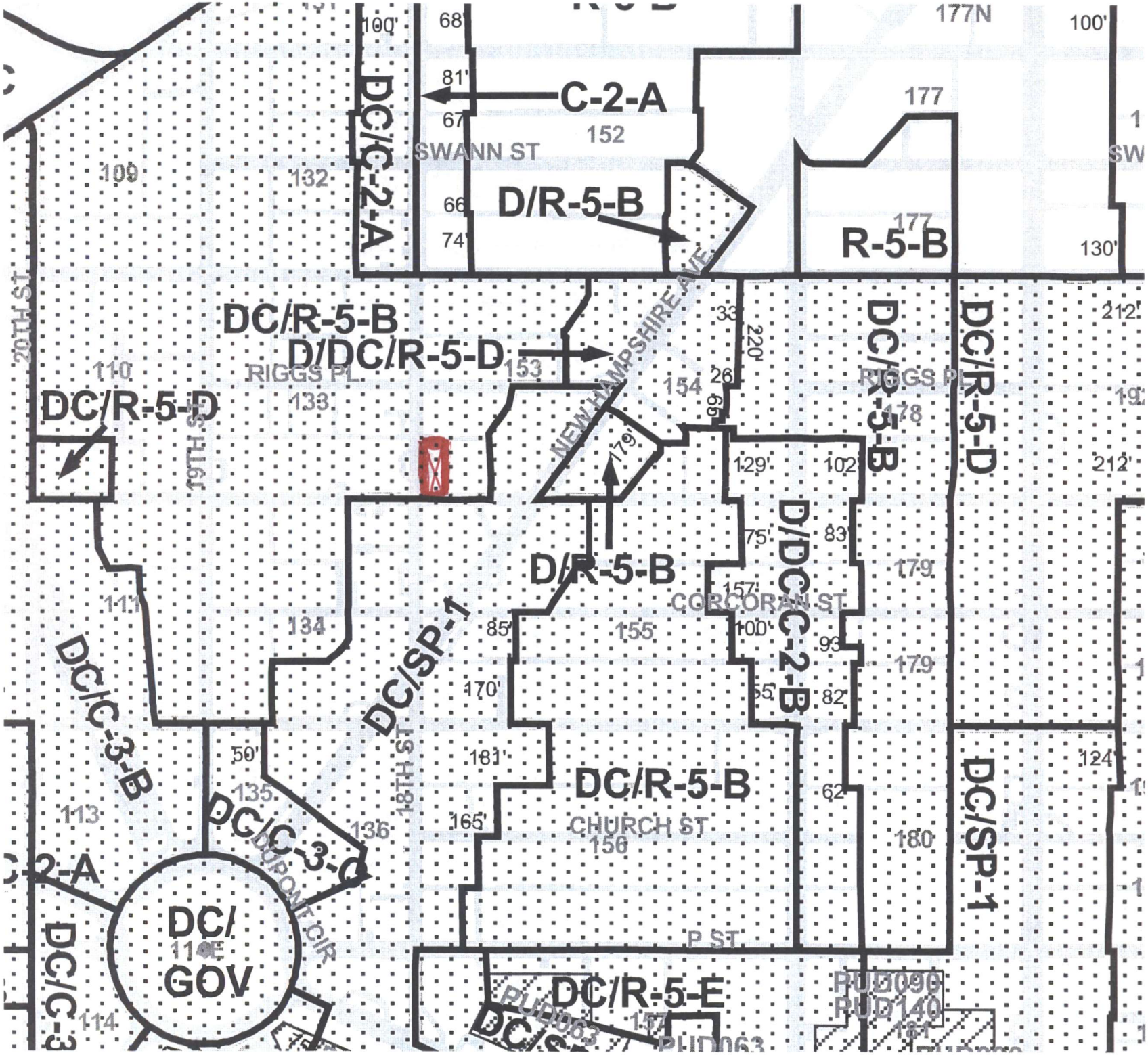
By: Allison C Prince 2/3/04
Allison Prince

Document #: 1373900 v.1

A

18TH STREET
RIGGS PLACE
HAMPSHIRE AVENUE
S STREET
R STREET
17TH STREET
NEW

B


C-2-A
D/R-5-B
R-5-B
DC/C-2-A
DC/R-5-B
D/DC/R-5-D
DC/R-5-D
DC/SP-1
D/R-5-B
DC/C-2-B
DC/R-5-B
DC/SP-1
DC/C-3-B
DC/C-3-D
DC/
GOV
DC/R-5-E
SWANN ST
RIGGS PL
NEW HAMPSHIRE AVE
CORCORAN ST
CHURCH ST
P ST
19TH ST
18TH ST
20TH ST
177N
177
100'
68
81'
67
66
74'
152
109
132
110
133
153
154
26
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220'
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179'
129'
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75'
83
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100'
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170'
82
55'
181'
165'
156
62
180
179
212'
124
50'
135
136
113
111
134
114
RUD063
RUD090
RUD140

C

1701 18th Street NW







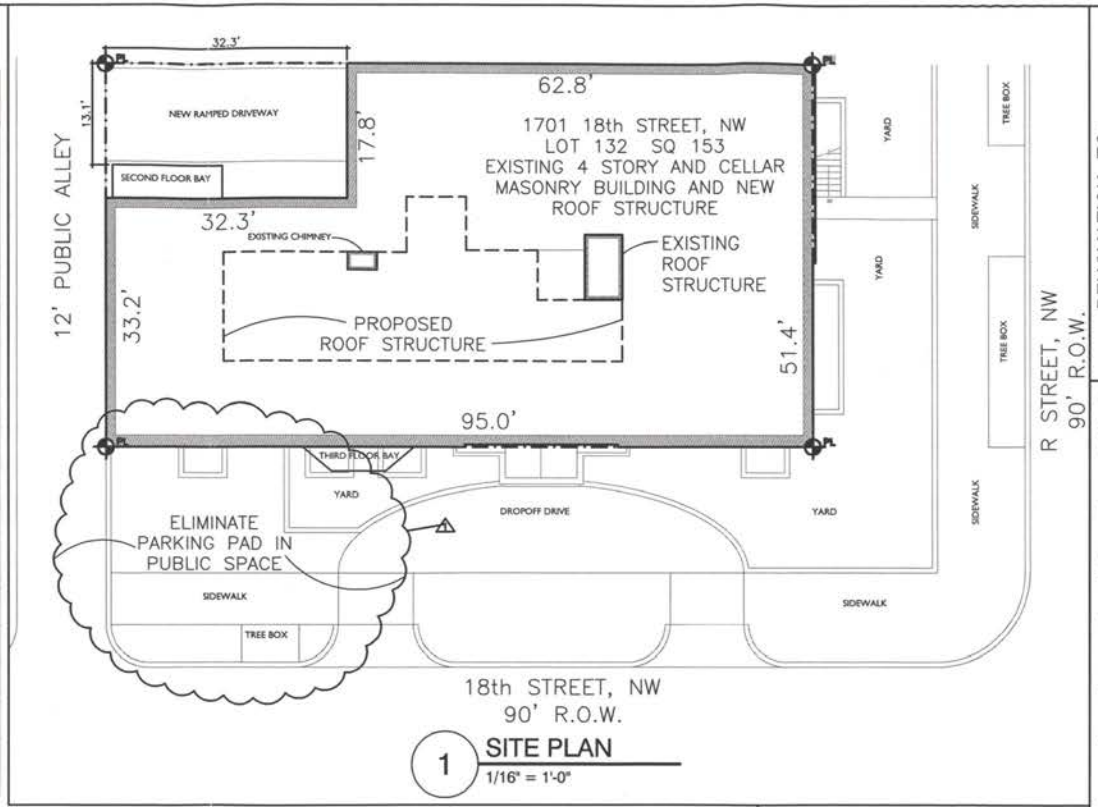






Zahn Design Architects

Item	Existing Conditions	Minimum Required	Maximum Allowed	Provided by Proposed Construction	Variance (Deviation/ Percent)
Lot Area (sq. ft.)	4885 sq. ft.	None Prescribed	N/A	no change	no change
Lot Width (ft. to the tenth)	51.4 feet	None Prescribed	N/A	no change	no change
Lot Occupancy (building area/lot area)	89.5% 4373 sq.ft	None Prescribed	60% 2931 sq.ft.	89.5% 4373 sq.ft.	no change
Floor Area Ratio (FAR) (floor area/lot area)	3.0 FAR 14655 sq. ft	N/A	1.8 FAR 8793 sq. ft	3.53 FAR 17284 sq.ft	17.70%
⚠ Parking Spaces (number)	N/A	NONE	N/A	5-8x19 FEET SPACES	no change
Loading Berths (number and size in ft.)	N/A	N/A	N/A	no change	no change
Front Yard (ft. to the tenth)	N/A	N/A	N/A	no change	no change
Rear Yard (ft. to the tenth)	N/A	N/A	N/A	no change	no change
Side Yard (ft. to the tenth)	N/A	N/A	N/A	no change	no change
Court, Open (width by depth in ft.)	13.1 ft. x 32.3 ft.	Width: 21.3 ft. (4"per ft. of vertical height) or 10 ft min. Depth: 15 ft. min	N/A	13.1 ft. x 32.3 ft.	8.2 ft. in width 38.5%
Open Court Height ft.	57.0ft.	N/A	N/A	64.0 ft.	7ft. Increase (below grade) 12.3%
Court, Closed (width by depth in ft.)	N/A	N/A	N/A	no change	no change
Building Height (ft. to the tenth)	59.0 ft.	N/A	50 ft.	no change	no change
Roof Structure FAR/Area	46.0 sq.ft.	N/A	0.37 FAR 1807 sq.ft.	0.15 FAR 738 sf.ft.	none
Roof Structure Height (ft. to the tenth)	12.6 ft.	N/A	18.5 ft.	7.0 ft	none
Roof Structure Set back (Ratio) (ft. to the tenth)	20.6 ft.	1 to 1.6	1 to 1	7 to 7 (height to length)	none



1 SITE PLAN
1/16" = 1'-0"

LIST OF DRAWINGS

ARCHITECTURAL

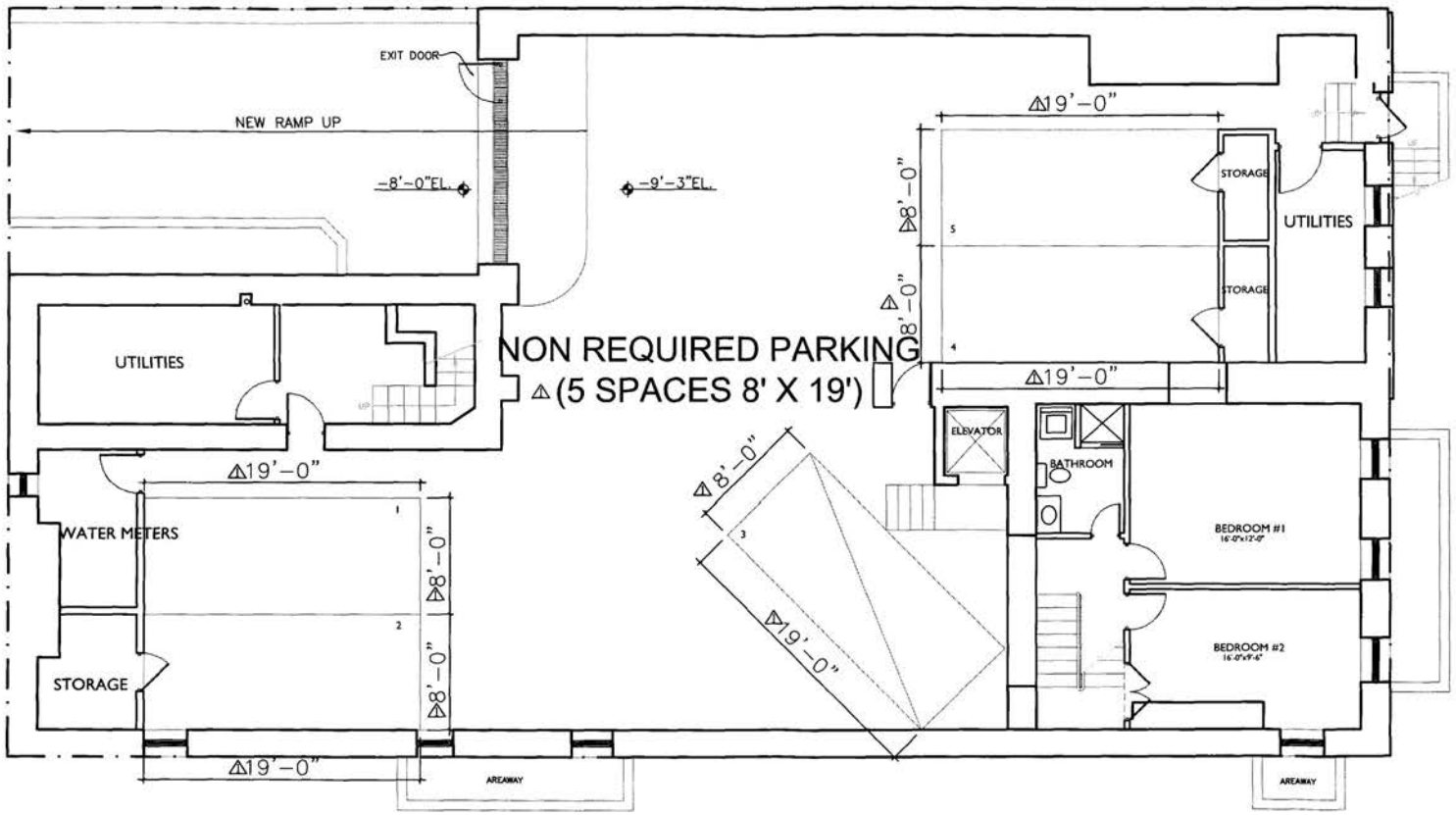
CO– SITE PLAN
A1– CELLAR FLOOR PLAN
A2– FIRST FLOOR PLAN
A3– SECOND FLOOR PLAN
A4– THIRD FLOOR PLAN
A5– FOURTH FLOOR PLAN
A6– ROOF STRUCTURE FLOOR PLAN
A7– R STREET ELEVATION
A8– 18th STREET ELEVATION
A9– ALLEY ELEVATION
A10– COURTYARD ELEVATION
A11– BUILDING SECTION
⚠A12– WINDOW SECTION

RENOVATION TO:
1701 18th STREET, NW

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snapshot projects/
⚠02/03/04
11/18/03
CO



GROSS FLOOR AREA - 0 SQ.FT.

1 CELLAR FLOOR PLAN
1/8" = 1'-0"

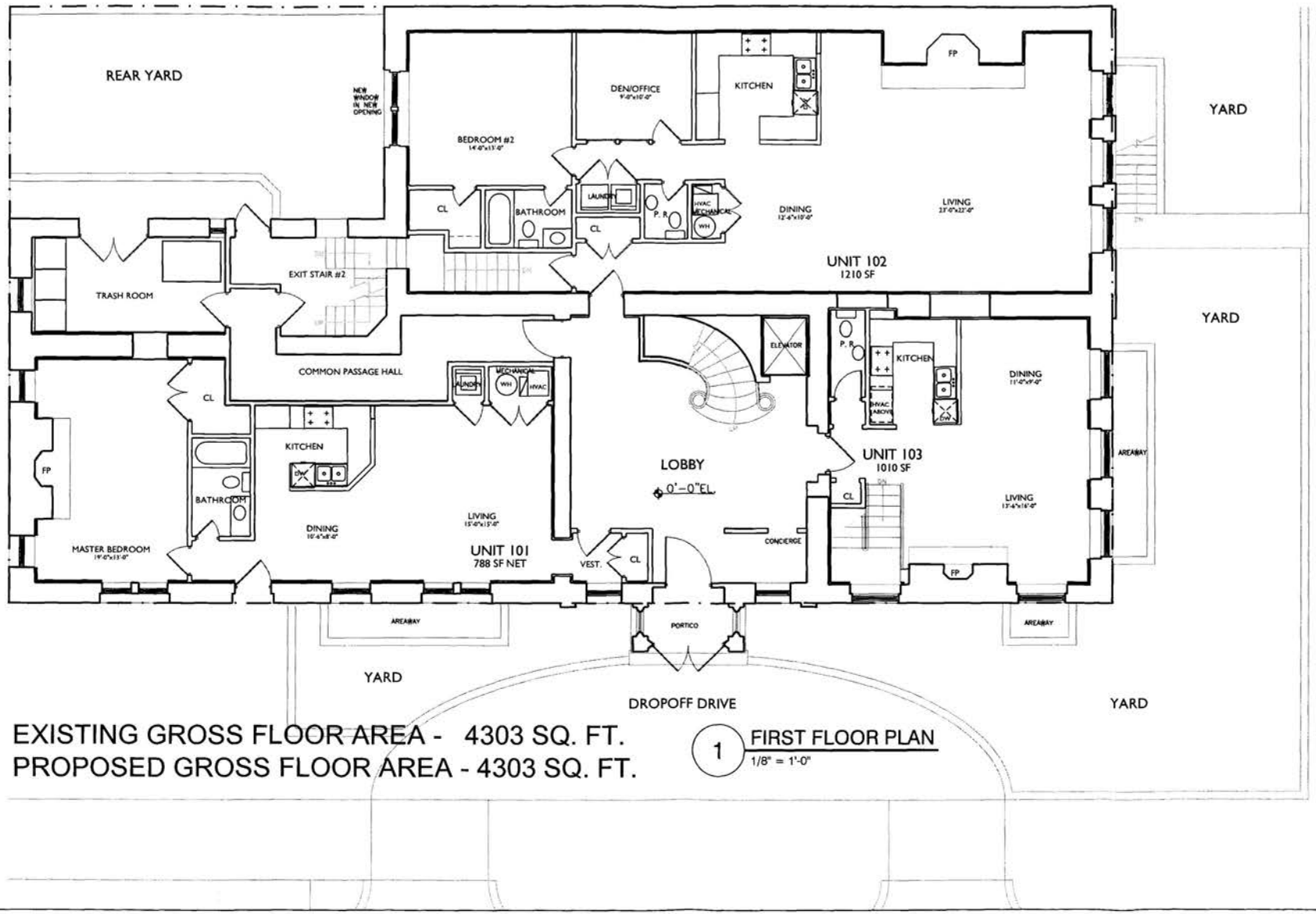
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02/03/04
11/18/03

A-1



EXISTING GROSS FLOOR AREA - 4303 SQ. FT.
PROPOSED GROSS FLOOR AREA - 4303 SQ. FT.

1 FIRST FLOOR PLAN
1/8" = 1'-0"

RENOVATION TO:
1701 18th STREET, NW

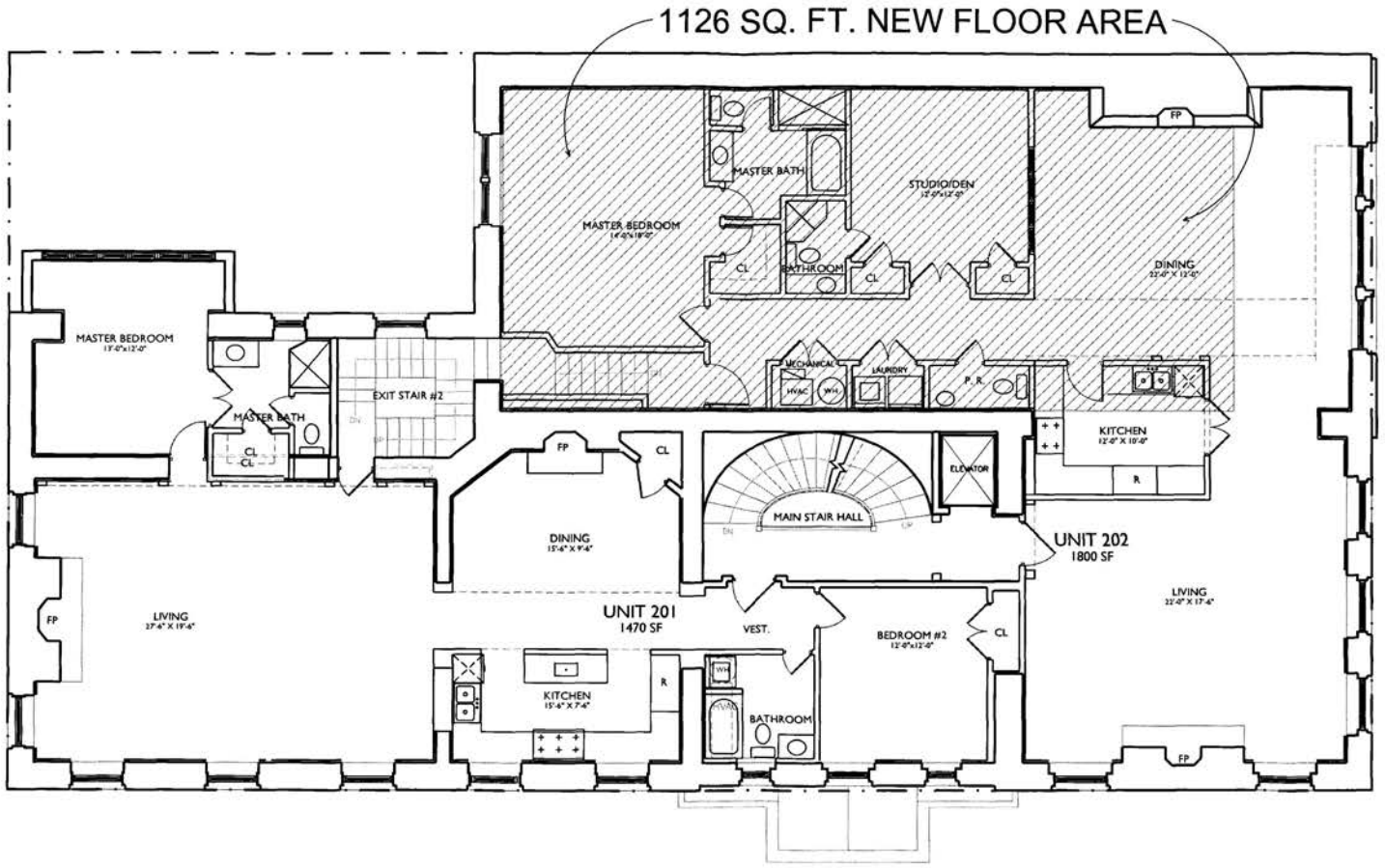
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11/18/03

A-2



EXISTING GROSS FLOOR AREA - 3247 SQ. FT.
PROPOSED GROSS FLOOR AREA - 4373 SQ. FT.

1 SECOND FLOOR PLAN
1/8" = 1'-0"

RENOVATION TO:
1701 18th STREET, NW

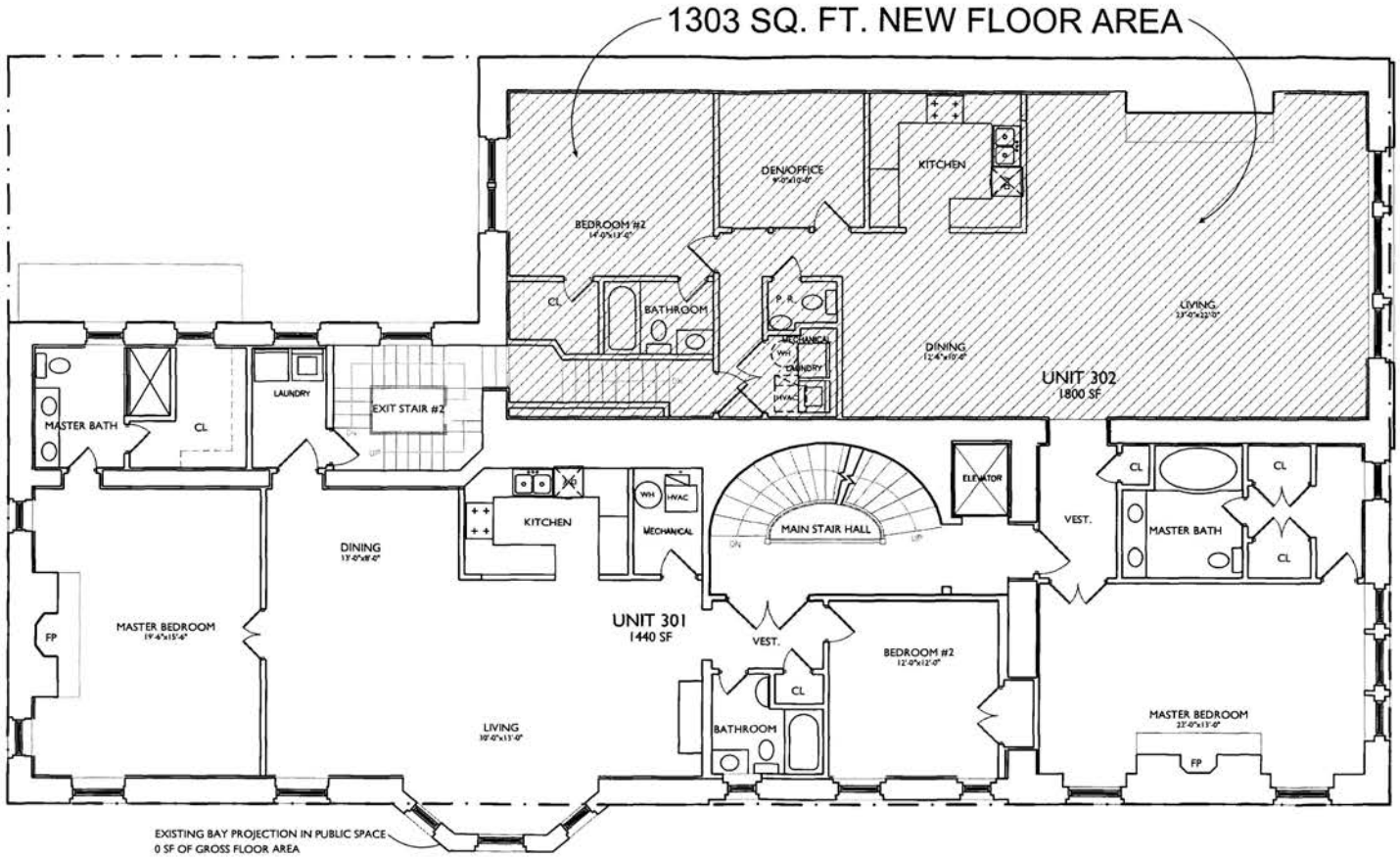
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swipfall projects

11/18/03

A-3



EXISTING GROSS FLOOR AREA - 3000 SQ. FT.
PROPOSED GROSS FLOOR AREA - 4303 SQ. FT.

1 THIRD FLOOR PLAN
1/8" = 1'-0"

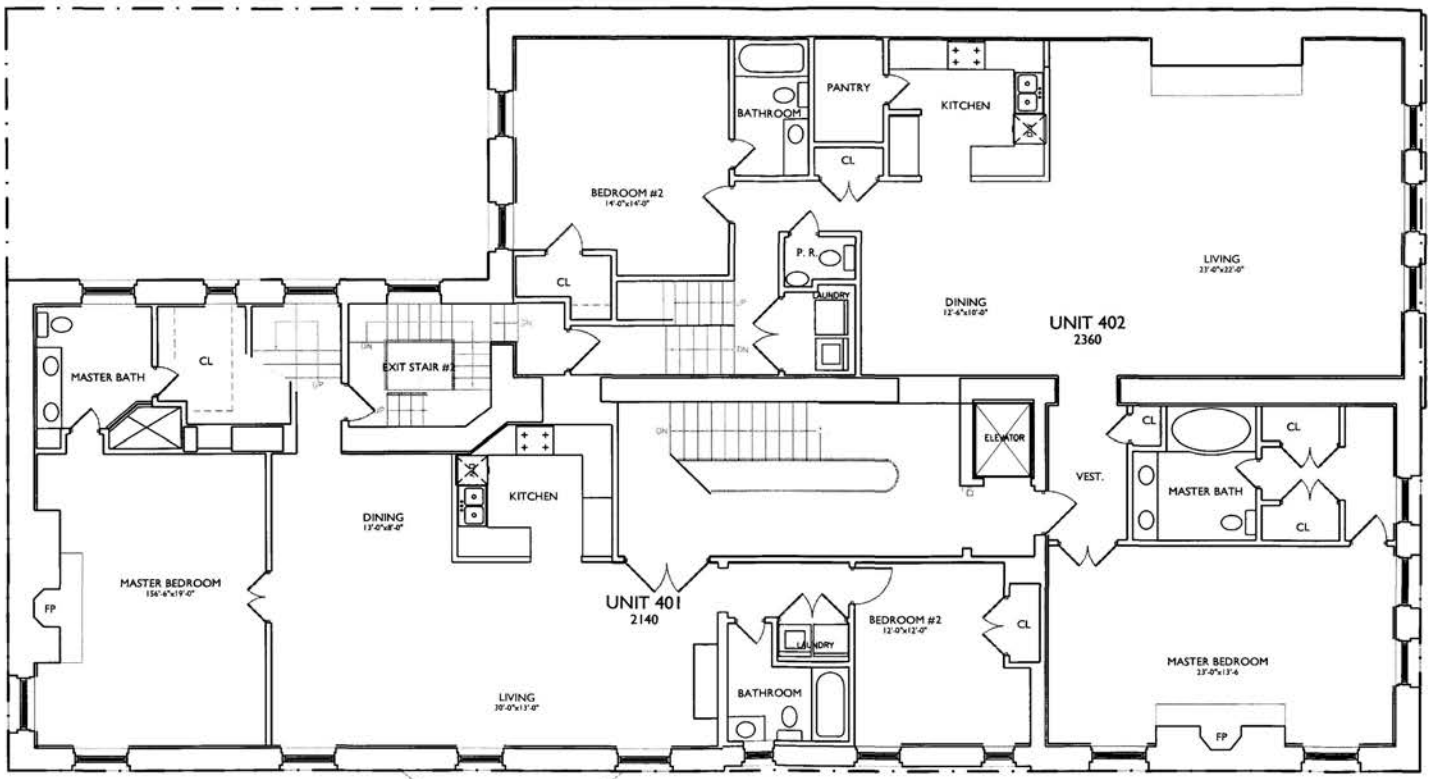
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11/18/03

A-4



EXISTING GROSS FLOOR AREA - 4303 SQ. FT.
PROPOSED GROSS FLOOR AREA - 4303 SQ. FT.

1 FORTH FLOOR PLAN
1/8" = 1'-0"

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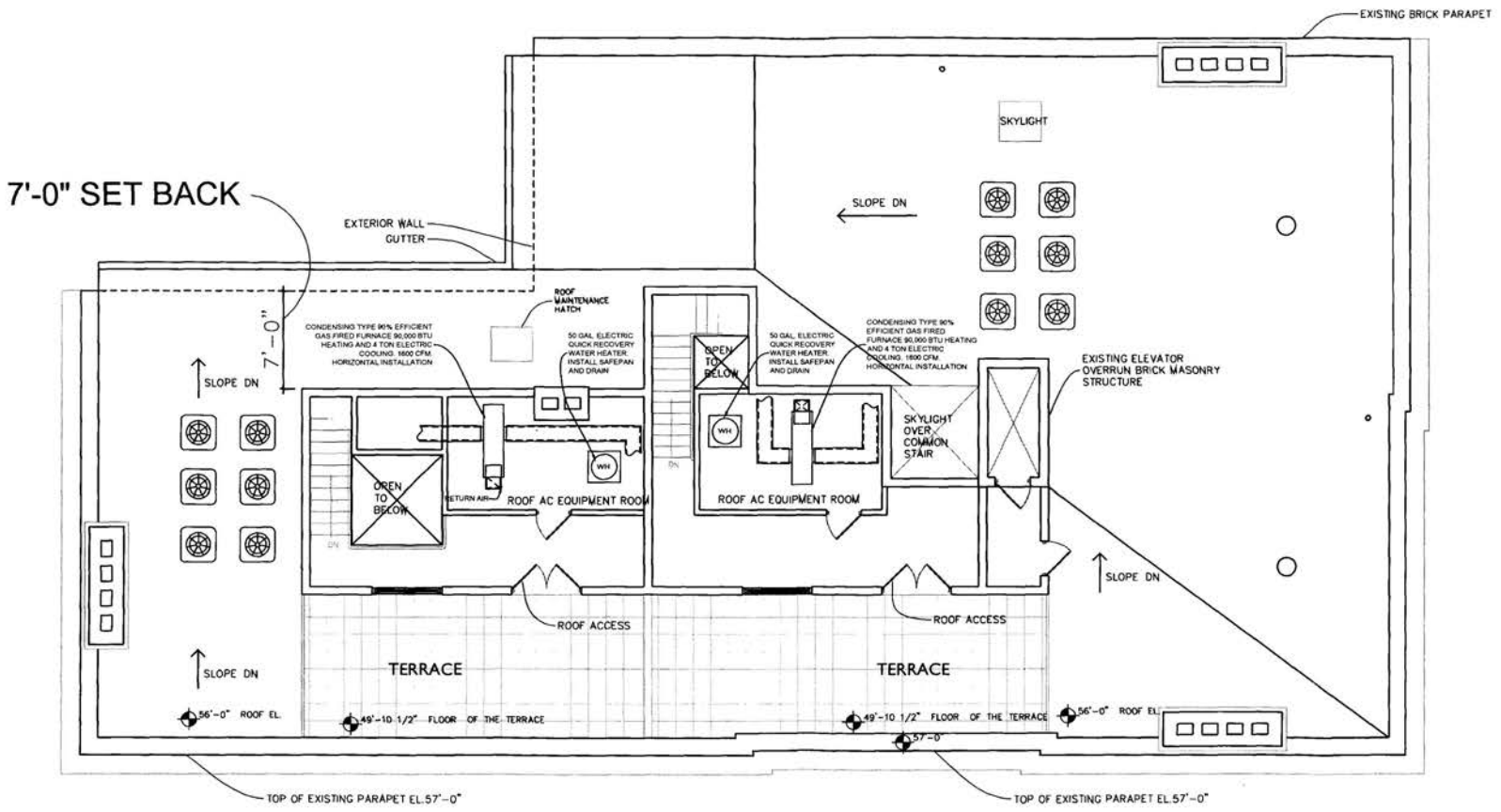
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RENOVATION TO:
1701 18th STREET, NW

snapfish projects

11/18/03

A-5



GROSS FLOOR AREA - 0 SQ.FT.

1 PLAN OF ROOF STRUCTURE
1/8" = 1'-0"

RENOVATION TO:
1701 18th STREET, NW

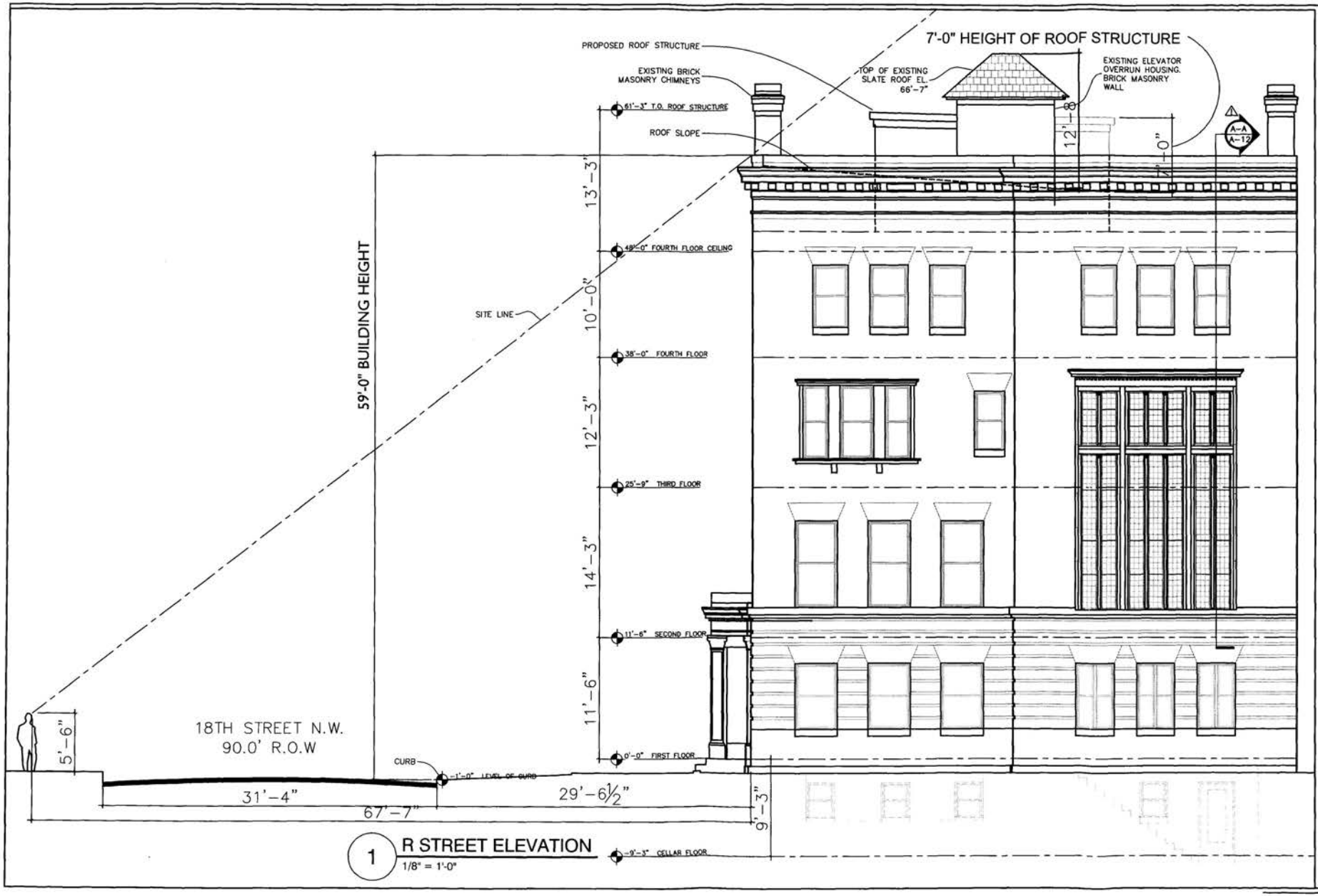
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vaquill projects

11/18/03

A-6



1 R STREET ELEVATION
1/8" = 1'-0"

RENOVATION OF
1701 18th STREET N.W.

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02/03/04
11/18/03

A-7



1 18th ELEVATION
1/8" = 1'-0"

RENOVATION OF
1701 18th STREET N.W.

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11/18/03

A-8



1 ALLEY ELEVATION
1/8" = 1'-0"

RENOVATION OF
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11/18/03

A-9



1 COURTYARD ELEVATION
1/8" = 1'-0"

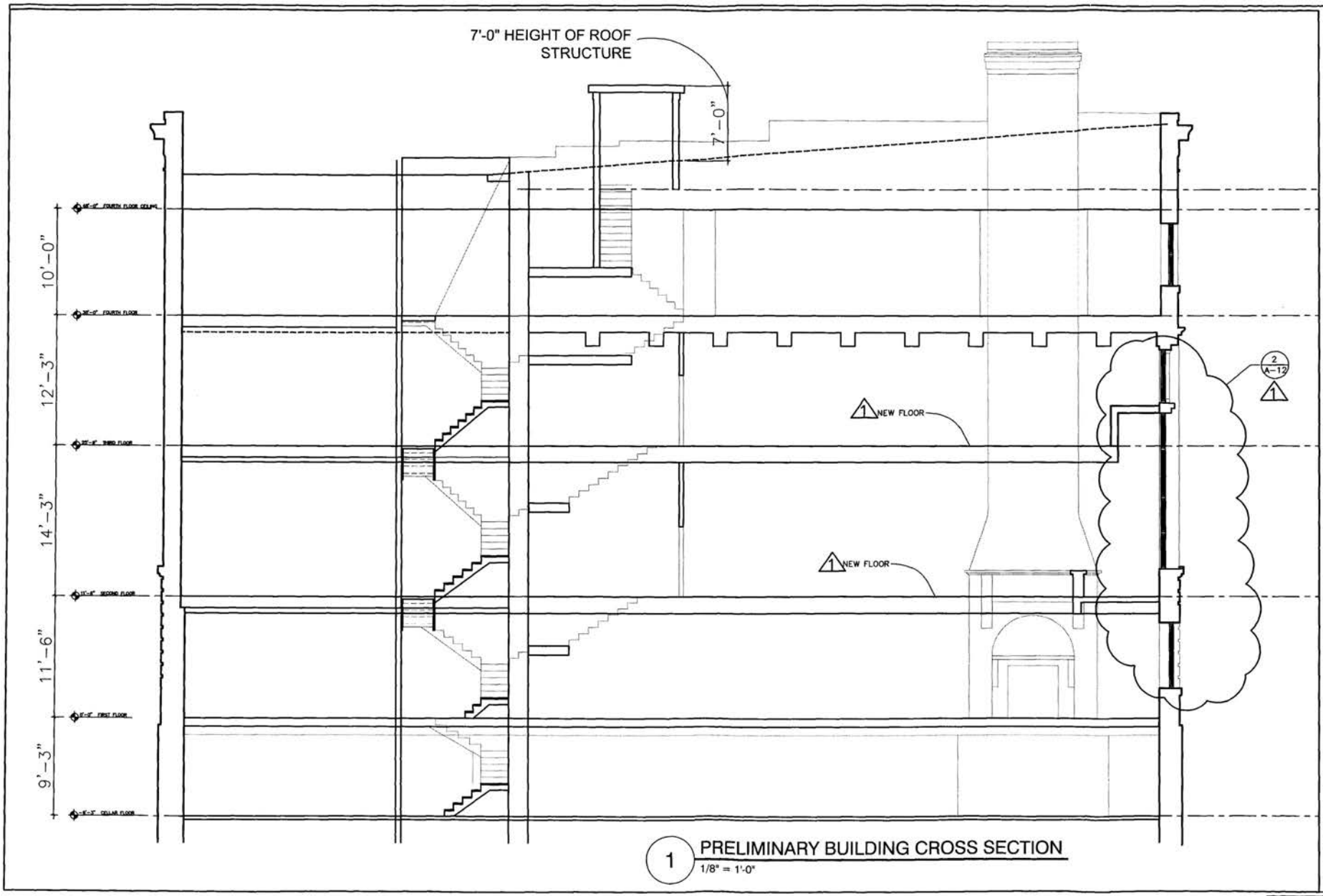
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A-10



1 PRELIMINARY BUILDING CROSS SECTION
1/8" = 1'-0"

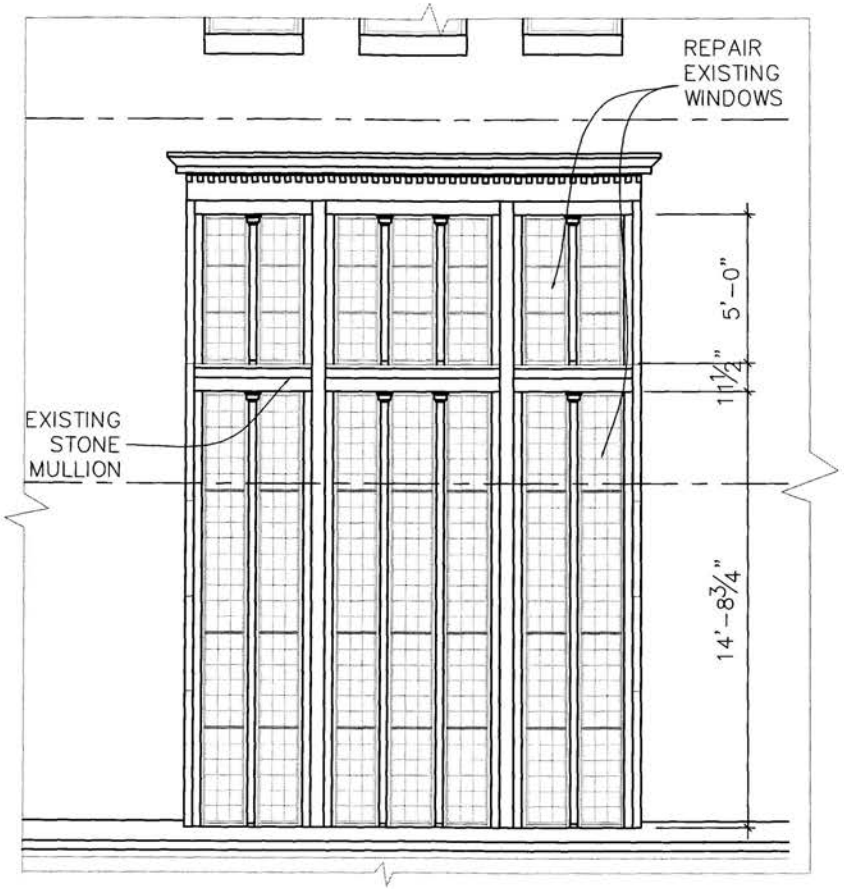
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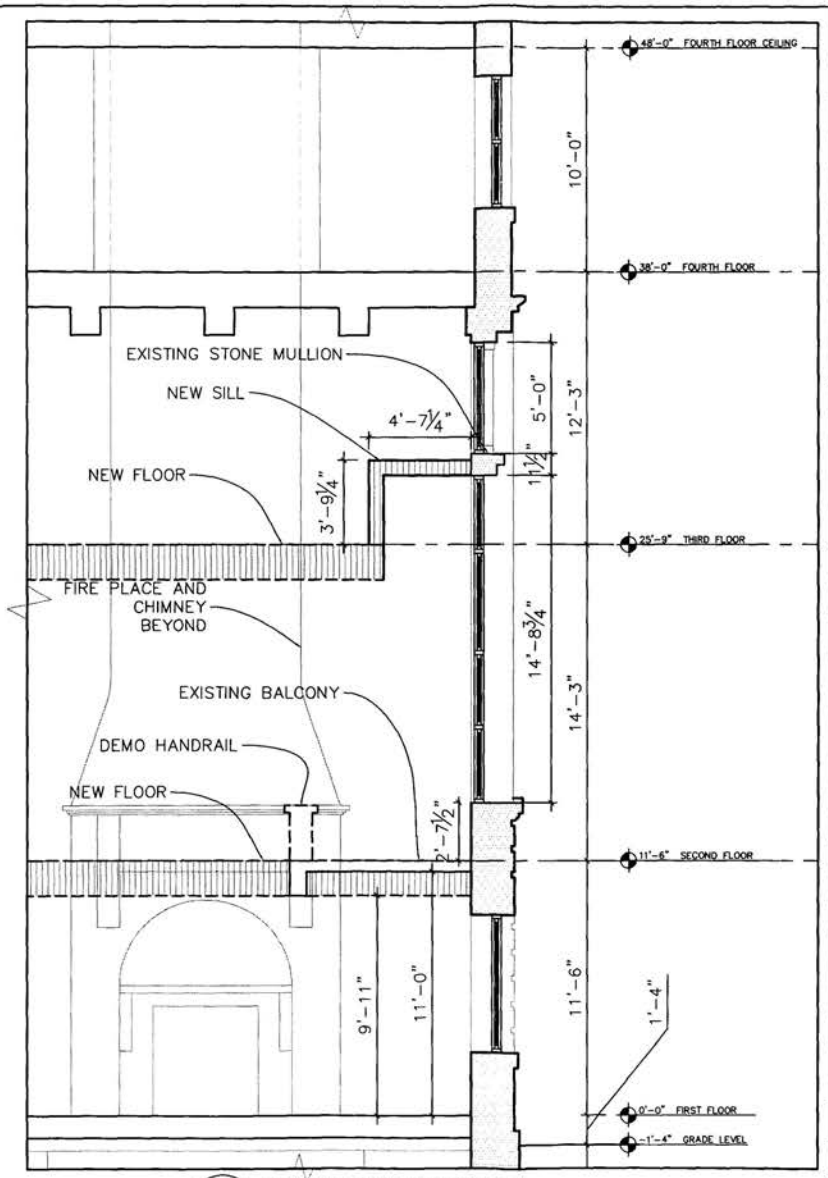
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shop/alt projects/
02/03/04
11/18/03

A-11



1 WINDOW ELEVATION
1/4" = 1'-0"



2 WINDOW SECTION A-A
3/16" = 1'-0"

RENOVATION OF
1701 18th STREET N.W.

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snapshot projects/

02-03-04

A-12

D

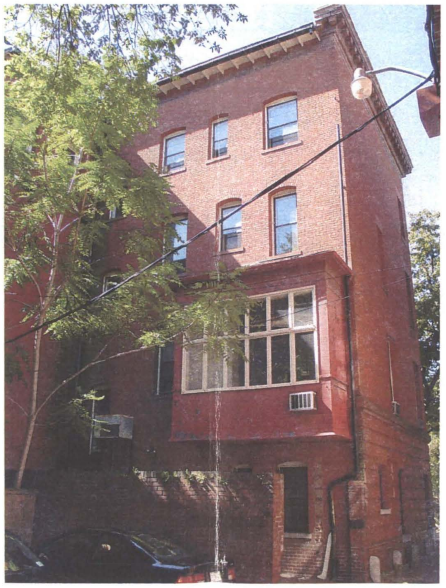
1701 18th Street NW











Zahn Design Architects

E

OUTLINE OF TESTIMONY OF
KEITH BURGESS, MANAGING MEMBER
1701 18th STREET, LLC

I. INTRODUCTION

A. Keith Burgess; Representative of the Applicant

B. Discussion of Renovation of Property

II. OVERVIEW OF THE PROPOSED PROJECT

A. Current State of the Property

B. Goals for the Property

C. Use of the Property following the Proposed Renovations and Modifications

III. COMMUNITY OUTREACH

A. Meeting with ANC 2B

IV. CONCLUSION

F

OUTLINE OF TESTIMONY OF GREG ZAHN, ARCHITECT

I. INTRODUCTION

A. Greg Zahn; Architect

B. Experience in the District of Columbia

C. Discussion of Renovation of Property

II. PROPERTY AND SURROUNDING AREA

A. 1701 18th Street, NW

B. Description of the Surrounding Dupont Circle Neighborhood

III. PROPOSED PROJECT

A. Current Nonconformities of Building

B. Renovations and Modifications

IV. SATISFACTION OF AREA VARIANCE STANDARDS

A. Exceptional or Extraordinary Situation or Condition

B. Practical Difficulty of Satisfying the Strict Application of the Zoning Regulations

C. Granting the Variance Will Not Cause Substantial Detriment to the Public Good or Substantially Impair the Intent, Purpose or Integrity of the Zone Plan

V. CONCLUSION