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Mary Carolyn Brown
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June 28, 2005

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VIA HAND DELIVERY

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: BZA Application No. 17347
1209-11 13th Street, N.W.

Dear Members of the Board:

On behalf of 13th Street Lofts, LLC, the applicant in the above-referenced case, we are submitting herewith an original and twenty copies of its statement in support of the above-referenced application. We look forward to presenting our case to the Board of Zoning Adjustment at the July 12, 2005, hearing.

Very truly yours,

Mary Carolyn Brown

Attachments

cc: Advisory Neighborhood Commission 2F (w/ attach.; via mail)
Joel Lawson, D.C. Office of Planning (w/ attach.; via hand)

BZA
Case No. 17347
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO. 17347
EXHIBIT NO. 23

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

13TH STREET LOFTS, LLC

1209-11 13TH STREET, N.W.

BZA APPLICATION NO. 17347

PUBLIC HEARING: JULY 12, 2005

Submitted by:

Holland & Knight LLP
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Suite 100
Washington, D.C. 20016
(202) 955-3000
Mary Carolyn Brown
Counsel for the Applicant

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION OF:	)	
	)	
13TH STREET LOFTS, LLC	)	**BZA CASE NO. 17347**
	)	
VARIANCE FROM THE LOT OCCUPANCY PROVISIONS OF SECTION 403, AND A SPECIAL EXCEPTION FROM THE ROOF STRUCTURE REQUIREMENTS OF SECTION 411, TO ALLOW AN ADDITION TO A NON-CONFORMING STRUCTURE PURSUANT TO SECTION 2001.3 IN THE R-5-E DISTRICT AT PREMISES 1209-11 13TH ST., N.W. (SQ. 281, LOTS 8 AND 26)	)	**ANC 2F** **HEARING DATE:** **JULY 12, 2005**

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

13th Street Lofts, LLC ("13th Street Lofts" or "Applicant") submits this statement in support of its application to the Board of Zoning Adjustment ("Board" or "BZA") for a special exception from the roof structure provisions of section 411 and a variance from the lot occupancy provisions to allow an addition to a non-conforming structure pursuant to section 2001.3 at 1209-11 13th Street, N.W., (Square 281, Lots 8 and 26). The Applicant proposes to subdivide Lots 8 and 26 in Square 281 (the "Subject Property") into a single lot of record, demolish the existing structure on Lot 8, and construct a nine-story condominium building in its place. A three-story historic building on Lot 26 will be renovated for residential use and

connected to the new building. The property, premises address 1209-11 13th Street, N.W., Washington, D.C., is located in the R-5-E District.

II.
JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the requested variance and special exception pursuant to D.C. Code § 6-641.07 (2001 ed.) and sections 3103.2 and 3104.1 of the Zoning Regulations.

III.
BACKGROUND

A. Site and Vicinity Characteristics

1. The Property

The Subject Property is located in the R-5-E District and consists of what are now Lots 8 and 26 in Square 281 (see copies of plats attached as Exhibit B). Square 281 is bounded by 13th Street, N.W. on the west, 12th Street on the east, M Street on the south and N Street on the north in the Logan Circle neighborhood. Lot 26 is an alley lot improved with the three-story Proctor Alley Livery Stable (the "Livery Stable"), an individual landmark listed in the D.C. Inventory of Historic Sites. The Livery Stable occupies the entirety of its lot, and abuts a thirty-foot wide public alley to the east and a fifteen-foot public alley to the north. It is a lawfully existing non-conforming structure with respect to lot occupancy and rear yard. The Livery Stable is presently used as an automotive repair shop and vocational training school in accordance with a previously issued certificate of occupancy. Constructed in 1894, the Livery Stable was rendered a lawfully existing non-conforming use when is was zoned SP in 1958 and rezoned R-5-E in 2000.

Adjoining the Livery Stable parcel to the south is Lot 8, which fronts on 13th Street and abuts the thirty-foot wide alley at the rear. Lot 8 is presently improved with a small-scale commercial building that is presently used as a grocery and liquor store, which the Applicant

acquired only recently. It, too, is deemed to be a lawfully existing non-conforming use in the R-5-E District.

According to comments received from the Metropolitan Police Department on this BZA Application, the market and liquor store have been a source of public controversy and disruption due to the continuing presence of intoxicated individuals, drinking in public and other adverse impacts. The Applicant would eliminate this adverse use and convert the property to a conforming residential use. To the south of market and liquor store is a six-foot wide public alley.

Lots 26 and 8 contain approximately 4,275 and 4,421 square feet of land area, respectively. After the proposed subdivision, the new consolidated lot will contain 8,696 square feet of land area and the Subject Property will be developed as one record lot.

2. The Vicinity

The remainder of Square 281 is developed almost exclusively with residential buildings, ranging in height from eight to ten stories. Immediately north of Lot 8 and to the east of the Livery Stable parcel is a condominium building under construction that will rise to nine stories in height. To the north at the corner of 13th and N Streets is the Logan Park Apartments, a condominium building containing approximately 165 units constructed during the 1980s. An eight-story condominium building is also located at the corner of 12th and N Streets, N.W. To the south along M Street is a large-scale residential building known as the Claridge Towers. Additionally high-rise multi-unit residential buildings are located across 13th Street to the west.

B. Description of Proposed Construction

The Applicant proposes to substantially rehabilitate and renovate the historic Proctor Livery Stable for residential use, and construct a nine-story addition to the Livery Stable on Lot 8. The

existing building on Lot 8 will be demolished to allow for construction of the addition. The new development will include a total of thirty-six residential condominium units; eight units will be located in the Livery Stable, while the nine-story addition will house twenty-eight. The footprint of the Livery Stable and the new addition will be L-shaped with a 28.5-foot frontage on 13th Street. The addition will rise to a height of ninety feet and will directly abut the new nine-story condominium building that is currently being constructed on Lot 52 to the north.

The Project will comply with the majority of the zoning parameters of the R-5-E District. This zone district permits a maximum height of 90 feet and a total density of 6.0 floor area ratio ("FAR") for residential development and hotels. The Project will not exceed 90 feet in height, and will provide approximately 46,845 square feet of gross floor area, or a density of 5.39 FAR.

By combining the two lots and constructing the new addition, the Project will continue to be non-conforming with respect to rear yard. This non-conforming element can never be corrected or improved due to the required retention of the landmark building on the site. Thus, the Applicant is seeking a variance from the provisions of section 2001.3 to allow an addition to a non-conforming structure. However, the Project will create an open court at the rear of the addition that will comply with the minimum court width requirements. The R-5-E District requires that each court have a width of three inches per vertical height of the building at the court location. Here, the building will be ninety-feet in height, generating a required width of 22.5 feet. The width of the open court will be 28.5 feet, and will thus meet the minimum width requirement.

The existing non-conforming 100 percent lot occupancy condition of the Livery Stable will be improved, but not eliminated, by subdividing the two lots into one parcel and construction of the new addition. The overall lot occupancy will be reduced to 95 percent. Because the R-5-E District allows a maximum lot occupancy of 75 percent, the Applicant is seeking an area variance from the

provisions of section 403.2, and a variance form the provisions of section 2001.3 to allow an addition to a non-conforming structure.

The design of the proposed development has been approved by the Historic Preservation Review Board, and the Historic Preservation Office has referred to the project as "a very elegant juxtaposition of old and new." Historic Preservation Review Board Staff Report, H.P.A. No. 05-110 (April 28, 2005), a copy of which is attached as Exhibit D. The Applicant plans to integrate the landmark Livery Stable and the modern addition through the use of a three-story atrium that will leave the entire south wall of the Stable exposed.

IV.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF FROM THE ZONING REGULATIONS

A. Standard of Review

Under D.C. Code § 6-64107(g)(3) (2001 ed.) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995), *quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). *See, also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment,* 534 A.2d 939 (D.C. 1987). As set forth below, the Applicant satisfies this three-pronged test for a variance from the area requirements for residential recreation space and lot occupancy.

B. The Property is Affected by an Extraordinary or Exceptional Situation or Condition.

The Subject Property is unique by virtue of the Livery Stable's designation as a protected landmark under the Historic Landmark and Historic District Protection Act. This individual designation requires any proposed development on the property to retain the Stable's exterior structure and refrain from building any addition that would compromise the basic form of this unusual building type. The Applicant was not only discouraged from adding floors to the structure, but was also directed by the HPRB to create an atrium at the point of with the addition to the south in order to preserve views of the south elevation of the Livery Stable. The building's inclusion in the D.C. Inventory of Historic Sites alone is a sufficient basis upon which to make an affirmative finding with respect to the property's uniqueness. *See Capitol Hill Restoration Society*, 534 A.2d at 942 (individual landmark status uniquely affects property differently from others in the neighborhood); *see also Monaco v. District of Columbia Board of Zoning Adjustment*, 407 A.2d 1091, 1097-99 (D.C. 1979).

In addition, the property's narrow, L-shaped layout and limited street frontage also create unique conditions inherent in the property. The overwhelming majority of lots within the immediate vicinity and surrounding neighborhood are rectilinear in shape and have street widths of approximately 100 feet or more. In contrast, the subject site only has 28.5 feet of street frontage.

C. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

The existing landmark structure, the L-shaped configuration of the lot and narrow street frontage of the Subject Property together create substantial practical difficulties in developing the property if the Zoning Regulations were strictly applied to the Subject Property. The design constraints imposed by historic preservation prevent the Applicant from developing the landmark building to its full zoning potential and converting it to a conforming residential use. Although

the maximum allowable density in the R-5-E District is 6.0 FAR, preservation on the Livery Stable limit development on that portion of the property to an FAR of only 3.0. This lost density can only be recouped through intensive development on the remainder of the consolidated lot. Strict application of the lot occupancy requirement would preclude such development.

Section 403.2 of the Zoning Regulations requires that lot coverage for developments in the R-5-E Zone District be limited to 75 percent. Even after the subdivision of Lots 8 and 26 into a single lot of record, strict application of this requirement would effectively prohibit development on nearly 50 percent of what is currently Lot 8. This underutilization of the limited space available on this parcel would render any development project infeasible, particularly in light of the significant additional difficulties resulting from historic preservation constraints.

Strict application of the Zoning Regulations that limit additions to non-conforming structures would also create substantial practical difficulties given the unique constraints of the property. When its renovation is complete, the Livery Stable will continue to be a nonconforming structure devoted to a conforming use with respect to rear yard. Under section 2001.3(a) of the Zoning Regulations, additions to such structures are allowed only if the structure is in compliance with the lot occupancy requirements of the property's underlying zoning classification. The Applicant's proposed development—the nonconforming Stable and the new nine-story addition—will occupy approximately 94 percent of the newly created lot. The Zoning Regulations also require that any addition to a nonconforming structure "[n]either increase or extend any existing, nonconforming aspect of the structure." 11 DCMR § 2001.3(b)(2). It is important to note that the proposed development will actually *reduce* the extent of the Livery Stable's nonconformity with the lot occupancy requirements. The Livery Stable currently occupies 100 percent of Lot 26; the proposed development, on the other hand, will be only 94

percent. This reduction in the degree of nonconformity militates in favor of granting a variance from the requirements governing additions to nonconforming structures.

Additionally, Lot 26 is an alley lot, and the existing Livery Stable cannot be converted to multi-family residential use without some form of zoning relief. *See* 11 DCMR § 2507.1. With the encouragement of the Office of Planning, the Applicant purchased Lot 26 in order to combine it with Lot 8 and provide the Livery Stable parcel with street frontage to allow its adaptation to multi-family residential use. By combining the two lots, the Applicant eliminated the need to seek relief from section 2507.1 of the Zoning Regulations. Conversion of lawfully existing non-conforming uses to conforming ones is strongly favored by the Zoning Regulations. *See generally* 11 DCMR § 2001 *et seq.*; *see also Lange v. District of Columbia Board of Zoning Adjustment*, 470 A.2d 1058 (D.C. 1979).

D. <u>Variance Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.</u>

The requested area variances will not substantially impair the intent or purposes of the zoning laws and will allow development that will contribute significantly to the public good. In providing thirty-six new residential units, the proposed development will advance the housing goals of Ward 2 and the District as a whole by stimulating the "production of new and rehabilitated housing to meet all levels of need and demand." COMPREHENSIVE PLAN § 302.1 (1999); *see also id.* at § 1304.1 (discussing housing goals for Ward 2 neighborhoods). Additionally, the renovation of the Livery Stable for residential use promotes the District's policy of encouraging the adaptive reuse of historic structures. *Id.* at § 805.1. Importantly, the District's Comprehensive Plan also emphasizes that local permitting authorities should "[p]rovide sufficient administrative flexibility in building codes and other related codes and regulations to permit maximum preservation and

protection of historic resources." *Id.* at § 804.1(f). The preservation and renovation of the Livery Stable will not be economically feasible unless the requested variance relief is granted.

The demolition of the existing structure on Lot 8 and its replacement with the proposed addition will not impair the intent or the purposes of the Zoning Regulations. To the contrary, the available evidence suggests that the Applicant's project will have a positive influence on the surrounding area. Information provided by the Office of Planning from Lieutenant Michael A. Smith of the D.C. Metropolitan Police Department predicts that the proposed development "would improve ... quality of life issues" in the area and "would contribute to a decrease in overall crime." Both public safety and quality-of-life issues are listed among the purposes of the District's Zoning Ordinance. *See* D.C. CODE § 6-641.02 (West 2001).

In addition to contributing to a decrease in local crime, the proposed development will advance the District's "clear regulatory objective against nonconforming uses" by converting the Livery Stable from its current nonconforming use as an automotive repair shop and vocational training school to conforming residential use. *See Sheridan-Kalorama Neighborhood Council v. District of Columbia Board of Zoning Adjustment*, 411 A.2d 959, 963 (D.C. 1979). A nonconforming use is a more serious affront to the integrity of the Zone Plan than a conforming structure that merely fails to satisfy height, density, or lot occupancy requirements. This general principle is reflected in the relatively higher burden imposed upon applicants for a use—as opposed to an area—variance. *See, e.g., Palmer v. District of Columbia Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972) (noting that "a more stringent showing is warranted with respect to the more drastic relief inherent in a use variance"). By eliminating the nonconforming liquor and grocery store use that currently exists on Lot 26, the proposed development will enhance the residential character of the surrounding area and maintain the integrity of the Zone Plan.

V.
THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION UNDER THE ZONING REGULATIONS

Section 400.7(b) of the Zoning Regulations requires mechanical penthouses and other similar rooftop structures to be "set back from all exterior walls a distance at least equal to its height above the roof upon which it is located." However, section 411.11 of the Zoning Regulations allows the Board to grant a special exception from this requirement when its strict application would be "unduly restrictive, prohibitively costly, or unreasonable." Because of Lot 8's narrow shape, the Applicant will be unable to satisfy the roof structure setback requirement. In order to establish an entitlement to a special exception under this section, an Applicant must demonstrate that: (i) strict compliance with the requirement would be impracticable; (ii) the special exception will not materially impair the intent and purpose of the roof structure setback requirements; and (iii) the special exception will not adversely affect the light and air of adjacent buildings. As discussed below, the Applicant's proposed development satisfies all three of these requirements.

1. The Narrow Shape of the Site Would Make Strict Compliance with the Rooftop Structure Setback Requirements Impracticable

A special exception under section 411.11 is available when compliance with the roof structure setback requirements would be "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area." *Id.* The mechanical penthouse on the proposed addition will be in compliance with the setback requirements on the east, west, and south sides of the addition; it will not, however, be set back from the northern edge of the roof. The penthouse will rise ten feet from the roof of the building. Because the portion of the consolidated lot that will be occupied by the addition is only 28.5 feet

in width, compliance with the setback requirements in this case—i.e., a ten-foot setback on all sides—would be physically impossible.

2. The Proposed Roof Structure Will Not Materially Impair the Intent and Purpose of the Roof Structure Provisions

Granting a special exception from the setback requirement in this case will not materially impair the intent and purpose of the rooftop structure provisions. The provisions of sections 400.7 and 411 are designed to minimize the adverse effects of rooftop structures that exceed the underlying height limitations for the zone district in which they are located. The provisions seek to achieve the same objectives as outright limitations on building height, i.e., the adequate provision of light and ventilation for adjacent properties. As discussed below, the rooftop structure in this case does not implicate these concerns.

3. The Proposed Roof Structure Will Not Adversely Affect the Light and Air of Adjacent Buildings

The mechanical penthouse on the roof of the proposed addition will not adversely affect the light and air of adjacent buildings. As noted above, the penthouse satisfies setback requirements of section 400.7(b) along three of the addition's four sides. The only adjacent building that will be affected by the penthouse's nonconformity with the setback requirement is the new condominium building abutting the addition to the north. Because the buildings are nearly the same height and are both built out to the lot line, the proximity of the addition's mechanical penthouse to the northern edge of the roof will not affect the light or air of either of the buildings' occupants.

VI.
COMMUNITY SUPPORT

Advisory Neighborhood Commission ("ANC") 2F, the ANC in which the Subject Property is located, supports the Project. At its April 2005, meeting, the ANC voted to support the

conceptual design before the Historic Preservation Review Board. With respect to the variance and special exception relief, the Community Development Committee of the ANC recommended at its June 22, 2005, meeting that the ANC support this BZA application. The full ANC will meet on July 6 and is expected to adopt the CDC recommendation.

VII.
WITNESSES

A. Representative of 13th Street Lofts, LLC

B. Representative of Hickok Warner Cole, Architects

C. Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP

VIII.
EXHIBITS IN SUPPORT OF THE APPLICATION

The following exhibits are attached to this statement in further support of the application:

Exhibit A: Architectural Drawings (submitted separately)

Exhibit B: Baist and Sanborn Maps with Subject Property Highlighted

Exhibit C: Portion of Zoning Map Showing the Subject Property

Exhibit D: HPRB Staff Report

Exhibit E: Outlines of Witness Testimony

IX.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By 

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June 28, 2005

3020022_v1

A



PERSPECTIVE VIEW:
SOUTHEAST CORNER

THE FENNESSY LOFTS

13th STREET, NW
SQUARE 281
LOTS 8 & 26

DEVELOPED BY:
13th STREET LOFTS, LLC
An Ellis Denning Properties Company

ZONING: R5E
USE GROUP: R2

APPLICABLE CODE:IBC 2000
TYPE OF CONSTRUCTION: 1B
FULLY SPRINKLERED: YES
HIGH RISE: YES

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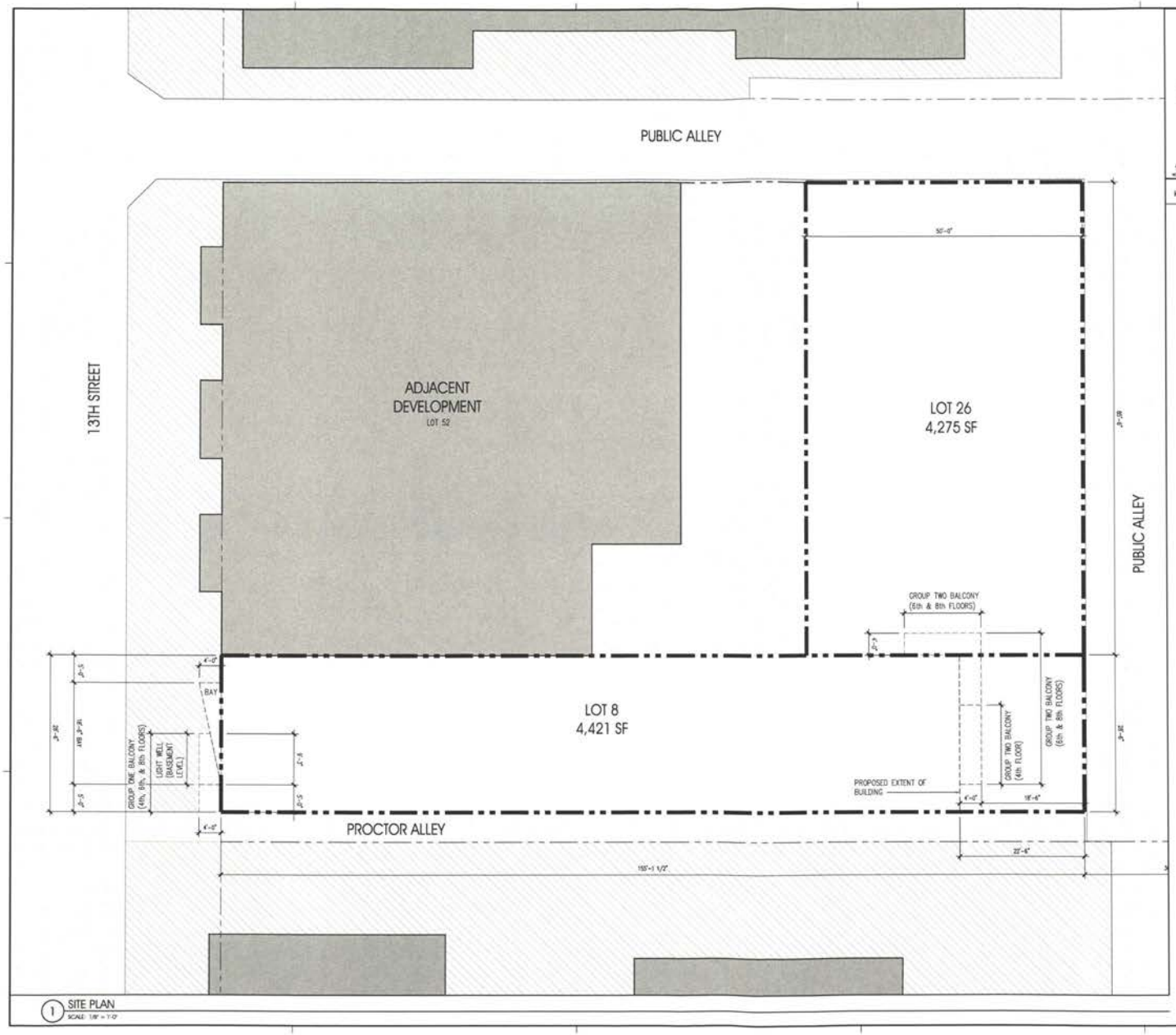
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1209 13th STREET, NW
WASHINGTON, DC

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REVISIONS
09.17.05

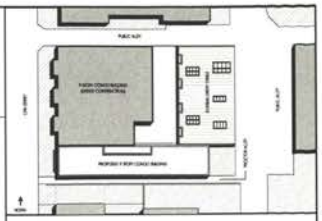
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1 SITE PLAN
SCALE: 1/8" = 1'-0"



KEY PLAN

AREA SUMMARY

LOT AREAS:	
LOT 26 (LIVERY STABLE)	4275.00 GSF
LOT 8 (ADDITION)	4421.00 GSF
ADDITION & STABLE AREAS:	
ADDITION FOOTPRINT (WITHOUT BAY)	3780.00 SF
ADDITION TOTAL (3780.00 x 9 STORIES)	34020.00 SF
STABLE FOOTPRINT	4275.00 SF
STABLE TOTAL (4275.00 x 3 STORIES)	12825.00 SF
COMBINED TOTAL (34020.00 + 12825.00)	46845.00 SF
BAY & WELL AREAS:	
BAY (PER FLOOR)	37.00 SF
BAY TOTAL (61.50 X 8 STORIES)	296.00 SF
WELL (BASEMENT FLOOR ONLY)	37.00 SF
BALCONY AREAS:	
GROUP ONE (PER FLOOR)	47.75 SF
GROUP ONE TOTAL (47.75 x 3 FLR)	143.25 SF
GROUP TWO (4th FLOOR)	58.00 SF
GROUP TWO (6th & 8th FLOORS)	188.00 SF
GROUP TWO TOTAL	246.00 SF
COMBINED BALCONY TOTAL	389.25 SF

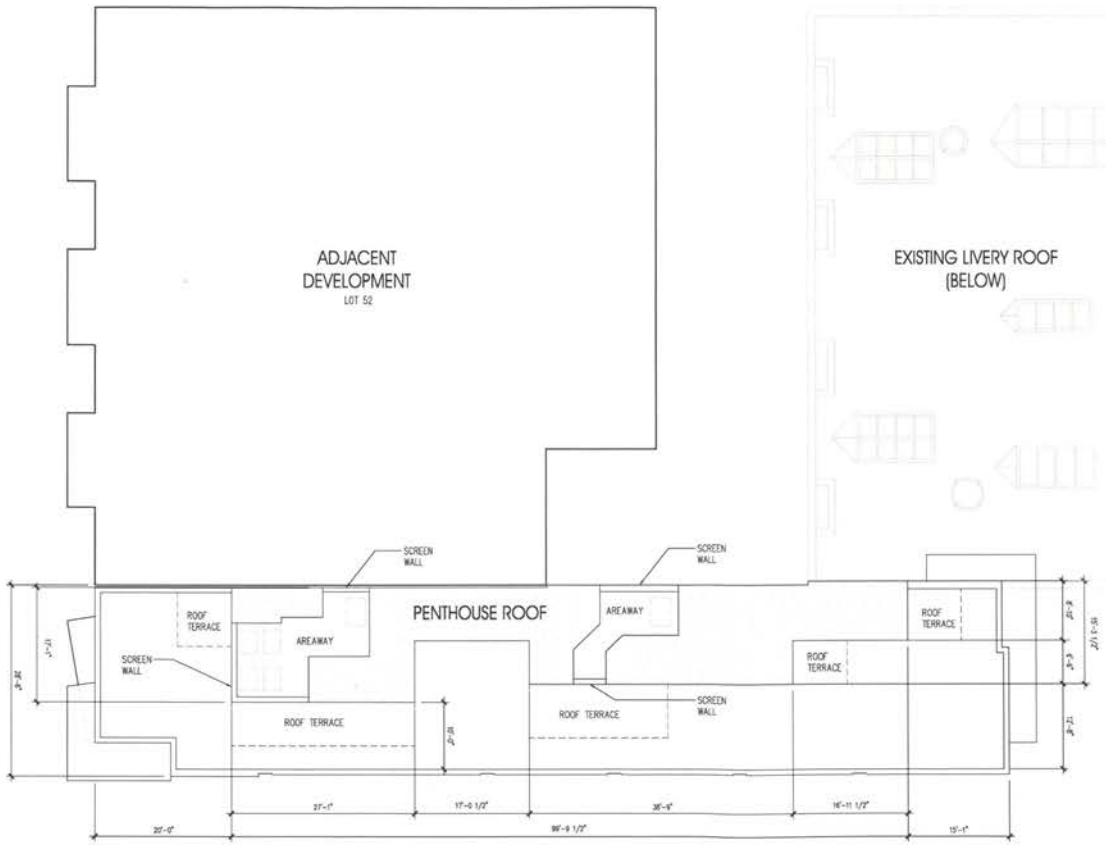
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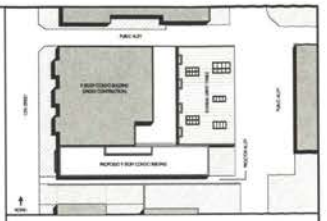
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SITE PLAN

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1 ROOF PLAN
SCALE: 1/8" = 1'-0"



KEY PLAN

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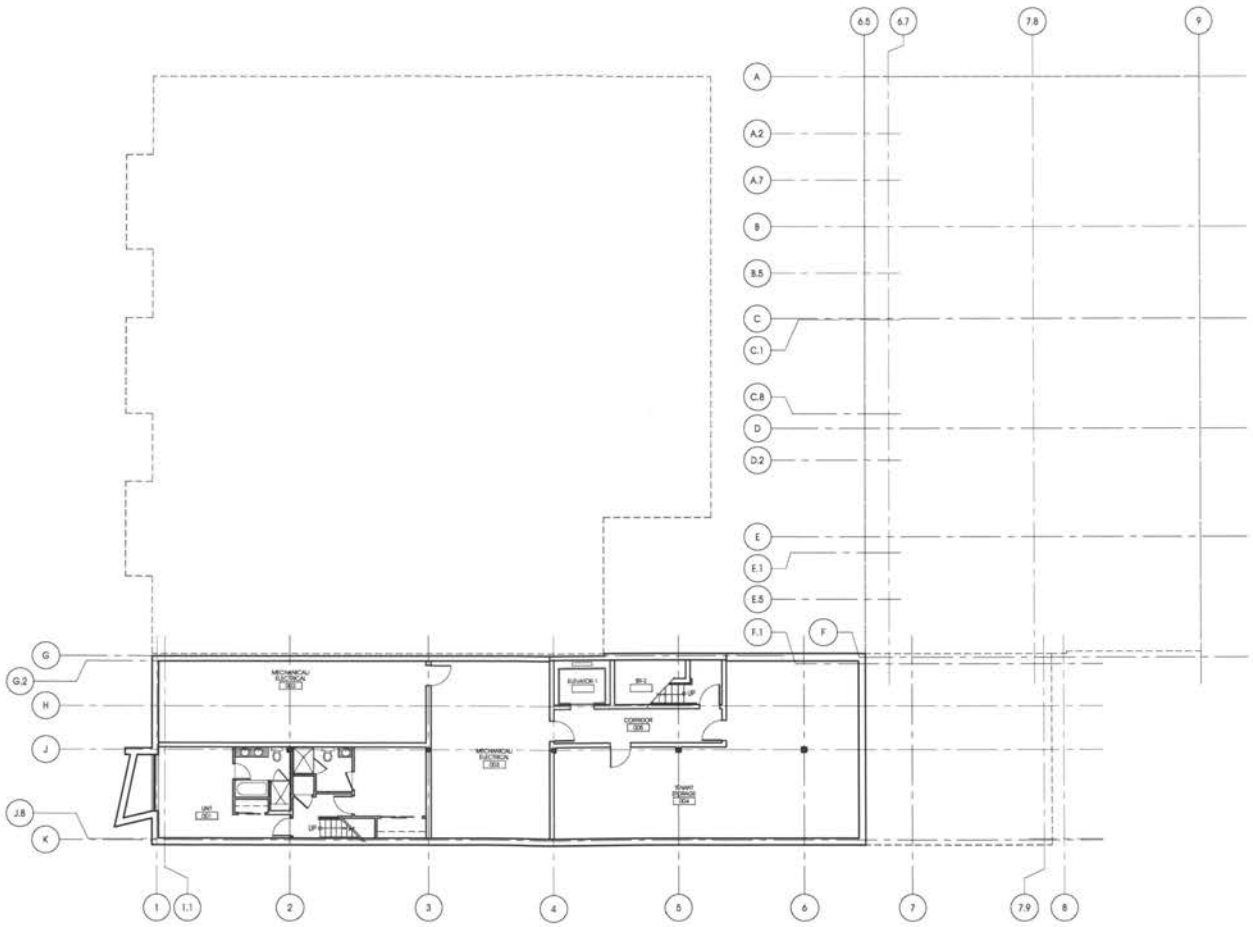
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ROOF PLAN

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1 BASEMENT LEVEL PLAN
SCALE: 1/8" = 1'-0"

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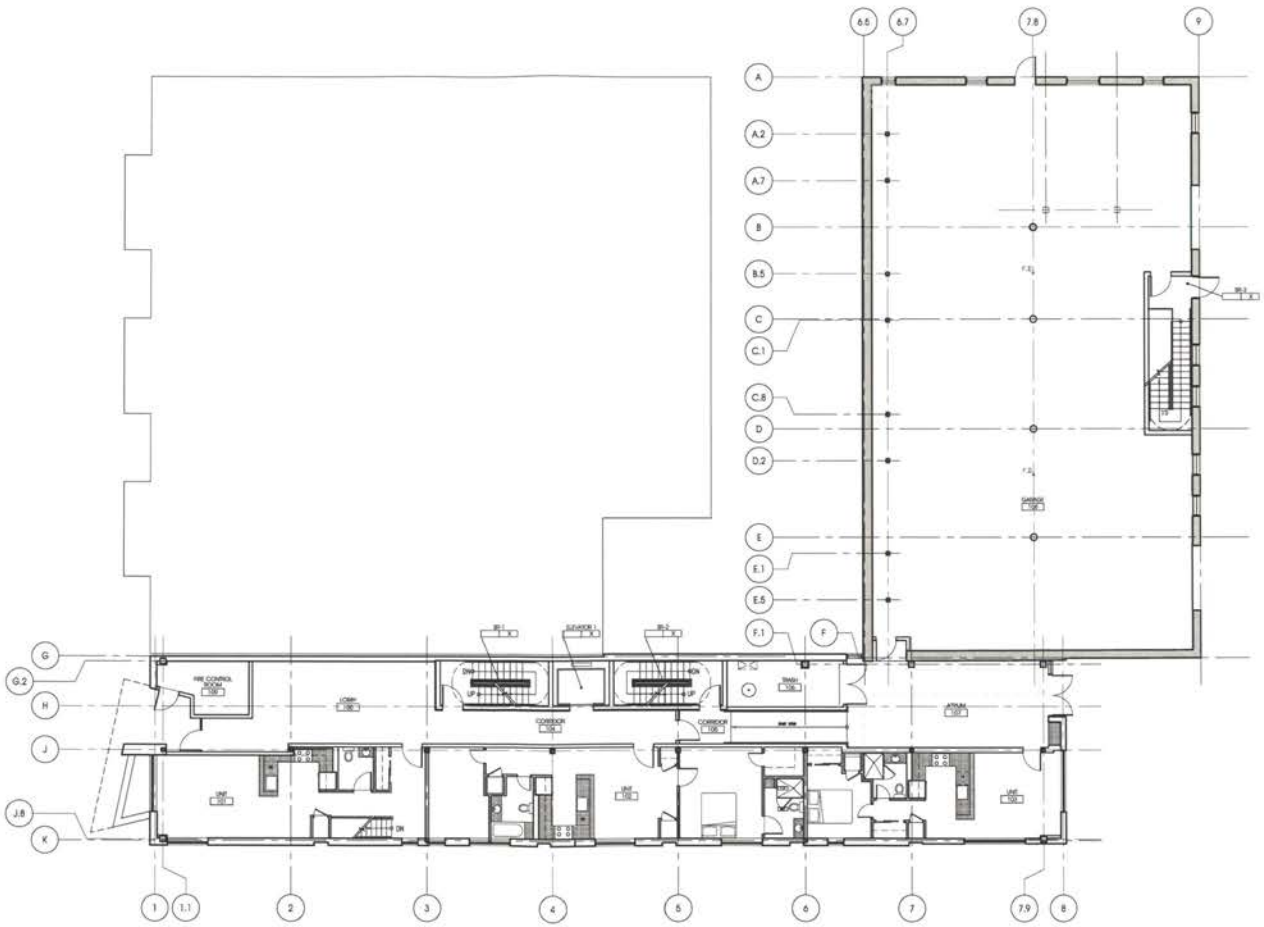
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BASEMENT LEVEL PLAN

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1 FIRST LEVEL PLAN
SCALE: 1/8" = 1'-0"

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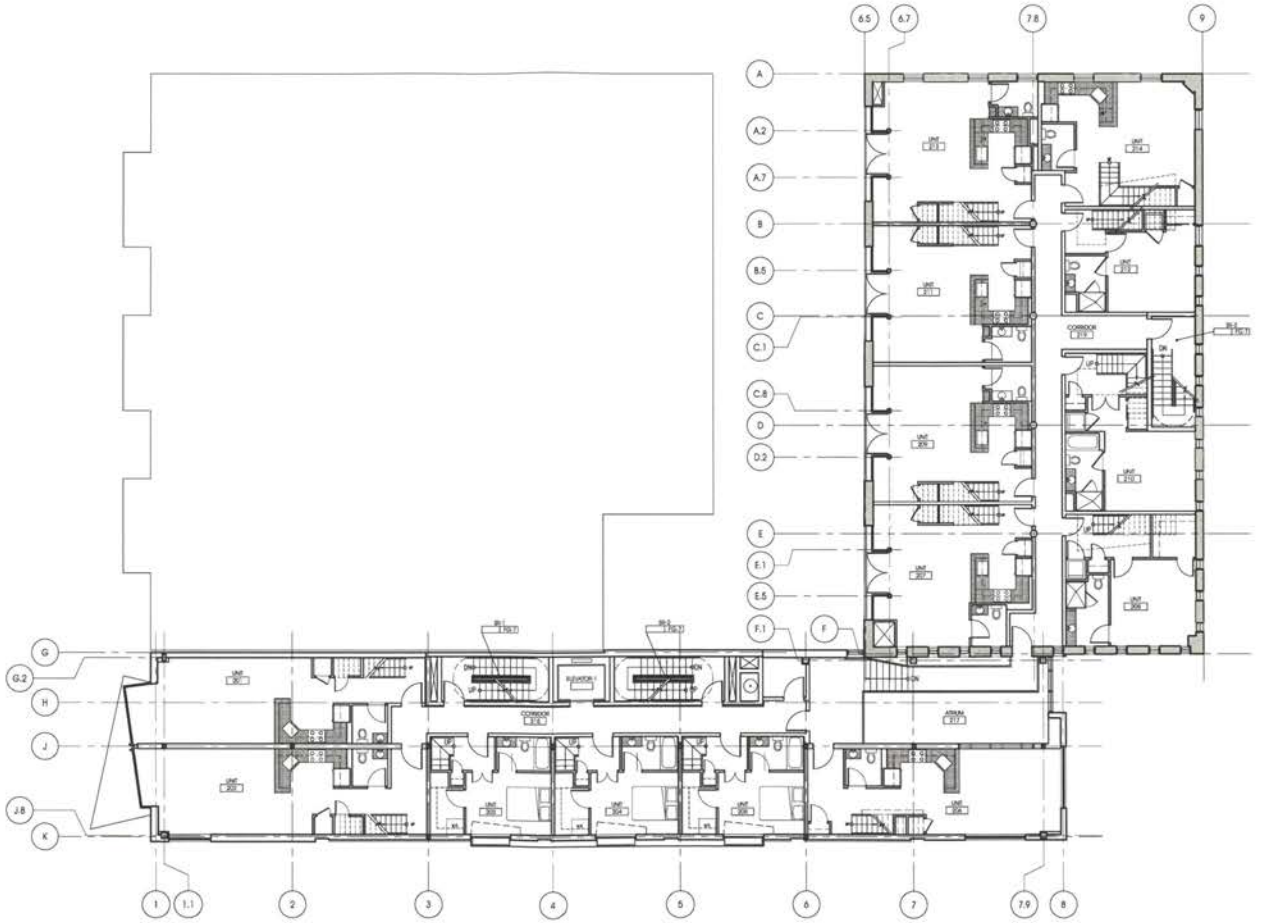
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FIRST LEVEL PLAN

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1 SECOND LEVEL PLAN
SCALE: 1/8" = 1'-0"

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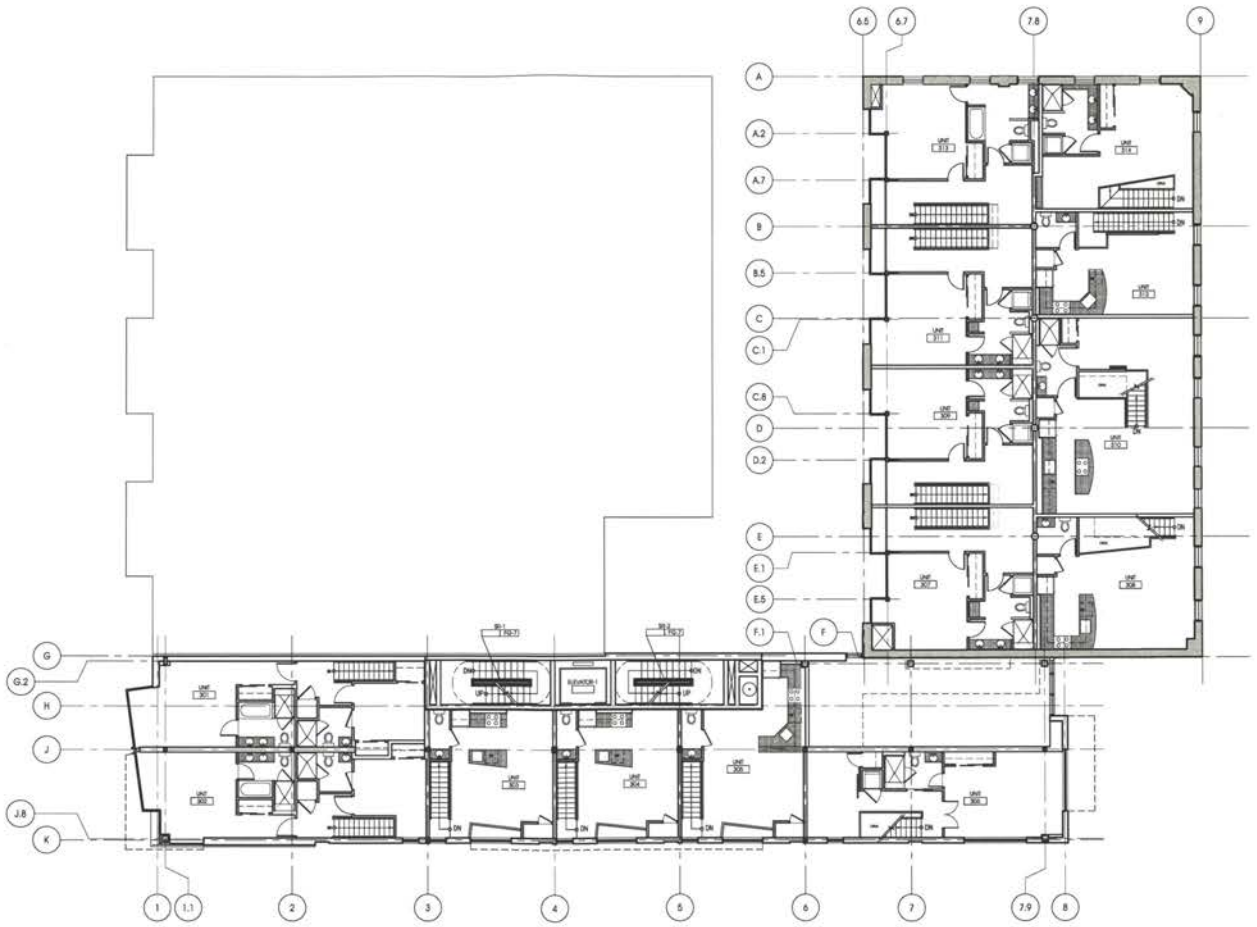
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06.17.05

DRAWING TITLE
SECOND LEVEL PLAN

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8" = 1'-0"
DATE:
03.29.05
DWG. NO.
A1.02

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1 THIRD LEVEL PLAN
SCALE: 1/8" = 1'-0"

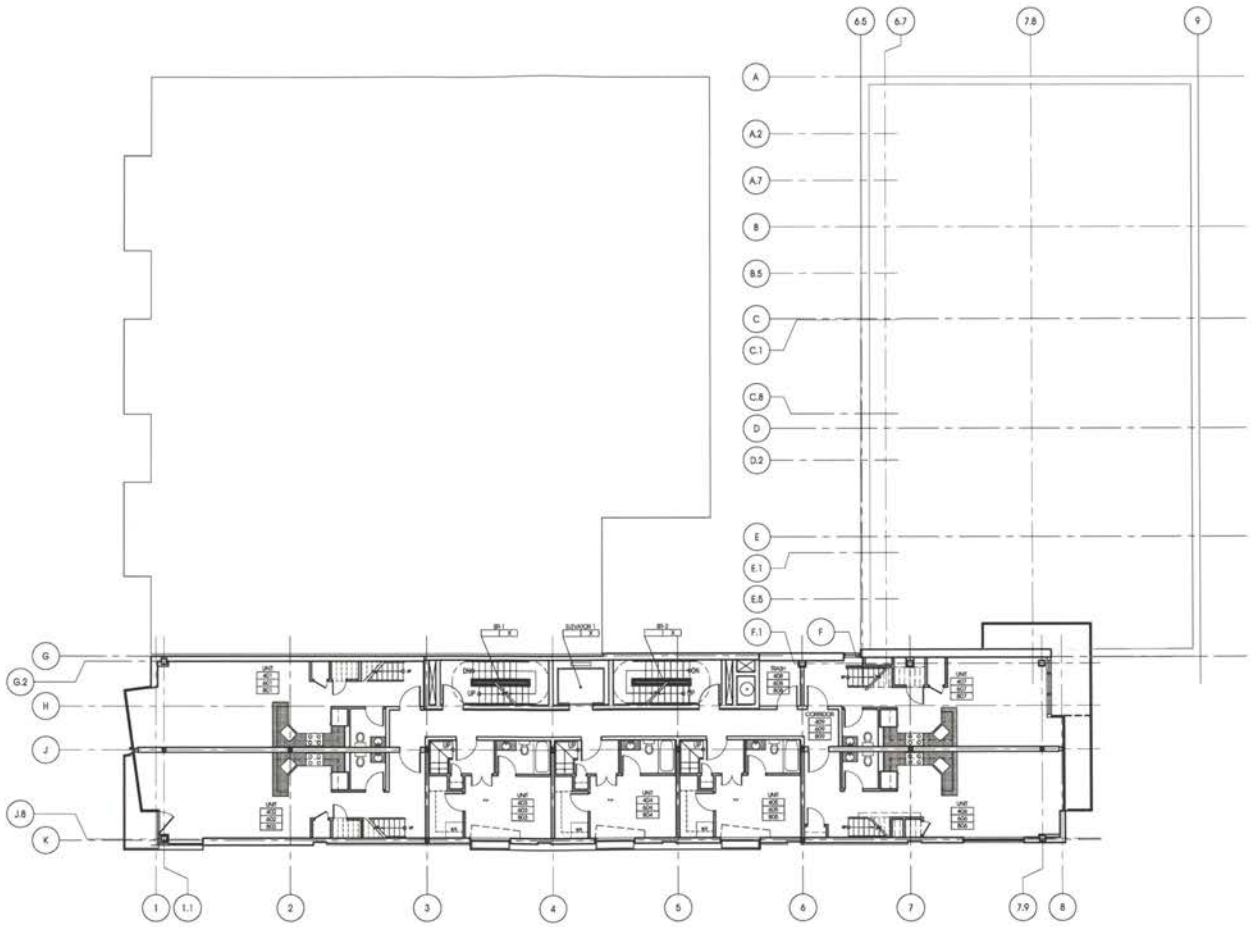
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PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

DRAWING TITLE
THIRD LEVEL PLAN

PROJECT NO.
0411.3.00
DRAWN BY:
JAL
SCALE:
1/8" = 1'-0"
DATE:
03.29.05
DWG. NO.
A1.03

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1 FOURTH, SIXTH, & EIGHTH LEVEL PLANS
SCALE: 1/8" = 1'-0"

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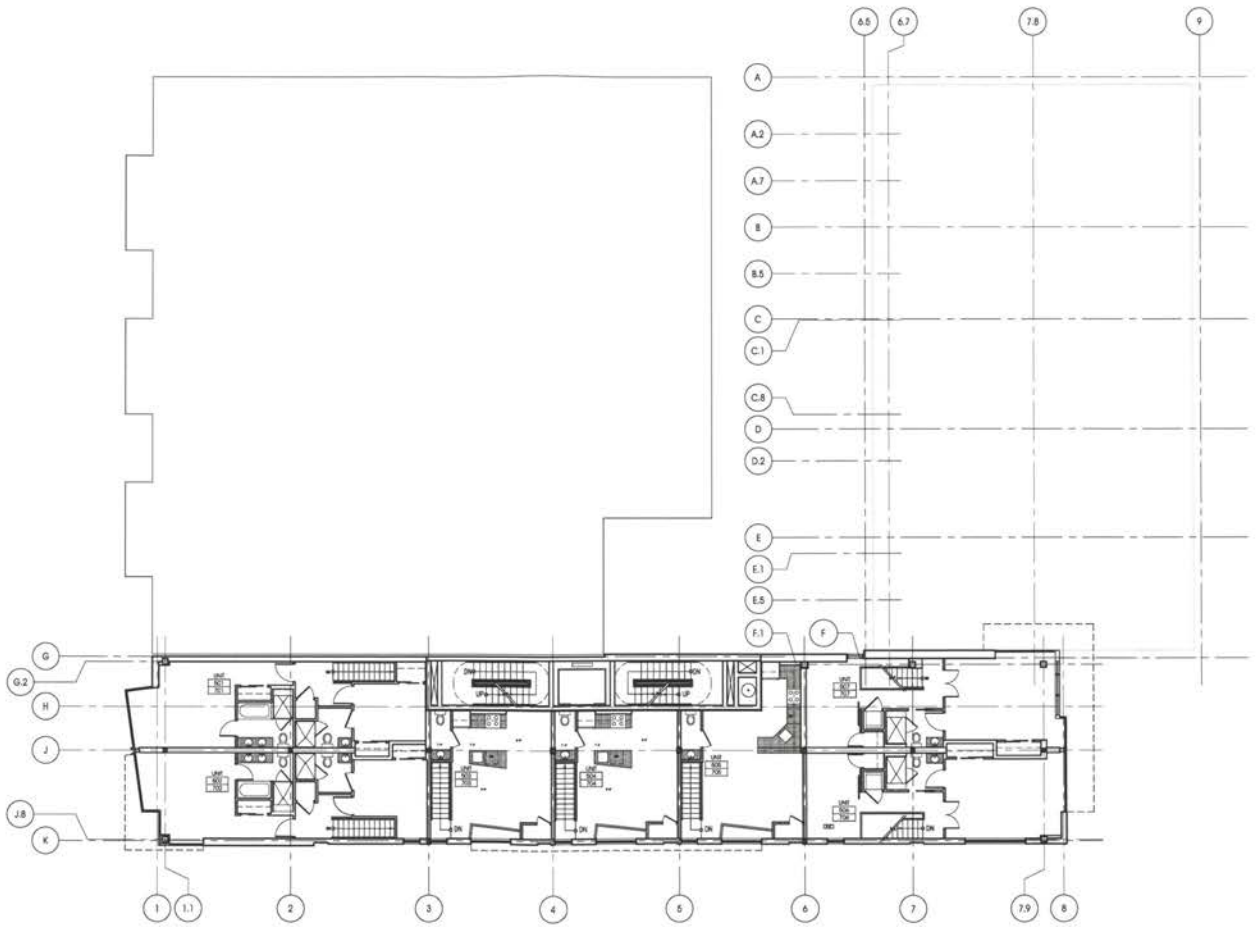
PROJECT
THE FENNESSY LOFTS
1211 13th STREET, NW
WASHINGTON, DC

DRAWING TITLE
PROGRESS SET
REVISIONS
06.17.05

DRAWING TITLE
FOURTH, SIXTH, & EIGHTH LEVEL PLANS

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
03.29.05
DWG. NO.
A1.04

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1 FIFTH & SEVENTH LEVEL PLANS
SCALE: 1/8" = 1'-0"

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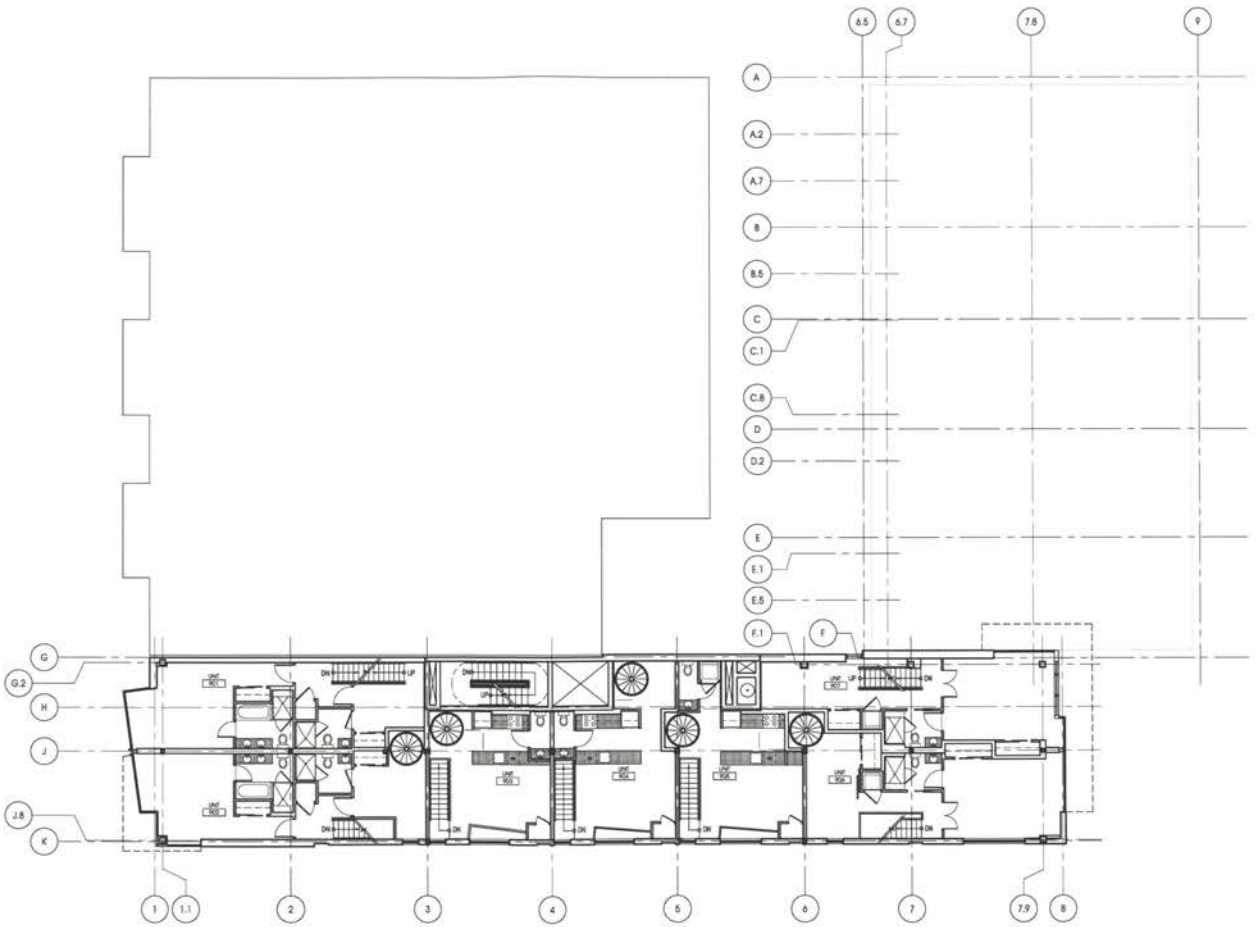
PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

DRAWING TITLE
REVISIONS
DRAWING SET
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DRAWING TITLE
FIFTH & SEVENTH LEVEL PLANS

PROJECT NO.
0411.3.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
03.29.05
DWG. NO.
A1.05

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1 NINTH LEVEL PLAN
SCALE: 1/8" = 1'-0"

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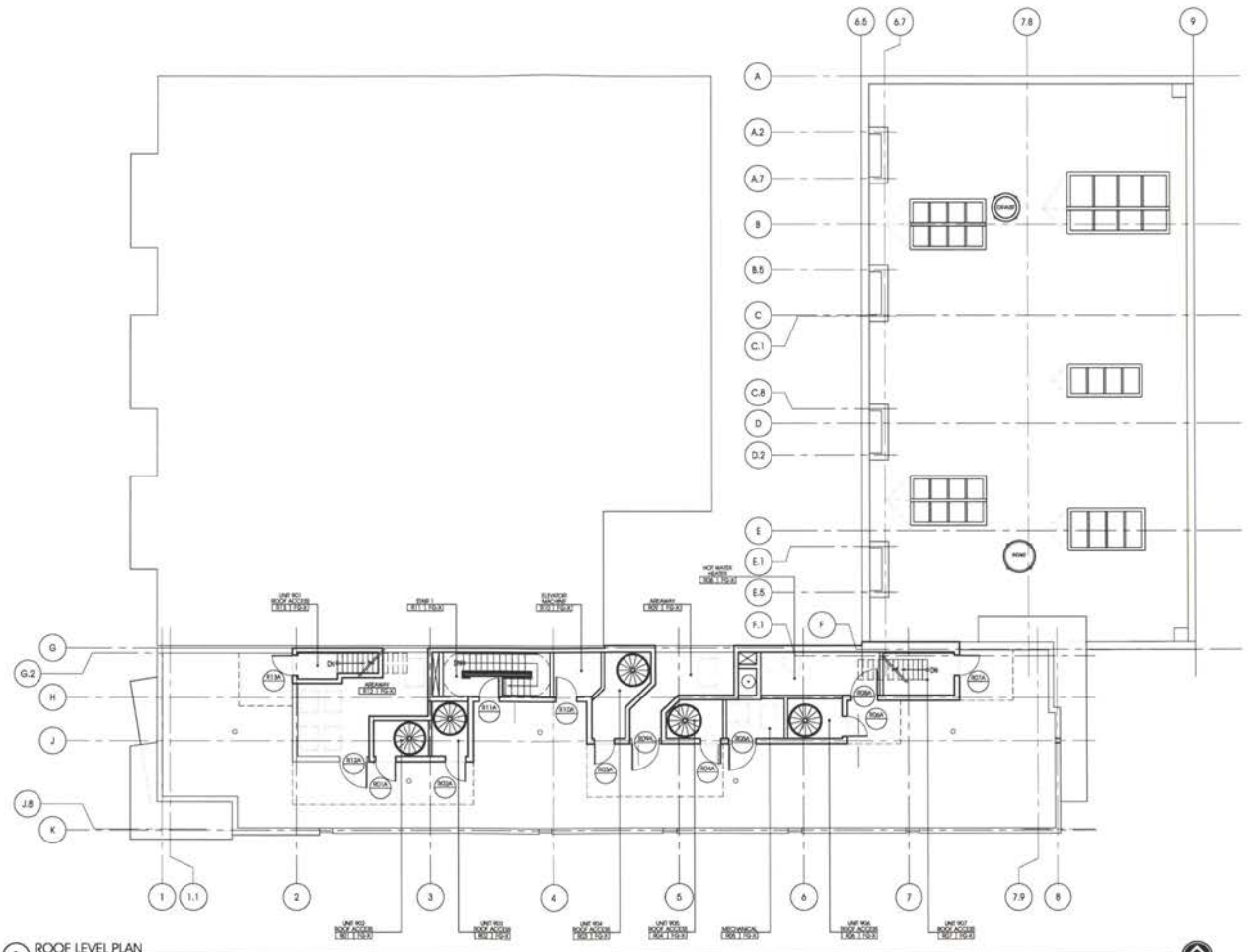
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THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

REVISIONS
NO. | DATE

DRAWING TITLE
NINTH LEVEL PLAN

PROJECT NO.
0411.3.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
03.29.06
DWG. NO.
A1.06

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1 ROOF LEVEL PLAN
SCALE: 1/8" = 1'-0"

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PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

DRAWING SET
DESCRIPTION
05.17.05

DRAWING TITLE
ROOF LEVEL PLAN
PENTHOUSE ROOF PLAN

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
03.29.05
DWG. NO.
A1.07

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1 WEST BUILDING ELEVATION
SCALE: 1/8" = 1'-0"

2 SOUTH BUILDING ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION NOTE LEGEND

1. STANDING SEAM COPPER – 24" OC OVER EXTERIOR SHEATHING
2. VISION GLASS
3. SPANDREL GLASS
4. COMPOSITE MTL PANEL CLADDING OVER BALCONY/OVERHANG
5. ALUMINUM CURTAINWALL SYSTEM
6. MTL BALCONY RAILING
7. BRICK 1 – RUNNING BOND
8. BRICK 1 – SOLDIER COURSE
9. PRECAST
10. COMPOSITE METAL PANEL AND GLASS CANOPY
11. STONE WATER TABLE
12. ARCHITECTURAL LOUVER
13. COMPOSITE METAL PANEL TRIM
14. ALUMINUM PUNCH WINDOW
15. EIFS – CUSTOM COLOR, TBD
16. EIFS REVEAL
17. TUCKPOINT EXISTING FACADE – REPLACE BRICKS AS REQUIRED
18. NEW WOOD WINDOWS TO MATCH PROFILE AND PATTERN OF EXISTING
19. FROSTED GLASS
20. NEW GARAGE DOOR

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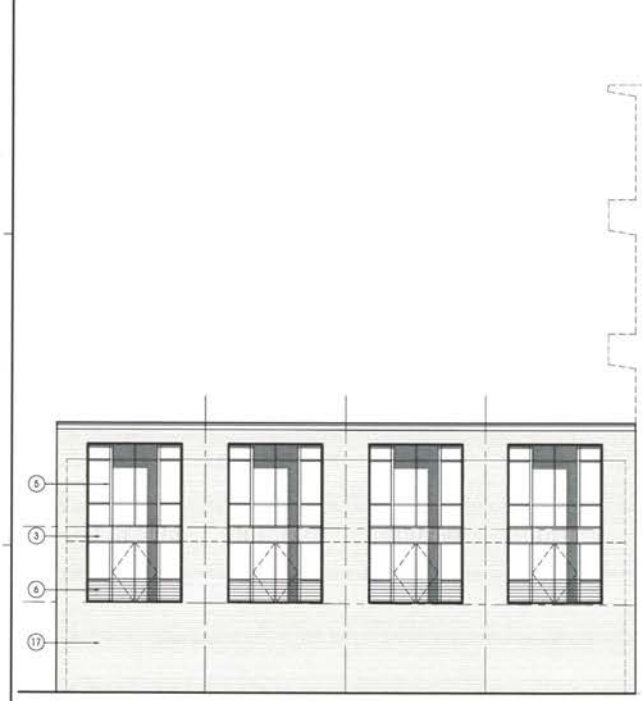
PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

DRAWING TITLE
PROGRESS SET
RESTORE
04.17.05

DRAWING TITLE
WEST & SOUTH
BUILDING ELEVATIONS

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8"= 1'-0"
DATE:
04.15.05
DWG. NO.
A3.00

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1 WEST "LIVERY STABLE" ELEVATION
SCALE: 1/8" = 1'-0"



2 EAST BUILDING ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION NOTE LEGEND

1. STANDING SEAM COPPER – 24" OC OVER EXTERIOR SHEATHING
2. VISION GLASS
3. SPANDREL GLASS
4. COMPOSITE MTL PANEL CLADDING OVER BALCONY/OVERHANG
5. ALUMINUM CURTAINWALL SYSTEM
6. MTL BALCONY RAILING
7. BRICK 1 – RUNNING BOND
8. BRICK 1 – SOLDIER COURSE
9. PRECAST
10. COMPOSITE METAL PANEL AND GLASS CANOPY
11. STONE WATER TABLE
12. ARCHITECTURAL LOUVER
13. COMPOSITE METAL PANEL TRIM
14. ALUMINUM PUNCH WINDOW
15. EIFS – CUSTOM COLOR, TBD
16. EIFS REVEAL
17. TUCKPOINT EXISTING FACADE – REPLACE BRICKS AS REQUIRED
18. NEW WOOD WINDOWS TO MATCH PROFILE AND PATTERN OF EXISTING
19. FROSTED GLASS
20. NEW GARAGE DOOR

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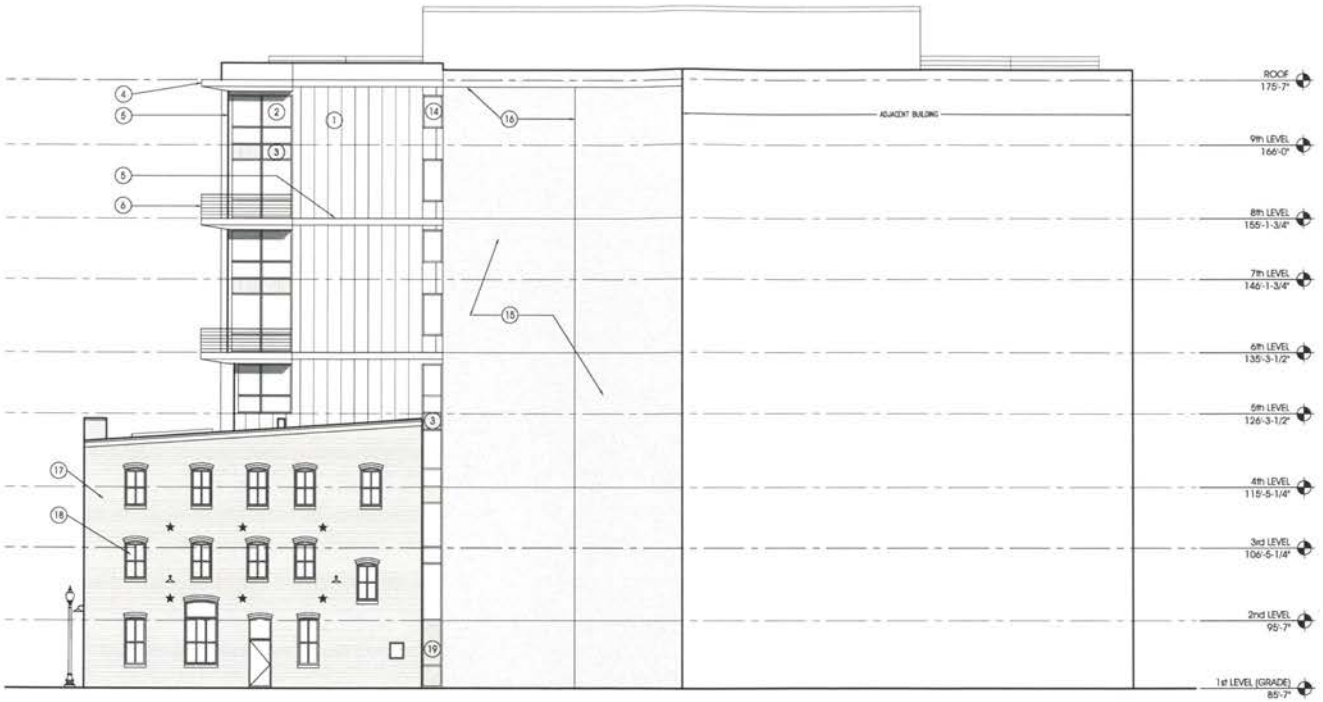
PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

REVISIONS
04.17.05

DRAWING TITLE
WEST "LIVERY STABLE" ELEVATION
& EAST BUILDING ELEVATION

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
04.15.05
DWG. NO.
A3.01

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1 NORTH BUILDING ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION NOTE LEGEND

1. STANDING SEAM COPPER – 24" OC OVER EXTERIOR SHEATHING
2. VISION GLASS
3. SPANDREL GLASS
4. COMPOSITE MTL PANEL CLADDING OVER BALCONY/OVERHANG
5. ALUMINUM CURTAINWALL SYSTEM
6. MTL BALCONY RAILING
7. BRICK 1 – RUNNING BOND
8. BRICK 1 – SOLDIER COURSE
9. PRECAST
10. COMPOSITE METAL PANEL AND GLASS CANOPY
11. STONE WATER TABLE
12. ARCHITECTURAL LOUVER
13. COMPOSITE METAL PANEL TRIM
14. ALUMINUM PUNCH WINDOW
15. EIFS – CUSTOM COLOR, TBD
16. EIFS REVEAL
17. TUCKPOINT EXISTING FACADE – REPLACE BRICKS AS REQUIRED
18. NEW WOOD WINDOWS TO MATCH PROFILE AND PATTERN OF EXISTING
19. FROSTED GLASS
20. NEW GARAGE DOOR

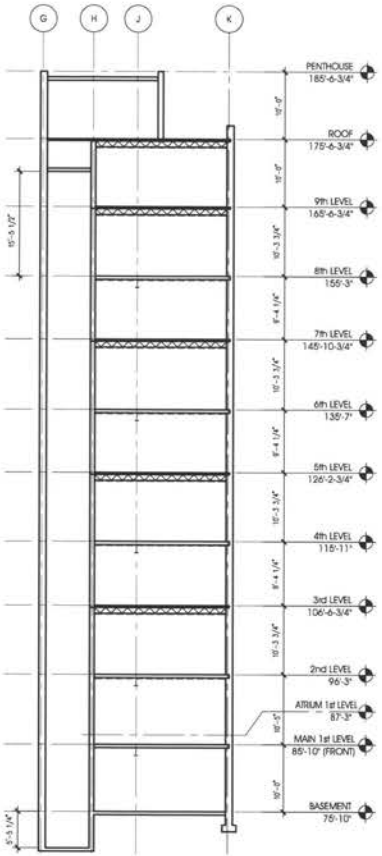
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PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

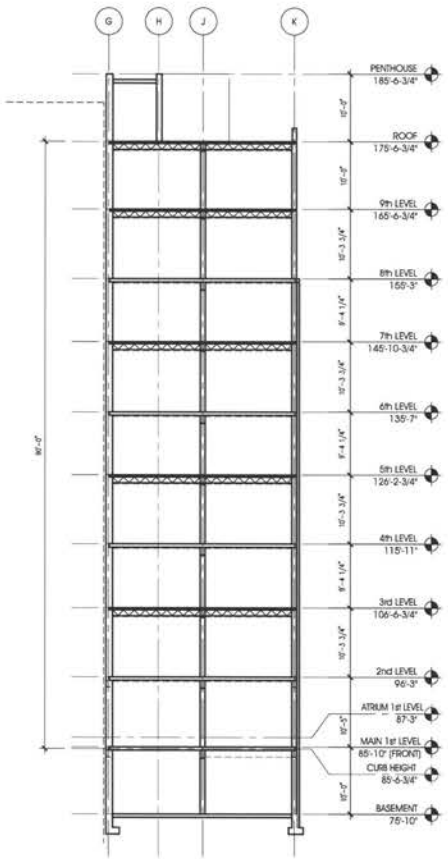
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PROJECT NO.
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JAL
SCALE:
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DATE:
04.15.05
DWG. NO.
A3.02

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2 TRANSVERSE BUILDING SECTION
SCALE: 1/8" = 1'-0"



1 TRANSVERSE BUILDING SECTION
SCALE: 1/8" = 1'-0"

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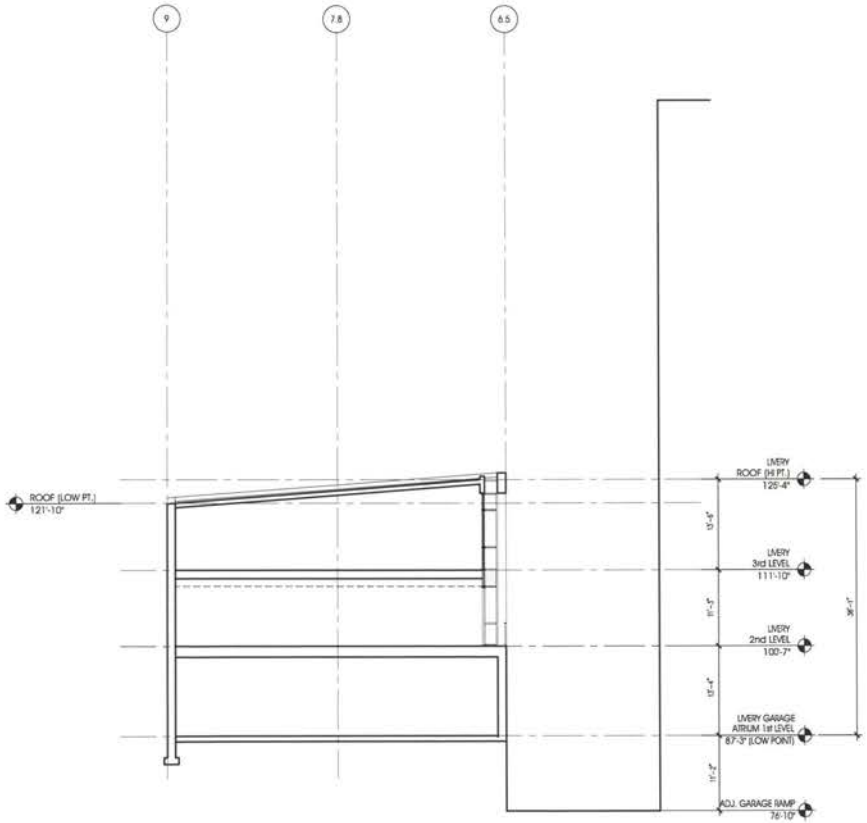
PROJECT
THE FENNESSY LOFTS
1211 13th STREET, NW
WASHINGTON, DC

DRAWING TITLE
PROGRESS SET
RESTONE
06.17.05

DRAWING TITLE
BUILDING SECTIONS

PROJECT NO.
04113.00
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SCALE:
1/8" = 1'-0"
DATE:
04.25.05
DWG. NO.:
A3.10

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1 TRANSVERSE BUILDING SECTION - LIVERY
SCALE: 1/8" = 1'-0"

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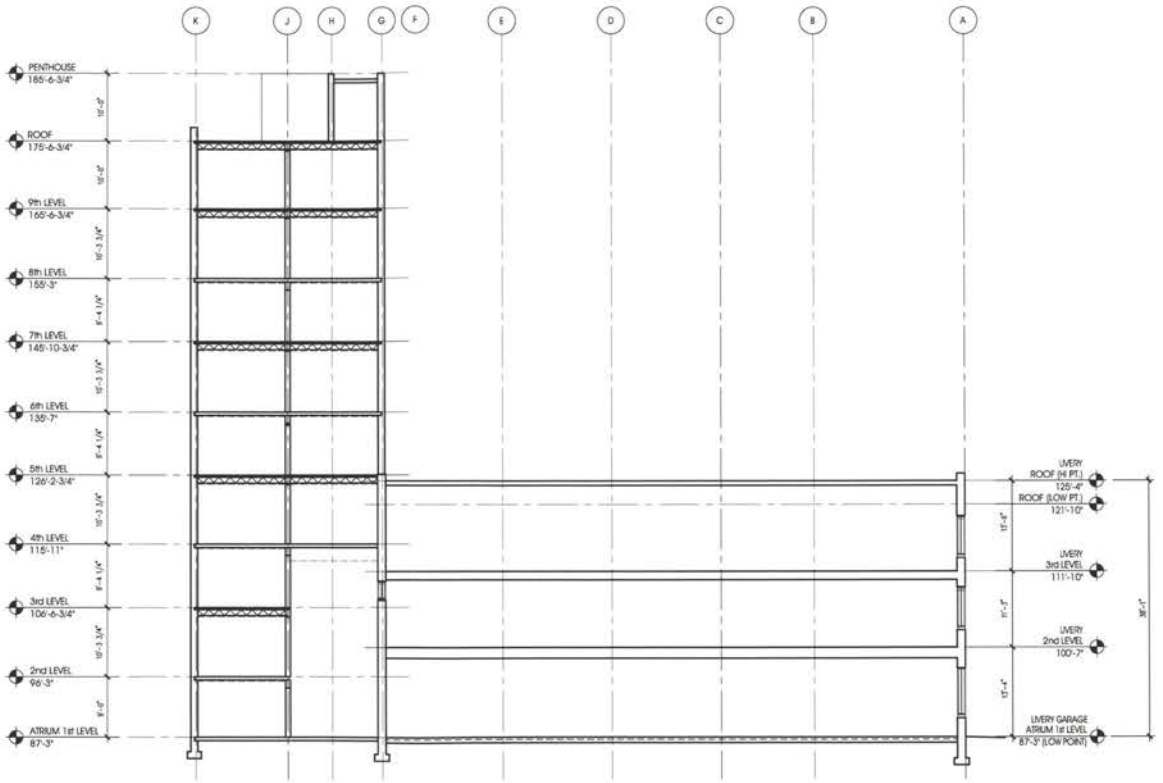
PROJECT
THE FENNESSY LOFTS
1211 13TH STREET, NW
WASHINGTON, DC

REVISIONS
DRAWING TITLE
PROGRESS SET 04.17.06

DRAWING TITLE
BUILDING SECTIONS

PROJECT NO.
04113.00
DRAWN BY:
JAL
SCALE:
1/8"=1'-0"
DATE:
04.25.06
DWG. NO.
A3.11

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1 TRANSVERSE BUILDING SECTION - LIVERY (AT ATRIUM)
SCALE: 1/8" = 1'-0"

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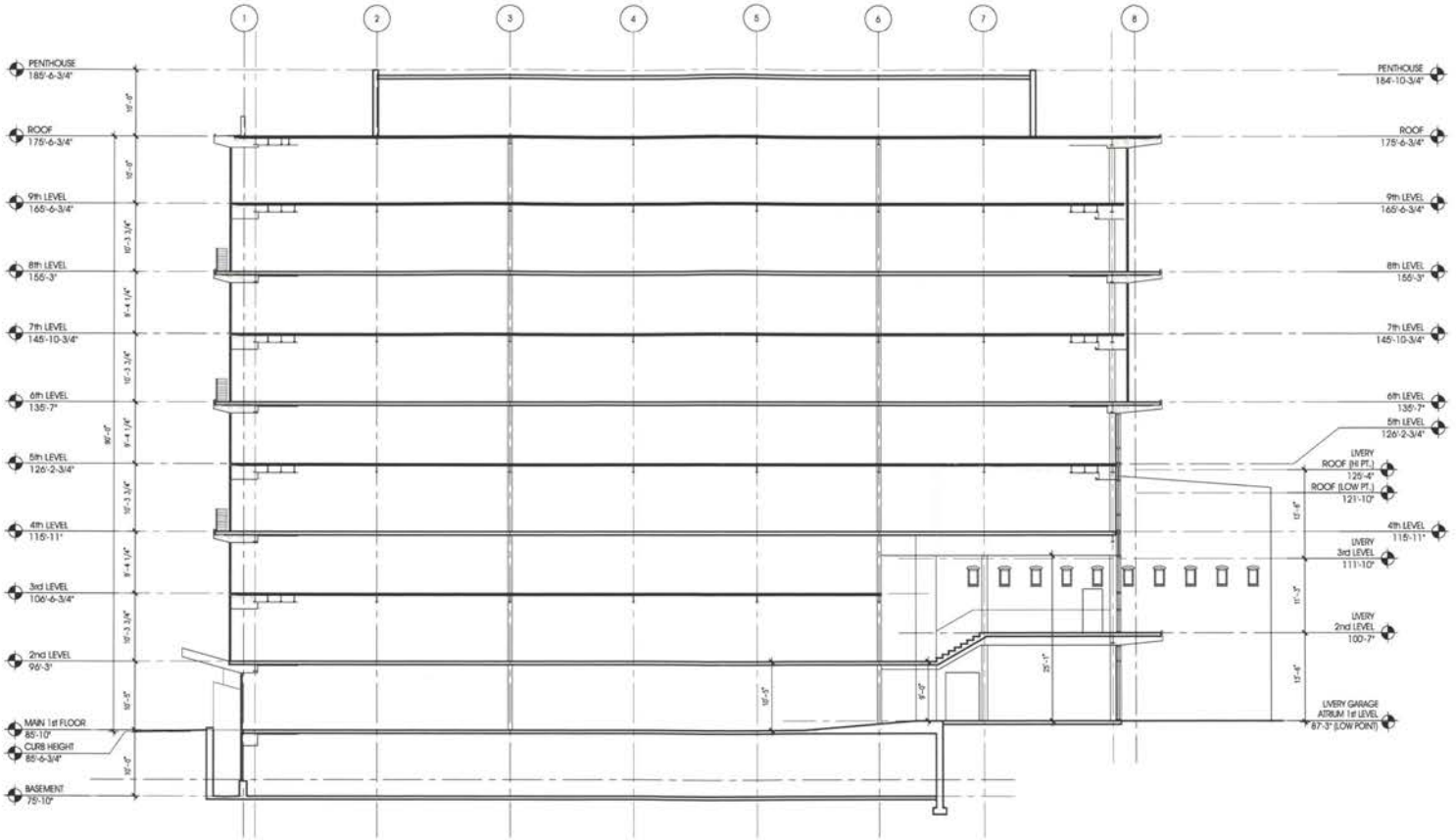
PROJECT
THE FENNESSY LOFTS
1211 35th STREET, NW
WASHINGTON, DC

REVISIONS
DATE

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BUILDING SECTIONS

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DRAWN BY:
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SCALE:
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DATE:
04.25.05
DWG. NO:
A3.12

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1 LONGITUDINAL BUILDING SECTION
SCALE: 1/8" = 1'-0"

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PROJECT
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WASHINGTON, DC

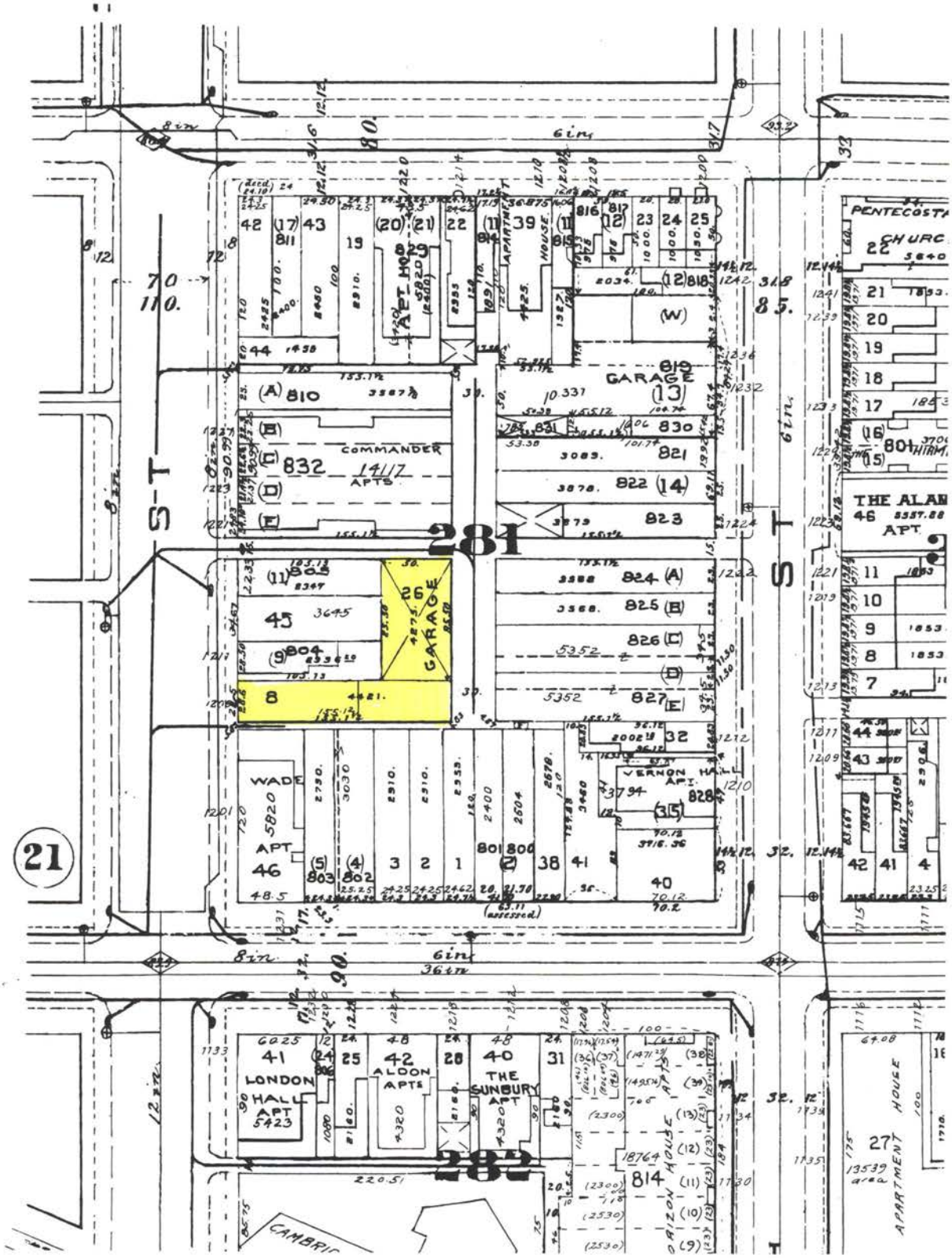
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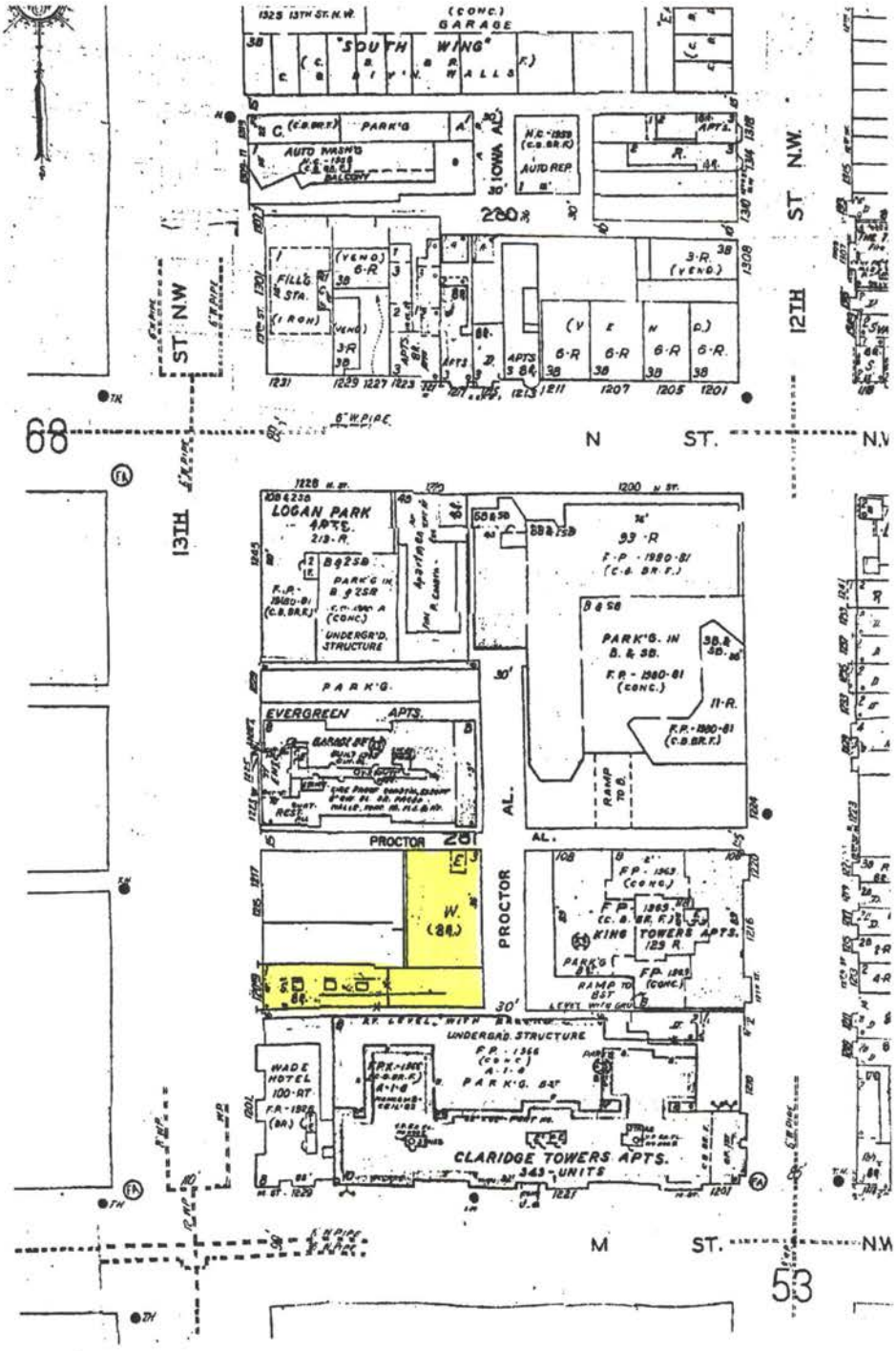
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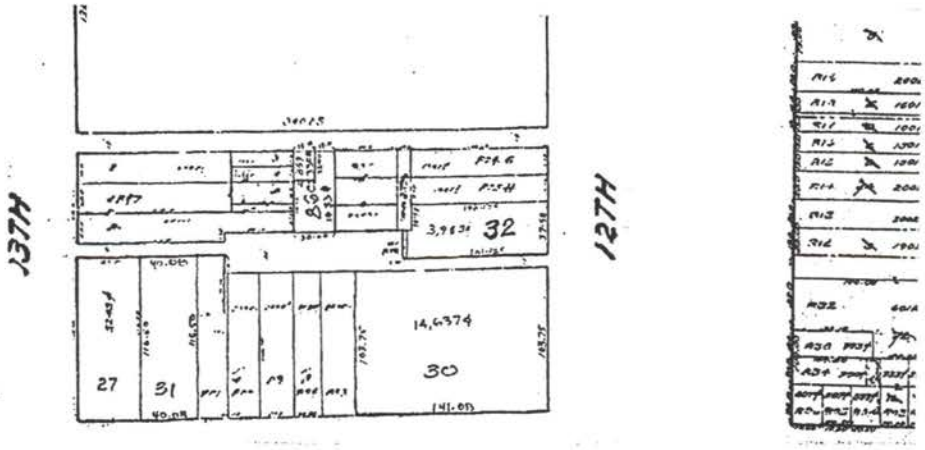
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DWG. NO.
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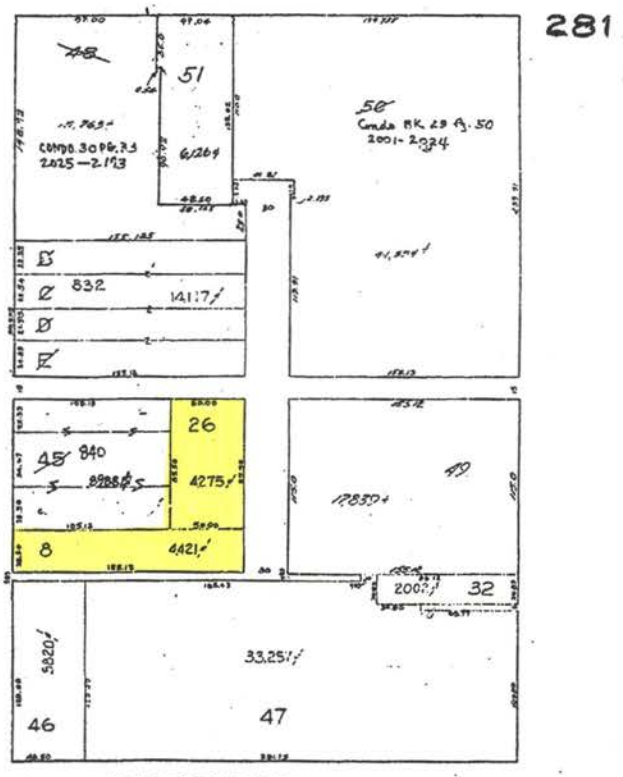
B


281
282
21
S T
8 St.
6 St.
APT HOUSE
COMMANDER
14/17
APTS
GARAGE
VERNON
APTS
WADE
APT
46
LONDON
HALL
APT
5423
ALDON
APTS
THE
SUNBURY
APT
HORIZON HOUSE
APARTMENT HOUSE
PENTECOSTAL
CHURCH
THE ALAN
APT.
8in
6in
36in


1325 13TH ST. N.W.
(CONC.) GARAGE
"SOUTH WING"
PARK'G
AUTO WASH'G
AUTO REP.
280
IOWA AL.
12TH ST. N.W.
13TH ST. N.W.
FILLG. STA.
6-R
3-R
APTS.
1231
1229
1227
1223
1211
1207
1205
1201
1308
1310
1312
1314
1318
68
N ST. N.W.
6" W. PIPE
1228 N ST.
1200 N ST.
LOGAN PARK APTS.
2½-R.
B 9 25 B
PARK'G IN B. & 25B
UNDERGR'D. STRUCTURE
PARK'G.
EVERGREEN APTS.
93-R
PARK'G. IN B. & 28.
11-R.
RAMP TO B.
AL.
PROCTOR
281
W. (28.)
KING TOWERS APTS.
129 R
RAMP TO BST
UNDERGRD. STRUCTURE
WADE HOTEL
100-RT.
CLARIDGE TOWERS APTS.
343 UNITS
1201
1221
1229
1216
1220
M ST. N.W.
53


137H
127H
32
3,963±
14,637±
30
27
31
40.00
141.01

N


281
51
6,264
50
Condo BK 29 Pg. 50
2001-2024
832
1411±
26
4275±
45
840
8988±
8
4421±
32
2002±
5820±
33,257±
46
47


SQ 314
22
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41

M

ST.

C


R-5-B
R-5-C
R-5-E
R-5-D
C-2-A
C-2-C
R-4
C-2-A
R-5-E
DD/R-5-E
DD/C-2-C
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DD/C-2-A
DD/C-2-C
DD/C-3-A
DD/C-2-C
DD/C-4
C-4
C-3-C
GOV
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GOV
403N
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PUD-070
PUD-070
PUD-070
PUD-070
M ST
N ST
K ST
M ST
VERMONT AVE
THOMAS CIR
10TH ST
COLUMBIA
M VERNON PL

D

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Property Address:	**1209-Rear 13th Street, NW**		Agenda
Landmark/District:	**Proctor Alley Livery Stable**	X	Consent Calendar
		X	Concept Review
Meeting Date:	**April 28, 2005**	X	Alteration
H.P.A. Number:	**05-110**		New Construction
Staff Reviewer:	**Steve Callcott**		Demolition
		X	Subdivision

The applicant, architect Ron Schneck of Hickok Warner Cole for Ellis Denning Properties LLC, seeks on-going conceptual design review for renovation and alterations and new construction adjacent to the landmark Proctor Alley Livery Stable. The site includes a narrow lot fronting 13th Street, which is not part of the landmark or within an historic district, but would be attached to and internally combined with the livery stable. When previously presented, the project was very conceptual, calling for a slender 90' high contemporary apartment building that would relate to the context of similar buildings on 13th Street, and the creation of large openings in the west wall of the livery stable to allow fenestration necessary for residential use. In addition to developing these two aspects of the project further, the Board suggested that the connection between the new building and stable be rethought to allow more of the stable's side wall and its distinctive horse stall windows to remain exposed within the new building.

The design of the new building includes asymmetrically composed front and rear elevations with large expanses of glass, a masonry base and metal balconies; the symmetrical side (alley) elevation would be masonry at the base and at each end with the central section clad in copper panels with balconies and punched windows. The applicants have redesigned the connection to the stable in response to the Board's suggestion, which now calls for an open three-story atrium that would leave the entire south wall of the historic building exposed. The rear wall of the new construction at the connection would be entirely of glass with thin framing elements to allow the atrium and wall of the stable to be visible from the exterior. The solution is not only respectful to the historic building but will make it the primary focus of the new building's entrance and lobby. With proper detailing and execution, it could be a very elegant juxtaposition of old and new. In detailing the new penetrations in the west wall, masonry at the top of each opening has been retained so they will read as punched openings rather than vertical slits through the building extending up to the roof structure. The modern glass walls within each opening will be recessed the full 18" depth of the masonry wall, with the center section recessed further to allow for small balconies.

The applicants have agreed to install an interpretative plaque on the south wall of the livery stable adjacent to the atrium entrance to explain the history and significance of the landmark. The HPO will continue to work with the applicant on development of the specific preservation scope of work and detailing of the final construction plans, which should include a detailed schedule for window repair/replacement.

The HPO recommends that the Review Board approve the revised concept as consistent with the purposes of the preservation act and delegate final construction approval to staff.

E

OUTLINE OF WITNESS TESTIMONY
BZA APPLICATION NO. 17347

REPRESENTATIVE OF 13TH STREET LOFTS, LLC

I. INTRODUCTION

A. Description of Ellis Denning

B. Overview of Projects in the District of Columbia

II. PROCTOR ALLEY LIVERY STABLE SITE

A. Interest in Developing Property

B. Difficulties of Site and Existing Uses

C. Coordination with Historic Preservation Office

D. Coordination with Office of Planning

E. Purchase of Grocery/Liquor Store on Lot 8

III. COMMUNITY SUPPORT

IV. CONCLUSIONS

OUTLINE OF WITNESS TESTIMONY
BZA APPLICATION NO. 17347

REPRESENTATIVE OF HICKOK WARNER COLE ARCHITECTS

I. INTRODUCTION

II. DESCRIPTION OF SITE AND VICINITY

A. Rezoning in 2000 to R-5-E District

B. Residential Character of Vicinity

C. Alley Lot for Livery Stable

D. Consolidation of Lots for Subdivision

III. PROJECT DESCRIPTION

A. Proctor Alley Livery Stable

B. New Addition

C. Number of Units

IV. ZONING PARAMETERS FOR R-5-E DISTRICT

V. UNIQUE AND EXCEPTIONAL CHARACTERISTICS OF PROPERTY

VI. PRACTICAL DIFFICULTIES IN MEETING STRICT APPLICATION OF ZONING REQUIREMENTS

VII. NO DETRIMENT TO PUBLIC GOOD OR ZONE PLAN

VIII. CONCLUSIONS

3023353_v1

Holland Knight

Tel 202 955 3000
Fax 202 955 5564

Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006
www.hklaw.com

Steven E. Sher
Director of Zoning and Land Use Services
202 663 7278

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17347
1209 13th Street, N.W.

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP

July 12, 2005

I. Site location and description

A. Location

1. East side of 13th Street between M and N Streets, N.W.

2. Project site consists of lots 8 and 26 in Square 281

3. Site located in the Logan Circle area just north of Downtown

B. Size

1. Total site area is approximately 8,696 square feet

2. "L" shaped site with the top of the "L" on the street

3. 30 foot wide public alley to the east, 15 foot wide public alley to the north and 5.83 foot wide alley to the south (Procter Alley)

4. Lot 8 (the front lot)

a. Fronts on 13th Street

b. Rectangular in shape with a width of 28.5 feet a depth of 155.13 feet

c. Also fronts on the 5.83 foot wide alley to the south

2. Lot 26 (the rear lot)

   a. Has no street frontage but fronts on the 30 foot wide alley to the east and the 15 foot wide alley to the north

   b. Rectangular in shape with a 50 foot dimension in the east–west direction and 85.5 feet in the north-south direction

C. Existing site condition:

1. Front lot is improved with a one story building used as a grocery store/market (nonconforming use)

2. Rear lot:

   c. Improved with a three story building

   d. Originally constructed and used as a stable

   e. Designated Historic Landmark

   f. Currently used for automotive and trade school related purposes

II. Description of surrounding area

A. Logan Circle area adjacent to Downtown

B. Area contains predominantly high-rise residential buildings

C. Remainder of Square 281

1. To the north:

   a. 3 high rise apartment buildings up to N Street, including 1 under construction immediately adjacent to the subject site

   b. A combination high-rise and townhouse-type apartment building at the southwest corner of 12th and N Streets

2. To the east:

   a. Across the alley, high rise apartment building at 1216 12th Street

   b. One two-story residential building

3. To the south:

   a. High-rise Comfort Inn Hotel at the northeast corner of the intersection of 13th and M Streets

   b. High-rise Claridge Towers apartments at 1221 M Street

D. Uses to the south:

1. Mixed residential uses, mostly high-rise apartments, in the block south to Massachusetts Avenue

2. High-rise apartment houses on the south side of Massachusetts Avenue

3. Further south, office buildings part of the Downtown business district

E. Uses to the east: mixed residential uses, mostly townhouses and mid-rise apartment buildings

F. Uses to the west:

1. Predominantly high-rise apartment buildings on the west side of 13th Street between M and N Streets, including one under construction and one recently constructed

2. Washington Plaza hotel on Thomas Circle a the intersection of Vermont Avenue and M Street

3. Churches, including the Luther Place Church and the National City Christian Church

G. Uses to the north:

1. Mixed residential uses, townhouses, mid-rise and some high-rise apartment buildings

2. Logan Circle

III. Existing zoning: R-5-E

A. Uses (§§350 – 361)

1. Single family, two-family and multi-family dwellings permitted as a matter-of-right

2. Institutional uses permitted as a matter-of-right (e.g., church, museum, hospital)

B. Height - maximum of 90 feet (§400.1)

C. Floor area ratio - maximum of 6.0 FAR for apartment house use (§402.4)

D. Percentage of lot occupancy – maximum of 75% (§403.2)

E. Rear yard – minimum of 3 inches per foot of height at the rear but not less than 12 feet (§404.1)

F. Side yard - not required (§405)

G. Parking (§2101.1) for office use:

1. Minimum of one space for each 4 dwelling units

2. None required for change of use of historic landmark and none required for increase in intensity of by way of addition to historic landmark (§2100.5)

IV. Zoning history

A. Property was zoned SP in 1958

B. Redesignated SP-2 in 1978

C. Rezoned to R-5-E in 2000

V. Proposed development

A. Use: 36 unit apartment house, incorporating the historic Procter Livery Stable

1. 8 units in the existing building

2. 28 units in the 9 story addition

B. Gross floor area of approximately 46,845 square feet (5.39 FAR)

C. Height: maximum of 90 feet

D. Parking: 8 spaces on the first floor of the existing building and 2 spaces outside at the rear of the addition

VI. Relief required

A. Special exception to permit a roof structure not meeting the 1:1 setback from the edge of the roof (§411.11)

1. Required setback: 10 feet

2. Provided on the north side: 0 feet

B. Variance from the lot occupancy requirements (§§403.2 and 2001.3)

1. Maximum permitted: 75% (6,522 square feet)

2. Proposed: 93.7% (8,149 square feet)

3. Variance: 18.7% (1,627 square feet)

VII. Standards for the roof structure special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

VIII. Compliance with the special exception standards for roof structure

A. Size of building lot

1. Lot is only 28.5 feet wide

2. Requiring a 10 foot setback from the north and south sides leaves only 8.5 feet left for a roof structure

3. Only feasible internal floor plate is to locate elevator core on one side or the other

B. Unduly restrictive and unreasonable: is no feasible way to provide a conforming roof structure

C. Impact on light and air of other buildings

1. Property is surrounded by streets or alleys on all sides except for the north side of the addition

2. Building on north is at same height

3. Roof structure meets the setback requirements from three of the four sides, including the street frontage

4. There are limited areas from where the roof structure can be seen

5. Roof structure exceeds the required setbacks from exterior walls on the west (20 feet) and east (15 feet, 1 inch)

6. Public alley to the east is 30 feet wide and adjoining apartment house is set back from the line of the alley

7. Public alley to the south is 5.83 feet wide and the adjoining hotel and apartment house are both set back from the property line

IX. Standards for a variance (§3103.2)

A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,

B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;

C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

X. Compliance with the variance standards

A. Exceptional situation:

1. Existing Proctor Livery Stable is a historic landmark which occupies 100% of its lot (4,275 square feet) and has no rear yard

2. On combined lot, only 2,247 square feet left for new development

3. Stable could not be used for residential use without being combined with the front lot to gain street frontage

B. Practical difficulty:

1. Insufficient room left on the front lot to construct a reasonable apartment house (not even achieving maximum permitted FAR under the current plan)

2. If restricted to 75% occupancy, new building could not extend deep enough (less than 79 feet) to make the connection to the existing historic landmark

C. No substantial detriment: proposed building is high-rise apartment house similar to existing uses on most surrounding properties

XI. Conclusions

A. Subject property is very narrow for a high-rise apartment house

B. Roof structure cannot be placed in accordance with setback requirements

C. Putting roof structure other than on one side of the lot or the other would significantly disrupt residential floor plates, causing operating difficulties for the building

D. Roof structure with no setback along the north wall would have no adverse affect on the existing surrounding buildings

E. Variance from lot occupancy requirements is necessary to offset the land area occupied by the historic stable and would not be detrimental to the public good or impair the intent or purposes of the Zoning Regulations

F. The application should be granted