GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: March 2, 2004

SUBJECT: BZA Application #17122 (Freedom Forum, Inc.)
555 Pennsylvania Avenue, N.W.
Square 491, Lots 826 and 831

BZA
Case No. 17122
Exhibit No. 28

APPLICATION

The application by the Freedom Forum, Inc. (Applicant) request, pursuant to 11 DCMR 3103.2, variances from the provision of Section 776.1, 1701.2, and 1701.3 and a Special Exception pursuant to 11 DCMR 3104 and as outlined in Section 411 to allow a museum and associated accessory uses, offices, residential, and retail uses in the Downtown Development Overlay /C-4 Districts.

SUMMARY RECOMMENDATION

The proposed mixed-use project incorporating a world-class museum, housing, retail, and office uses is proposed to occupy one of the few undeveloped sites on Pennsylvania Avenue. The complex and sometimes contradictory requirements imposed by the Pennsylvania Avenue Plan and the Zoning Regulations in addition to its unique location impacts on the design of a building suitable for location along "America's Main Street". The proposed building has overcome many of the obstacles and the proposed deviations from the strict adherence to the Zoning Regulations will maintain the intent, purpose, and integrity of the Zoning Regulations and Map and therefore the Office of Planning recommends **APPROVAL** of the requested special exception and variances.

SITE AND AREA DESCRIPTION

The subject site (Square 491, Lots 826 and 831) is located at 555 Pennsylvania Avenue, N. W. The site is being temporarily used as a commuter parking lot until the site is developed with the proposed building. The temporary parking lot use was approved by the Board in BZA Order 16870.

The property is in the downtown area of Washington D.C. and the surrounding area is developed with a mix of uses such as DC Government, the Federal Government, a foreign government and private residences. To the north is C Street, NW and the DC Courthouse, to the east is the Canadian Embassy,

Board of Zoning Adjustment
District of Columbia
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to the south is Pennsylvania Avenue, NW, the Federal Trade Commission offices and the National Gallery of Art, to the west is the Pennsylvania Plaza, a mixed use development with ground floor retail uses and with the upper floor residential and office uses (Attachment 1).

PROPOSAL

The applicant proposes to build a mixed use building housing a museum of interactive news, retail use that is accessory to the museum, other independent retail uses, offices, and an approximately 126 unit apartments. Additionally, 260 underground parking spaces will be provided.

HISTORIC PESERVATION

The subject property is within the Downtown Area Historic District. The proposed project was not referred to the Historic Preservation Review Board. The proposed building is currently undergoing a Section 106 concept review by the Fine Arts Commission.

ZONING REQUIREMENTS

The subject property is in the C-4 District, designated as the central business district, and is within the Downtown Development (DD) Overlay District, whose purpose generally is to create a balanced mixture of uses in the downtown area.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

The subject property is within the Pennsylvania Avenue Development Corporation (PADC) area and is governed by the Pennsylvania Avenue Plan, 1974, as amended. The Pennsylvania Avenue Plan has general guidelines with a development plan that controls development as well as block-by-block guidelines for each square. The Square Guidelines for Square 491were amended in 1989 to address the construction of the Canadian Embassy and in 1993 to provide guidance for any building on the subject property to be compatible to the Embassy by establishing uses, height, setbacks, build-to lines, building restriction lines, roof structures, pedestrian features, and off-street loading.

ANALYSIS

Apart from the need to address the requirements of the Zoning Regulations and the development guidelines of the Pennsylvania Avenue Plan, the design of the proposed building is faced with combining a number of elements such as addressing the mission of the Newseum, the site's location, the geometry of Pennsylvania Avenue, and the possibility of encouraging pedestrian interaction both outside and inside the building. In order to incorporate all these factors and requirements, the applicant is requesting a special exception and variances to best accommodate the intent of all the requirements that will establish the building's form. The design of the building is composed of a series of rectangular areas, defined as "bars" by the applicant, that transition from Pennsylvania Avenue towards C Street by variety in heights, lengths and transparency.

SPECIAL EXCEPTION

ROOF STRUCTURE SETBACK

The applicant is seeking a special exception to allow roof structures that conform to the requirements of various sub-sections of Section 411. Section 411.11 outlines the authority given to the BZA to grant special exceptions:

> **"411.11 Where impracticable 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 Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3,when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; 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."**

The applicant is seeking special exceptions because they do not meet the requirements of Sections 411.2 and 770.6(b) that addresses roof structure setbacks. (Attachment 2)

> **"411.2 When located below, at the same roof level with, or above the top story of any building or structure, penthouses (as outlined in § 411.1) shall be subject to the provisions of §§ 4000.7, 530.4, 630.4, 770.6, 840.3, or 930.3 when applicable, and to the conditions and variable floor area ratio specified in this section.**
>
> **"770.6(b) If housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:**
>
> **(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;"**

Due to the design of the building into bars and to accommodate the different uses in the buildings, six roof structures are required; one on the second bar, two on the third bar, and three enclosures on forth bar to accommodate elevator overrides, stair towers and some mechanical equipment. The enclosure on the second bar has no setback from the south wall of the building, the enclosure on the third bar has no setback from the north wall of the building and the three enclosures on the residential bar have insufficient setbacks from the south wall of the building.

ROOF STRUCTURE ENCLOSURE AND UNIFORM HEIGHT REQUIREMENTS

> **"411.2 All penthouses and mechanical equipment shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material, and color."**
>
> **"411.5 Enclosing walls from roof level shall be of equal height, and shall rise vertically to a roof, except as provided in § 411.6."**

The applicant is unable to meet the requirement that all penthouses and mechanical equipment be enclosed by one structure and that the enclosure be of equal height on all sides. Due to the design of the building and its interior components, circulation within the building, and the different uses it must accommodate it is impossible to place all the elevator overrides, stair towers, and mechanical equipment in close proximity to each other and be enclosed in one structure.

The variety in height of the roof structures is dependent the type of function they are enclosing. This allows for the enclosures to be no bigger than required and therefore will not impair the light and air of adjacent buildings. Additionally, the location coupled with the height and size of the enclosures minimizes their visibility from key locations in the area.

The primary material expression of the bars is glass with metal panels behind. The color is "grau", which is between a light gray and a warm champagne color. The same metal panels in the same color are used on the roof enclosures and visually they "support" the glass bars while reducing the apparent overall bulk of the building.

The rooftop elements at the C Street side of the building utilize the same color and detail as the main museum cores as well as the color of the metal panels on the residential façade, while also providing structure for a pair of rooftop sunscreen/trellises for the residential amenity space. The combination of the "grau" metal panels with wood trellises will provide an elegant setting on the roof, while the intersection of the trellises with the cores will visually reduce their functionally minimal height.

VARIANCES

COURT WIDTH

The applicant is requesting variances for three courts (See Courts A, B, and C shown on Attachment 2) that do not meet the width requirements as required in Section 776.4:

	Required	Provided	Variance
Court A	18.89 ft.	12.00 ft.	6.89 ft.
Court B	35.90 ft.	22.33 ft.	13.57 ft.
Court C	25.94 ft.	19.50 ft.	6.44 ft.

The courts are created due to a number of factors. The shape of the property combined with the requirement of other orientation of the building in relation to the Canadian Embassy. Additionally, due to the need to accommodate the different uses within has led to variations in the façade and shape of the

building and resulted in the creation of these court areas. Court A is located at the intersection of Pennsylvania Avenue and 6th Street between the first and second bars. Court B is formed at the intersection of the second, third and residential bars along 6th Street. The Pennsylvania Avenue Plan requires that an appropriate transition to the C Street façade of the Canadian Embassy, setback thirty feet from C Street, be provided. Court C, along C Street, is space formed above the parking garage entrance to create a setback and transition between the apartment building wall to the wall of the Canadian Embassy.

The proposed building therefore has to form a transition between the Canadian Embassy that has a fifty-foot setback from its property line along Pennsylvania Avenue and a thirty-foot setback along C Street. The building to the left of the site, 601 Pennsylvania Avenue, is built to the building line which is fifty feet (50 feet) forward of the Canadian Embassy. The proposed building does not meet the property line along Pennsylvania Avenue at the ground level. Secondly, the requirement to orient the major façade parallel to Pennsylvania Avenue the west wall of the building will meet 6th Street at an angle and touch the property line at a corner. The remainder of the building angles back and most portions are not within four feet of the property line. Only thirty-five percent (35%) of the building along 6th Street is along the property line. Along C Street, sixty-nine percent (69%) of the building is along the property line with the remainder providing a transition to the Canadian Embassy that is setback from C Street.

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

The property is unique due to an exceptional situations such as the requirement to orient the major façade of the building parallel to Pennsylvania Avenue causes the west wall of the building to meet 6th Street at an angle that touch the property line at a corner and the remainder of the building angles back forming the courts. Courts A and B are created due to the shape of the building that is strongly dictated by the proposed uses and trying to fit them into the site's shape. Court C is required to address the required transition between the apartment portion of the building and the rear of the Canadian Embassy as required by the Pennsylvania Avenue Plan

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

Making the courts meet the required widths would impact the function of the interior components of the building that drives its design. Further, the courts are a result of some of the Pennsylvania Avenue Plan guidelines that has to be incorporated into the building design. If the courts were eliminated, then some of the amenities that are provided in the voids created by the courts would not be possible and it would be a less pleasurable and pedestrian friendly along 6th Street. Practical difficulty would result from large un-used interior voids within the building.

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

The reduction in width of the courts will not impact the public good in a negative manner and will retain the intent and purpose of the zone plan for courts. In fact, although the courts are smaller than required

they have been effectively integrated into the design of the building to provide additional entrance areas into the building and create more activity along 6th Street. A gentler transition from the residential portion of the proposed building to the Canadian Embassy is more desirable than if there was no transition between the buildings.

STREET WALL

The DD Overlay District, Area-wide Design Guidelines, Section 1701.3, requires that not less than seventy-five percent (75%) of the streetwall to a height of fifteen feet (15 feet) must be constructed to or within four feet (4 feet) of the property line on the subject property. The requirement is applicable to its Pennsylvania Avenue and 6th and C Street frontages. This requirement conflicts with the Pennsylvania Avenue Plan that requires that:

> **". . . Development of the new building shall respect and respond to the adjacent Canadian Embassy building, especially to the plane of the embassy's Pennsylvania Avenue façade and its strong horizontal building lines at 80 and 95 feet. . . . The new buildings must provide an appropriate transition from the wider setback to the normal sidewalk width in public space. . . . The new building may extend to the C street property line provided that an appropriate transition is made back to the plan of the C street façade of the Canadian Embassy."**

The proposed building therefore has to form a transition between the Canadian Embassy that has a fifty-foot setback from its property line along Pennsylvania Avenue and a thirty-foot setback along C Street. The building to the left of the site, 601 Pennsylvania Avenue, is built to the building line which is fifty feet (50 feet) forward of the Canadian Embassy. The proposed building does not meet the property line along Pennsylvania Avenue at the ground level. Secondly, the requirement to orient the major façade parallel to Pennsylvania Avenue the west wall of the building will meet 6th Street at an angle and touch the property line at a corner and the remainder of the building angles back and most portions are not within four feet of the property line. Only thirty-five percent (35%) of the building along 6th Street is along the property line. Along C Street, sixty-nine percent (69%) of the building is along the property line with the remainder providing a transition to the Canadian Embassy that is setback from C Street.

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

The building is unable to meet the streetwall requirements due to an exceptional situation created by the requirement of the Pennsylvania Avenue that the building form a transition between the Canadian Embassy and the building to the west of the site, 601 Pennsylvania Avenue. Along 6th Street the setback cannot be provided because of the need to have the bard of the building parallel to Pennsylvania Avenue that creates angles along 6th Street that do not permit the all of the walls to be aligned or be within four feet of the property line. The setback cannot be provided along C Street because of the need to transition to the Embassy.

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

Because of transition requirements imposed by the Pennsylvania Avenue Plan, the need to make the bars of the building parallel to Pennsylvania Avenue, the complex layout of the building to incorporate the different uses adherence to the Zoning Regulations presents a practical difficulty.

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

The public good will be enhanced, as the proposed setbacks will meet the requirements of the Pennsylvania Avenue Plan to provide building transitions particularly at this location where Pennsylvania Avenue and Constitution Avenue intersect. The areas where the building does not meet the property line along 6th Street will allow for entrances into the building, landscaping, entrance features, and the Front Page" exhibit which will combine to activate the street. Along C Street, the area not meeting the requirement will accommodate the group entry area and thus making it an active area and an amenity to visitors, workers, and residents in the area.

ARCADE

The Zoning Regulations defines an open arcade in Section 199.1 as **"a continuous area, located along the perimeter of a building, designed for pedestrian uses, and which adjoins a street for its entire length; and, except for structural piers, columns, or arches, is open to the street."** OP believes that the area shown on Attachment 2 meets the definition of an arcade and therefore a variance from the Area-wide Design Standards of the DD Overlay District, Section 1701.2, is required.

> "1701.2 **Any open arcade in the DD Overlay District shall extend the length of an entire lock frontage, or shall connect with an open arcade in an abutting building in such fashion as to provide a continuous walkway."**

The applicant is providing a seven foot-four inches recessed area on the first floor of the building along C Street. This area is an amenity to visitors who arrive by tour buses and have to wait to enter the lobby area. If this area is not provided then the sidewalk could be blocked by visitors waiting to get into the newseum and disrupt pedestrian movement along C Street. Further, the area will be an area of shelter during inclement weather.

The main entry into the Newseum is along Pennsylvania Avenue and this area is to accommodate large groups entering from the C Street entrance. Therefore, an arcade running the length of the C Street frontage would not be necessary as it is not the main entrance and not prudent due to the location of the loading docks and restaurant along C Street. The building is also unable to meet the requirement that the arcade should connect to an open arcade in the abutting building as the Canadian Embassy does not have an arcade and therefore no connection can be made.

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

A stated above, the main entrance to the newseum is along Pennsylvania Avenue and the secondary lobby to the rear is mainly to handle large groups and provide an additional waiting area to keep the sidewalks

clear for pedestrians. Additionally, the arcade cannot be connected to the Canadian Embassy, as an arcade is not provided on that property.

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

If an arcade were to be provided along the entire C Street frontage the arcade area would be too large for the uses and the size of the restaurant would be reduced. It would be impossible for the arcade to function across the loading dock area.

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

The proposed arcade will enhance the public good, as it will facilitate visitors to the Newseum as well as providing a clear pedestrian sidewalk and entrances into the building.

COMMUNITY COMMENTS

On February 11, 2004, ANC–6C voted to support the requested special exception and variances.

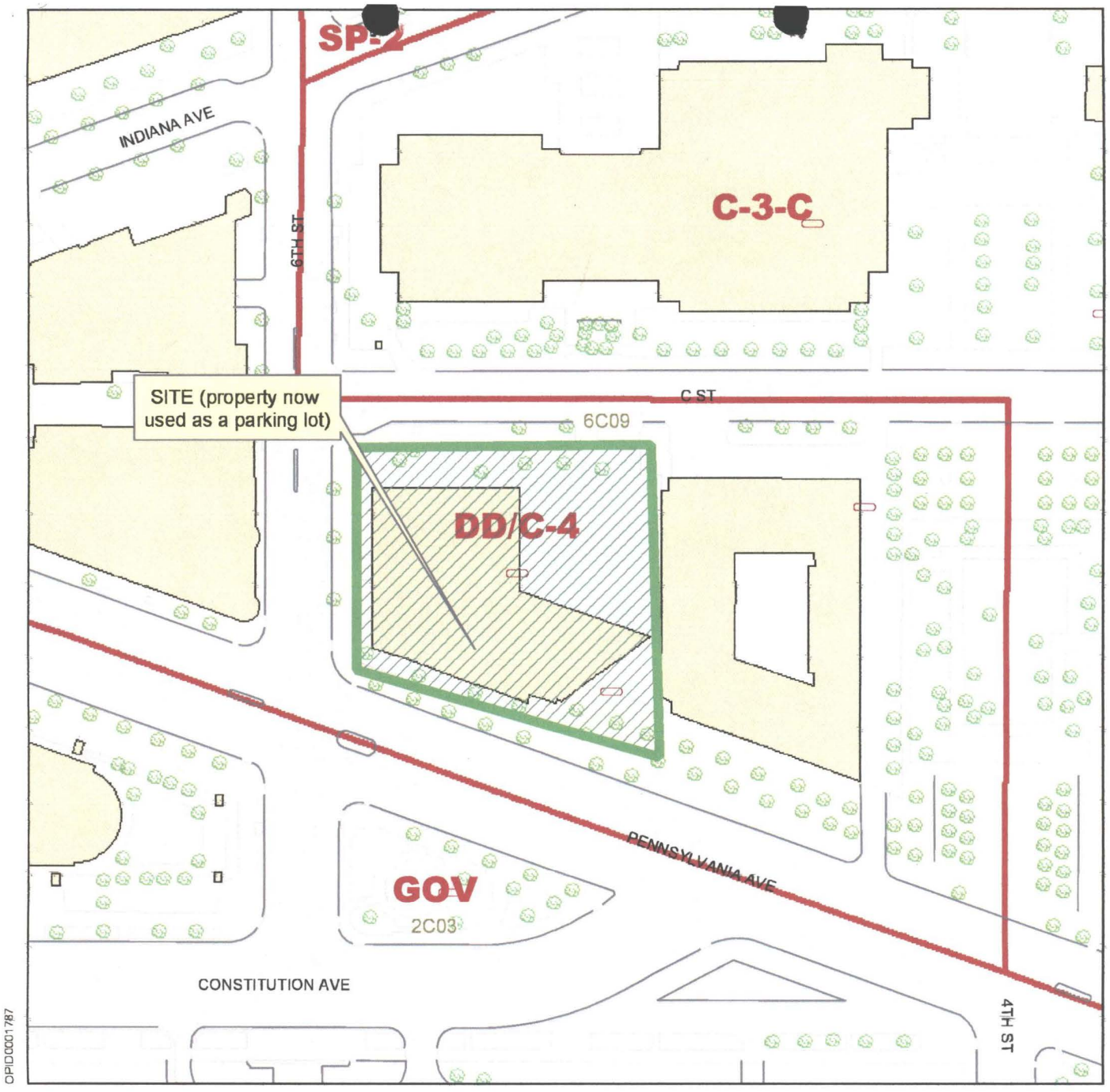
SUMMARY AND RECOMMENDATION

As demonstrated above, the requested special exception and variances are mainly due to the applicant's endeavor to merge a number of different requirements to create a building the incorporates uses that are generally not housed together. The variances requested have in fact led to improvements to the buildings function over what would be possible by adhering to the strict requirements of the Regulations. The proposed deviations will maintain the intent, purpose, and integrity of the Zoning Regulations and Map and therefore the Office of Planning recommends **APPROVAL** of the requested special exception and variances.

ATT:

1. Site Location
2. Roof Plans
3. Site Plan

AA/mbr



Zoning and Land Use
BZA 17122
Freedom Forum, Inc.

N

Feet

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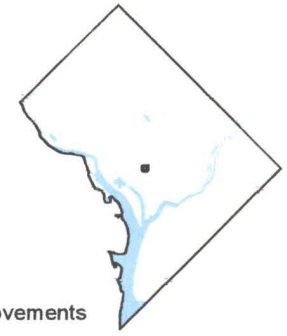
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Anthony A. Williams, Mayor

Office of Planning ~ February 17, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

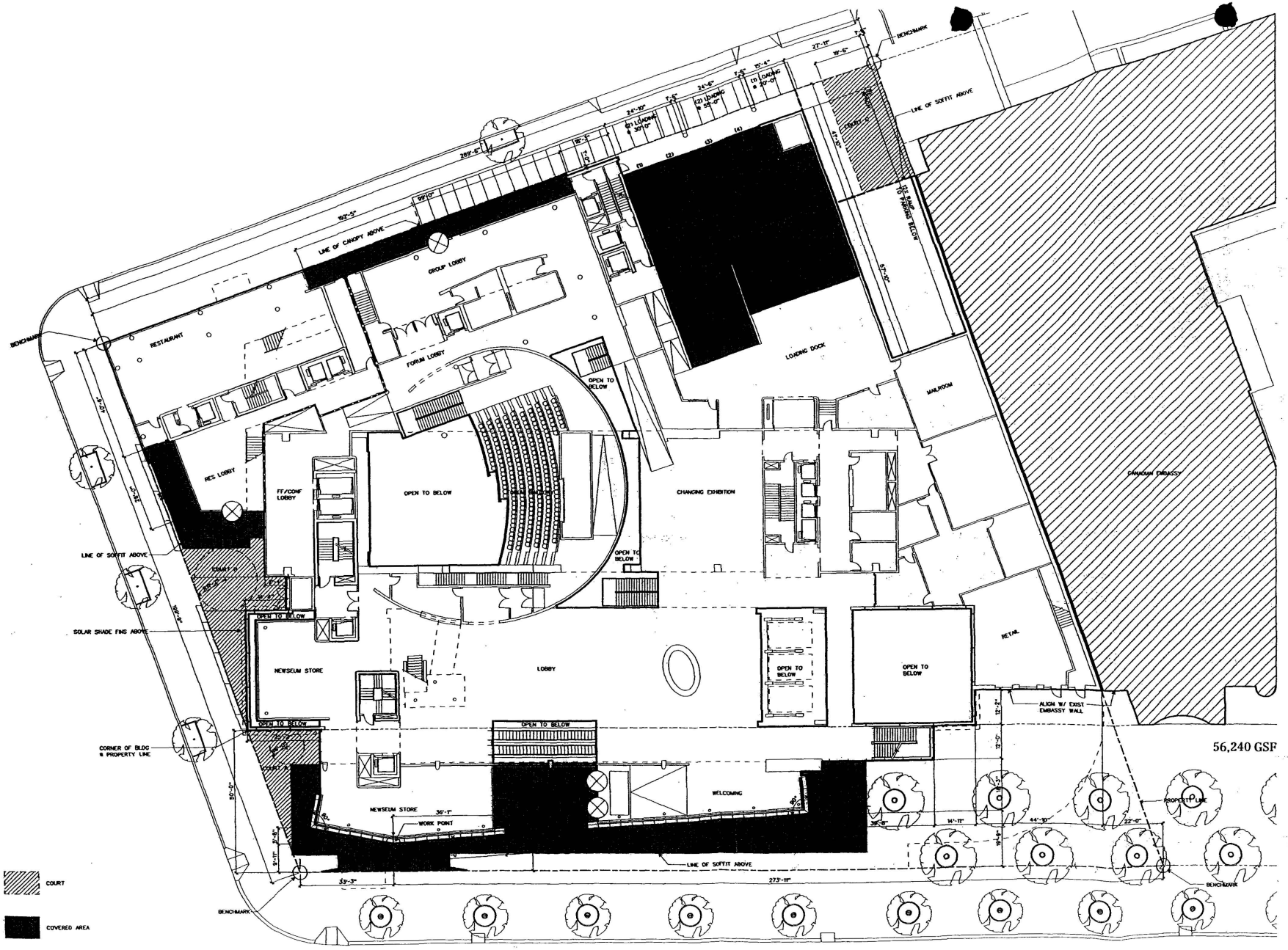
Land Use Legend

- Single-Family Detached
- Single-Family Semi-Detached
- Store
- Office
- Bank
- Motor Vehicle Sales and Service
- Light Industrial
- Warehouse
- Educational
- Public Service
- Vacant
- Vacant w/Commercial Improvements



Note: Land Use Info based on OTR records.

Attachment 1



Newseum

555 Pennsylvania Avenue
Wahington, DC

Owner

The Freedom Forum World Center
1101 Wilson Boulevard
Arlington, VA
703.284.2810

Architect

Polshek Partnership Architects LLP
320 West 13th Street
New York, New York 10014
212.807.7171

Seal

Record

Issue	Date

Key Plan

Job No. 0025

Scale 1/32" = 1'-0"

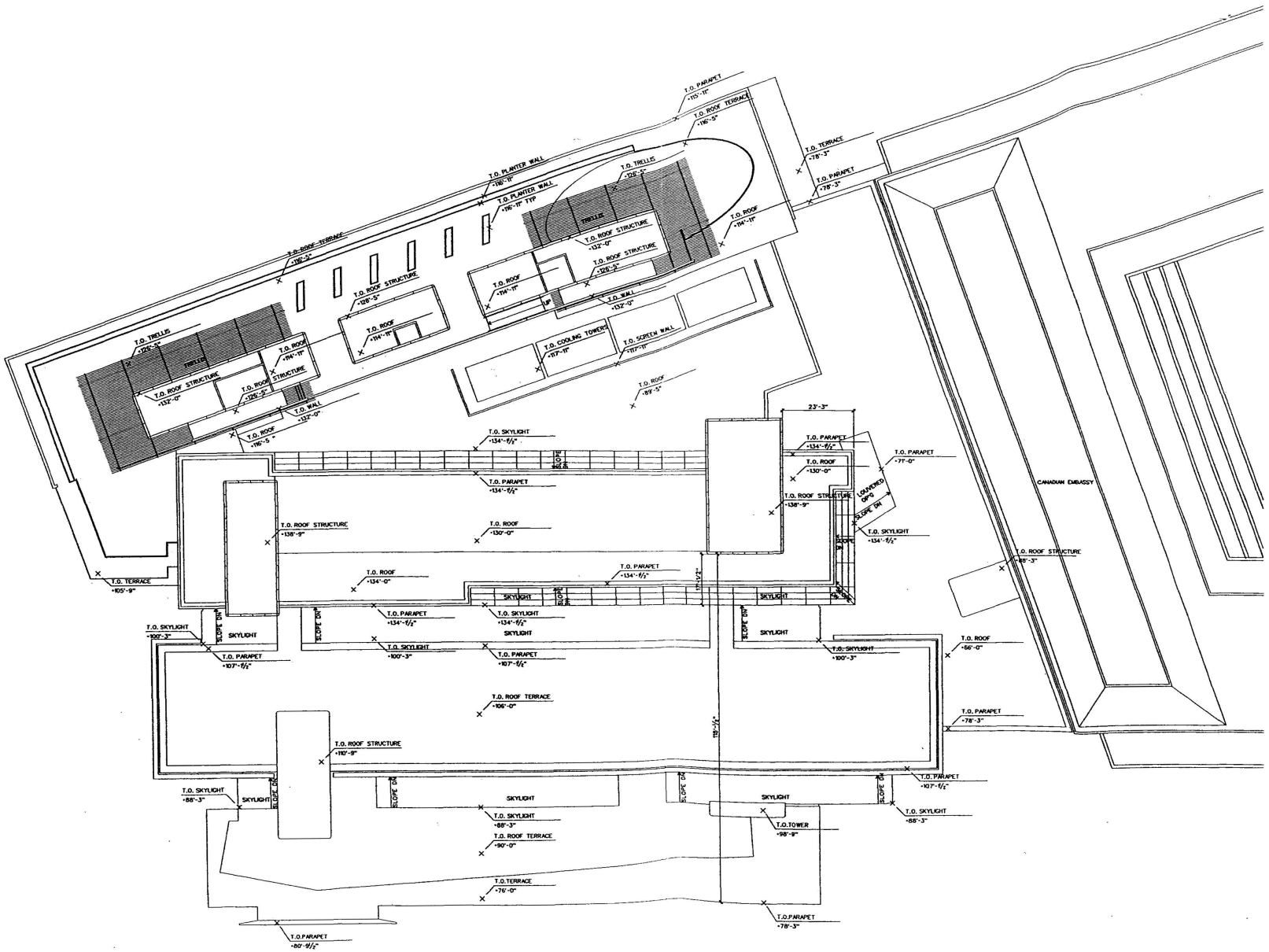
Date 12 NOVEMBER 2003

Sheet Title

1ST LEVEL PLAN

Sheet No.

Z-1.01



Newseum

555 Pennsylvania Avenue
Wahington, DC

Owner

The Freedom Forum World Center
1101 Wilson Boulevard
Arlington, VA
703.284.2810

Architect

Polshek Partnership Architects LLP
320 West 13th Street
New York, New York 10014
212.807.7171

Seal

Record

Issue	Date

Key Plan

Job No. 0025

Scale 1/32" = 1'-0"

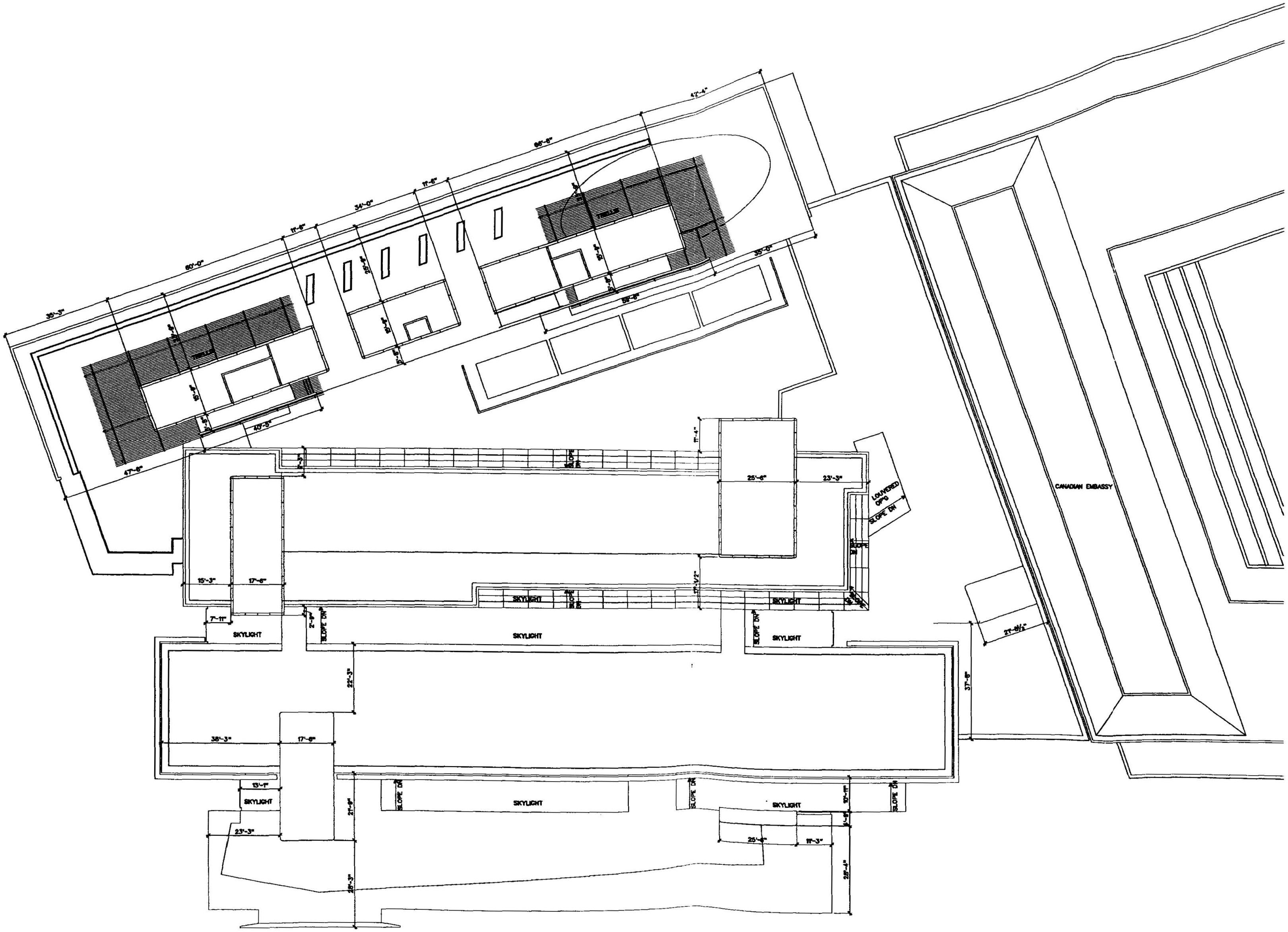
Date 12 NOVEMBER 2003

Sheet Title

ROOF PLAN

Sheet No.

Z-1.09



Newseum

555 Pennsylvania Avenue
Wahington, DC

Owner

The Freedom Forum World Center
1101 Wilson Boulevard
Arlington, VA
703.284.2810

Architect

Polshek Partnership Architects LLP
320 West 13th Street
New York, New York 10014
212.807.7171

Seal

Record

Issue	Date

Key Plan

Job No. 0025

Scale 1/32" = 1'-0"

Date 12 NOVEMBER 2003

Sheet Title

ROOF STRUCTURES
SETBACK PLAN

Sheet No.

Z-1.10