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March 22, 2004

BZA Case No. 17123
3139 and 3143 Westover Drive, S.E.
Square 5664, Lots 70 and 71

Memorandum to the Board of Zoning Adjustment

Beech Center, Inc, owner of the subject lots sought a variance from lot area requirements under subsection 401.3. It wishes to build houses on lots 70 and 71, Square 5664, although each lot is 4,256 square feet, 15% less than the current minimum lot size requirement of 5,000 square feet.

At the conclusion of the public hearing on the subject case, the Board asked the applicants for a memorandum showing how they meet the tests for an area variance.

The Facts Present a Condition That is Unique and Extraordinary

Variances are authorized where the Board finds "exceptional narrowness, shallowness or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition the strict application results in peculiar and exceptional practical difficulties to... the owner of the property..." DC Code Sec. 6-641.07 (2001). This is echoed by numerous court cases that hold it is fundamental "that the difficulties or hardship be due to unique circumstances particular to the applicant's property and not to the general conditions of the neighborhood." Gilmartin, 579 A.2d at 1168, citing Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 539 (D.C. 1972).

These lots are at the curve end of a u-shaped street, Westover Drive. They are pie-shaped with the curved sides facing the street. Few if any other lots in the area have the same configuration. Moreover, the topography features a steep slope making construction problematic. The lots were platted it 1911 and nearly all of the lots are improved. Finally, the soils are of questionable integrity, making conventional construction costly.

The Applicants are faced with a practical difficulty

BZA
Case No. 17123
Exhibit No. 34

Board of Zoning Adjustment
District of Columbia
CASE NO. 17123
EXHIBIT NO. 34

The facts of this case present four elements of practical difficulty, any of which could support the finding by itself. First, the land is steeply sloped which presents construction challenges. Second, the parcel is configured oddly, resulting in two pie-shaped lots. Third, as the ANC and the Office of Planning have exhaustively pointed out, the soil may be very poor which presents additional construction challenges. Fourth, there will be considerable extra cost in meeting DCRA's construction requirements, considering the slope of the property and the nature of the soil. This will render the project infeasible if only one house is allowed to be built on the two lots. Attached are copies of cost estimates showing that the cost of building houses on the two lots, including 9.5% developer's profit will be $950,000 ($475,000 each). The anticipated sales price is $1,020,000 ($510,000 each). However, the total cost of building one house on the combined lots, inluding a 12.5 % builder's profit is $676,000. The anticipated sales price is only $565,000, considerably less than the total development cost of $599,500. (See Attachments 1-4)

We include economic considerations in this mix because they have been found to be valid bases for a finding of practical difficulty. *Tyler v. DCBZA*, 606 A.2d 1362, 1365 (D.C. 1992) (high cost of preserving historic buildings); *Draude v. DCBZA*, 582 A.2d 949, 955, *Wolf v. DCBZA* 397 A.2d 936 (DC App. 1979) (likelihood of owner losing money if he could not build three apartments). Finally, in *de Azacarate v. DCBZA*, 388 A.2d 1233, 1239 (DC App. 1978) we have a situation remarkably similar to the instant case. The District had recorded a subdivision of Lot 13 into three buildable lots. Two houses were built but when the third owner sought a building permit, he was denied because the lot width was inadequate. The court held that the mistaken grant of the subdivision created an extraordinary and exceptional situation which gave rise to a practical difficulty which would justify the grant of an easement.

Below we discuss the issue of estoppel, that is, detrimental reliance on the actions of the governmental agency in authorizing the subdivision of this parcel into nonconforming lots. That, too, may be considered an element of practical difficulty. In *Monaco v. DC BZA,* 407 A2d 1091, the Court said: "Applicants' good faith, detrimental reliance on previous zoning actions can also be relevant to determine undue hardships...", at 1100.

There Are No Adverse Effects

The neighbors who have objected have not complained that they will be losing light or air, or that the use will be unduly noisy, or that their privacy will be unduly infringed. On the other hand, applicant has shown that its use will fit well within the uses in the neighborhood.

Some of the neighbors and ANC advanced the argument that the soil was so poor that the Board could not grant the relief "without substantial detriment to the public good." 11 DCMR §3103.2 While it is true that the Board is required to look out for the

public good, it would clearly be a stretch to apply such general language to the question of the composition of the soil, a complex exercise of engineering and physics beyond the training required for membership on the Board. This is particularly true where another District agency, in this case DCRA, is also charged with protecting the public good by making such determinations and possesses the expertise to do so. It is beyond the Board's mandate to second guess such matters. If the Board routinely had to consider and rule on such technical matters as construction techniques, material chemistry, the efficacy of parking enforcement, etc, it would surely be an inefficient use of the Board's time. Moreover, the Board routinely defers to the expertise and judgment of other agencies when dealing with technical matters.

There is one other consideration. In many parts of the city neighbors complain about the practice of building extremely large houses in neighborhoods in which small houses predominate. The Wesley Heights Overlay District was adopted to protect smaller houses from being overwhelmed by larger ones. Here, the two houses to be built will be similar in height and bulk to the other houses in the neighborhood. The new houses will be more in harmony with the purpose and intent of the Zoning Regulations.

There was no credible evidence that counters the applicant's case

The Naylor/Dupont ANC 7B had no objection to the new houses except as to the geological capacity of the soil to support them. As we stated earlier, this is a technical issue, not one within the jurisdiction of the BZA. The Zoning Regulations do not specify quality of soil, type of slope, or any of the issues raised by the ANC. Countless times the BZA has refused to discuss construction issues which are covered by the building code of the District and would be under the scrutiny of engineers in the Department of Consumer and Regulatory Affairs.

Grant of the variances is consistent with the purpose and intent of the zone plan.

If these lots had existed and been in separate ownership in 1957, they would be conforming today. 11 DCMR Section 401.2 provides as follows:

> In the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of not 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 the other provisions of this title.

Under the proper ownership, construction of these houses on these lots would have been matter of right. In adopting the exception to the new, more stringent, lot area requirements, the Zoning Commission obviously wanted to soften the blow to many property owners whose lot areas nearly conformed. They did not want to put such owners to the trouble, expense, and risk of seeking a variance. There is no evidence that

the Commission intended to deprive lots that could not meet these conditions of the right to seek a variance. The Office of Planning apparently thought it did. It said that "approval of these variances would be in direct contradiction of section 401.2." On the contrary, a variance is only sought when the owner seeks permission to do something that is "in direct contradiction with the regulations". Moreover, in focusing on the Commission's desire to combine lots that were in single ownership, the Office of Planning seemed to discount the difficult slope and irregular shape of the lot, and the quality of the soil. It would seem that sufficient evidence exists as to infeasibility.

The District is estopped from denying applicants the right to build on a non-conforming lot.

In 1985, the Surveyor's Office created two lots of record, Square 5664, Lots 70 and 71, out of three previous lots of record, Lots 45, 46, and 47. DC Regulations require that lots of record only be created if they meet Zoning and other regulations.

> Where a lot of record is subdivided for the purpose of creating another lot of record, it shall be effected in a manner as not to violate the provisions of this chapter or any other District of Columbia regulations. 10 DCMR §2701.2

When the three lots were subdivided into two lots, the Zoning Administrator and the Surveyor made the decision that the lots were buildable under the regulations. The requirements in 1985 are the same as today. The zoning classification was R-1-B and the minimum lot area was 5,000 square feet. If a mistake was made, and apparently it was, the District was solely responsible. Moreover, armed with the recordation of the subdivision in 1985, successive owners of the property have operated under the belief that they had buildable lots. Thus the District is estopped from enforcing a more restrictive minimum area requirement against Beech Center, Inc. See, *Wieck v. DCBZA*, 383 A.2d 7 (DC App. 1978).

In the *Wieck* case, the court concluded that the owner showed good faith and demonstrated the affirmative acts of the municipality. Although they held that he did not rely on that affirmative act, nevertheless, they ruled for the homeowner on the grounds of laches, discussed below. See also *Saah v. DCBZA* 433 A.2d 1114 (DC App. 1981) where the Court, after noting that both the architect and the District should have known that the revised plans exceeded the "percent of lot occupancy" regulations, concluded that petitioner's reliance on the District's approval of the plans was justified. *Saah,* at 1117

There is ample evidence in our case that the District performed an affirmative act in issuing the subdivision of the parcel into two lots, that the owner acted in good faith in expending $45,000 to prepare development plans to bring the project to the current state, and that the owner relied on the affirmative acts of the District.

In addition, it is important to remember that the above cited provision was in force in 1985 when the District signed off on a plat of subdivision that made two lots out of three. (See copies of the approved subdivision filed previously). At the time it granted the subdivision, the District apparently thought construction on the lots would be legal. (However, see Attachment 5 showing that 5,000 square feet was the required area in 1985 as well.) It was a mistake not to refer the matter to the BZA before signing off, but the owner had the right to rely on the action of the government. The District's motivation seems understandable and chances are the BZA would have granted the reqested relief. Prior to 1958, the lots were much smaller than the 5,000 square foot minimum. Numerous houses had been built in the neighborhood on such smaller lots.

The unfortunate fallout from these actions is that the owners held the property for development with a presumption that construction could take place at some time in the future. If nothing else, the District's actions lulled the owners into a false sense of security and the District should now be estopped from removing those rights.

The Evidence of Prejudice to the Applicant is a Sound Basis for Laches

Unlike estoppel, which deals with the timeliness of a third party appeal or enforcement action by the District, as the case may be, *laches* is concerned only with prejudice to the party asserting it, in this case the owner. "The principal element in applying the doctrine of laches is the resulting prejudice to the defendant, rather than the delay itself." *Bien*, at 127, citing *Goto* at 925. In *Wieck* the petitioner had purchased the house with an additional apartment in a backyard structure. The court ruled for the new property owner on the grounds of *laches* quoting Rathkopf, *Law of Zoning and Planning*, at 67-1 (3d ed. 1972): "Laches is a species of estoppel, being defined as the omission to assert a right for an unreasonably and unsatisfactorily explained length of time under circumstances prejudicial to the party asserting laches." In *Wieck*, the original property owner had notice of the violations and had received enforcement orders which were not pursued by the District. The court found as follows:

> If, at any time prior to May of 1974, when petitioner bought the P Street property, the zoning officials had followed up on the two prior enforcement orders, the petitioner might not have purchased the property, or if he had, he would not have done so in reliance on the presence of a valuable rental dwelling in the backyard. The Petitioner purchased the property for $165,000 and presented some evidence that the offending building was an asset worth approximately $25,000. The BZA, however, found that petitioner failed to present "the precise measure of injury in dollars and cents which would result from his having to remove the facilities in question." Although petitioner did not present evidence of the "precise measure of injury" in that he did not demonstrate how much the actual removal of the facilities would cost, we believe petitioner's showing of injury--from the loss of an income-producing property, the value of which was indubitably reflected in his purchase price--to

be sufficient to find substantial prejudice to him as a result of the zoning officials' inexcusable delay." at 12

Similarly, in the instant case, had DCRA refused to grant the subdivision in 1985, the owner would have dealt with the matter. Rather, there was no warning to Beech Center, Inc. until the they had spent some $45,000 in the pursuit of a building project.

Governmental delay may justify grant of a variance

The Court of Appeals has said that evidence of unreasonable delay by the municipal authority and significant prejudice to the applicant for a variance can form the basis of variance relief. *Monaco v. DCBZA*, 407 A.2d 1091 (DC App. 1979) This is true even where the case for estoppel and laches is insufficient. *Biens v. DCBZA* 572 A.2d, 122, 129 The BZA can take the circumstances into account as part of its consideration of the variance application "to avoid harsh and unjust results in extraordinary situations." [1]

Conclusion

For these reasons we urge the Board to grant the requested relief.

Stephen N. Gell

Attachments

1. **Letter from Maddox Incorporated, Engineers and Surveyors with attachment**
2. **Pro formas**
3. **Letter from Anthony Rivera, The Real Estate Company with attachments**
4. **Construction plans**
5. **1982 District of Columbia Zoning Regulations, pages 45 and 46**

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[1] In, *Biens,* notwithstanding that the court suggested bad faith on the part of the owner, the court said that even if the complainant is right regarding the violations, the owner could apply for area variances, citing "economic prejudice and the acts of the zoning officials giving rise to the estoppel decision" as "relevant factors." at 129, citing *de Azacarate v. DCBZA*, 388 A.2d 1233, 1239 (DC App. 1978). See also *de Azacarate* at 1236 where the court held that the mistake of the Zoning Administrator in approving a subdivision of a lot into three buildable lots is an extraordinary or exceptional situation or condition of a specific property permitting the Board to grant a variance.

ATTACHMENT ONE

Engineer's Estimated Cost

For

Earthwork & Infrastructure

MADDOX
INCORPORATED
ENGINEERS • SURVEYORS
100 PARK AVENUE
ROCKVILLE, MARYLAND 20850-2699
TEL (301) 762-9001 • FAX (301) 294-6418
maddox@maddoxinc.com

March 22, 2004

VIA FAX: 1-202-544-6467

Mr. Philip L. Johnson
Philip L. Johnson & Associates
821 Fourth Street, NE
Washington, DC 20002

Dear Mr. Johnson:

We have reviewed your estimated cost of earthwork and infrastructure for 3139 and 3143 Westover Drive, SE, Washington, DC, and we agree that your estimates are accurate for the described scope of work.

If you have any questions, please do not hesitate to call.

Sincerely,

Daniel T. Caywood, L.S.
President
Maddox Engineers & Surveyors, Inc.

3139 & 3143 WESTOVER DRIVE SE
WASHINGTON, DC SINGLE FAMILY DETACHED HOMES

ESTIMATED COST OF EARTHWORK & INFRASTRUCTURE

NUMBER LOTS	2
AVER. SF OF LOTS	4,256
DESCRIPTION	

SURVEYING/STAKEOUT	$11,000
LAND PLANNING	$5,280
ENGINEERING / DESIGN	$15,000
GRADE PER. BOND FEE	$0
CLEARING &GRUBBING	$10,000
GRADING LOTS	$15,000
SEDIMENT CONTROL	$2,200
RECORD PLAT FEE	$500
SEWER &WATER FEES	$7,000
PAVING & STREET REPAIRS	$5,000
STORM WATER/DRYWELLS	$5,000
CURB & GUTTER	$890
DRIVEWAY APRON	$6,000
SIDEWALK	$2,500
SEED AND SOD	$2,000
PAVING	$0
ELECTRICITY FEE	$567
TEMP. SHEETING/SHORING	$10,000
STREET CLEANING	$250
RETAINING WALL	$20,000
SOIL INVESTIGATION	$7,640
STREET TREES	$421
10% CONTINGENCY FEE	$12,600
TOTAL PERMIT FEES	$2,500
GRAND TOTAL	$141,349
COST PER LOT	$70,674.36

ATTACHMENT TWO

Project Proforma

Notes to the Profroma - WESTOVER DRIVE, SE

The proforma is based upon: an engineers estimate of cost for the earth work and the installation of the infrastructure *including utilities*; *The remaining* cost is based upon actual prices for the HVAC System, Plumbing, electrical system concrete work etc; and, the values establised for the finished product is based upon a broker's opinion of the average sales price for the Westover Drive neighborhood.

The Engineer's estimate of cost for the earthwork and infrastructure is $133,000 for the entire site whether one house is built or two. The difference for one house is the cost of the earthwork and infrastructure cannot be absorbed by the price of one unit. The $133,000 can only be absorbed by the combine sales price of two units.

According to the Broker's opinion of the price point for the market area (neighborhood) the average sales price for the neighborhood is $490,000. The fair market value for a new house is estimated to be $510,000. Therefore, two units will bring approximately $1,020,000. The sales price of the two proposed units can absorb the cost of construction and return a reasonable profit. Whereas the sales price of one house will not be sufficient to absorb the cost of the earth work, infrastructure, and overall cost of construction.

The design of the basement for the housing units will use the basement walls of 10' height as retaining walls in addition to retaining walls on site. Some of the cost of managing the earthwork is attributed directly to the construction of the housing units and reflected in the foundation cost, excavation. Etc.

WESTOVER DRIVE SE-NEW CONSTRUCTION -Page One
Cost of one housing- When two units are be constructed

HARD COST BREAKDOWN-(Construction Budget)

BASE PRICE-MODULAR UNIT	$	118,000
FOUNDATION/SLABS/WALLS		
Excavation-	$	4,000
Hauling-50 dump truck loads		7,500
Concrete Work-Foundation/slabs		18,000
PLUMBING		
Underslab & Hookups	$	7,000
SITE WORK/LANDSCAPING		
Retaining Walls	$	12,500
Landscaping		3,500
EXTERIOR FINISH/ERECTION		
Brickwork	$	3,500
Siding/Gutters & Downpouts		5,000
Garage Door/Opener		1,000
Garage Finish		1,500
Erection/Crane		1.000
INTERIOR FINISH		
Electrical Work	$	5,000
HVAC		5,500
Basement Stairs/Windows		2,000
Interior Trim-Carpentry		2,500
Touch-up Painting		1,000
Carpets-(installation)		1,000
Finish basement		17,500
Appliances		3,000
MISC.		
Trash Removal	$	1,500
Cleaning		1,000
Buyer Call Back		1,000
Contingency		5,000
Total Cost of Construction***	$	228,500

*** Cost exclusive of earthwork & infrastructure of $45,674

WESTOVER DRIVE, SE (New Construction)

CONSTRUCTION LOAN PROFORMA Page 2

Loan Amt. (90%) of value	$	427,500
Lot Funding (100%)	$	75,000
Construction Cost		274,174
Available For Soft Cost	$	78,326
INTEREST EXPENSE		
Lot and Const.	$	9,166
Lender Fee-Construction		3,492
Inspection Fee		300
Taxes and Insurance		3,000
Marketing Cost		500
Administration-Overhead		20,000
Arch/Engineer/Permits		12,500
Security		-
Appraisal		700
Environmental Phase 1		1,500
Legal Closing		2,000
Total Soft Cost	$	53,158
Loan Summary		
Lot Funding	$	75,000
Construction Cost		274,174
Interest Reserve		9,818
Soft Cost		43,340
Per Unit Loan Amt.	$	402,332
Loan Amt./sq. ft.		
Unit Mix		1
Total Project Construction Cost	$	402,332

WESTOVER DRIVE, SE - Page Three

SQUARE FOOTAGE OF UNITS		3000
PROFORMA BASE UNIT		
Sales Price-(Agreggate cost)	$	490,000
Price/sq. ft		163
Settlement Cost-1.5%		
R.E. Commission- 3%		22,050
Total Proceeds after SC/R.E.		467,950
Finish Lot Cost-		145,674
Percentage of Unit Cost		
Construction Cost	$	228,500
Cost/sq. ft.	$	76.17
Soft Cost	$	53,158
Total Hard & Soft Cost	$	427,332
Cost/sq. ft.	$	142.44
Proforma Profit Margin	$	40,618
Margin Percentage	$	12.06
margin/sq. ft.	$	13.54
Quantity-Units		1
Proforma Profit Margin	$	40,618
By Unit Type		40,618
Aggregate Proforma	$	475,000
Profit Margin	$	40,613
Less Up-Front Capital	$	5,000
Partnership Distribution/loss	$	35,618

WESTOVER DRIVE SE-NEW CONSTRUCTION -Page One
One-Single Family Detached Unit

HARD COST BREAKDOWN-(Construction Budget)

BASE PRICE-MODULAR UNIT	$	135,000
FOUNDATION/SLABS/WALLS		
(Pre-cast concrete)		
Excavation-	$	8,000
Hauling-100 dump truck loads		15,000
Concrete Work-Foundation/slabs		20,000
PLUMBING		
Underslab & Hookups	$	8,500
SITE WORK/LANDSCAPING		
Retaining Walls	$	20,000
Landscaping		5,000
EXTERIOR FINISH/ERECTION		
Brickwork	$	4,500
Siding/Gutters & Downpouts		6,000
Garage Door/Opener		1,000
Garage Finish		2,000
Erection/Crane		1,000
INTERIOR FINISH		
Electrical Work	$	6,000
HVAC		7,500
Basement Stairs/Windows		3,000
Interior Trim-Carpentry		2,000
Touch-up Painting		500
Carpets-(installation)		1,000
Finish basement		18,500
Appliances		3,000
MISC.		
Trash Removal	$	1,500
Cleaning		500
Buyer Call Back		1,000
Contingency		5,000
Total Cost of Construction	$	275,500

*** Cost exclusive of earthwork & infrastructure of $45,674

WESTOVER DRIVE, SE (New Construction)

CONSTRUCTION LOAN PROFORMA

Loan Amt. (80%) of value)	$	452,000
Lot Funding (100%)	$	150,000
Construction Cost		275,500
Available For Soft Cost	$	26,500
INTEREST EXPENSE		
Lot and Const.	$	14,893
Lender Fee-Construction		4,255
Inspection Fee		300
Taxes and Insurance		3,000
Marketing Cost		500
Administration-Overhead		15,000
Arch/Engineer/Permits		15,000
Security		-
Appraisal		700
Environmental Phase 1		1,500
Legal Closing		2,500
Total Soft Cost	$	57,648
Loan Summary		
Lot Funding	$	150,000
Construction Cost		321,174
Interest Reserve		19,915
Soft Cost		6,585
Per Unit Loan Amt.	$	497,674
Loan Amt./sq. ft.		
Unit Mix		1
Total Project Cost	$	497,674

WESTOVER DRIVE, SE - Page Three

SQUARE FOOTAGE OF UNITS		4000
PROFORMA BASE UNIT		
Sales Price-	$	565,000
Price/sq. ft		141.25
Settlement Cost-1.5%		42,375
R.E. Commission- 06%		-
Total Proceeds after SC/R.E.		522,625
Finish Lot Cost-		266,349
Percentage of Unit Cost		
Construction Cost	$	275,500
Cost/sq. ft.	$	68.88
Soft Cost	$	57,648
Total Hard & Soft Cost	$	599,497
Cost/sq. ft.	$	149.87
Proforma Profit Margin	$	(76,872)
Margin Percentage	$	(7.35)
margin/sq. ft.	$	(19.22)
Quantity-Units		1
Proforma Profit Margin	$	(76,872)
By Unit Type		2,538
Aggregate Proforma	$	550,000
Profit Margin	$	(76,872)
Less Up-Front Capital	$	20,000
Partnership Distribution/Loss	$	(96,872)

ATTACHMENT THREE

Broker's OPINION

The Real Estate Company

Broker's Price Opinion

Subject Property: 3139 & 3143 Westover Drive, S.E
Washington, D.C. 20020

Description of the Area

The subject property is located in the Hill Crest subdivision in southeast Washington, D.C. The area consist primarily of brick, detached Colonial and Cape Cod single family homes, built in the 1940's

Area trends

This area has a 99.9% home ownership rate. With a stable, tree lined park like setting.

Description of the Property

The proposed subject property a detached new construction Colonial, with 2900 sq ft. of legal living space.

Market Value

The fair market value for a New home $510,000

Comparable Of properties on Westover Dr.

Sold In Last Yr	Listings 5	Avg. list Price $469,000	Avg. Sale Price $490,833	Avg. Days on Market 52

Active Listings 2 $565,000 & $575,00
See Attached:

ANTHONY RIVERA, GRI
Broker

817 4th Street, N.E. Washington, D.C. 20002 Phone (202) 544-0859 Fax (202) 544-1189

Listing Gallery Report

SOLD



1218 33RD PL SE, WASHINGTON, DC 20019-2909 — **List Price:** $386,000
MLS#: DC4556806 **Status:** SOLD **Own:** Fee Simple, Sale **Old Map:** 325G
Contr Date: 11-JUL-2003 **Set Date:** 23-SEP-2003 **Sold/Rented:** $384,000 **Subsidy:** $0
DOMM/DOMP: 10 /10
Adv Sub: HILLCREST **HOA:** $0.00 **C/C:** **TBM Map:** 975B4
Style: Cape Cod **Type:** Detached **Total Taxes:** $1,646 **Area:** N/A
Year Built: 1951 **Model:** **LS-SF/Acre:** 7500/ 0.17 **Total Fin SF:** 0
BR: 4 **FB:** 3 **HB:** **Const:** Brick **#Lvls:** 3 **#Fpls:** 2
Basement: YES, Fully Finished **Park:** Garage
H Fuel/C Fuel: Natural Gas / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: N/N/N **Dock Conveys:** N **Vacation:** NO
List/Upd: 01-JUL-2003/23-SEP-2003 **Listing Co:** RE/MAX CAPITAL REALTORS
Remarks: IMMACULATE,IMMACULATE,IMMACULATE IS THE ONLY WORD FOR THIS NEWLY RENOVATED HOME LOCATED IN THE PARK LOOKS OUT INTO THE PARK ONE OF THE CITYS BEST KEPT SECRETS WELL MANICURED LAWN,DECK HOT TUB,YOU DONT HAVE TO DO ANYTHING BUT MOVE,THIS ONE WONT LAST LONG BEAUTIFUL HARDWOOD FLOORS THIS IS THE ONE $2000.00(TWO THOUSAND) BONUS TO THE SELLING AGENT$$$$$$$$$$$$$$$$$$$$2000$$$$$$2000$$$$$$$$$$$$$$
Directions: BRANCH NORTH TO M STREET MAKE RIGHT GO TO 33RD TO 1218 $2000 TO THE SELLING



3117 WESTOVER DRIVE SE, WASHINGTON, DC 20020 — **List Price:** $424,500
MLS#: DC4553022 **Status:** SOLD **Own:** Fee Simple, Sale **Old Map:** TBD
Contr Date: 21-JUL-2003 **Set Date:** 28-AUG-2003 **Sold/Rented:** $375,000 **Subsidy:** $0
DOMM/DOMP: 24 /24
Adv Sub: HILLCREST **HOA:** $0.00 **C/C:** **TBM Map:** TBD
Style: Other **Type:** Detached **Total Taxes:** $2,424 **Area:** N/A
Year Built: 1954 **Model:** **LS-SF/Acre:** 5320/ 0.12 **Total Fin SF:**
BR: 4 **FB:** 2 **HB:** 1 **Const:** Stone **#Lvls:** 2 **#Fpls:** 2
Basement: YES, Fully Finished **Park:** Garage
H Fuel/C Fuel: Natural Gas / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: N/N/N **Dock Conveys:** N **Vacation:** NO
List/Upd: 27-JUN-2003/28-AUG-2003 **Listing Co:** PRUDENTIAL CARRUTHERS REALTORS
Remarks: HEAVENLY HILLCREST WASHINGTON'S BEST KEPT SECRET! HOUSE BEAUTIFUL ON COVETED WESTOVER DRIVE. IMPRESSIVE STONE CONSTRUCTION, SPACE GALORE : 3784 SQ FT! PLUS HUGE LOT 5320 SQ FT! 4 B-I-G BR, FAB COUNTRY KIT W/SOLID CHERRY CABINETS, BANQUET SIZE DR, LR W/FP, FAMILY RM W/FP, FLORIDA RM, 2 DECKS ADN MORE ..... SELLER RESERVES THE RIGHT TO ACCEPT/REJECT ANY OFFER. OPEN SUN 6/29 2 - 4 ALL HONORED
Directions: NO SHOW B4 SUN OPEN THEN LOCKBOX CALL, MESSAGE & GO 10 - 6 202-544-2408 OTHER TIMES



3122 WESTOVER DRIVE SE, WASHINGTON, DC 20020 — **List Price:** $496,500
MLS#: DC4517316 **Status:** SOLD **Own:** Fee Simple, Sale **Old Map:** 0303
Contr Date: 25-JUL-2003 **Set Date:** 22-SEP-2003 **Sold/Rented:** $450,000 **Subsidy:** $0
DOMM/DOMP: 66 /66
Adv Sub: HILLCREST **HOA:** $0.00 **C/C:** **TBM Map:** 0000
Style: Beaux Arts **Type:** Detached **Total Taxes:** **Area:** 1
Year Built: 1938 **Model:** CLASSIC **LS-SF/Acre:** 9257/ 0.21 **Total Fin SF:** 0
BR: 4 **FB:** 2 **HB:** 1 **Const:** Brick **#Lvls:** 3 **#Fpls:** 2
Basement: YES, Full **Park:** Garage
H Fuel/C Fuel: Natural Gas / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: N/N/N **Dock Conveys:** N **Vacation:** NO
List/Upd: 20-MAY-2003/26-SEP-2003 **Listing Co:** LONG & FOSTER REAL ESTATE, INC.
Remarks: Back on market...Show and Sell. A unique home in a sylvan setting. Classically traditional with custom builtins, gracious floor plan and an amazing deck for entertaining. Call lister for showing.. . Home sold as-is and seller needs August 30, 2003 settlement to coincide with new home.
Directions: FROM DOWNTOWN D.C PENNSYLVANIA AVE S.E. TO 31ST ST THEN LEFT AT WESTOVER.



3650 CAMDEN ST SE, WASHINGTON, DC 20020-1224 — **List Price:** $535,000
MLS#: DC4615563 **Status:** SOLD **Own:** Fee Simple, Sale **Old Map:** 0000
Contr Date: 17-OCT-2003 **Set Date:** 30-NOV-2003 **Sold/Rented:** $475,000 **Subsidy:** $0
DOMM/DOMP: 44 /44
Adv Sub: HILLCREST **HOA:** $0.00 **C/C:** **TBM Map:** 1037C2
Style: Contemporary **Type:** Detached **Total Taxes:** $3,194 **Area:** N/A
Year Built: 1979 **Model:** **LS-SF/Acre:** 14366/ 0.33 **Total Fin SF:** 0
BR: 4 **FB:** 3 **HB:** **Const:** Brick, Stone ... **#Lvls:** 5 **#Fpls:** 2
Basement: YES, Fully Finished, Improved **Park:** Garage, Off Site Parking ...
H Fuel/C Fuel: Natural Gas / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: N/N/N **Dock Conveys:** N **Vacation:** NO
List/Upd: 03-SEP-2003/11-DEC-2003 **Listing Co:** LONG & FOSTER REAL ESTATE, INC.
Remarks: Entertainer's marvel! Nicknamed "summit view".One owner custom blt home. On wonderful site at top of a hill w/ private views. You'll have easy access by entering at patio level where the home has lots of off street parking for guests. Enjoy patio,deck, pool, huge rec rm complete w/ pool table, fp. Fam rm has stone fp. Kit is very large. Attractive use of marble,quarry tile etc.NEAR METRO!!!
Directions: TAKE PENNSYLVANIA AVE. GO RIGHT ON BRANCH AVE ,PASS BANGOR ST THEN TURN LEFT ON CAMDEN ST....TO PARK AT HOUSE LEVEL MAKE LEFT ONTO 37TH ST; THEN LEFT ONT BANGOR AND LEFT

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Information is believed to be accurate, but should not be relied upon without verification. Accuracy of square footage, lot size and other information is not guaranteed. "..." indicates additional information available; see other reports.

SOLD

Metropolitan Regional Information Systems, Inc.

Tax ID#: 5662//0164 ** PUBLIC RECORD **

Tax ID#: 5662//0164 **County:** DC
PROPERTY ADDRESS: 1725 31ST ST, SE , WASHINGTON, DC 20020-
Incorporated City: WASHINGTON DC Legal Subdiv/Neighborhood: HILL CREST
OWNER: STEPHEN M BALLARD, Phone #: () Abs Owner: N
MAIL ADDRESS: 1725 31ST ST, SE , WASHINGTON, DC 20020-
LEGAL DESCRIPTION:

Mag/Dist #:	Lot: 164	Block/Square: 5662	Tax Map: 5662	0164	
Elec Dist: 7	Legal Unit #:	Grid:	Map: 28-C		
Section:	Blk Suffix:	Subdiv Ph:	Addl Parcel Flag/#: /		
Map Suffix:	Suffix:	Parcel:	Sub-Parcel:		
TOTAL TAX BILL: $1,625	State/County Tax:		City Tax: $1,625	Tax Levy Yr: 2003	
Front Foot Fee:	Spec Tax Assmt:		Refuse:	Tax Rate: 0.96	
Tax Class: 1/T	Homestd/Exempt Status: 1		Exempt Class:	Mult. Class:	

ASSESSMENT

Year Assessed	Total Tax Value	Land	Improvement	Land Use	Taxable Assessment
2003	$169,250	$40,780	$128,470	$	State: $
Previous	$221,772	$48,508	$173,264	$	Municipal: $
Early	$	$	$	$	City: $

DEED	Deed Liber:	Deed Folio:	Deed Type:
Transfer Date	*Price*	*Grantor*	Grantee
14-NOV-2003	$513,500		BALLARD, STEPHEN M

PROPERTY DESCRIPTION

Year Built: 1941	Zoning:	Census Trct/Blck: /	Irregular Lot:
Square Feet: 5,845	Acreage: 0.13	Land Use: Residential	
Property Class: 012	Plat Liber/Folio: /	Property Card:	Quality/Grade: GOOD QUALITY
Prop Use: RES SINGLE FAMILY DETACHED	Condition: GOOD		

STRUCTURE DESCRIPTION

	Section 1	Section 2	Section 3	Section 4	Section 5
Construction					
Story					
Area					
Ext Wall: Brick/Stone		Roofing: Slate		Foundation:	
Stories: 2	Units:		Style:		Year Remodeled: 1989
Total Building Area: 3,477		Living Area:		Base Sq Ft:	Model/Unit Type: SINGLE
Rooms: 10	Bsmt Type: Not Specified		Fireplaces: 2		Garage Type:
Bedrooms: 5	Bsmt Tot Sq Ft: 1449		Fireplace Type:		Garage Sq Ft:
Full Baths: 2	Bsmt Fin Sq Ft:		Attic Type:		Gar Constr:
Half Baths: 2	Bsmt Unfin Sq Ft:		Attic Sq Ft:		Garage Spaces:
Baths: 3	Air Cond:		Other Rooms: 1 KITCHEN(S)		Interior Floor: HARDWOOD
Gas:	Heat: Steam		Sewer:	Fuel:	
Electric:	Water:		Underground:	Walls:	

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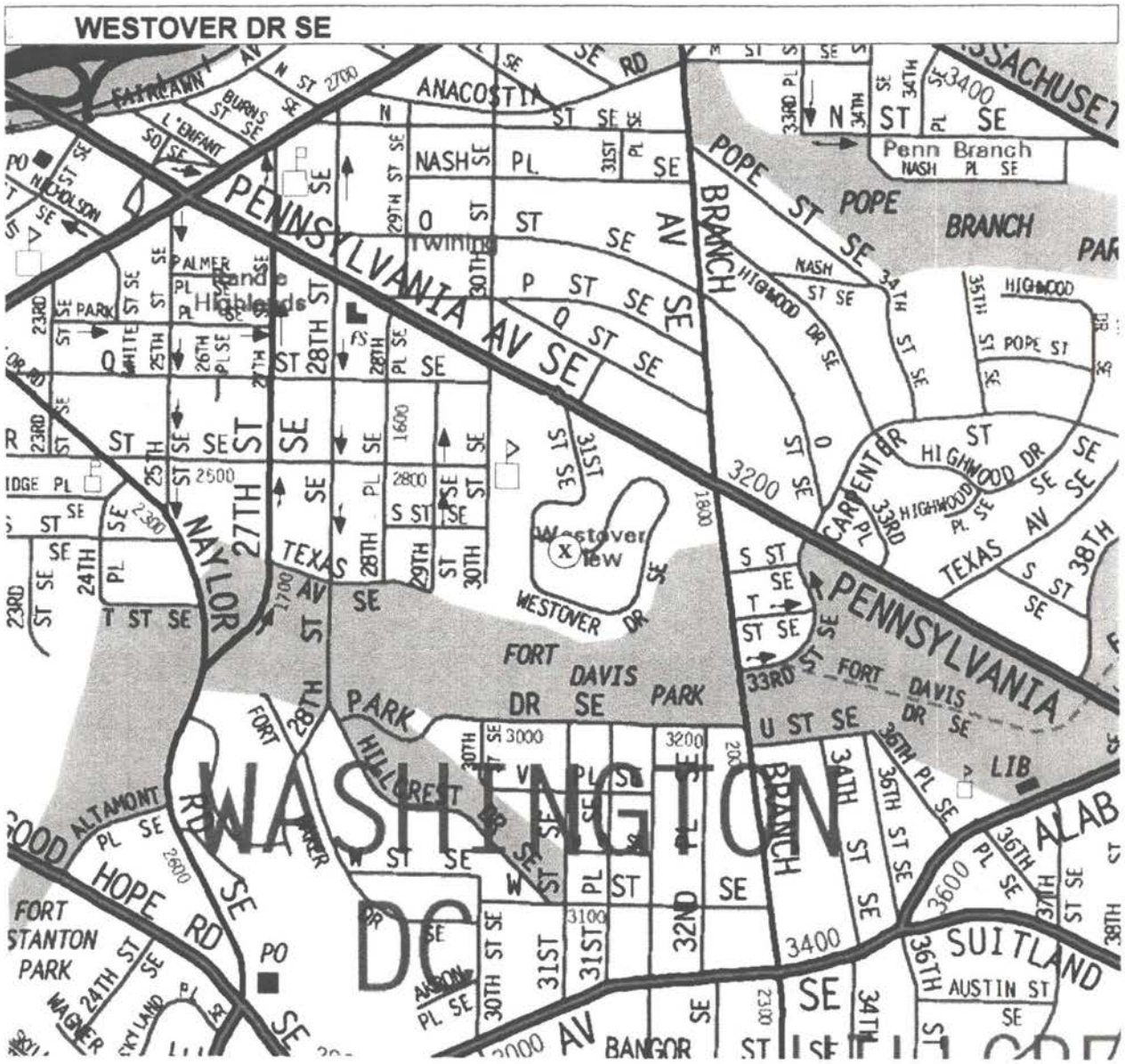


3106 ALABAMA AVE SE, WASHINGTON, DC 20020-3010 **List Price:** $565,000
MLS#: DC4774002 **Status:** ACTIVE **Own:** Fee Simple, Sale **Old Map:** NA
DOMM/DOMP: 7 /7
Adv Sub: HILL CREST **HOA:** **C/C:** **TBM Map:** NA
Style: Colonial **Type:** Detached **Total Taxes:** $2,461 **Area:** N/A
Year Built: 1961 **Model:** ITAILIAN **LS-SF/Acre:** 6500/ 0.15 **Total Fin SF:** 3672
BR: 5 **FB:** 3 **HB:** 0 **Const:** Shingle, Brick **#Lvls:** 3 **#Fpls:** 2
Basement: YES, Walkout Stairs, Fully Finished **Park:** Garage, Street
H Fuel/C Fuel: Natural Gas, Central / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: // **Vacation:** NO
List/Upd: 12-MAR-2004/15-MAR-2004 **Listing Co:** BEST PROPERTIES, INC.
Remarks: Est 3800 sqft remodeled brick 5BR/3ba home with updated kit. applia. dlb oven/sink,sub zero freezer,grill- gas range,2 car gar.,hdw flrs thru,sun rm. w/elec.,2 fpls(slate/marble),sep. LR DR, main lvl MBR W/MBA,upper BR has sit rm. In-law suite w/rec room, kit.,BR or2,FBA, wet bar, sep. entr. to patio w/ heated poolw/ fence. Home bigger than appears, A Must See, Bring offers,see DC4613199
Directions: PENN AVE S TO RT. ON BRANCH TO RT. ON ALABAMA TO 3106



3135 WESTOVER DR SE, WASHINGTON, DC 20020-3719 **List Price:** $575,000
MLS#: DC4749226 **Status:** ACTIVE **Own:** Fee Simple, Sale **Old Map:** 13A6
DOMM/DOMP: 35 /35
Adv Sub: HILL CREST **HOA:** $0.00 **C/C:** **TBM Map:** 1037B1
Style: Contemporary **Type:** Detached **Total Taxes:** $2,350 **Area:** N/A
Year Built: 1954 **Model:** **LS-SF/Acre:** 8272/ 0.19 **Total Fin SF:** 0
BR: 3 **FB:** 3 **HB:** 0 **Const:** Brick **#Lvls:** 2 **#Fpls:** 2
Basement: YES, Fully Finished, Improved **Park:** Garage
H Fuel/C Fuel: Natural Gas / Electric **Wtr/Swr:** Public / Public Sewer
Water Front/View/Access: N/N/N **Dock Conveys:** N **Vacation:** NO
List/Upd: 13-FEB-2004/21-FEB-2004 **Listing Co:** RE/MAX CAPITAL REALTORS
Remarks: Unigue brick contemp. home with a brick addition with a spac 2 story FR w/ Loft w/ beaut hardw flrs & crome rails;great open flr. plan, new wall to wall carpet in LR ,DR & BR's, spacious foyer with new hardw. floors, new furnace and central A/C, private driveway and garage large enough for four cars, brick det. dog house with electr.,spectacular view of the city,sold AS IS condition
Directions: EAST ON PENN AVE, SE, RIGHT ON 31ST STREET AND FOLLOW CIRCLE TO 3135 WESTOVER DR

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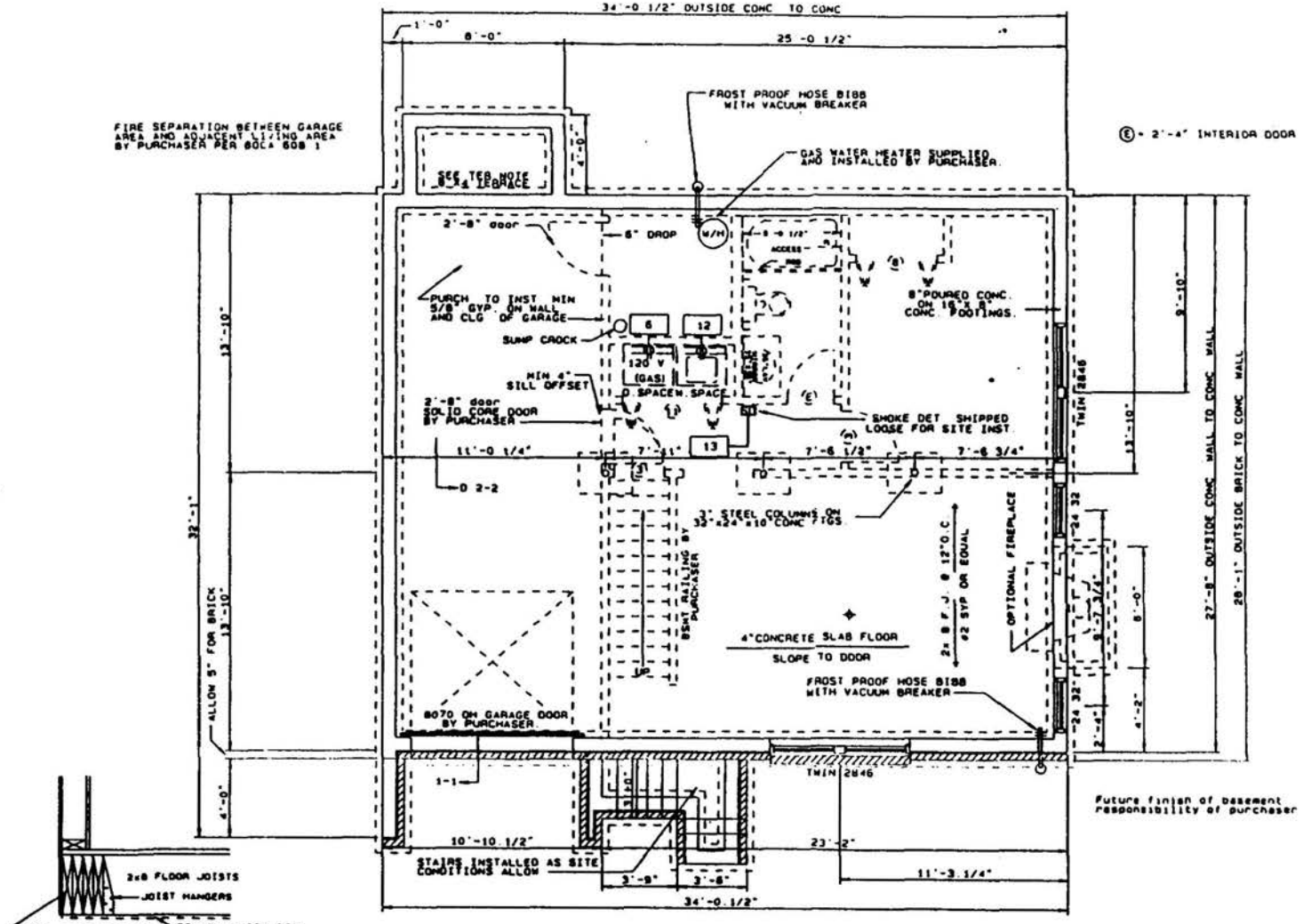
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Accuracy of square footage, lot size and other information is not guaranteed.

ATTACHMENT FOUR

Revised Plans

REVISED PLAN



FOUNDATION PLAN:

SCALE 1/4"=1'-0"

FOOTING NOTES:

A. FOOTING DESIGN BASED ON AN ALLOWABLE SOIL BEARING VALUE OF 2000 P.S.F. AND MUST BE REVISED IF SITE CONDITIONS INDICATE A LOWER VALUE.
B. BOTTOM OF ALL FOOTINGS TO BE BELOW FROST LINE AS DETERMINED BY LOCAL BUILDING CODE.
C. CONCRETE TO DEVELOP A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 2500 P.S.I.

TYPICAL TERRACE NOTES

A. EXTERIOR CONCRETE TO BE AIR ENTRAINED WITH A MIN. 28 DAY COMPRESSIVE STRENGTH OF 3000 P.S.I. (OR LOCAL REQUIREMENT).
B. 4" CONC. OVER 6"X6"#10 WIRE MESH.
C. OFFSET CAP BLOCK 2" TO CARRY SLAB
D. INSTALL METAL FLASHING BETWEEN CONC AND WOOD MEMBERS.
E. TERRACES TO BE CONSTRUCTED AFTER HOUSE IS SET ON THE FOUNDATION.
F. PURCHASER RESPONSIBLE FOR ACCESSIBILITY INTO UNITS PER LOCAL CODES AND SUBJECT TO INSPECTION BY LOCAL JURISDICTION

NOTE
ALL PLUMBING & ELECTRICAL IN BASEMENT AREA TO BE BY PURCHASER PER 1990 BOCA PLUMBING AND 1990 MEC AND SUBJECT TO INSPECTION BY LOCAL JURISDICTION.

10D NAIL FLOOR BAND TO SILL PLATE W/16 @ NAILS @ 24" O.C. PERIMETER OF HOUSE BY PURCHASER.

BASEMENT NOTES:

A. DOOR & WINDOW SIZE AND LOCATION ARE SUBJECT TO CHANGE ACCORDING TO SITE CONDITIONS.
B. BUILDER TO PROVIDE AN ADDITIONAL 10" BLOCK FOR TEMP CINDER SUPPORT
C. IF FILL IS MORE THAN 5'-0" USE 12" BLOCK ON 20"X10" CONCRETE FOOTINGS.
D. BACKFILL TO BE IN AND TAMPED PRIOR TO ARRIVAL OF HOUSE.

PLAN NAME: POTOMAC
SERIES: WILLIAMSBURG

O C DATE	BY
05-14-93	BMS
REVISED	BY
02-13-95	BMS
REVISED	BY
04-19-95	BMS
REVISED	BY
10-27-95	JMS
REVISED	BY
03-31-94	BMS
REVISED	BY
04-18-96	JMS
REVISED	BY

REVERSE PLAN

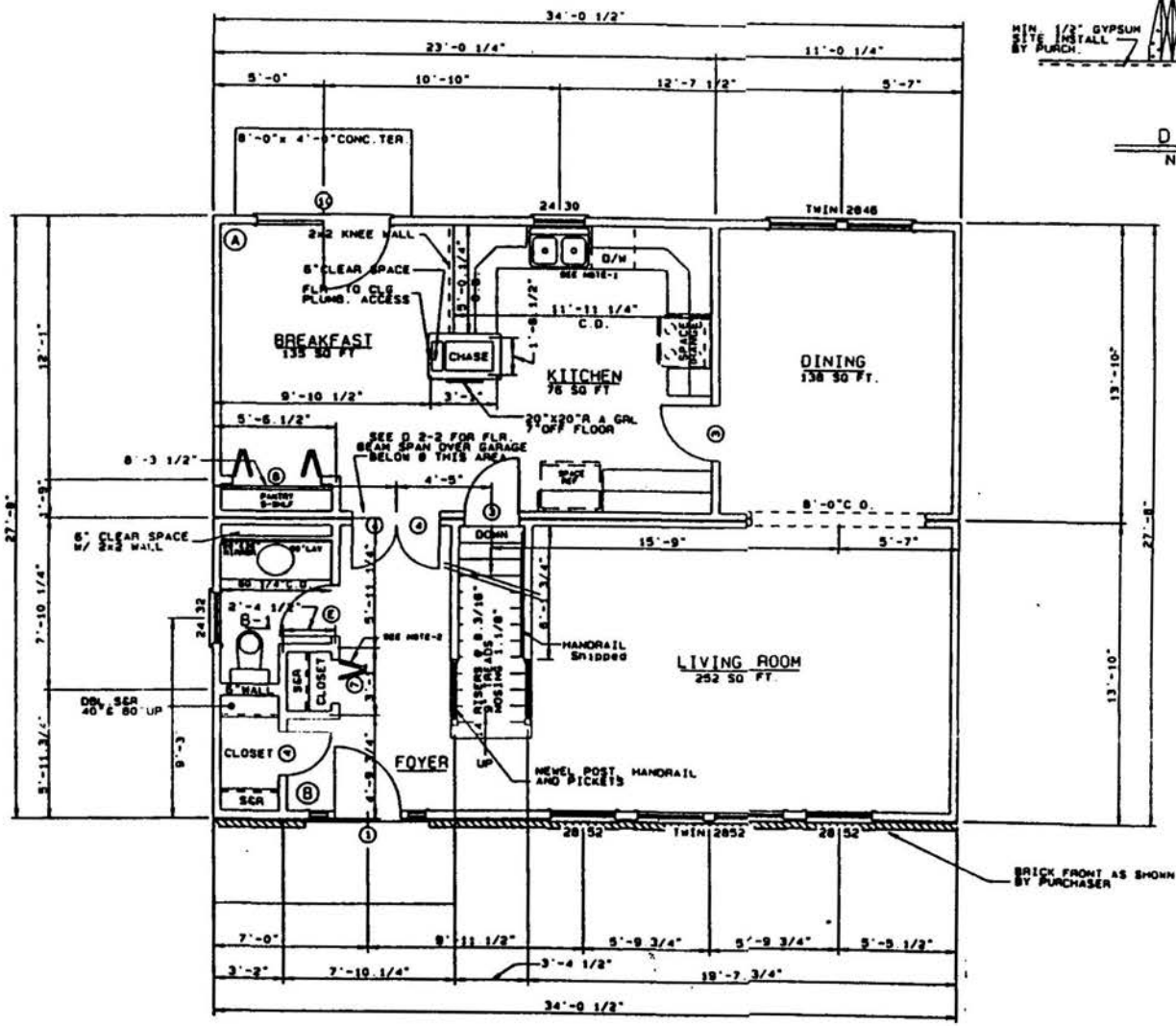
NATIONWIDE HOMES
P.O. BOX 5511
MARTINSVILLE, VIRGINIA
PHONE (703) 632-7100
ZIP CODE 24115

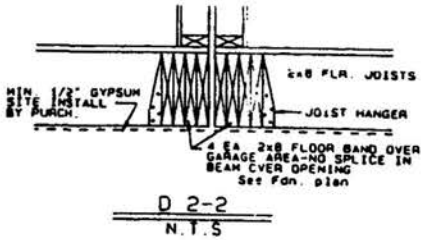
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NATIONAL CAPITAL HOMES
JOB NUMBER
CONTRACT #

REVISED	BY
REVISED	BY
REVISED	BY

PAGE NUMBER
OF





D 2-2
N.T.S

FLOOR PLAN
FIRST LEVEL

SCALE 1/4"=1'-0"

Ⓔ = 2'-4" INTERIOR DOOR

CERTIFICATION INFO	
NOTE-1	CERTIFICATION INFO. @ KIT. SINK
A.)	DATA PLATE
B.)	3rd PARTY INSPECTION LABLE
C.)	STATE LABLE IF REQUIRED
D.)	INSULATION (NC ONLY)
NOTE-2	CERTIFICATION INFO. @ CLOSET DOOR
A.)	3rd PARTY INSPECTION LABLE
B.)	MD., NJ. STATE LABLE

DESIGN INFORMATION		
SQ FT	CABO	N.C.
FLOOR LO.D LIVE/DEAD	30/10	30/10
ROOF LOAD L/S	30/10	20/10
WIND LOAD	20/100	24/110
SNOW LOAD	30	30
SEISMIC ZONE	2	2
USE GROUP	R-4	R-4

① MARYLAND - B - BARRETT - ALLEGANY 140/MPH
- MONTGOMERY - FREDERICK - CARROLL 120/100
② NON-HABITABLE ROOMS 120MPH WIND ZONE - ALT CONSTR. PER PREENGINEERED CONSTRUCTION METHODS

PLAN NAME: POTOMAC
SERIES: WILLIAMSBURG

ORIG. DATE 05-11-92	BY
REVISED	BY
REVISED 08-13-92	BY
REVISED 09-10-92	BY
REVISED 09-18-92	BY
REVISED 10-27-92	BY
REVISED 05-31-94	BY

REVERSE PLAN

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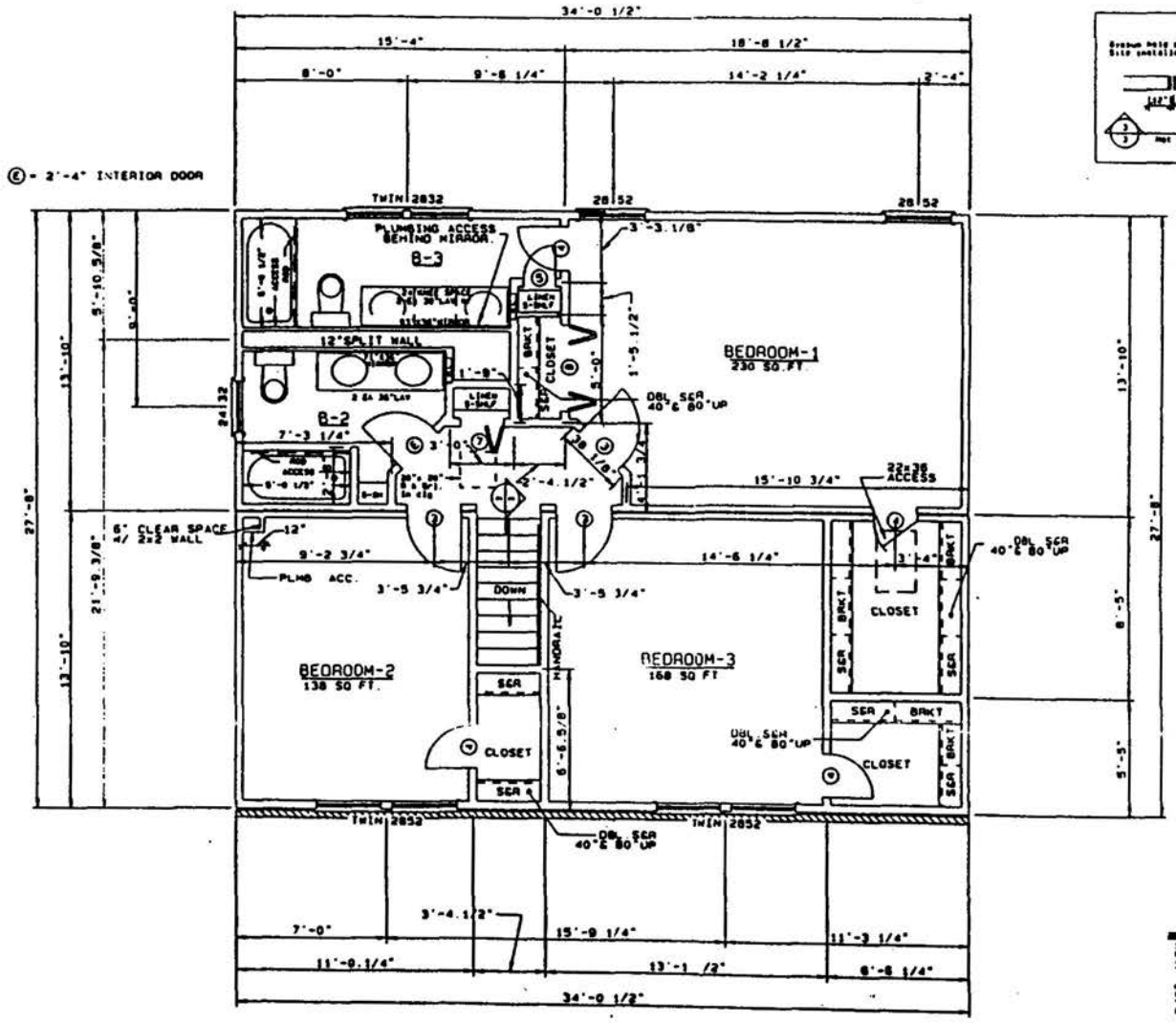
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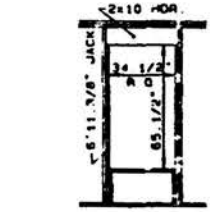
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OF



FLOOR PLAN
SECOND LEVEL
SCALE: 1/4"=1'-0"



TYP. FRAMING FOR 2852 U.L. NOW ONLY

REVERSE PLAN

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MARTINSVILLE, VIRGINIA
PHONE (703) 632-2100
ZIP CODE 24115

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OF

ATTACHMENT 5

DISTRICT OF COLUMBIA

ZONING

REGULATIONS

WITH ALL AMENDMENTS THROUGH

DECEMBER 1981

D.C. OFFICE OF DOCUMENTS

MARION S. BARRY, JR.
MAYOR

DAVID A. SPLITT
DIRECTOR OF DOCUMENTS

of lot are at least 80% of the area and width of lot specified under Sub-section 3301.1, provided the structure complies with all other provisions of these regulations.

3301.4 In the case of an unimproved plot of ground in single ownership on November 1, 1957, which has an area or width less than 200% of that prescribed in Sub-section 3301.1 for the district in which located and does not adjoin another unimproved plot of ground in the same ownership, two structures may be erected thereon provided each structure is erected on a lot which complies with 80% of both the required area and width of lot specified in Sub-section 3301.1, and provided each structure complies with all other provisions of these regulations.

3301.5 In R-5-A Districts each row dwelling shall have at least 1,800 square feet of gross land area exclusive of any land area in the project used as a basis for determining the floor area ratio of multi-family buildings. However, each row dwelling need not have a site of 1,800 square feet and the difference between the site area and the gross land area may be accumulated into common spaces. Land areas used to support this Floor Area Ratio of multi-family buildings may also be used for common spaces.

3301.6 Each lot created after the effective date of this paragraph and to be used and occupied by a one-family detached dwelling, one-family semi-detached dwelling, community-house or row dwelling shall have a street frontage measured along the street a distance equal to at least 40 percent of the required minimum width of lot and in no case less than 14 feet.

3301.7 Each lot created after the effective date of this paragraph and to be used and occupied by an apartment house shall have a street frontage measured along the street a distance of not less than 30 feet.

SECTION 3302 - FLOOR AREA RATIO

3302.1 Except as provided in other paragraphs of this section and in Section 3308, the maximum permitted floor area ratio in a Residence District shall be given in the following table.

District	Floor area ratio (FAR)
R-1-A, R-1-B, R-2, R-3, R-4	
All structures.....	None prescribed
R-5-A	
All structures.....	0.9
R-5-B	
All structures.....	1.8

ARTICLE 33

AREA AND DENSITY REGULATIONS FOR RESIDENCE DISTRICTS

SECTION 3301 - MINIMUM LOT DIMENSIONS

3301.1 Except as prescribed in the other paragraphs of this Section, the minimum dimensions of a lot in a Residence District shall be as given in the following table:

District and structure	Minimum lot area in square feet	Minimum width of lot in feet
R-1-A		
All structures.....	7,500	75
R-1-B		
All structures.....	5,000	50
R-2		
One-family semi-detached dwelling.....	3,000	30
All other structures	4,000	40
R-3		
Row dwelling.....	2,000	20
One-family semi-detached dwelling.....	3,000	30
All other structures	4,000	40
R-4		
Row dwelling and flat	1,800	18
One-family semi-detached	3,000	30
Conversion to apartment house.....	900 per apartment or bachelor apartment	none prescribed
All other structures	4,000	40
R-5-A	As prescribed by Board	As prescribed By Board
R-5-B,R-5-C,R-5-D	None prescribed	None prescribed

3301.2 Except as provided in Chapter 7 of these regulations, in the case of a building located, on the effective date of these regulations, on a lot with a lot area or width of lot, or both, less than is prescribed above for the district in which it is located, such building may not be enlarged or replaced by a new building unless it complies with all other provisions of these regulations.

3301.3 Except as provided in Sub-section 3301.4, in the case of an unimproved lot in single ownership on November 1, 1957, which has an area or width of lot less than that specified in Sub-section 3301.1 for the district in which located and does not adjoin another unimproved lot in the same ownership, a structure may be erected thereon if both the area and width

Phillip L. Johnson & Associates
821 4th Street, N.E.
Washington, DC 20002

Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001

Re: Variance relief for 3139 and 3143 Westover Drive, S.E.
Square 5664, Lots 70-71 BZA Case No. 17123

Dear Mr. Griffis:

This will authorize Stephen N. Gell to represent Beech Center Inc., and bind us in proceedings on the subject matter before the Board of Zoning Adjustment and other District agencies.

Phillip L. Johnson

Case No. 17123

This is to certify that a copy of memorandum to Board of BZA was mailed on March 22 to ANC 7B (Kathy Chamberlain, Chair).

Lloyd Gill

March 22, 2004