measurable adverse impacts and will serve as a neighborhood facility to the many uses in the area.

57. As to the requested use variance for an apartment house on Lot 62, the Office of Planning reported that the lot is large by alley lot standards consisting of approximately 4,500 square feet of land area. The lot is substantially larger than the next largest lot in the square. This lot is vacant, paved and used for parking pursuant to BZA approval. Roughly four of the 1,221 square foot sized lots adjacent the site to the east could fit in the subject site. The Office of Planning was the opinion given the size of the lot, that it would create a hardship on the applicant to limit the use of the lot to a one family dwelling.

58. As to the requested area variances for an apartment house on Lot 62, the Office of Planning reported that the requested area variances from the lot occupancy, and side yard requirements are also directly related to the site's alley status. The practical factors influencing the proposed development of this site and the requested area variances relates in part to the development of the other alley lots and the need to provide on-site parking to accommodate the office use. The Office of Planning reported that the variances are supportable given the lot's location surrounded by public alleys. The project will not be inconsistent with the unit density of the square and the combination of the alleys and the surrounding rear yards constitutes an adequate visual and distance noise buffer from the existing dwellings. The Office of Planning noted that the apartment house will be self-contained and, although occupying 100 percent of the lot, is designed for maximum living space by its occupants including an outdoor deck/pool area, providing above ground yard space.

59. Based on its findings, the Office of Planning recommended approval of the applications with conditions. The Office of Planning was of the opinion that the proposed mixed residential and SP type office development has the potential to be a compatible land use neighbor to the existing dwellings on the perimeter of the square. The Office of Planning noted that the present condition of the subject square interior is less than desirable, posing a threat to the security of its present inhabitants as well as a constant eyesore. The Office of Planning recommended that the following conditions be imposed on approval of the application:

A. The number of employees occupying the office space be limited to 44.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17179
EXHIBIT NO. 22A2

B. The office hours of operation be limited to between 8:00 A.M. and 6:30 P.M., except for after hours maintenance and housekeeping.

C. No illuminated signs or displays be used to advertise the office use(s). Any sign used shall not exceed 144 square inches in area; as in the form of a plaque.

D. The office use shall designate one of the proposed on-site parking spaces as a visitor space and one of the spaces for delivery vehicles.

E. The office use shall schedule trash pick-up, and delivery truck schedules during working hours. Trash dumpster locations shall be designated on the plans.

F. The pool deck shall be sufficiently screened so as to buffer the sound and visual impacts associated with its use from the neighboring properties.

60. The Board concurs with the findings and recommendation of the Office of Planning, as set forth in this order.

61. The Department of Public Works, Office of Policy and Planning, by memorandum dated April 3, 1984, reported that the site is served by several Metrobus routes, including the D2, D4, D6, D8, X8, and 42 routes. In addition, the Union Station stop on Metrorail's Red Line is approximately four blocks from the site. A significant amount of traffic now uses the extensive alley system inside Square 780. Two parking lots currently exist within the square. One, on Lot 42, which is not included in the proposed development, was observed on a recent field inspection to be poorly maintained and to contain eighteen cars. The other, on the lot slated by the applicant for new residential development, has a capacity of seventeen vehicles. Provided that the number of employees in the proposed office development is limited, the project will not generate a significantly higher traffic volume than currently exists within the square, and the alley system will be able to support the level of activity generated by the development. The applicant has already promised to provide an extra five feet of space, in addition to the existing ten foot alley, for access to several of the parking spaces on the east side of lot 62. This will minimize any potential access and circulation problems on this portion of the alley system.

62. As to parking, the Department of Public Works reported that the applicants plan to provide parking spaces to service the proposed office development and one space for each of the eight residential units, for a total of

twenty-three spaces. These levels are adequate to serve the needs of employees if their number is limited and residents, but do not take into account visitors or service vehicles. To remedy this situation, and to prevent over-spill parking on neighboring residential streets, the applicant should arrange for evening visitors to use the office parking spaces, designate two of the office parking spaces for visitors and service/delivery parking, limit the number of office employees to forty-four, and encourage car-pooling and transit use by employees. The Board concurs in the report of the Department of Public Works. Their concerns will be conditions to the granting of the application.

63. By letter dated March 23, 1984, Advisory Neighborhood Commission 6A recommended disapproval of the applications as filed but stated it would recommend approval of the set of applications if the applicants were to develop a plan for the proposed apartment building suitable to the neighbors most affected and if the issues and concerns of the ANC could be addressed to the satisfaction of the Board of Zoning Adjustment and the Office of Planning. The Board is required by statute to give great weight to the issues and concerns of the ANC and makes the following findings:

A. The plans have been revised since the date of the ANC report to address some of the concerns raised by the ANC. Specifically, the proposed apartment building on Lot 62 has been set back at the ground floor from the adjacent residences and a park and play area is provided for children of the neighborhood.

B. The applicants have agreed to reserve one parking space for delivery vehicles.

C. The applicants have agreed that there will be no floodlights from the buildings aimed at residences in the neighborhood.

D. The applicants have agreed to restrict the type of office use, its hours of operation, the number of employees, and the signage to be used.

E. The entrances to the parking spaces on Lot 62, have been moved so as not to be abut the adjacent residences.

F. The revised plans show adequate trash storage inside the buildings with trash compactors.

G. The applicants have stated that they will be the responsible persons for building management and security.

Based upon the above findings, the Board finds that the applicants have addressed the issues and concerns of the ANC. The Board will address these concerns and list them below as conditions in the granting of these applications.

64. By letter dated April 25, 1984, Councilmember Betty Ann Kane recommended disapproval of the applications. Subsequently, after review of the plans and after discussion with residents of the neighborhood, by letter dated June 27, 1984, Councilmember Kane withdrew her opposition and recommended approval of the applications.

65. By letter dated November 14, 1983, the Stanton Park Neighborhood Association recommended disapproval of Application Nos. 14033 and 14034, stating:

> "As the applicant well knows, our opposition is based not on a demand for solely residential development of these dangerous and blighting structures. We have encouraged the applicant to develop a plan which could include a mix of uses beneficial to the community. Unfortunately, that plan is not before us today and is not represented by these revised applications, which we must oppose."

The Board finds that subsequently the applications were substantially changed to include Lot 62, to increase the amount of parking and to create a mixed-use development of approximately fifty percent residential and fifty percent commercial. These revised applications were not voted on by the Stanton Park Neighborhood Association. A representative of the Land Use Committee did file two letters in opposition and did testify at the public hearings in favor of exclusively residential use.

66. The Capitol Hill Restoration Society, Inc., by letter dated April 10, 1984, reported that in November, 1983, the Society voted unanimously to oppose applications Nos. 14033 and 14034 based on the existing plans. At its meeting on April 9, 1984, the Society considered all three subject applications. The Society was unable to pass a controlling motion. By letter of June 26, 1984, the Society reported that the issues of the further hearing of June 27, 1984, were considered. At its meeting June 11, 1984, the Society voted to take the position that general office use is not a neighborhood facility, and that some SP office uses as doctors, dentist, engineer, lawyer are likely to be neighborhood facilities, while others, e.g. international organizations and labor unions and lobbying organizations are not. A non-profit organization might or might not be a neighborhood facility depending on its mission. The Board for reasons discussed in the Order, does not concur with the CHRS as to the SP office uses not constituting neighborhood facilities.

67. There was a petition in support of the application filed in the record of the case signed by residents of Square 780. There was also a petition in opposition to the application also filed in the record of the case signed by residents of the neighborhood. The Board has given due consideration to these petitions. The Board notes that the petitions reflect the pros and cons of the issues discussed by the ANC and the neighborhood associations.

68. Several persons testified at the public hearings in support of the applications citing as reasons for approval the concessions which the developer has made, the superior design of the buildings, the benefits to the neighborhood which a twenty-four hour mixed-use environment will provide, the need for improvements to the interior of the square, the exceptional qualities about the site which place burdens on development, and the adequacy of parking to serve the proposed development.

69. Several persons testified in opposition to applications Nos. 14033 and 14034 and in support of exclusively residential use. As the Board discussed in its previous findings of fact, there are exceptional conditions about these properties which make exclusively residential use unduly burdensome. The Board notes that the parties in opposition generally approved of the design of the buildings yet favored residential use. The concerns raised as to parking, loading, signage and illumination also raised by the parties in opposition have been addressed by the applicant and will be dealt with by the Board in conditioning the relief. The Board further finds that the parties in opposition did not oppose the use and area variances required for the development of Lot 62 as an apartment house. The other concerns of the opposition were the litter that accumulated about the sites and the safety of the alleys where the neighborhood children plan and which would be further exacerbated by the proposed office use. As to these concerns, the Board finds that they can be alleviated through the imposition of the conditions imposed in the Order. Other opposition argued that an office of a lobbyist was not a neighborhood facility. The Board for reasons discussed in the Findings and Conclusions does not concur.

70. There were numerous letters filed in the record of the case both in support of and in opposition to the applications based on the reasons already discussed in the Findings.

CONCLUSIONS OF LAW AND OPINION:

Based upon the above Findings of Fact and evidence of record, the Board concludes that the applicants have met their burden of proof for the requested special exception relief for Lots 43 and 810. The Board concludes that the

establishment of the proposed change in nonconforming use will not create dangerous and otherwise objectionable traffic conditions, that the proposed use will be a neighborhood facility and that the use will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the present character and future development of the neighborhood. The Board concludes that ingress and egress are adequate for the proposed use and the location of on-site parking spaces ensures adequate parking. In view of this decision, the Board makes no conclusions on the requested use variances for Lots 43 and 810.

The requested variance relief to permit the addition of the loft to the building on Lot 810 is an area variance, the granting of which requires a showing of practical difficulties. The Board concludes that the location of the lot and the size of the existing building constitute a practical difficulty for the owner. The Board further concludes that the variance requested is minor in nature and is not a major departure from the character of the district. The requested variance relief to permit the enlargement of the cupola to the building on Lot 43 is an area variance, the granting of which requires a showing of practical difficulties. The Board concludes that the location of the lot and the size of the existing building constitute a practical difficulty for the owner. The Board further concludes that the variance requested is minor in nature and is not a major departure from the character of the district.

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking use and area variance relief to permit the development of an apartment building on Lot 62. The Board concludes that Lot 62 is subject to extraordinary and exceptional conditions in light of its excessive size, its location on an alley, and the fact that the lot is intended to be developed jointly with Lots 43 and 810. The Board concludes that the strict application of the Zoning Regulations would result in undue hardship upon the owner in that the only permitted use for an alley lot is as a single family dwelling. The Board further concludes that because of the lot's location in an historic district adjacent to large nonconforming structures, and the need to provide adequate parking and access, the requested area variances are necessary and will not be a substantial detriment to the neighborhood. The Board further concludes that the application can be granted without substantially impairing the intent, purpose and integrity of the zone plan.

The Board is of the opinion that it has given "great weight" to the issues and concerns of the ANC as required by statute. Accordingly, it is therefore hereby ordered that:

1. In Application No. 14033, the special exception to change a nonconforming use and the variance from the prohibition against enlargement of a structure devoted to a nonconforming use are GRANTED.

2. In Application No. 14034, the special exception to change a nonconforming use, the variance from the prohibition against enlargement of a structure devoted to a nonconforming use and the variance from the height requirements are GRANTED.

3. In Application No. 14107, the variances from the lot occupancy, rear yard, side yard, height and use provisions are GRANTED;

All three approvals are SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the plans marked as Exhibit No. 37 of the record.

2. The office use portions of Lots 43 and 810 shall be limited to the types of office uses listed in Paragraph 4101.44 of the Zoning Regulations and lobbyist offices.

3. The applicant shall provide a minimum of twenty-three parking spaces on the site, eight of which shall serve the residential portion of the development and fifteen of which shall serve the office portion of the development.

4. Of the fifteen parking spaces designated for the office use, one shall be reserved exclusively for delivery vehicles and one shall be reserved exclusively for visitor parking.

5. The number of employees to occupy the office space shall not exceed forty-four.

6. The hours of operation for the office use shall not exceed from 8:00 A.M. to 6:30 P.M., except for after hours maintenance and housekeeping.

7. No illuminated signs or displays shall be used to advertise the office use. Any sign used shall not exceed 144 square inches in area as in the form of a plaque.

8. The office use shall schedule trash pick-up and delivery truck schedules during working hours. Trash locations shall be as designated on the approved plans.

9. The pool/deck shall be screened to buffer the sound and visual impacts associated with its use from the neighboring properties.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the cases).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher (By Jm)
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 AUG 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14033,14034&14107order/LJP10

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14759 of the Ralph D. Kaiser Co., Inc., pursuant to 11 DCMR 3107.2, for the following variance relief:

1. A variance from the allowable percentage of lot occupancy requirements of Subsection 403.2 (Lots 43, 62, and 810);

2. A variance from the floor area ratio requirements of Subsection 1203.3 (Lots 43, 62 and 810);

3. A variance from the rear yard requirements of Subsection 404.1 (Lots 43, 62, and 810);

4. A variance from the number of stories requirements of Subsection 1203.1 (Lots 43, 62, and 810);

5. A variance from the provisions of Subsection 2507.4 to construct an apartment house which exceeds the allowable height limit (Lots 43, 62, and 810);

6. A variance from the provisions of Subsection 2507.4 to construct an apartment house which exceeds the allowable height limit (Lots 43, 62, and 810);

7. A variance from the minimum lot area requirements of Subsection 401.3 (Lots 43, 62, and 810); and

8. A variance from the side yard requirements of Subsection 405.3 (Lots 43, 62, and 810).

For the proposed new construction of three apartment houses in a CAP/R-4 District at the rear of 424 4th Street, N.E., (Square 780, Lots 43, 62, and 810).

HEARING DATES: **March 9 and 30, 1988; March 6, April 3, May 1, June 5, and July 10, 1991; February 5, March 14 and April 8, 1992**

DECISION DATE: **May 5, 1988; May 6, and June 3, 1992**

ORDER ON REMAND

On May 5, 1988, the Board of Zoning Adjustment (BZA) granted the application with conditions by a vote of 3-2 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh opposed to the motion; Maybelle Taylor Bennett opposed

to the motion by proxy). The Order granting the application was issued on December 16, 1988.

On January 17, 1989, The Committee of Concerned Neighbors, Inc. and the Capitol Hill Restoration Society, Inc. (hereinafter "petitioners"), brought their Petition for Review to the Court of Appeals seeking reversal of the Board's decision to grant the variances. On February 16, 1989, the prior applicant, Ralph P. Kaiser Company, Inc., intervened in the petitioners' action on the side of the Board of Zoning Adjustment. On June 15, 1989, the applicant, Ralph P. Kaiser Company, Inc. filed its Motion to Withdraw as Intervenor, which was granted by the Court of Appeals on July 7, 1989. On July 24, 1989, Corporation Counsel, on behalf of the Board moved to remand the case. On January 24, 1990, the District of Columbia Court of Appeals granted the motion, and remanded this case to the BZA ordering it to articulate with greater clarity the basis for the variance relief it had granted. On January 30, 1990, the petitioners filed a motion with the BZA for clarification of the D.C. Court of Appeals Order remanding the case. On February 6, 1990 Counsel for respondent and Counsel for the contract purchaser, Barrett Linde (hereinafter known as "applicant") joined in a request for reopening of the record on remand to permit consideration of the revised plans, or in the alternative, a stay of the remand procedures pending consideration of the revised plans. This motion was opposed by the petitioners.

On January 22, 1991, petitioners' motion for clarification of the Court of Appeals January 24, 1990 Order was granted in part. The Board was ordered to make the initial determination of the effect of prior applicant Ralph P. Kaiser Company, Inc.'s failure to apply for a building permit on respondent's variance order. On April 3, 1991, the respondent reopened the record to receive written submissions from the parties about the effect on the BZA's Order of the applicant's failure to apply for a building permit within the six month time period set out in 11 DCMR 3104. On April 22, 1992 the petitioners filed a letter stating that the failure on behalf of the applicants to apply for a building permit constituted an abandonment of their claim. On the same date, the applicant also submitted a letter arguing to the contrary, that they had not abandoned their claim. On May 2, 1991 petitioner replied to applicant's letter. On the same date, applicant replied to petitioner's reply to their letter.

On May 14, 1992, the applicant requested that the application be dismissed as moot in light of the special exception granted by the BZA on January 8, 1992 for accessory parking in the subject lots.

The Board considered this application during its public meetings on March 6, 1991; April 3, 1991; May 1, 1991; June 5, 1991; July 10, 1991; February 5, 1992; March 14, 1992; and April 8,

1992. On each occasion, the Board deferred action in the case. On May 6, 1992 the Board voted to grant the application, and then decided to defer the decision until it received written advice from the Office of the Corporation Counsel regarding the legal status of the case. On June 3, 1992, the Board voted to vacate its Order and Dismiss the application as moot, in light of the May 14, 1992 letter it received from the applicant, requesting the Board to dismiss the application as moot because there was no longer any intention of developing the site as proposed. There was no opposition to the applicant's request to dismiss.

In light of the request of the applicant and the current circumstances surrounding the development of the site, the Board **ORDERS** that its decision in this case be **VACATED** and the application **DISMISSED** as moot.

Vote: 3-0 (Maybelle Taylor Bennett, Paula L. Jewell and Carrie L. Thornhill to dismiss; Angel F. Clarens, and Sheri Pruitt not voting, not having heard the case).

This order was issued as a proposed order pursuant to the provisions of D.C. Code Section 1-1509(d). The proposed order was sent to all parties on November 25, 1997. The filing deadline for exceptions and arguments was December 19, 1997. No party to this application filed exceptions or arguments relating to the proposed order, therefore, the Board of Zoning Adjustment adopts and issues this order as its final order in this case.

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT --- SUSAN MORGAN HINTON, LAURA M. RICHARDS, SHEILA CROSS REID AND BETTY KING.

Attested By: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

Final Date of the Order: DEC 29 1997

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

ORD14759/AZ

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 14579

As Director of the Board of Zoning Adjustment, I certify and attest that on DEC 29 1997 a copy of the order entered on that date in this matter was mailed prepaid to each party who appeared and participated in the public hearing concerning this matter and who is listed below:

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Winstead, Sechrest and Minick
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Washington, DC 20007

Joseph D. Murphy, Esquire
1701 Pennsylvania Avenue, N.W.
8th Floor
Washington, D.C. 20006

Patricia L. Taylor
Thompson Hine and Flory
1920 N Street, NW
Washington, DC 20036

Ralph D. Kaiser
2626 Pennsylvania Avenue, NW
Suite 300
Washington DC 20006

Daniel M. Pernell, III
Medlink Hospital
700 Constitution Avenue, NE
Suite 1-515
Washington, DC 20002

Maureen E, Dwyer
Allison M. Carney
Wilkes, Artis, Hedrick & Lane,.
1666 K Street, NW
Suite 1100
Washington, DC 20006

Eric G. Wedum
415 3rd Street, NE
Washington, DC 20002

Margaret Blanchard
426 4th Street, NE
Washigton, DC 20002

B.J. Fredricksson
312 D Street, N.E.
Washington, DC 20002

Richard W. Rutherford
419 4th Street, NE
Washington, DC 20002

Juliette B. Dyer
427 3rd Street, NE
Washington, DC 20002

Cynthia B. Zeigler
426 4th street, NE
Washington, DC 20002

Daniel Bailes
424 4th Street, NE
Washington DC 20002

Elise M. Smith
423 4th Street, NE
Washington, DC 20002

Marie Refert
406 4th street, NW
Washington, DC 20002

Leo A. Lombardi, JR
416 4th Street, NE
Washington, DC 20002

JoAnn H. Wiley
439 4th Street, NE
Washington DC 20002

John Benvegar
421 4th Street, NE
Washington, DC 20002

Robert D. Zimet
308 D. Street, NE
Washington, DC 20002

Maureen Kennedy-Ormond
411 5th Street, NE
Washington, DC 20002

John and Juliette Dyer
427 3rd Street, NE
Washington, DC 20002

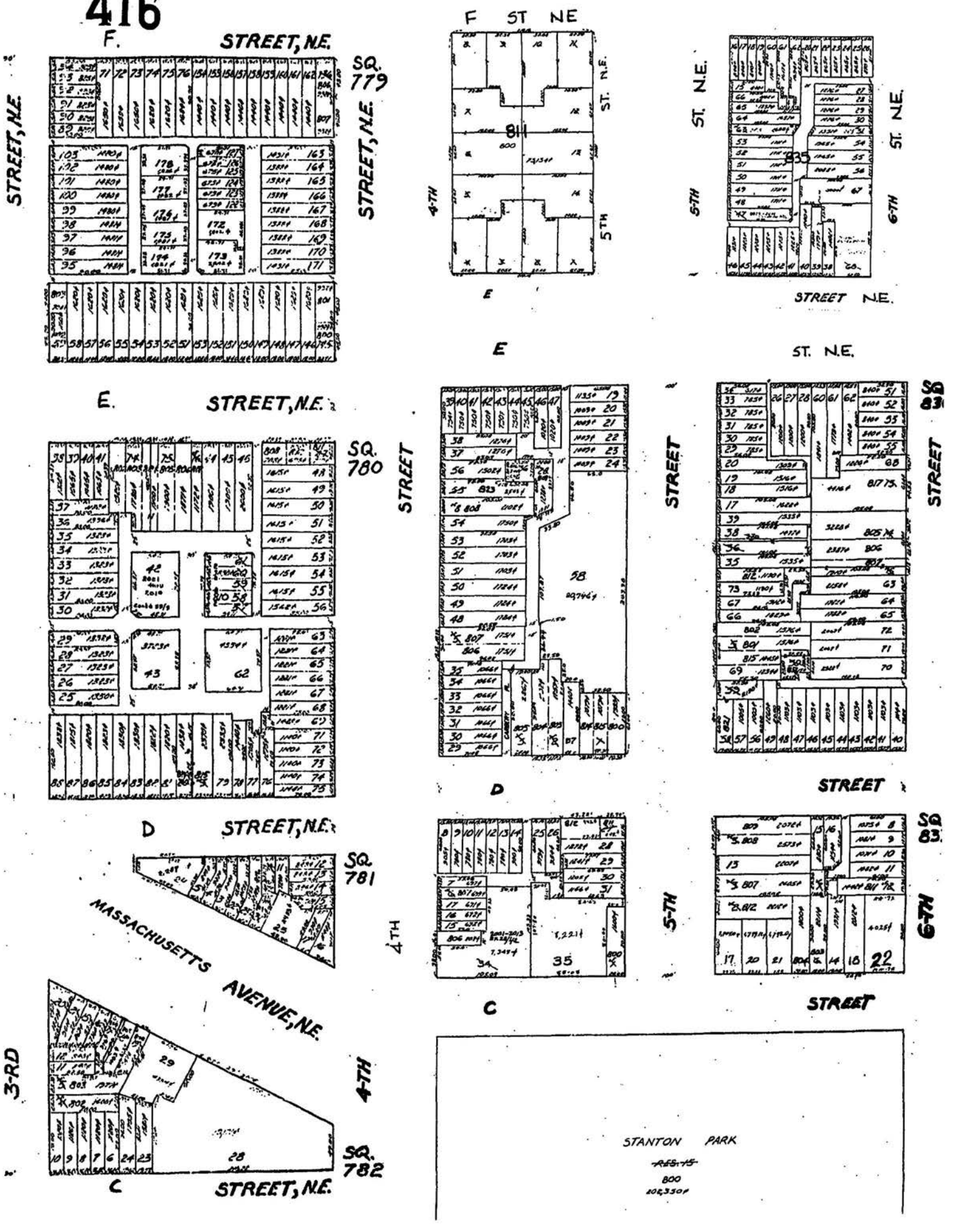
Charlotte McNaughton
407 3rd Street, NE
Washington, DC 20002

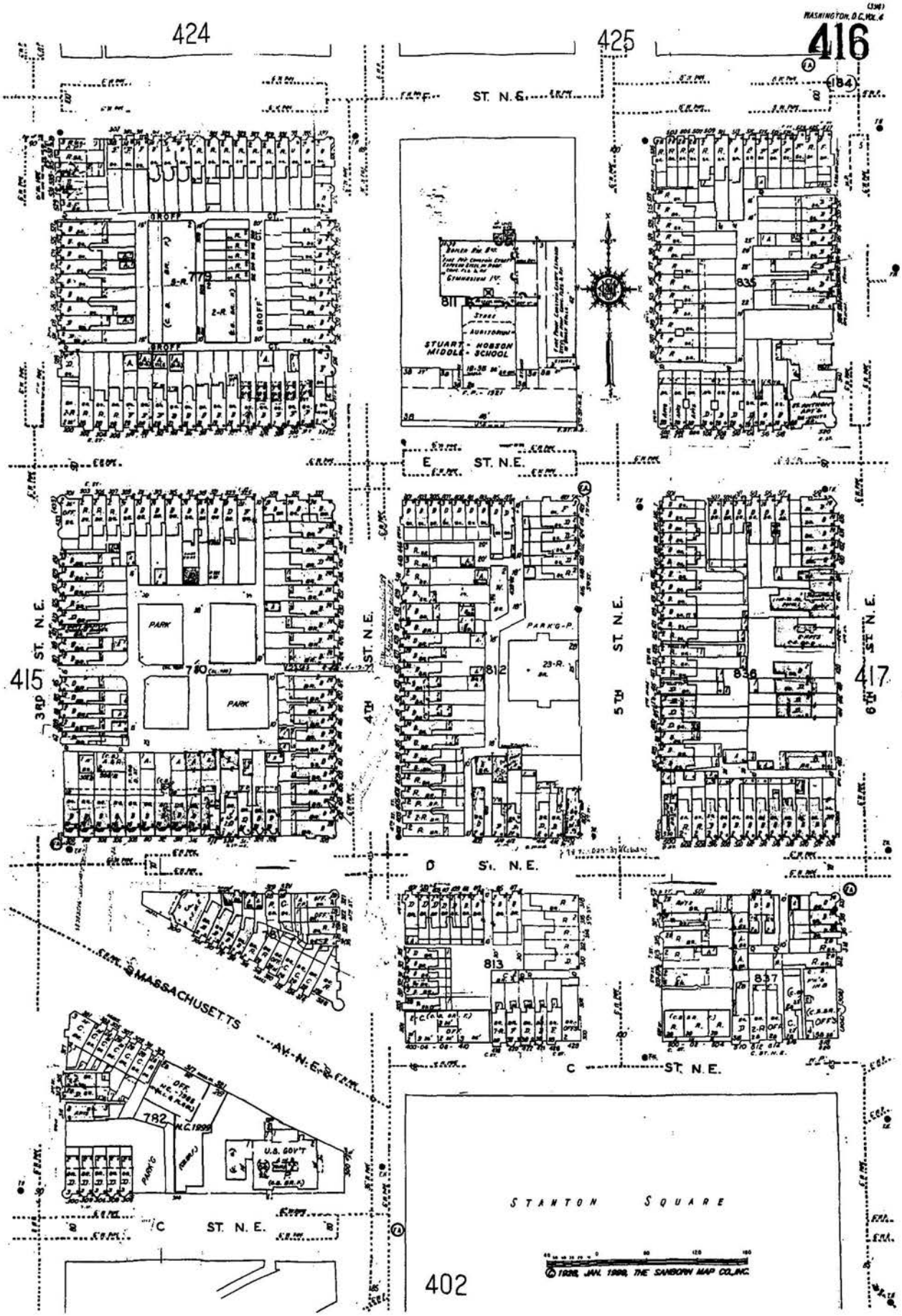
Elise and Kevin Smith
423 4th Street, NE
Washigton, DC 20002

Dr. Norman Braunstein
314 D. Street, N.E.
Washington, DC 20002

MADELIENE H. DOBBINS
Director

Date: DEC 29 1997


F. STREET, N.E.
SQ. 779
STREET, N.E.
STREET, N.E.
E. STREET, N.E.
SQ. 780
D STREET, N.E.
SQ. 781
MASSACHUSETTS AVENUE, N.E.
3-RD
4-TH
SQ. 782
C STREET, N.E.
F ST NE
ST. N.E.
4-TH
5TH
E
5-TH ST. N.E.
6-TH ST. N.E.
STREET N.E.
E
ST. N.E.
STREET
STREET
D
STREET
STREET
4TH
C
5-TH
6-TH
STREET
STANTON PARK
RES. 15
800
20,350 sf


424
425
416
ST. N.E.
GROFF
779
811
STUART - HOBSON MIDDLE - SCHOOL
835
E ST. N.E.
415
3RD ST. N.E.
PARK
780
4TH ST. N.E.
PARK'G-P.
23-R.
812
5TH ST. N.E.
836
6TH ST. N.E.
417
D St. N.E.
MASSACHUSETTS AV. N.E.
813
837
782
U.S. GOV'T
C ST. N.E.
STANTON SQUARE
402

Before the Board of Zoning Adjustment, D. C.

Application No. 12061, of Marvin B. Hopkins, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.43 to permit a parking lot in the R-4 District at the rear of the premises at 416 -4th Street, N. E., (Square 780, Lot 62).

HEARING DATE: February 18, 1975

DECISION DATES: February 24, 1976 and March 23, 1976

FINDINGS OF FACT:

1. The subject property is located in an R-4 District, one-half block from a strip of C-2-A zoning along Massachusetts Avenue and "D" Street, N. E.

2. The Board granted approval to establish an accessory parking lot in Appeal No. 6735, public hearing June 19, 1962 for Lot 42,in Square 780, which is directly northwest of the subject property.

3. The subject property is an alley lot. The lot is bounded by a 10 foot public alley on the east, a 25 foot public alley on the south, a 30 foot public alley on the west and a 15 foot public alley on the north.

4. The lot is presently marked off for 28 parking spaces. The plan submitted by the applicant proposes 23 parking spaces. Three of those 23 spaces would not be immediately adjacent to one of the alleys, and might require moving of another vehicle to gain access.

5. The proposed lot will serve employees of the Library of Congress annex at 214 Massachusetts Avenue, N. E., approximately one block from the subject site.

6. There is a lack of parking spaces in this area to serve both residents and employees.

7. The hours of operation of the lot will be from 7:30 to 4:30 p.m.

8. Residents of the square objected to the traffic congestion in the public alley, and principally the 10 foot wide alley adjacent to the east end of the parking lot.

9. All areas devoted to driveways, access lanes, and parking areas are paved with materials which form an all weather impervious surface.

10. The parking lot is so designed that no vehicle or any part thereof projects over any lot line or building line.

11. No other uses are conducted from the parking lot and there will be no structures on the lot.

12. No vehicular entrance or exit is within 25 feet of a street intersection.

13. The Zoning Regulations limit the uses which can be made of an alley lot. Permitted uses include parking and a warehouse, both of which require Board of Zoning Adjustment approval.

14. The Capitol Hill Restoration Society opposed the application on the grounds that the lot was being used illegally, that traffic congestion was impacting the alley and that the past maintenance of the property has been poor. The Society did suggest that if the Board granted the application, six (6) specific conditions be attached to the approval.

15. The Municipal Planning Office, by report dated January 16, 1976 recommended that this application be granted subject to conditions relating to landscaping, access and hours of operation.

16. At the request of the Board, the applicant submitted a proposed parking layout for 17 spaces, all of which are completely accessible.

CONCLUSIONS OF LAW AND OPINION:

On the basis of the foregoing Findings of Fact, the Board concludes that the accessory parking lot meets all of the requirements of Paragraph 3104.43 and Article 74 of the Zoning Regulations. The Board concludes that the parking spaces are so located that they will not become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. The parking lot will

serve a necessary and convenient function to the commercial uses in the area and alleviates traffic and parking conditions in the immediate neighborhood. The Board further concludes that a property owner should be given some reasonable use of his property. The Board concludes that a parking lot would be less objectionable to the area than a small warehouse, which is also permitted. It is therefore Ordered that the above application be GRANTED subject to the following conditions:

1. The applicant shall erect a chain link fence 42" high along the ten (10) foot alley on the eastern side of the property.

2. The number of parking spaces shall not exceed 17, with the layout to be as shown on the plat contained in the record, dated March 18, 1976, marked as exhibit "1 P. H.".

3. The applicant shall comply with all provisions of Sub-section 7104.1.

4. This approval shall be limited to a period of five (5) years.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: Steven E. Sher
STEVEN E.SHER
Acting Secretary to the Board

FINAL DATE OF THE ORDER: APR 7 1976

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

CORRECTED ORDER

Before the Board of Zoning Adjustment, D.C.

Application No. 12061, of Marvin B. Hopkins, pursuant to Subsection 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.43 to permit a parking lot in the R-4 District at the rear of the premises at 416 - 4th Street, N.E. (Square 780, lot 62).

HEARING DATE: February 18, 1976

DECISION DATE: February 24, 1976 and March 23, 1976

ORDER

The order in this application, dated April 7, 1976, is hereby amended to correct the following typographical errors:

1. The hearing date was February 18, 1976 rather than 18, 1975.

2. The sub-section of the Zoning Regulations cited in Condition No. 3 on Page 3 is 7404.1 rather than 7104.1.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED by: Steven E. Sher
STEVEN E. SHER
Acting Secretary to the Board

DATE OF THESE AMENDMENTS: APR 16 1976

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14449, of The Heritage Foundation, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 to continue to operate a parking lot in an CAP/R-4 District at premises rear 416 - 4th Street, N.E., (Square 780, Lot 62).

HEARING DATE: July 23, 1986
DECISION DATE: September 3, 1986

FINDINGS OF FACT:

1. The subject property is an alley lot located at the rear of 416 - 4th Street, N.E., between D and E Streets, and 3rd and 4th Streets, N.E. It is zoned CAP/R-4. The lot is one-half block from a strip of C-2-A zoning along Massachusetts Avenue and D Street, N.E.

2. The site is bounded by a fifteen foot public alley on the north, a twenty-five foot public alley on the south, a ten foot public alley on the east and a thirty-foot public alley on the west.

3. There is a forty-two inch chain-link fence along the ten foot public alley on the eastern property line. There are no structures on the lot.

4. The subject lot is presently used as a parking lot, accommodating seventeen vehicles, with all spaces in an open area. The applicant desires to continue this use for a period of five years from the date of expiration of the previous order, namely until April 7, 1991.

5. The subject site was first approved by the Board for use as a parking lot pursuant to BZA Order No. 12061, dated April 7, 1976. The parking lot was most recently approved by the Board by Order No. 14151, dated April 7, 1985, for a period to expire on April 7, 1986.

6. The subject site was purchased by the applicant in February of 1983, and is used solely to provide additional parking for its building located at 214 Massachusetts Avenue, N.E. The employees of the Heritage Foundation, as well as tenants of other offices within the applicant's building, use the lot on a daily basis for parking. The lessees are office employees going to work for the day.

Consequently, there is little traffic or noise generated by the use of the lot.

7. The lot is open evenings, weekends, and holidays to provide parking for the residents of the neighborhood.

8. The lot is occupied by the tenants of 214 Massachusetts Avenue between approximately 7:30 A.M. and 5:30 P.M.

9. The lot is completely paved with asphalt. Each parking space is outlined in paint, numbered, and assigned to a particular user. No cars using the spaces need protrude over the lot line into the alley.

10. The parking spaces are arranged in a U-shape with the front of the cars facing toward the center. Wheel stops are provided at the top of each space toward the center of the lot. No bumper stops are provided because there are no immediate adjacent buildings to protect and because bumper stops would block access to the spaces. The lot is surrounded on all sides by public alleys.

11. Two sides of the lot only, 4th and D Streets, face the backs of residential property. On the 4th Street side, the residences are separated by the chain link fence, the public alley, and each home's own additional yard fencing. On the D Street side, most homes have garages which open onto the public alley and use the alley for ingress and egress. On the remaining two sides of the lots are public alleys and then vacant buildings. The layout and size of the lot make landscaping and perimeter fencing impractical. Further, the separation of adjacent property by existing fencing and public alley makes perimeter fencing unnecessary.

12. The lot has been inspected weekly by the building engineer of 214 Massachusetts Avenue, N.E., and regularly cleaned every two to three weeks, or more often if needed. The applicant, at the conclusion of the hearing, agreed to increase supervision and maintenance of the lot.

13. There is a substantial need for parking in the area. There are only 27 spaces at 214 Massachusetts Avenue itself, and no room for additional spaces on that lot. It would be economically impractical to put more parking spaces on this site. In addition, nearby commercial lots are quite crowded.

14. The applicant is willing to sell the lot for development consistent with its current zoning. At this time, however, there is no available development opportunity.

15. It is the applicant's position that there is currently no other reasonable use of the lot other than parking. The applicant requests the Board to continue the parking lot use of its property for five years, or until April 7, 1991.

16. The Department of Public Works (DPW) by memorandum dated July 16, 1986, reported that its investigation had revealed that the parking lot was clean and in good condition, and concluded that it had no objection to the continuation of this use. The Board concurs.

17. The Capitol Hill Restoration Society, by letter dated June 30, 1986, reported that at its regular meeting of June 26, 1986, the Zoning Committee of the Society, acting for and on behalf of the Society, voted unanimously to support the subject application for a three year term provided the applicant agreed to: 1) keep the lot lighted at night, and 2) maintain regular security surveillance patrols. In response, the applicant has agreed to have its security contractor patrol the lot periodically at night by car and report any suspicious activity to the police. In addition, the applicant has determined that there is lighting provided by the street lights along the public alleys. Three of these street lights directly face the lot.

18. The Architect of the Capital was provided notice of the application, and by letter dated July 15, 1986, indicated that it had no objection to the action sought by the applicant.

19. No report of Advisory Neighborhood Commission (ANC) 6A was filed with the Board of Zoning Adjustment.

20. Two neighbors, residing at 312 and 315 D Street, N.E., with garages opening onto the public alley adjacent to the parking lot, appeared at the hearing to testify concerning the subject parking lot. The primary concern expressed by these neighbors was lack of supervision for the lot and the illegal parking of vehicles in the public alley. They expressed the view that the applicant should provide more supervision for the parking lot. The applicant, at the public hearing, agreed to strengthen its monitoring of the lot. The Board will so condition the grant.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate that it has satisfied the requirements of Paragraph 3101.49 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof.

The Board concludes in particular, that the lot is both necessary and convenient to other uses in the vicinity. No significant adverse effect on the present character or future development of the neighborhood will result from the continuation of this lot because of noise, traffic, number of employees using the lot, or hours of operation. The Board further concludes that the grant of this special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of three years terminating on April 7, 1989.

2. The number of parking spaces shall not exceed seventeen.

3. Wheel stops shall be erected and maintained at the top of each parking space. Landscaping and perimeter fencing shall not be required due to the lay-out and small size of the lot, requirements for ingress and egress, and the separation of adjacent residences by public alleys, fencing, and garages.

4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

7. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

8. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

9. The applicant shall have its security contractor conduct surveillance of the lot nightly.

VOTE: 4-0 (Charles R. Norris, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 23 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

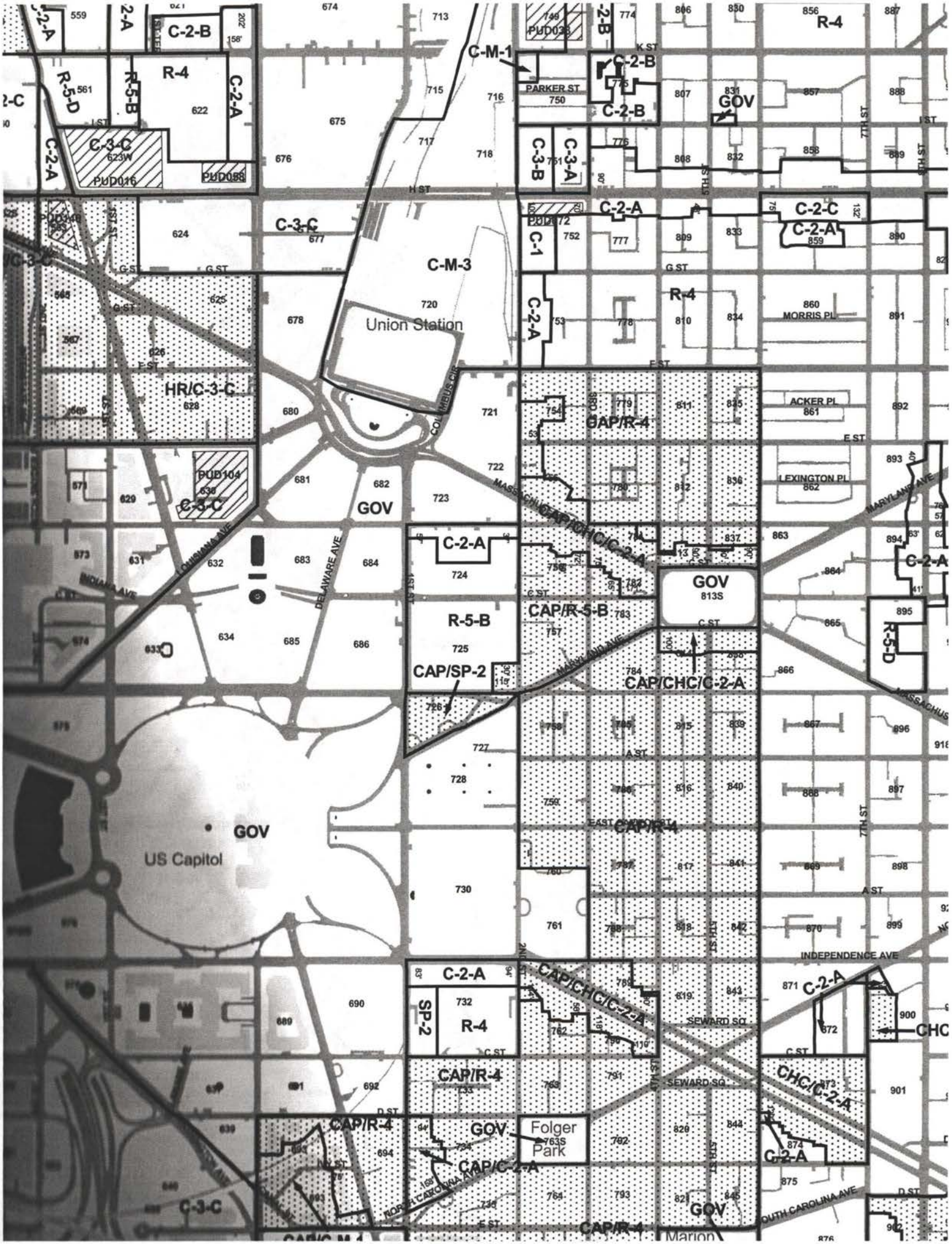
14449order/LJPV

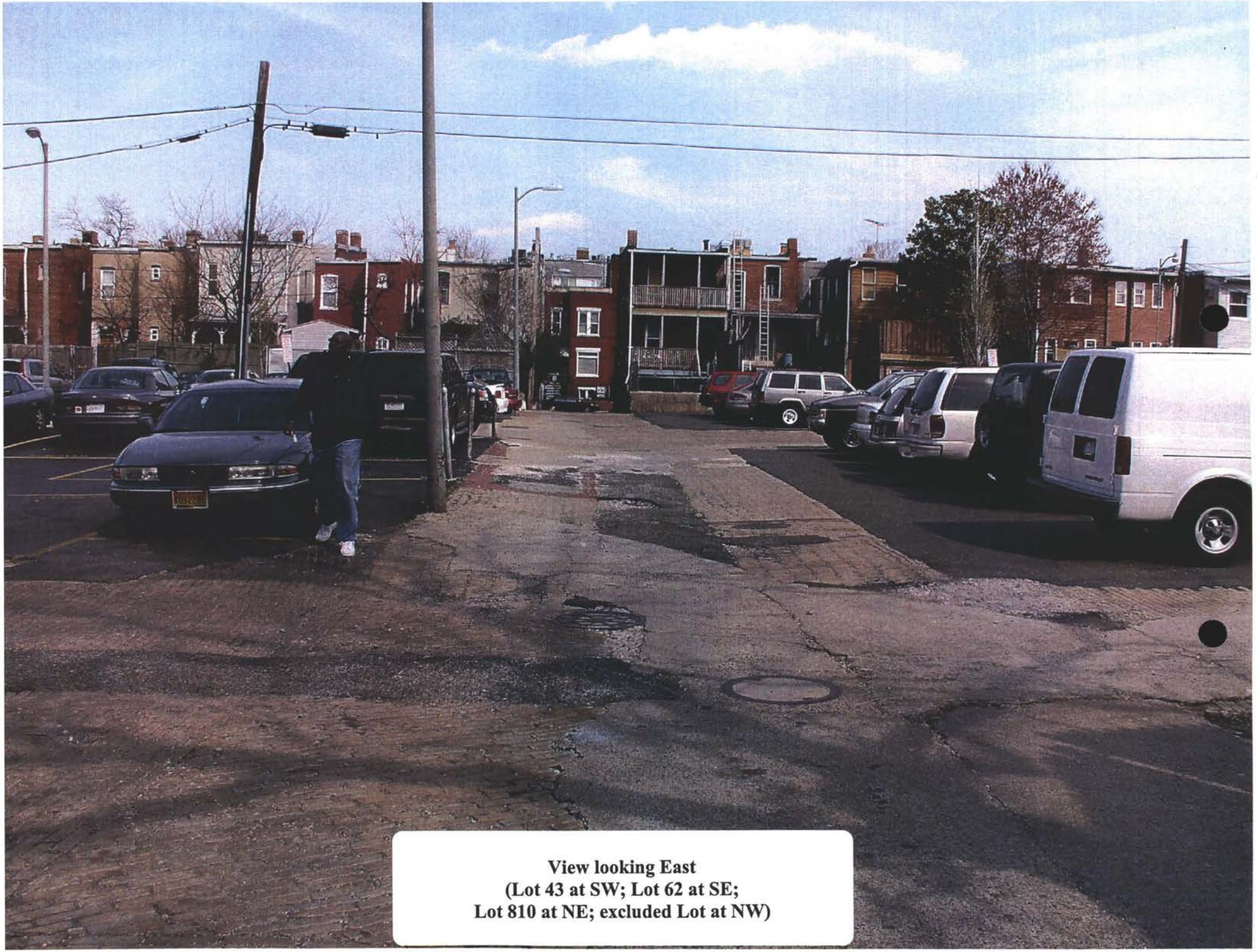
ALLEY SYSTEMS IN THE 50 SQUARES SURROUNDING SQUARE 780

(Square 780 Is The Only Square In Which There Are Three Large Freestanding Lots Surrounded By 25 To 30 Foot Alley On At Least Two Sides)

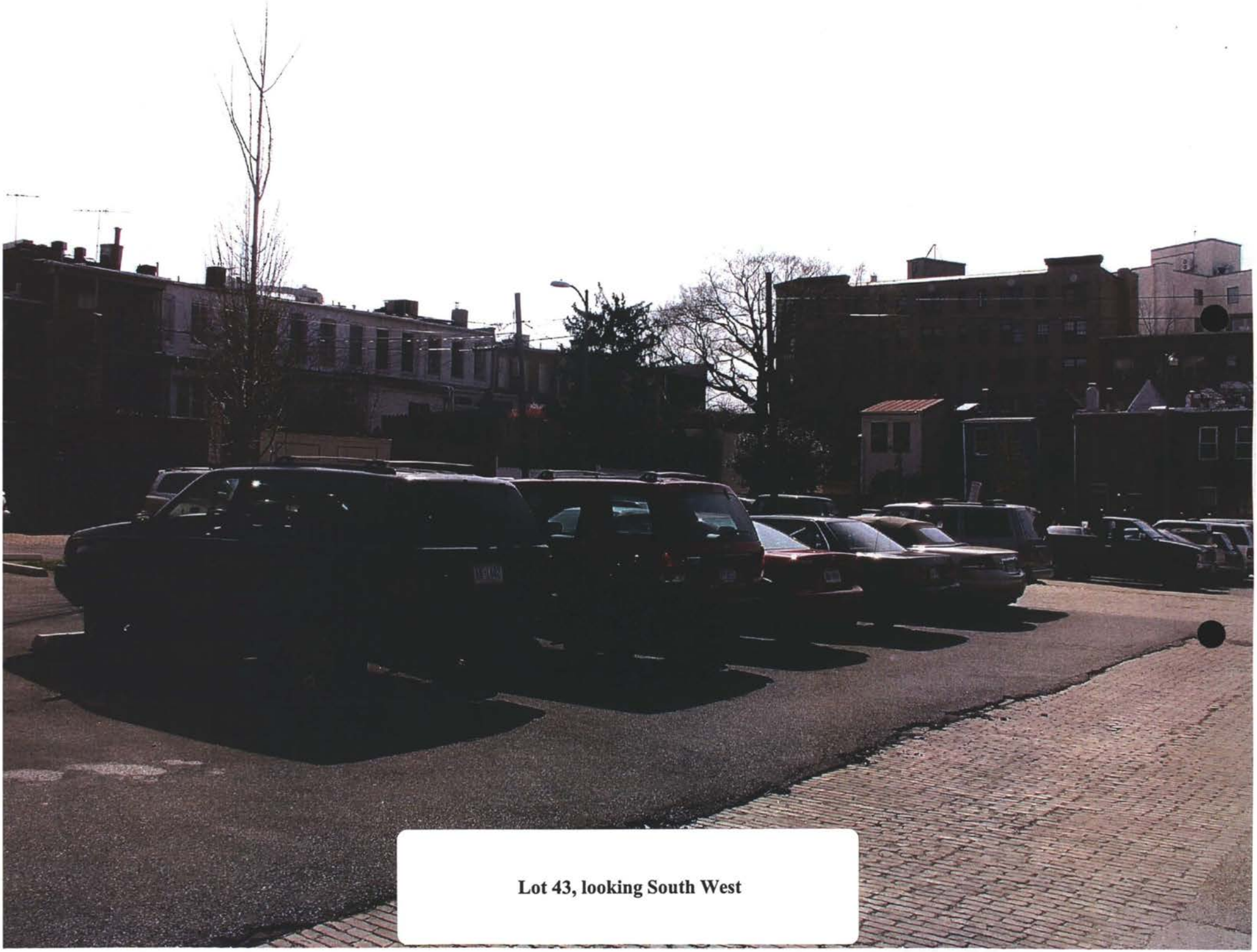
748 Dead end alley; 1,129 square foot alley lot
749 10 and 15 foot alleys; 475 to 2,000 square foot alley lots
750 Thru alley; 800 square foot alley lot
751 No alley lots
752 No alley lots
753 One alley lot; 2,495 square feet
754 10 and 12 foot alleys to interior - alley lots not surrounded on all sides by alleys
755 No alley lots
756 10 foot thru alley - 280 to 1,541 square foot alley lots
757
758 15 foot thru alley, 1 lot of 1,575 square feet, not surrounded on all sides by alleys
759 No thru alley; 583 square foot alley lot
773 No alley lots
774 10 and 15 foot alleys - 1 alley lot
775 15 foot thru alley - 2,500 square foot alley lots - only one side of each faces alley
776 8, 10 and 15 foot alleys - 980 to 1,020 square foot alley lots
777 10 and 12 foot alleys
778 991 to 2,000 square foot alley lots
779 10 foot access to interior - 675 square foot alley lot
780 **The Subject Site** - 15, 20, 25 and 30 foot alleys, four alley lots ranging in size from 3,850 to 4,453 square feet.
781 No alley lots, no alleys
782 No alley lots, no alleys
783 No alley lots, no alleys
784 No alley lots, no alleys
785 15 foot thru alley, 423 square foot alley lot surrounded by 8, 9, 20 and 30 foot alleys
786 15 foot thru alleys, 2 lots, 490 and 1,561 square feet not surrounded by alleys
805 10 feet, no alley lots
806 10 feet, no alley lots
807 10 feet, no alley lots
808 10 feet, no alley lots
809 10 feet, no alley lots
810 10 feet, 1 alley lot - 900 square feet
811 No alleys, no alley lots
812 10 feet, 1 alley lot at 1,200 feet
813 5 foot and 10 foot right turn alleys, 2 alley lots at 180 square feet
814 No alleys, no alley lots
815 10 foot pipe alley, no alley lots
816 10 foot dead-end alley, 1 alley lot at 700 square feet
829 8 foot and 10 foot alleys, no alley lots
830 No thru alleys, no alley lots

831	10 foot dead-end, no alley lots
832	10 foot thru, no alley lots
833	8, 10 and 15 feet, no alley lots
834	10 feet, no alley lots
835	10 feet, no alley lots
836	4 and 10 foot dead-end, no alley lots
837	10 foot stub, no alley lots
838	2 thru alleys, no alley lots
839	10 foot to 20 foot pipe, no alley lots
840	No alley lots, no alleys

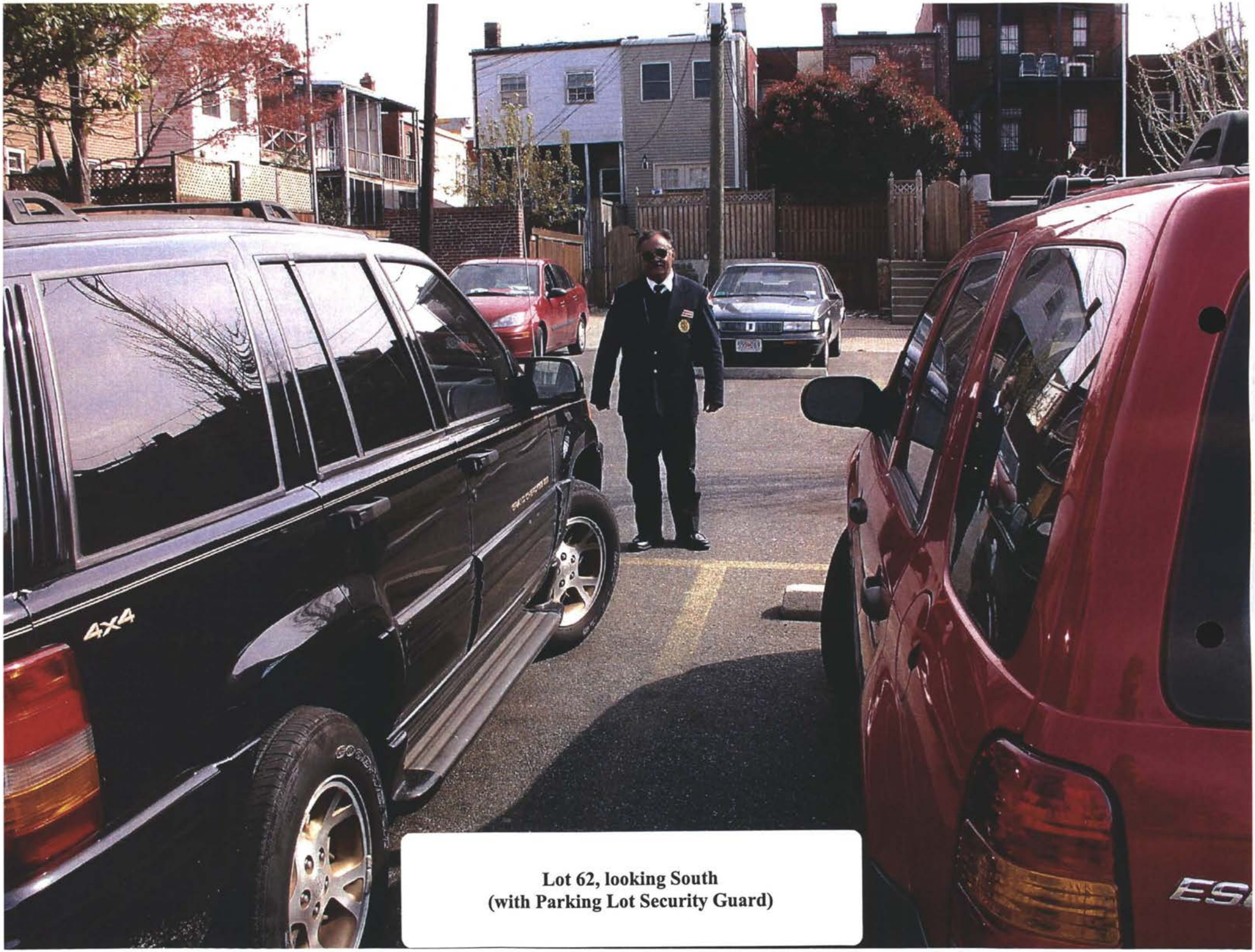

C-2-B
C-M-1
R-4
PUD038
K ST
PARKER ST
750
C-2-B
C-2-B
GOV
831
R-5-D
R-5-B
R-4
C-2-A
C-3-C
623W
PUD016
PUD058
C-2-A
675
676
717
718
776
C-3-B
C-3-A
751
H ST
C-3-C
677
C-2-A
PUD072
C-1
752
777
809
833
C-2-C
C-2-A
859
890
G ST
C-M-3
624
625
626
720
Union Station
678
753
778
810
834
R-4
860
MORRIS PL
891
E ST
HR/C-3-C
628
680
721
754
779
811
835
CAP/R-4
ACKER PL
861
892
E ST
PUD104
636
C-3-C
681
682
722
723
780
812
836
LEXINGTON PL
862
893
MARYLAND AVE
GOV
MASSACHUSETTS AVE
CAP/CHC/C-2-A
629
631
632
683
684
724
781
813
837
863
894
C-2-A
INDIANA AVE
LOUISIANA AVE
DELAWARE AVE
C-2-A
758
782
GOV
813S
C ST
CAP/R-5-B
783
R-5-B
725
757
634
685
686
865
895
R-5-D
CAP/SP-2
726
784
CAP/CHC/C-2-A
MARYLAND AVE
866
MASSACHUS
727
728
A ST
867
896
GOV
US Capitol
730
761
785
815
839
868
897
EAST CAPITOL ST
CAP/R-4
759
786
816
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888
7TH ST
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A ST
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818
842
870
899
INDEPENDENCE AVE
C-2-A
SP-2
732
R-4
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789
819
843
871
C-2-A
900
CHC
SEWARD SQ
C ST
CAP/R-4
733
763
791
820
844
872
CHC/C-2-A
SEWARD SQ
901
CAP/R-4
GOV
Folger
Park
763S
792
821
845
874
C-2-A
C-3-C
NORTH CAROLINA AVE
CAP/C-2-A
764
793
875
SOUTH CAROLINA AVE
E ST
CAP/R-4
GOV
Marion



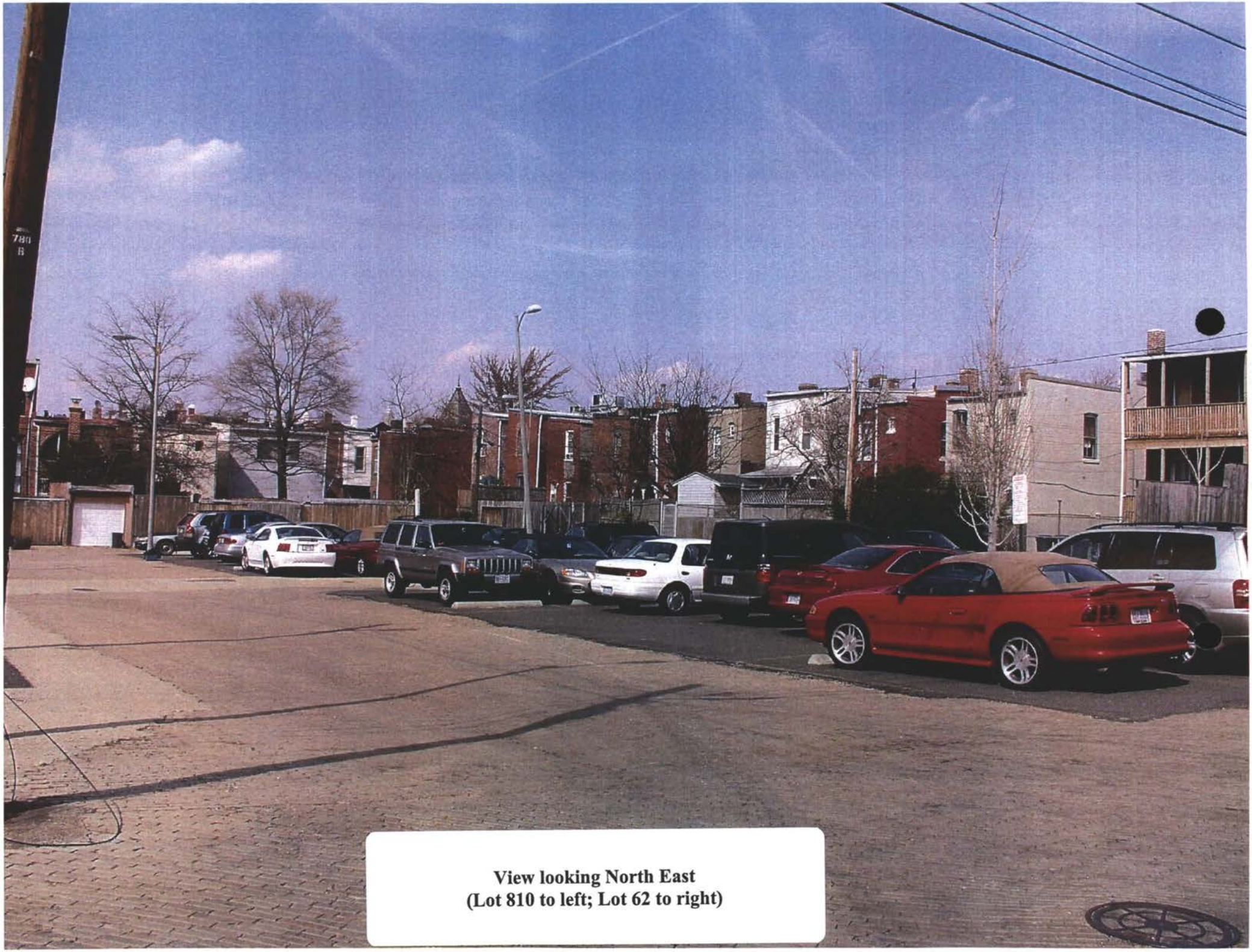
View looking East
(Lot 43 at SW; Lot 62 at SE;
Lot 810 at NE; excluded Lot at NW)



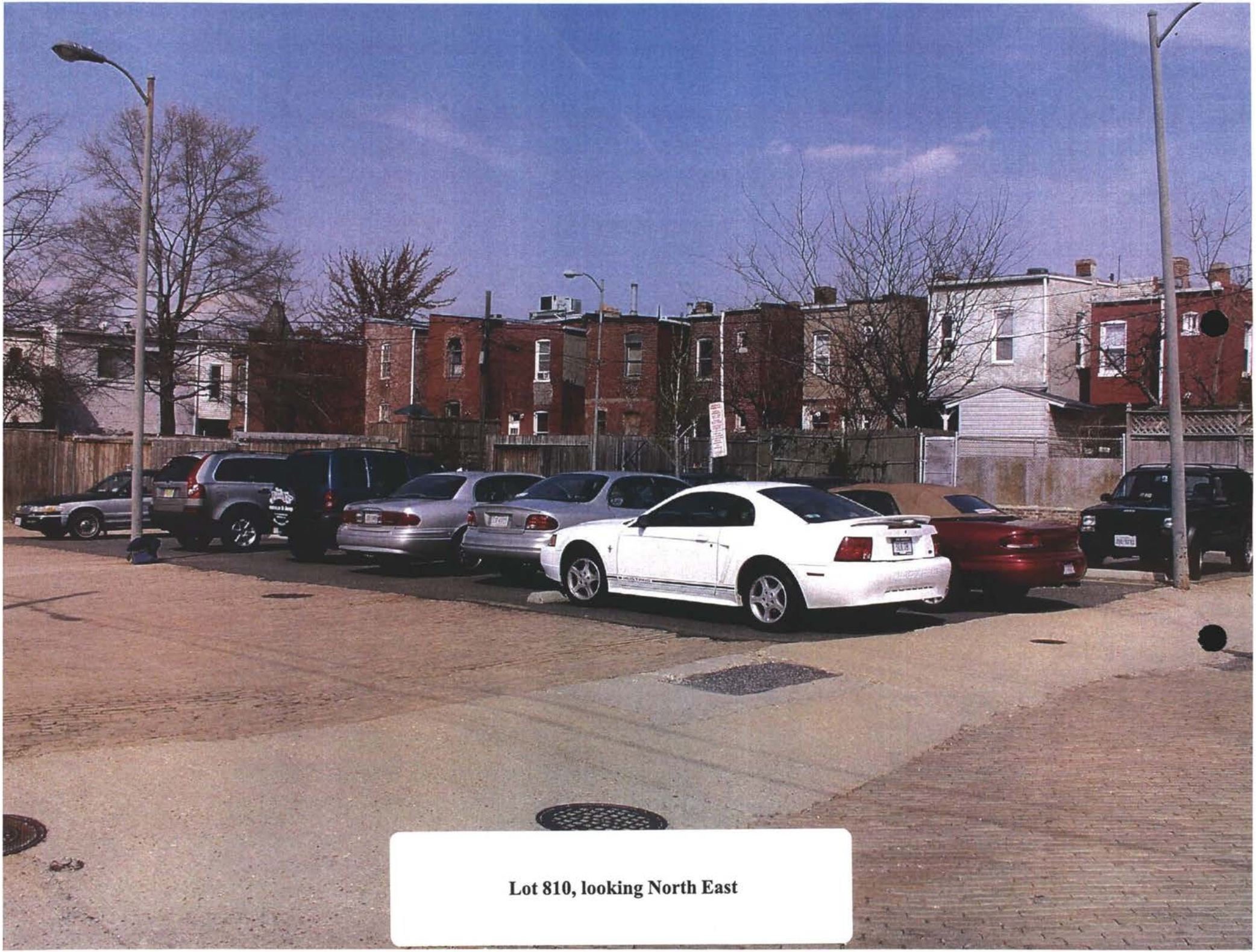
Lot 43, looking South West



Lot 62, looking South
(with Parking Lot Security Guard)



View looking North East
(Lot 810 to left; Lot 62 to right)



Lot 810, looking North East

OUTLINE OF TESTIMONY OF
TED SCHELENSKI; REPRESENTATIVE OF THE APPLICANT

I. Introduction

II. History of the Site

- A. History of development efforts
- B. History of the Parking Lots

III. Variance Relief

- A. Exceptional conditions
- B. Unusual size of lots and layout of alleys
- C. No adverse or objectionable conditions created
  1. Landscaping
  2. Daily maintenance and cleaning
  3. Security guard on site

IV. Availability to Neighborhood

V. Community Support

VI. Conclusion

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