

It's not terribly easy to see (here's an interactive map that is easier to read) but the commercial zones of 36th Street and P Street were scaled back even further. This is essentially the map that we have today (albeit with new names).

There are several things to take away from these maps

Firstly, as mentioned above, they acknowledged that commercial activities took place in the residential streets. But they absolutely did not attempt to reflect *all* the commercial activity around the neighborhood. Sara's and Scheele's markets, for instance, were open and operating throughout this time. But their blocks were zoned residential. As I've started to document, there were commercial establishments all throughout the neighborhood. By refusing to document them in the maps, the Zoning Commission essentially made them illegal.

While this act no doubt contributed to the conversion of dozens of these shops, doctor's offices, etc. to residential, some carried on by way of a grandfather clause. In short, as long as it was commercial before the act and it stayed open as commercial, it could remain commercial. Without this weakly tailored exception, we wouldn't have Scheele's, Sara's, Stachowski's, Dent Place Market, Saxby's, Georgetown Hairstyling, Bredice Shoe Repair, Down Dog Yoga, and all the other small shops tucked into the neighborhood.

And that brings us back to Call Your Mother. This block of 35th has been largely commercial since well before the zoning laws were adopted. You can see it in the architecture. The building that Call Your Mother would like to use was constructed in the 19th century specifically to be a grocery store, which is how it was used until the 1970s. The building where Saxby's is was a drug store. This was (and is) a commercial strip. Frankly it was an oversight for it to have been not zoned commercial in the first place.

This building is subject to grandfathering, but the grandfathering is pretty flimsy and only permits that particular non-conforming use to continue. In this case, that would mean Call Your Mother could use the grandfathering to sell bagels, but need a variance to toast them first because that is considered “prepared food” and beyond the scope of what was being done before. This illustrates how even the grandfathering is designed to encourage the commercial use to eventually go away. A true grandfather clause would treat the property as if it were zoned commercial, which, again, is what should have been done in the first place.

These old corner markets and barber shops made Georgetown what it is. It was a rejection of the neighborhood’s history to legislate them out of existence.

This is not even getting into the gigantic absurdity of how the zoning laws made Georgetown University—an institution well over 100 years old when the first zoning laws were being adopted—also technically illegal. It was one thing back in 1920 when they had only a handful of zones, but now there are dozens. For the Zoning Commission to keep GU zoned residential in 2012 instead of simply coming up with a new zone for universities shows that the system is all about using arbitrary and absurd fictions to control behavior.

How much do Georgetowners really care about history?

If anything, the zoning laws should have made it *more* difficult to convert old commercial spaces to residential rather than the opposite. Having more shops in the neighborhood would be good thing! It would enhance the livability of the neighborhood and reduce unnecessary driving. Further, the reduced rents these spaces typically demand make neighborhood-serving retail more feasible than it is on high rent streets like M or Wisconsin.

And yet at the BZA hearing, a witness testifying against Call Your Mother spoke favorably of the conversion of old commercial spaces to residential and suggested that it would be better if the first floor of the property were turned into a living room instead of a corner shop. For all the talk of how much Georgetowners love history and want to preserve it, that love is often incredibly skin deep. As soon as preserving something genuinely historic, like a corner commercial building, impinges on parking or a desire not to have people around, the love of history is cast aside.

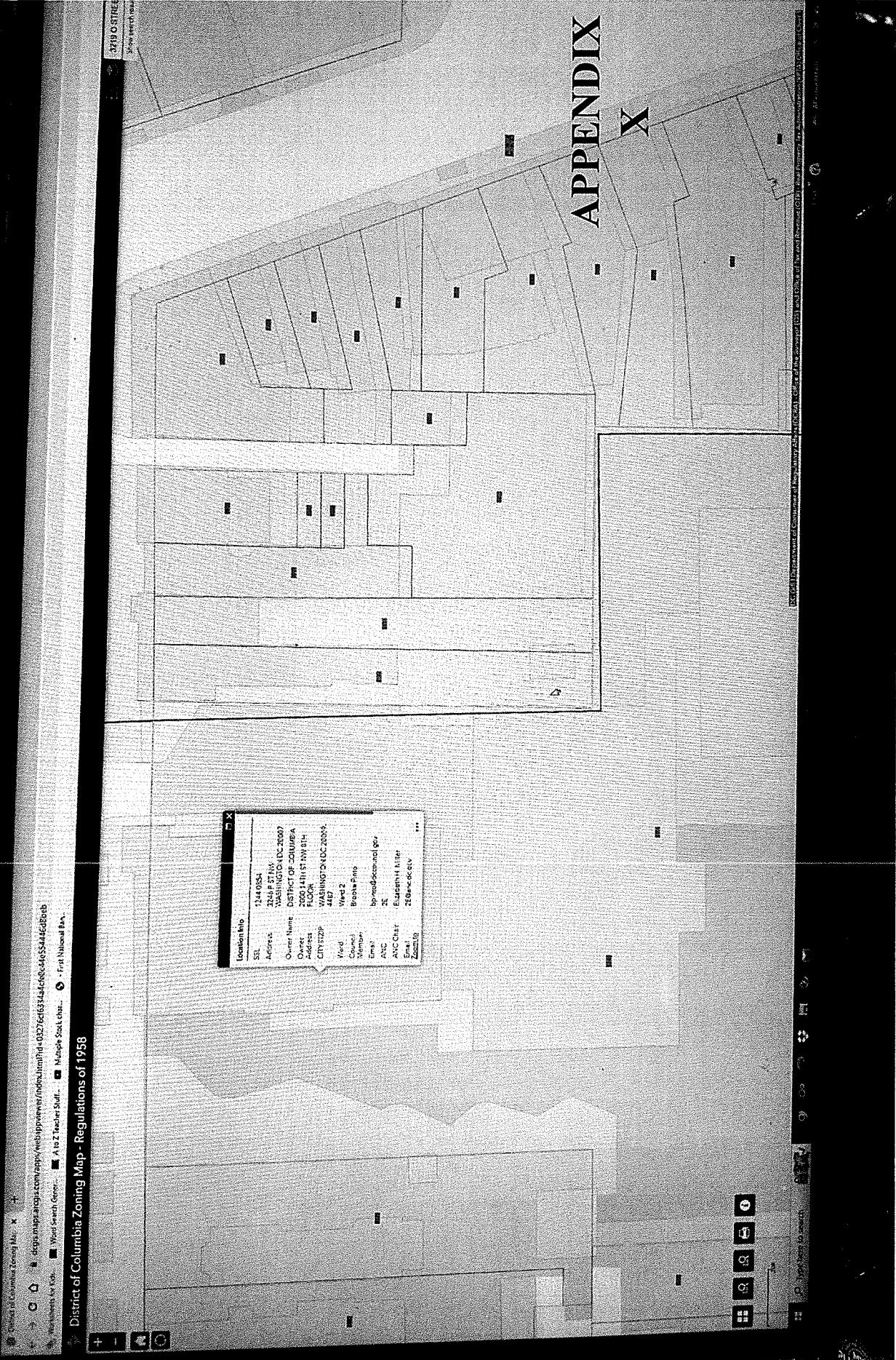
It’s too late for all those former spots. And it’s probably unrealistic to expect the Zoning Commission to redraw the maps to properly reflect the large numbers of historic commercial buildings throughout the neighborhood. So barring all that, we can only ask that the BZA defend the neighborhood’s history and allow Call Your Mother to open.

There’s no doubt that these neighbors feel genuine anxiety over the impact the store might have. But living in Georgetown is about trade-offs. I’ve noticed that it’s been more difficult to park on his block since Via Umbria and Zannchi opened around the corner. Sure it’s a bit annoying when looking for a spot, but it also means that a fabulous Italian market and Korean restaurant is thriving steps from my house.

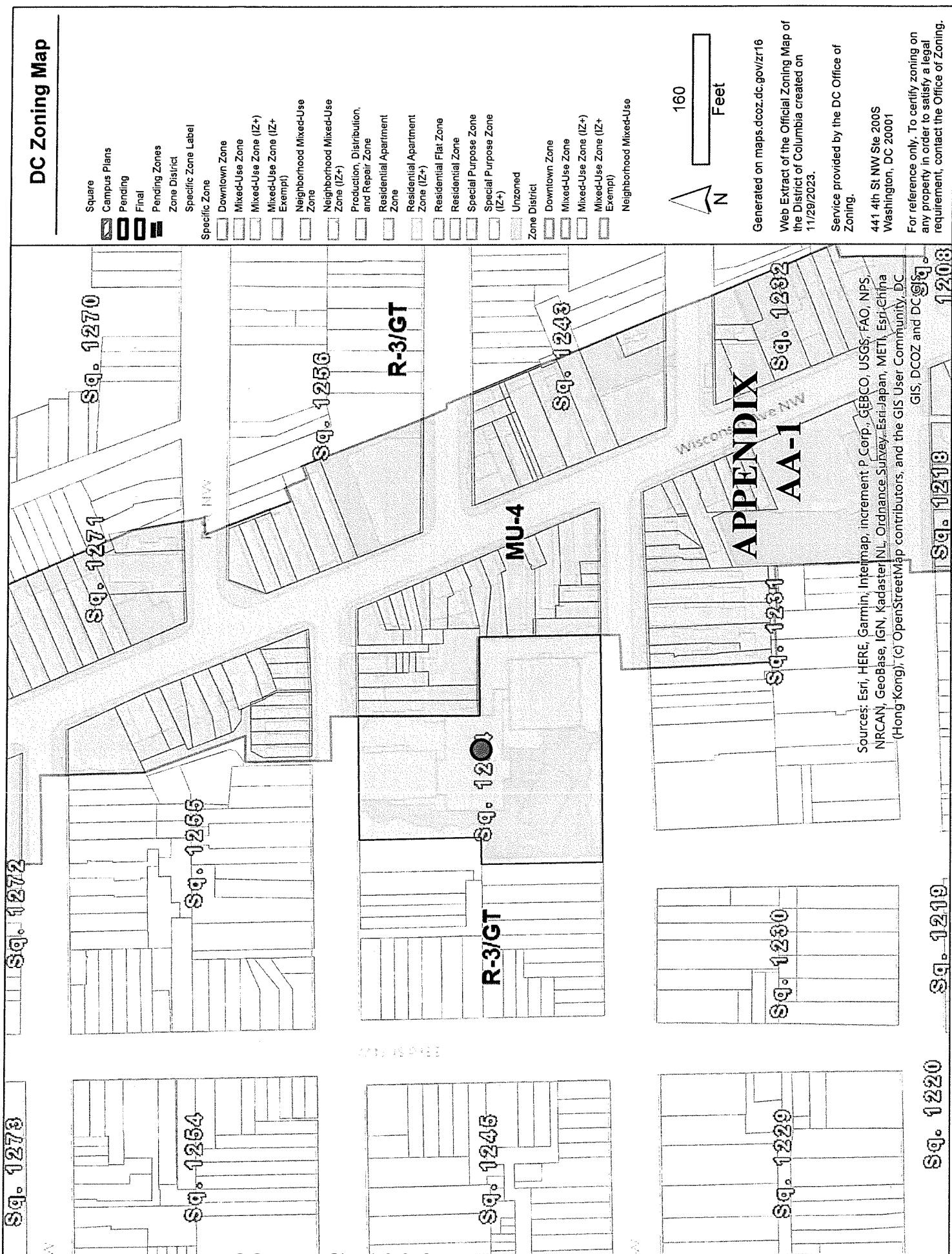
There are lots of places in the world with pretty homes and absolutely zero street life. But Georgetown doesn’t and shouldn’t have to be one of them.

APPENDIX

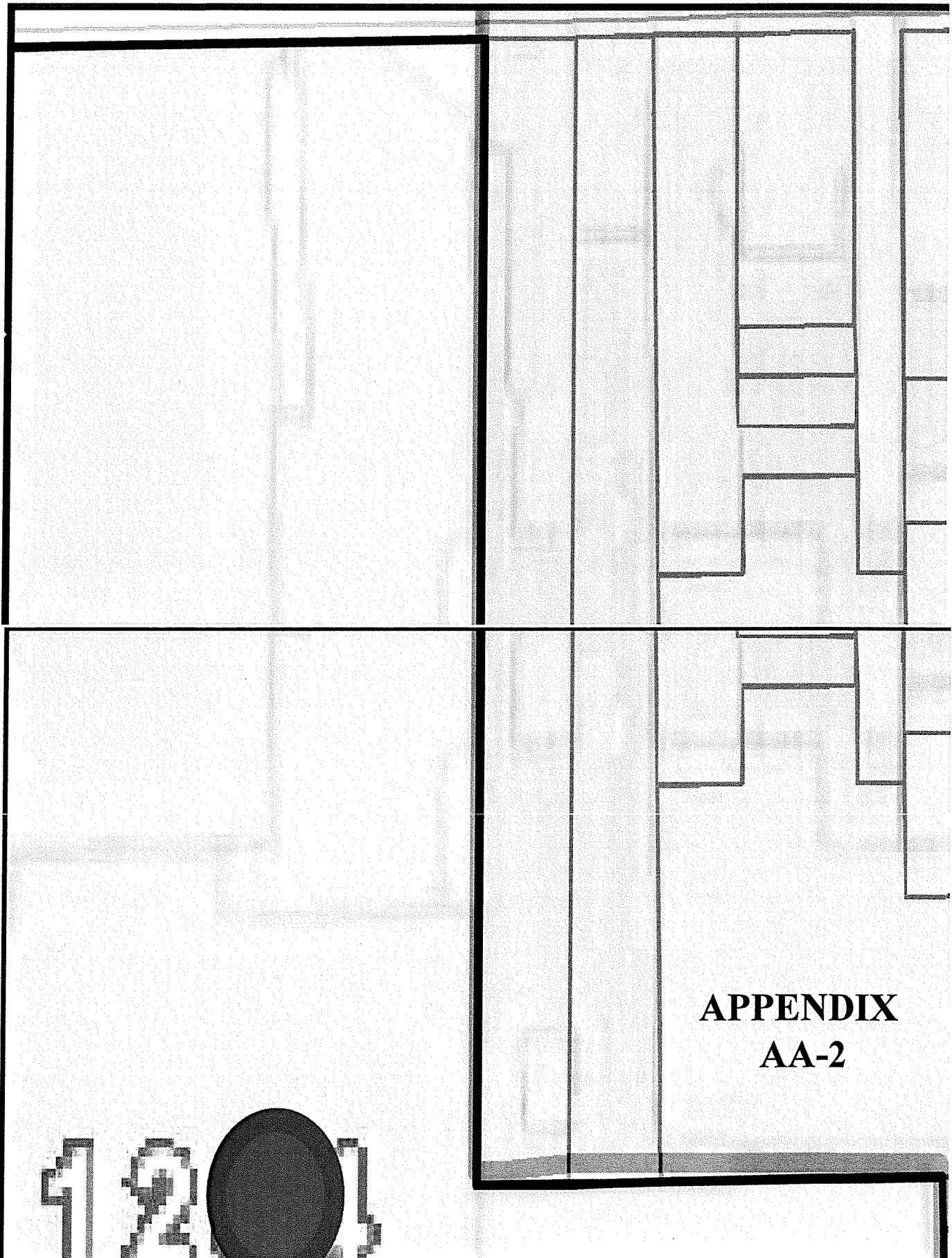
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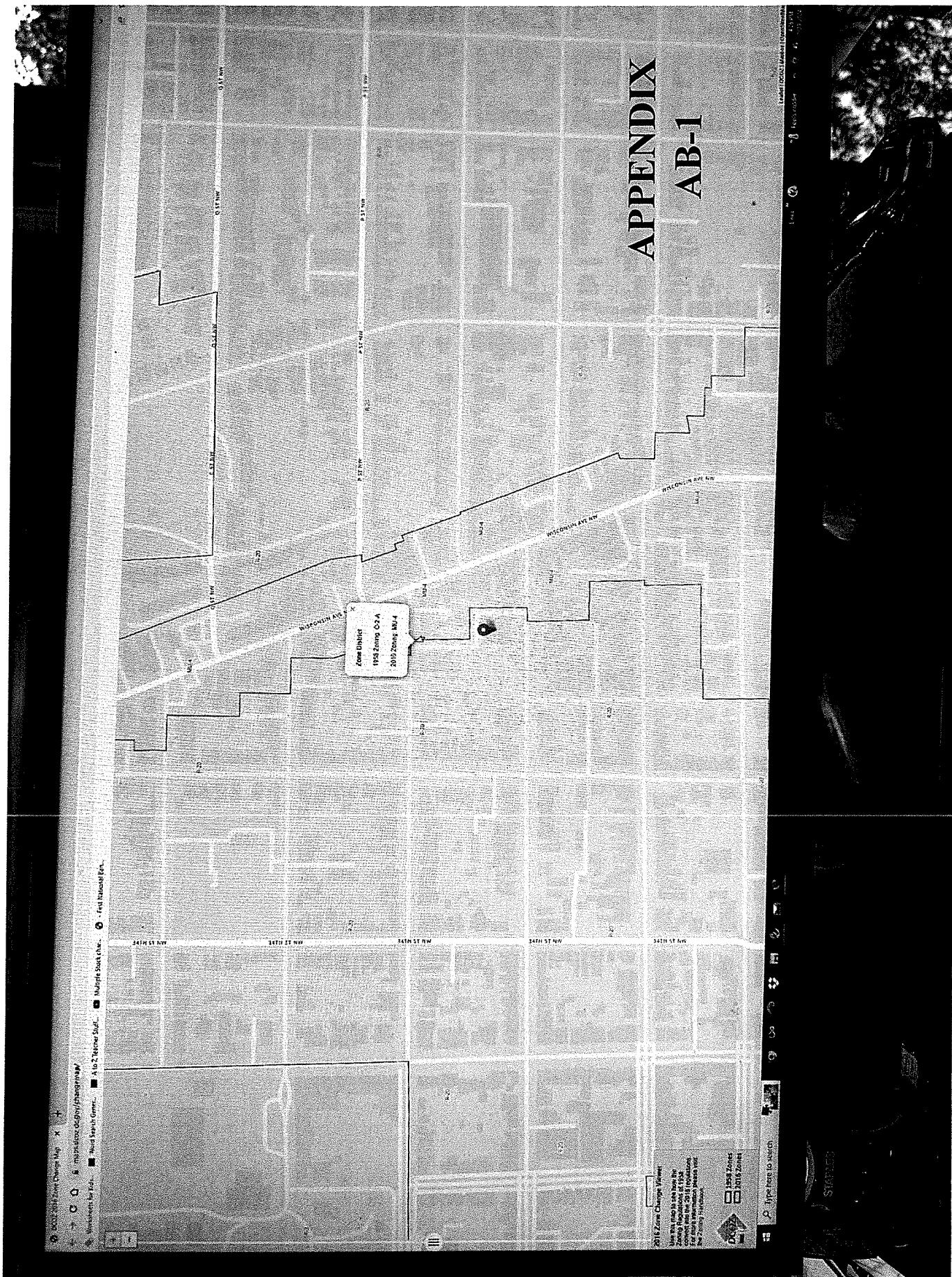
DC Zoning Map



DeLorean 88 LLC_1004

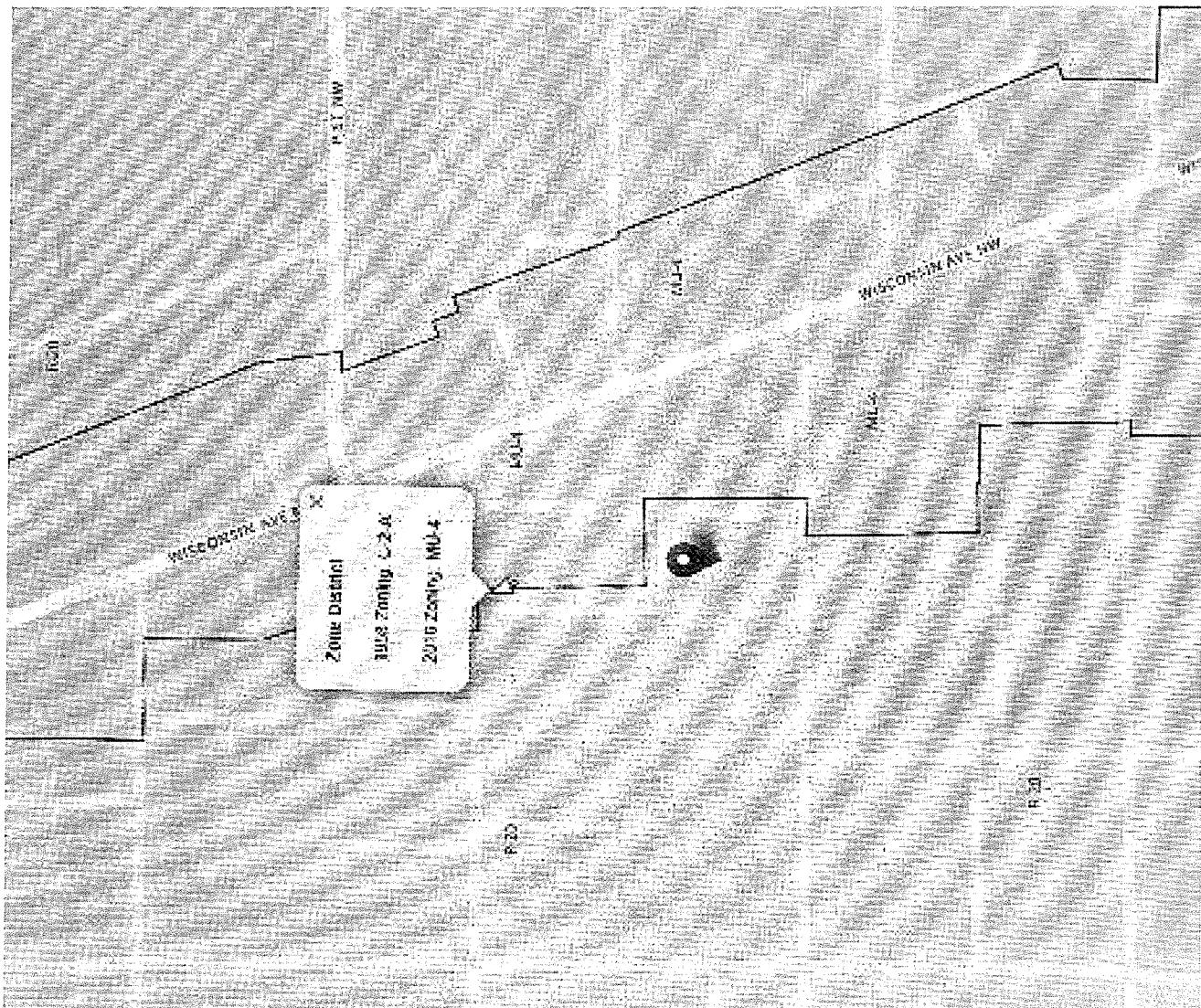


APPENDIX AB-1



DeLorean 88 LLC_1006

APPENDIX AB-2



DeLorean 88 LLC_1007

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:

**New Retailer License
DeLorean 88, LLC
1432 Wisconsin Avenue N.W.
Washington, D.C. 20007**

**Case No.:
License No.: ABCA-126807
Order No.: 2024-021**

DELOREAN 88, LLC'S MOTION TO STAY PROCEEDINGS

COMES NOW DeLorean 88 LLC ("DeLorean"), by and through undersigned counsel, and, pursuant to D.C. Official Code § 25-433(d)(3) moves to stay the December 13, 2023, Denial and January 31, 2024, Order Denying Motion for Reconsideration and the disposition of February 9, 2024, (Second) Motion for Reconsideration pending the disposition of DeLorean's Form 125 Appeal to the Board of Zoning Adjustment of the November 9, 2023, determination by Sara Bardin, Director. In support thereof, DeLorean avers as follows:

1. A Form 125 Appeal enables the Board of Zoning Adjustment to make a final and conclusive determination of the zoning of lots and squares in the District of Columbia.
2. DeLorean successfully initiated the Form 125 Appeal process on February 14, 2024. See attached confirmation and Attachment to Form 125 (Form 125 and exhibits not included here).
3. There is, thus, good cause for staying these proceedings or portions of these proceedings pending the outcome of the Form 125 Appeal.

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**EXHIBIT
D**

Respectfully submitted,

/s/ Philip M. Musolino

Philip M. Musolino
D.C. Bar No.: 294652
Musolino & Dessel, PLLC
1615 L Street, N.W., Suite 440
Washington, D.C. 20036
Phone: (202) 466-3883
Email: pmusolino@musolinoanddessel.com
Counsel for DeLorean 88 LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February 2024, I caused a true and correct copy of the foregoing to be served via electronic mail to the following addresses:

Alcoholic Beverage & Cannabis Administration
2000 14th Street, N.W.
4th Floor, Suite 400 South
Washington, D.C. 20009
Email: abra.legal@dc.gov
Email: abca.legal@dc.gov
Email: abca.cannabislicensing@dc.gov
Email: emoni.boone@dc.gov
Email: sean.gordy2@dc.gov
Email: martha.jenkins@dc.gov
Email: jonathan.berman@dc.gov

/s/ Philip M. Musolino
Philip M. Musolino

Thank you for submitting your application

Please print this page for your records.

Your application has been submitted to DCOZ. A confirmation email has been sent to the email address you provided. Within five (5) business days, you will receive an e-mail indicating whether your application is complete. Once you receive notification that your application is complete, you will have five (5) business days to submit payment. If your application is deemed deficient, you will have five (5) business days to correct any deficiencies

Application/ Appeal Information

Case Number:	BZATmp3560
Application/ Appeal Status:	Submitted
Application/ Appeal Date:	2/14/2024

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**THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

FORM 125 – APPEAL

ATTACHMENT A

**(To Appeal By DeLorean 88 LLC (“DeLorean” and/or “Appellant”) Of The
November 9, 2023, Determination By Sara Bardin, Director, Office Of Zoning)**

A. Appellant, the Property In Issue and the Decision In Issue:

1. Appellant’s Information

Appellant: DeLorean 88 LLC

Appellant’s Address: 1432 Wisconsin Avenue N.W. Washington, DC 20007

Appellant’s License Application: ABCA-126807

2. Property In Issue:

Property Address: 3219 O Street NW, Washington, D.C. 20007

Property Address: 3246 P Street NW, Washington, D.C. 20007

SSL: Square 1244, Lot 854

Property Zoning: MU-4/R-3-GT at time of application

Property Owner: District of Columbia/District of Columbia Public Schools/Hyde-Addison Elementary School¹

3. Determination Subject to Appeal:

November 9, 2023, email from Director of the D.C. Office of Zoning, Sara Bardin

to ANC Commissioner Chris Matthews as follows:

We have corrected it.... Yes, this appears to be a digitization error. The first screenshot below is from the 1966 map, and there is a clear 78' line from the edge of the alley ROW on this square. This measurement is shown on every map up to 2003 (subsequent maps don't show measurements). The pink line on the second

¹ The Council for the District of Columbia declared in 1989 that as of May 23, 1990, “the government shall be subject to zoning.” Comprehensive Plan Amendments Act of 1989 (CPAA), D.C. Law 8-129, 37 D.C. Reg. 55, 235 (1990) (now codified at D.C. Code § 1-250 (1990 Supp.)). According to these words in their ordinary meaning, ...we must hold that although the District government was previously exempt from zoning laws applicable to private parties, it is no longer exempt (internal citations omitted). *Speyer v. Barry*, 588 A.2d 1147, 1153 (D.C. 1991).

screenshot is a 78-foot line we made in GIS to simulate where the line should be, juxtaposed to the red existing zone boundary.

Attached to this Appeal as **Exhibit A-1**.

B. Consent of the Aggrieved Party:

DeLorean's authorization to file this Appeal is attached hereto as **Exhibit A-2**.

C. Timeliness of this Appeal:

Any person aggrieved or any officer or department of the government of the District of Columbia or the federal government affected by an order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely zoning appeal with the Board. 11DCMR 302.1

A zoning appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier. 11 DCMR 302.2

The email that is the subject of this Appeal was never directed to or received directly by Appellant. It was first provided to Appellant through counsel on January 4, 2024, and first seen by Appellant or its counsel, when it was produced in response to a request for a file pursuant to 23 DCMR § 1708. The instant appeal is therefore timely. *See Basken v. D.C. Bd. of Zoning Adjustment*, 946 A.2d 356, 366 (D.C. 2008) (Because Director Canavan's May 25, 2006 letter was not ambiguous, and in light of all the foregoing, we must defer to the BZA's interpretation that this letter was the "order, requirement, decision, determination, or refusal ... complained of," 11 DCMR § 3112.2(a), that allowed the clock to begin running on petitioners' sixty-day period for appealing to the BZA).

D. Standing And Aggrieved Party:

As is set out in the January 18, 2024, Declaration of Sanjeev “Sonny” Preet (the “Preet Declaration”), attached hereto as **Exhibit A-3**, the zoning status of the School was clear and undisputed among the zoning maps of the Office of Zoning up to and after the November 1, 2023, filing by Appellant of its Medical Cannabis Business License Application – Retailer. As is also set out in the Preet Declaration, the publicly-disclosed zoning status of the School was the basis for Applicant’s decision to incur and expend substantial time, cost and expense in the pursuit of the application. Because the only basis for the denial of the application was the ostensible change in the zoning map, or the ostensible zoning determination concurrent with that map change, Appellant’s interests fall within the zone of interests protected and regulated by the pertinent zoning regulations and constitutional protections.

Under prudential standing requirements, a plaintiff ... may assert only interests that fall within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question.... In addition, a plaintiff must generally “assert only its own legal rights....

To establish standing under the DCAPA to challenge an agency order, the petitioner must allege ... that the interest sought to be protected ... is arguably within the zone of interests protected under the statute or constitutional guarantee in question ... and ... there must not be a clear legislative intent to withhold judicial review.... The zone-of-interests requirement is not especially demanding, and the plaintiff need not be an intended beneficiary of the statute (internal citations, brackets, quotation marks omitted).

D.C. Libr. Renaissance Project/W. End Libr. Advisory Grp. v. D.C. Zoning Comm'n, 73 A.3d 107, 114–15 (D.C. 2013).

E. Issues On Appeal:

1. Whether BZA has jurisdiction, pursuant to Title 11 DCMR. 100.4 or any other jurisdictional statute or regulation. 11 DCMR. 100.4 provides in pertinent part as follows:

The Board, pursuant to § 8 of the Zoning Act, D.C. Official Code §§ 6-641.07(f) and (g)(1), shall also hear and decide zoning appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations, Title 11 DCMR. 100.4.

2. Whether the November 9, 2023, determination constituted a final or conclusive change, amendment, revision, or declaration of the zoning characteristics of the Lot.
3. Whether proper notice of the proposed determination and an opportunity to be heard was provided to the public, including appellant, and to the Owner of the Lot.
4. Whether proper notice of the proposed determination and an opportunity to be heard was provided to adjoining or interested property or business owners, including appellant, and to the Owner of the Lot.
5. Whether proper notice was provided to the Office of Planning, and whether the Office Planning was improperly excluded, *see* 11-A DC § 210.
6. Whether the November 9, 2023, determination was invalid as a consequence of the failure to provide notice and the failure to provide an opportunity to be heard.
7. Whether the ostensible determination was based on a proper review of zoning maps, including a review of the official atlases of the Zoning Commission of the District of Columbia and whether such review is required.
8. Whether the ostensible change in the zoning maps was permissible or supported by competent evidence.
9. Whether the ostensible determination of a “digitization error” was supported by competent evidence.
10. Whether the November 9, 2023, determination of a “digitization error” must be applied to other lots which are similarly situated.

11. Whether the November 9, 2023, determination was supported by sufficient competent evidence.
12. Whether the conclusions of law in the November 9, 2023, determination were erroneous.
13. Whether rights, including due process rights, vest at the time of license application.
14. Whether the agency was bound by principles of laches or estoppel.

Laches is the principle that equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant.... The party asserting laches has the burden of establishing both that it was prejudiced by the delay and that the delay was unreasonable.... In the zoning context, the defense of laches is judicially disfavored because of the public interest in enforcement of the zoning laws..... Accordingly, laches is rarely applied in the zoning context except in the clearest and most compelling circumstances. (internal citations, quotation marks omitted)

Kuri Bros. v. D.C. Bd. of Zoning Adjustment, 891 A.2d 241, 248 (D.C. 2006). But

(A)an existing non-conforming use will ordinarily be permitted to continue until it can be eliminated without depriving the user of a vested right, but this protection applies only if the nonconforming use is an existing one. *See D.C. Code § 5-423 (1988)*.... (A) nonconforming use consists of the “*continued* use of a structure for a purpose lawful under zoning at the time of the *initiation* of that use but not so under subsequently adopted changes in zoning.” (Emphasis added)....

Familiar equitable principles, however, provide some protection to those who have substantially changed their position in reliance on existing zoning regulations....

The majority rule, which can be synthesized from the multitudinous decisions in this area, may be stated as follows: A landowner will be held to have acquired a vested right to continue the construction of a building or structure and to initiate and continue a use despite a restriction contained in an ordinance where, prior to the effective date of the ordinance, in reliance upon a permit theretofore validly is sued, he has, in good faith, made a substantial change of position in relation to the land, made substantial expenditures, or has incurred substantial obligations.... (internal citations, quotation marks, brackets omitted).

Speyer v. Barry, 588 A.2d 1147, 1154 (D.C. 1991).

15. Whether agency determinations are controlled by application dates. It is a salutary principle of the adjudicatory administrative process that applications for rights associated with licenses are assessed according to the regulatory rights and limitations in place at the time of the application. As the District of Columbia Court of Appeals explained in *Cole v. D.C. Zoning Comm'n*, 210 A.3d 753 (D.C. 2019):

New zoning regulations “supersed[ing] in full the 1958 regulations and zoning maps that had been in effect, as amended,” became effective on September 6, 2016.... However, in describing what the Commission was to consider, we cite the now-superseded regulations that governed the Commission's substantive review of the PUD application....because the Application was filed prior to the date that those regulations were repealed (internal citations, quotation marks omitted).

Cole v. D.C. Zoning Comm'n, 210 A.3d at 759, n.6.

In *Valley Mobile Home Park, LLC v. Naugatuck Zoning Comm'n*, 2012 WL 2899103, at *7 (Conn. Super. Ct. 2012), the Court concluded that a zoning application is tested according to the zoning regulations at the time of the application. As the Court ruled:

The defendants counter that Nichols' special permit application is entitled to the protection of § 8-2h because the application substantially complied with the old regulations at the time of filing.... Accordingly, the court finds that the commission could reasonably conclude that Nichols' application conformed to the old regulations at the time of filing, notwithstanding the commission's pending decision on the zone change application. Consequently, pursuant to § 8-2h, the commission properly evaluated the application under the old regulations.

In *Richbon, Inc. v. Miami-Dade Cnty.*, 791 So. 2d 505, 508 (Fla. Dist. Ct. App. 2001), the court rejected the administrative application of zoning restrictions to a proposed entertainment establishment license. As the Court wrote:

We conclude that the circuit court failed to apply the correct law. The County is (and was) estopped from denying the issuance of the permit as Richbon had successfully taken every step required of it to obtain the certificate, and *at the time*

of application there were no valid impediments to its issuance (emphasis added).

Richbon, Inc. v. Miami-Dade Cnty., 791 So. 2d at 508.

Similarly, in *In Calagione v. City of Lewes Plan. Comm'n.*, 2007 WL 4054668, at *1 (Del. Ch. 2007) the Delaware Chancery Court explained:

Of particular relevance to the resolution of this motion is *the ramification of the proposal and subsequent adoption of an amendment to the City's zoning code....*

The parties dispute whether or not the Maull and Healing applications were exempted from the amendment. Petitioners contend that the applications were not “pending” at the time the amendment was enacted because Maull and Healing failed to submit proper applications until after the imposition of the moratorium. Petitioners further argue that, even if they were pending, pending applications were exempt only from the moratorium, not from the increased minimum size requirement in the ordinance. Respondents, in response, rely on the Council’s resolution approving the Maull and Healing subdivision applications, in which the Council made the following conclusions: (1) both applications satisfied all zoning regulations at the time the applications were originally filed in 2002; (2) the applications were specifically exempted from the moratorium imposed on August 11, 2003; and (3) *the Commission properly recognized that the applications were grandfathered* and, therefore, excluded from the increased minimum lot requirement amendment (emphasis added).

Calagione v. City of Lewes Plan. Comm'n, 2007 WL 4054668, at *1. And see *Brown v. Town of Kennebunkport*, 565 A.2d 324, 326 (Me. 1989) (“A ‘pending’ application would be “grandfathered” pursuant to 1 M.R.S.A. § 302, and would be entitled to Board evaluation under the subdivision regulations that existed at the time that the application was accepted by the Board.”), *Granite State Outdoor Advert., Inc. v. Town of Orange, Connecticut*, 303 F.3d 450, 452 (2d Cir. 2002) (“regardless of later amendments, only those regulations that were in place at the time an application was filed may be applied to that application (applying Connecticut law).

The Denial made no mention of the exception, much less the zoning map status as of the date of the Application.

The case now before the Board provides a stark paradigm for the purpose behind the broadly accepted date of application rule. If by mere fluke of scheduling or other happenstance the Board reached its decision on November 8, 2023, the Application would have been granted, but, because its decision was made after November 9, 2023, before any other iteration of the zoning map was implemented, the Application was denied. It cannot be sound public policy to base licensing decisions on ephemeral, *ad hoc* or temporary decision-making, untethered to mandated administrative procedures, particularly where, as here, rights attach at the moment of application.

The failure to look to the clear record at the time of the Application led, as is discussed below, to a series of other administrative inadequacies, including the absence of any reviewable finding of fact on the zoning map change, an incomplete internal investigation shielded from contest by Applicant, the failure to conduct a zoning search coterminous with the October 31, 2023, search, as well as on searches on which the Board had previously relied, and the failure to even address the alternative exception to the 300-foot rule. The result is, and will be in the future, the sort of uncertainty with the public that is, to the extent that it can be ameliorated by an agency, anathema to the administrative process. But, on its own the Board's failure to consider or address the zoning status at the time of the Application mandates on its own reconsideration and vacatur of the Denial.

16. Whether the November 9, 2023, determination should be vacated.
17. Whether the November 9, 2023, determination should be vacated *nunc pro tunc*.
18. Whether the Lot contains MU-4 zoning, or commercial or industrial or public zoning. Title 11 DCMR Subtitle G Mixed Use (MU) Zones.

F. Non-Expert Witnesses:

Appellant reserves the right to adduce opinion testimony from non-retained experts.

1. Sanjeev Preet
c/o Musolino & Dessel PLLC
1615 L Street NW, Suite 440
Washington, D.C. 20036

Mr. Preet is a member of DeLorean. Mr. Preet will testify as to DeLorean's current operations at 1432 Wisconsin Avenue NW, Washington, D.C. 20007, his knowledge of DeLorean's Medical Cannabis Business License application (the "License Application"), DeLorean's Alcoholic Beverage and Cannabis Administration ("ABCa") Notice of Appeal and Request for Reconsideration, DeLorean's Supplemental Memorandum in support of their Notice of Appeal and Request for Reconsideration, DeLorean's Second Supplemental Memorandum in support of their Notice of Appeal and Request for Reconsideration, communications with various members of the District of Columbia Government related to DeLorean's License Application and Notice of Appeal and Request for Reconsideration, research undertaken in support of DeLorean's Notice of Appeal and Request for Reconsideration, and details set out in his January 18, 2024, declaration in support of DeLorean's Notice of Appeal and Request for Reconsideration. Mr. Preet will also testify as to his background and professional experience working with ABCA (f/k/a ABRA).

2. Jimmy Lee
7318 Beechwood Drive
Springfield, V.A. 22153

Mr. Lee is a member of DeLorean. Mr. Lee will testify as to DeLorean's current operations at 1432 Wisconsin Avenue NW, Washington, D.C. 20007, the License Application, and Notice of Appeal and Request for Reconsideration. Mr. Lee will also testify as to his background and professional experience working with ABCA.

3. Peter Murillo
8200 Crossbrook Court, Unit 202
Lorton, V.A. 22079

Mr. Murillo is a member of DeLorean. Mr. Murillo will testify as to DeLorean's current operations at 1432 Wisconsin Avenue NW, Washington, D.C. 20007, and the License Application. Mr. Murillo will also testify as to his background and professional experience working with ABCA.

4. Representative from DeLorean 88 LLC
413 East Capitol Street SE, 1st Floor
Washington, D.C. 20003

A representative from DeLorean will testify as to their current operations at 1432 Wisconsin Avenue NW, Washington, D.C. 20007, preemptive actions to comply with ABCA licensing requirements, the License Application, the Notice of Appeal and Request for Reconsideration, the Supplemental Memorandum in support of Notice of Appeal and Request for Reconsideration, and Second Supplemental Memorandum in support of Notice of Appeal and Request for Reconsideration.

5. Christopher Matthews
1553 33rd Street NW
Washington, D.C. 20007

Mr. Matthews is the Commissioner for Advisory Neighborhood Commission ("ANC") 2E02. Mr. Matthews will testify as to his correspondence with Sara Bardin and the D.C. Office of Zoning, communications with ABCA, Substack blog posts, zoning history columns, and ANC involvement with ABCA's issuance of Medical Cannabis Business License's in ANC 2E. Mr. Matthews will also testify as to his background and professional experience.

6. Sara Bardin
Director
District of Columbia Office of Zoning
441 4th Street NW, Suite 200-S
Washington, D.C. 20001

Ms. Bardin is the Director at the D.C. Office of Zoning (“DCOZ”). Ms. Bardin will testify as to her correspondence with Mr. Preet and Mr. Matthews, her research of 3219 O Street NW, Washington, D.C. 20007 (the “Property”), DCOZ amendments to the Official Zoning Map, actions taken by DCOZ related to the Property, DCOZ communications with ABCA related to the Property, DCOZ communications with the D.C. Office of Planning (“DCOP”), DCOZ communications with ANC commissioners related to the Property, DCOZ communications related to ABCA’s issuance of Medical Cannabis Business License’s in ANC 2E. Ms. Bardin will also testify as to the history of zoning amendments for the Property, historical zoning amendments to D.C., DCOZ’s preservation of historical zoning maps, and DCOZ’s maintenance of physical hard copy maps.

7. Dontario Givens
Certifications Specialist
District of Columbia Office of Zoning
441 4th Street NW, Suite 200-S
Washington, D.C. 20001

Mr. Givens is a Certifications Specialist at DCOZ. Mr. Givens will testify as to the Official Zoning Map, DCOZ’s preservation of historical zoning maps, and DCOZ’s maintenance of physical hard copy maps.

8. Joel Lawson
Associate Director
District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, D.C. 20024

Mr. Lawson is the Associate Director at DCOP. Mr. Lawson will testify as to his conversations with Mr. Preet related to zoning of the Property; zoning amendments to the Property; zoning amendments to the surrounding areas of the Property; zoning research related to the Property; procedures related to zoning amendments; communications with OZ, ANC

Commissioner's, the Department of Buildings, ABCA, and other D.C. Government agencies related to the Property.

9. Kevin Puente
2235 Shannon Place NE, Suite 3031
Washington, D.C. 20020

Mr. Puente is a former ABRA investigator. Mr. Puente will testify as to his February 10, 2021, investigation regarding Towne Wine & Liquor and his February 11, 2021, report. Mr. Puente will testify as to his determination the nearest property line to 1438 Wisconsin Avenue NW, Washington, D.C. 20007 is zoned Mix-Use.

10. Nicole Rogers, MPP
Chief Building Official
District of Columbia Department of Buildings
1100 4th Street SW, 2nd Floor
Washington, D.C. 20024

Ms. Rogers is a Chief Building Official with the D.C. Department of Buildings ("DOB"). Ms. Rogers will testify as to her January 18, 2024, email regarding the Property, her Master Address Repository search of 3219 O Street NW, Washington, D.C. 20007, and findings.

11. Representative from Hyde-Addison Elementary School
3219 O Street NW
Washington, D.C. 20007

A representative from Hyde-Addison Elementary School will testify as to the history of the School; use of the Property including, but not limited to, the utilization of O street as the main entrance/exit of the School and current/historical metes and bounds description of the Property; performed and planned construction including; historic zoning; and communications with ANC Commissioners, any D.C. Government official, parents, or faculty as to the zoning of the Property and land use of the property's surrounding the Property.

12. Representative from JLC LLC
t/a Towne Wine & Liquor
1438 Wisconsin Avenue NW
Washington, D.C. 20007

A representative from JLC LLC t/a Towne Wine & Liquor will testify as to its current business address, liquor license, liquor license application, any ABRA reports conducted in support of its license application, zoning and surrounding zoning related to its current business address, and communications with ANC Commissioners regarding the use of the business address.

13. Representative from Taichi DC LLC
t/a Taichi Bubble Tea
1357 Wisconsin Avenue NW
Washington, D.C. 20007

A representative from Taichi DC LLC t/a Taichi Bubble Tea will testify as to its current business address, liquor license, liquor license application, any ABRA reports conducted in support of its license application, zoning and surrounding zoning related to its current business address, and communications with ANC Commissioners regarding the use of the business address.

14. Representative from Donahue LLC
t/a Donahue
1338 Wisconsin Avenue NW
Washington, D.C. 20007

A representative from Donahue LLC t/a Donahue will testify as to its current business address, liquor license, liquor license application, any ABRA reports conducted in support of its license application, zoning and surrounding zoning related to its current business address, and communications with ANC Commissioners regarding the use of the business address.

15. Representative from the District of Columbia Public Library People's Archive
901 G Street NW
Washington, D.C. 20001

A representative from the District of Columbia Public Library People's Archive (the "Library") will testify as to the maintenance and preservation of current and historical zoning maps of D.C.

16. Representative from United States Library of Congress
101 Independence Avenue SE
Washington, D.C. 20540

A representative from the United State Library of Congress will testify as to the maintenance and preservation of legislation enacted to establish zoning in the District of Columbia.

17. Representative from the District of Columbia Alcoholic Beverage and Cannabis Administration
2000 14th Street NW, Suite 400S
Washington, D.C. 20009

A representative from the District of Columbia Alcoholic Beverage and Cannabis Administration ("ABC") will testify as to the License Application and process; rules and regulations governing ABC; their December 13, 2023, Denial of DeLorean's License Application; their January 31, 2024, Order Denying Motion for Reconsideration; and their communications with OZ, OP, ANC Commissioners, and other D.C. Government agencies related to the Property and DeLorean's intended use of 1432 Wisconsin Avenue NW, Washington, D.C. 20007.

18. Representative from the District of Columbia Office of Zoning
441 4th Street NW, Suite 200-S
Washington, D.C. 20001

A representative from OZ will testify as to the purpose of OZ; the current and historical zoning of the Property; the rules and regulations governing OZ; the procedures for zoning amendments; maintenance of the Official Zoning Map and 3D Zoning Map; preservation of

historical zoning maps; maintenance of physical hard copies of zoning maps; and zoning amendments to the Property.

19. Representative from the District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, D.C. 20024

A representative from OP will testify as to the purpose of OP, the current and historical zoning amendments of the Property; the Comprehensive Plan; the rules and regulations governing OP; and the procedures for zoning amendments.

20. Representative from the District of Columbia Department of Buildings
1100 4th Street SW, 2nd Floor
Washington, D.C. 20024

A representative from DOB will testify as to the purpose of DOB, the rules and regulations governing DOB, the Zoning Administrator's interpretation of zoning regulations; the current and historical zoning of the Property; and the procedures for zoning amendments.

G. Retained Expert Witnesses:

None at this time. Applicant reserves the right to supplement this response.

H. Statements And Briefs:

Applicant attaches hereto the ABCA application (without its attachments), ABCA's denial letter, Applicant's Notice of Appeal and Motion for Reconsideration to ABCA, Applicant's Supplemental Memorandum, Applicant's Second Supplemental Memorandum, ABCA Order Denying Motion for Reconsideration, and Applicant's (Second) Motion for Reconsideration.

I. Maps, Information, And Reports:

Appended here are maps, information, and reports (variously labeled as Appendices A – AB).

CERTIFICATE OF SERVICE

I certify that on this 13th day of February 2024, I caused a true and accurate copy of this Notice of Appeal to be via electronic mail on the following:

Sara Bardin
Director
District of Columbia Office of Zoning
441 4th Street NW, Suite 200-S
Washington, D.C. 20001
Email: sara.bardin@dc.gov

Hyde-Addison Elementary School
3219 O Street NW
3246 P Street NW
Washington, D.C. 20007
Email: Hyde.Addison@k12.dc.gov

Quinne Harris-Lindsey
Office of the General Counsel
District of Columbia Public Schools
1200 First Street NE
Washington, D.C. 20002
Email: quine.harris-lindsey@k12.dc.gov

ANC 2E03 Commissioner Paul Maysak
3267 P Street NW
Washington, D.C. 20007
Email: 2E03@anc.dc.gov

/s/ Philip M. Musolino
Philip M. Musolino

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
DeLorean 88, LLC) Case No.: N/A
t/a DeLorean) License No.: ABCA-126807
) Order No.: 2024-076
Applicant for a New)
Medical Cannabis Retailer License)
at premises)
1432 Wisconsin Avenue, N.W.)
Washington, D.C. 20007)
)

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: DeLorean 88, LLC, t/a TBD, Petitioner

Philip Musolino, Counsel, on behalf of the Petitioner

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

ORDER GRANTING MOTION FOR STAY

The Alcoholic Beverage and Cannabis Board (Board) received a motion for reconsideration and supplemental motion from DeLorean 88, LLC, t/a DeLorean, (Applicant) related to the rejection of its Application for a New Retail Medical Cannabis License based on its proximity to Hyde-Addison Elementary School. The Board affirmed its determination that the Application must be rejected because the chosen location does not qualify for the commercial zone exception to the 300-foot distance rule, as noted in Board Order No. 2024-021. Subsequently, the Applicant filed a motion for reconsideration and a motion for stay pending review by the D.C. Board of Zoning Adjustment (BZA) on the matter of the zoning of the properties relevant to the matter before the Board. In light of the relevance of the appeal proceeding before the BZA, the Board shall stay consideration of the motion of reconsideration pending the outcome of the proceedings.

**EXHIBIT
E**

ORDER

Therefore, the Board, on this 28th day of February 2024, hereby **GRANTS** the motion for stay filed by the Applicant. The Applicant is instructed to provide a copy of the BZA's decision to the Board upon issuance. The ABCA shall deliver copies of this Order to the Applicant.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, September 25, 2024, @ 9:30 a.m.
Via WebEx & YouTube (Office of Zoning): <https://dcoz.dc.gov/BZA09-25-2024>
Instructions: <https://dcoz.dc.gov/release/virtual-public-hearings>
Witness Sign Up: <https://dcoz.dc.gov/service/sign-testify>

TO CONSIDER THE FOLLOWING:

Appeal No. 21107 of DeLorean 88, LLC

Address: 3219 O Street N.W./3246 P Street N.W. (Square 1244, Lot 854)
ANC: 2E
Relief: Appeal pursuant to:

- The provisions of Subtitle X § 1100

Project: The decision made on November 9, 2023, by the Director of the District of Columbia Office of Zoning.

This public hearing will be conducted in accordance with the contested case provisions of Subtitle Y, Chapters 4 & 5, as well as the text adopted by the Zoning Commission on October 15, 2020, in Z.C. Case No. 20-11, as published in the Notice of Final Rulemaking published in the D.C. Register on October 30, 2020.

PLEASE NOTE:

The hearing date shown above may be RESCHEDULED prior to this date, in which case the new hearing date will be posted on the online calendar for the Board of Zoning Adjustment (“Board” or “BZA”) on the website of the Office of Zoning (“OZ”) at <https://dcoz.dc.gov/BZACalendar> as well as on the case record webpage available on the Interactive Zoning Information System (“IZIS”) on the OZ website <https://dcoz.dc.gov/CaseRecord> (access instructions below). **Please check these webpages to confirm the final hearing date and time** as there will be no other notice of these changes provided. One day before the hearing, the order of cases, agenda, and any other scheduling changes will be posted to the Board’s online calendar on OZ’s website.

Those who wish to testify at the public hearing **must** be present when their case is called. The order of cases may change at the Board’s discretion. Participants are encouraged to visit <https://dcoz.dc.gov/service/watch-live-virtual-zcbza-hearingsmeetings> to watch the live broadcast of the hearing starting at 9:30 a.m. to hear the order of cases and may listen periodically to monitor the cases the Board is hearing at any point.

**EXHIBIT
F**

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

DeLorean 88 LLC_1029

HOW TO FAMILIARIZE YOURSELF WITH THE CASE

Online Case Record

- To access OZ's online case record, visit the OZ website and select the Interactive Zoning Information System ("IZIS") option (available at <https://dcoz.dc.gov/CaseRecord>)
- To select a case to view, enter the Application number indicated at the top of this notice and click the "Search" button
- To view the record for a specific case, click the corresponding "View" button on the right
- To view the full list of documents in the case record, click "View Full Log" under "Case Documents" on the lower right
- To view a specific exhibit, click the corresponding "View" button on the right and it will open a PDF document in a separate window.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ's website at <https://dcoz.dc.gov/> or by calling Robert Reid at (202) 727-5471 in order to ensure the success of the new virtual public hearing procedures. If you forget to sign up 24-hours prior to the hearing, please call the **OZ Hotline at (202) 727-5471** to sign-up to testify and to receive WebEx login or call-in instructions. Please visit <https://dcoz.dc.gov/release/virtual-public-hearings> or call the Office of Zoning for more information about participating in virtual public hearings.

How to participate as a witness - written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record, provided that **ALL WRITTEN COMMENTS AND/OR TESTIMONY MUST BE SUBMITTED TO THE RECORD AT LEAST 24 HOURS PRIOR TO THE START OF THE HEARING**, unless the Board approves a request to introduce written comments at the public hearing upon demonstration of good cause and no prejudice to parties. The public is encouraged to submit written testimony through IZIS at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by e-mail to bzasubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Robert Reid at (202) 727-0789 for further assistance.

How to participate as an Intervenor

Any person who desires to participate as an Intervenor in this case must request Intervenor status and must comply with the provisions set forth in Subtitle Y § 502. Persons seeking Intervenor status must submit a Form 141 – Intervenor Request Application through the Interactive Zoning Information System ("IZIS"). The form is also available to download from OZ's website at: <https://app.dcoz.dc.gov/Help/Forms.html>. The request must be filed the Board **NO LESS THAN 14 DAYS PRIOR TO THE ORIGINAL DATE SET FOR THE HEARING** (or 14 days prior to a scheduled public meeting if seeking advanced party status consideration).

An Intervenor has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Board, and to exercise the other rights of parties as specified in the Zoning Regulations.

Except for an affected ANC, any person or entity that desires to participate as an Intervenor in this case must clearly demonstrate that the person's interests would not adequately be represented by the automatic parties to this case.

If you are still unsure of what it means to participate as an Intervenor and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Advisory Neighborhood Commission (“ANC”)

The property for which zoning relief is requested is within or adjacent to the boundaries of ANC 2E, which is therefore an “affected” ANC and so automatically a party in this case. Please contact your ANC commissioner to learn how to participate in your ANC’s deliberation process and to find out if or when the Applicant is scheduled to appear before the ANC. To find contact information for your ANC, visit <http://anc.dc.gov>.

The Board must give “great weight” to the “issues and concerns” raised in a written report of an “affected” ANC approved at a properly noticed meeting that was open to the public by the full ANC with a quorum present. The Board may give “great weight” to the oral testimony of the “affected” ANC’s authorized representative if it complies with the requirements of Y §§ 406.3 & 406.4.

Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Y §§ 406.2 & 406.4.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311 and refer to the five-digit application number listed at the top of the notice.

FREDERICK L. HILL, LORNA L. JOHN, CARL H. BLAKE, AND CHRISHAUN S. SMITH ----- BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY CLIFFORD W. MOY, SECRETARY TO THE BOARD OF ZONING ADJUSTMENT.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d’assistance pour pouvoir participer ? Si vous avez besoin d’aménagements spéciaux ou d’une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗？如果您需要特殊便利设施或语言协助服务（翻译或口译）· 请在见面之前提前五天与 Zee Hill 联系 · 电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quí vị có cần trợ giúp gì để tham gia không? Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

አመስተኞች የርዳቸው የስራልማቸው? የተለየ እርዳቸው ከስራልማቸው ወይም የቋንቃው እርዳቸው አገልግሎቶች (ትርጉም ወይም ማስተሚያው) ከስራልማቸው እስከዚና ከስራሰው አምስክ ቅናት በፊት እና የስራ ቅጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ:: እናኝም አገልግሎቶች የሚሰጠት በላይ ነው::

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
DeLorean 88, LLC) Case No.: N/A
t/a DeLorean) License No.: ABCA-126807
) Order No.: 2024-076
Applicant for a New)
Medical Cannabis Retailer License)
)
at premises)
1432 Wisconsin Avenue, N.W.)
Washington, D.C. 20007)
)

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: DeLorean 88, LLC, t/a TBD, Petitioner

Philip Musolino, Counsel, on behalf of the Petitioner

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

ORDER GRANTING MOTION FOR STAY

The Alcoholic Beverage and Cannabis Board (Board) received a motion for reconsideration and supplemental motion from DeLorean 88, LLC, t/a DeLorean, (Applicant) related to the rejection of its Application for a New Retail Medical Cannabis License based on its proximity to Hyde-Addison Elementary School. The Board affirmed its determination that the Application must be rejected because the chosen location does not qualify for the commercial zone exception to the 300-foot distance rule, as noted in Board Order No. 2024-021. Subsequently, the Applicant filed a motion for reconsideration and a motion for stay pending review by the D.C. Board of Zoning Adjustment (BZA) on the matter of the zoning of the properties relevant to the matter before the Board. In light of the relevance of the appeal proceeding before the BZA, the Board shall stay consideration of the motion of reconsideration pending the outcome of the proceedings.

**EXHIBIT
C-5**

ORDER

Therefore, the Board, on this 28th day of February 2024, hereby **GRANTS** the motion for stay filed by the Applicant. The Applicant is instructed to provide a copy of the BZA's decision to the Board upon issuance. The ABCA shall deliver copies of this Order to the Applicant.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocs.com
Donovan Anderson
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Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com

Key: 547aa373fb20de6ac801b332dd2949.docx

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage and Cannabis Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202-879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).



**District of Columbia
Court of Appeals**

No. 24-AA-188

DELOREAN 88, LLC T/A DELOREAN,
Petitioner,

v.

2024-021

D.C. ALCOHOLIC BEVERAGE
AND CANNABIS BOARD,
Respondent.

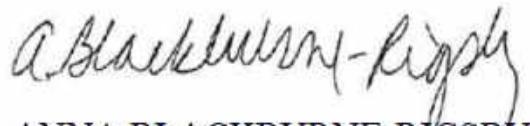
ORDER

On consideration of respondent's consent motion to hold appeal in abeyance, construed as a motion to stay the petition for review, and it appearing that petitioner has filed a motion for reconsideration with the agency, it is

ORDERED that the motion is granted and this petition for review is hereby stayed pending further order of this court. It is

FURTHER ORDERED that while this matter remains stayed, counsel for respondent shall advise this court every 90 days as to the status of the pending motion, and within 15 days after its resolution.

BY THE COURT:


ANNA BLACKBURNE-RIGSBY
Chief Judge

Copies e-served to:

Philip M. Musolino, Esquire

Elissa R. Lowenthal, Esquire

**EXHIBIT
C-6**

DeLorean 88 LLC_1036

No. 24-AA-188

Copies e-served to:

Caroline Van Zile, Esquire
Solicitor General - DC

pmg

DeLorean 88 LLC_1037

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
DeLorean 88, LLC) Case No.: N/A
t/a DeLorean) License No.: ABRA-126807
) Order No.: 2024-497
Applicant for a New)
Medical Cannabis Retailer License)
)
at premises)
1432 Wisconsin Avenue, N.W.)
Washington, D.C. 20007)
)

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: DeLorean 88, LLC, t/a TBD, Petitioner

Philip Musolino, Counsel, on behalf of the Petitioner

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

ORDER STAYING MOTION FOR RECONSIDERATION

In Board Order No. 2024-021, the Alcoholic Beverage and Cannabis Board (Board) received a motion for reconsideration and supplemental motion from DeLorean 88, LLC, t/a DeLorean, related to the rejection of its Application for a New Retail Medical Cannabis License based on its proximity to Hyde-Addison Elementary School. *In re DeLorean 88, LLC, t/a DeLorean*, ABRA License No. 126807, Board Order No. 2024-021, at 1 (D.C.A.B.C.B. Jan. 31, 2024). In the Order, the Board affirmed “its determination that the Application must be rejected because the chosen location does not qualify for the commercial zone exception to the 300-foot distance rule.” *Id.*

Subsequently, the matter was appealed and voluntarily remanded back to the Board from the D.C. Court of Appeals. On remand, the Applicant renewed its motion for reconsideration and filed a second supplemental memorandum. *DeLorean 88, LLCs (Second) Motion for Reconsideration*, at 1; *DeLorean 88, LLC'S Second Supplemental Memorandum*, at 1. Nevertheless, the motions are not ripe for adjudication at this time.

On June 26, 2024, ABCA received a memorandum from the Office of Zoning stating that “Hyde-Addison Elementary School (“School”) at Square 1244, Lot 0854, with an address of 3246 P Street, N.W. (3219 O Street, N.W.), is located in the R-3/GT zone.” *Memorandum from Sara Bardin, Director, Office of Zoning, to Jonathan Berman, Esq., Assistant General Counsel, Alcoholic Beverage and Cannabis Administration*, at 1 (Jun. 26, 2024). The Office of Zoning further informed the agency that “Our investigation concluded that there was a digitization error that occurred when the historic paper maps were converted into the current geographic information systems (GIS) database. OZ corrected the GIS Zoning Map upon the determination that an error was made.” *Id.* at 2. The Office of Zoning further informed the Board that “research confirms that there is no map amendment that approved a map amendment to split zone the school property. Lastly, the Certificate of Occupancy . . . for the School also designates the lot as R-20 and not split zoned.” *Id.* at 6. The memo further provides background information justifying its conclusions.

The Board has also been informed that an appeal on this matter is pending before the Board of Zoning Adjustment (BZA). *Form 125 – Appeal, To Appeal By DeLorean 88 LLC of The November 9, 2023, Determination By Sara Bardin, Director, Office of Zoning*, at 1. Based on a review of the appeal, it challenges the “digitization error” and other similar matters that are before the Board. *Id.* at 3-16.

As previously noted, the Board has “no authority to review the validity of the coordinate agency’s action.” *Craig v. D.C. Alcoholic Beverage Control Bd.*, 721 A.2d 584, 588 (D.C. 1998) *citing Kopff v. District of Columbia Alcoholic Beverage Control Bd.*, 413 A.2d 152, 154 (D.C.1980); *see also John G. Uhar v. D.C. Alcoholic Beverage Control Board*, 20-AA-021, 8 (D.C. 2023) *citing Barry Farm Tenants & Allies Ass’n v. D.C. Zoning Comm’n*, 182 A.3d 1214, 1228-29 (D.C. 2018) (“. . . [T]he Board certainly would lack authority to explicitly invalidate a decision of another agency.”). And in this case, the BZA has primary jurisdiction over the Applicant’s claims, not the Board under 11 DCMR § 100.4 (West Supp. 2024) (saying the BZA may “hear and decide zoning appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations.”). As a result, where substantial portions of the matter are presently before the BZA, the Board will not make its own determination of the issues where such a ruling could result in multiple agencies issuing differing and confusing opinions on the same issue and where the BZA has jurisdiction over a substantial portion of the matters under review by the Board.

Therefore, in light of the investigation by the Office of Zoning, the pending appeal before the BZA, and the need for the Applicant to have an opportunity to review the additional information reviewed by the Board, these motions must be deemed not ripe for consideration at this time pending final review by the BZA. As a result, the Board stays consideration of this matter further pending the final adjudication of the BZA and the submission of a new motion by the Applicant.

ORDER

Therefore, the Board, on this 10th day of July 2024, hereby deems the motion for reconsideration filed by the Applicant **NOT RIPE** for adjudication until the BZA rules on the appeal.

IT IS FURTHER ORDERED that all further consideration of this matter shall be **STAYED** pending the issuance of a decision by the BZA in the DeLorean matter. Upon the issuance of the decision by the BZA, the Applicant may file a motion to lift the stay and shall file a new motion for reconsideration, rehearing, or other appropriate remedy.

IT IS FURTHER ORDERED that the June 26, 2024, memorandum provided by the Office of Zoning to ABCA shall be provided to the Applicant. The Applicant may contact ABCA's Records Department for a copy of the memorandum.

IT IS FURTHER ORDERED that, as a courtesy, a copy of this decision shall be provided to the District of Columbia Department of Zoning.

The ABCA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocs.cgi
Donovan Anderson
Key: ac43Cb98b99d5f09e4b730093d1dc0ca

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.cgi
D. S. A.
Key: 547ae0373b20de6a8d1b3322d2049

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage and Cannabis Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202-879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).

THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

In the Matter of:

New Retailer License
DeLorean 88, LLC
1432 Wisconsin Avenue N.W.
Washington, DC 20007

Case No.:
License No.: ABCA-126807
Order No.:

DECLARATION OF SANJEEV PREET

I, Sanjeev Preet, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States of America that:

1. I am over twenty-one (21) years of age, of sound mind, and capable of making this Declaration. All the facts and statements contained herein are within my personal knowledge and are, in all things, true and correct.
2. I am submitting this declaration in support of DeLorean 88 LLC's ("DeLorean") Supplemental Memorandum.
3. I am a twenty-percent member of DeLorean.
4. I am a general partner of The Preet Group Family Limited Partnership (the "PGFLP"). PGFLP acquired 1432 Wisconsin Avenue NW, Washington, D.C. 20007 (the "Property") in 2000.
5. Until 2007, the Property operated as a clothing store.
6. From 2008 until 2019, the Property operated as jewelry store.
7. Beginning in August 2019, the Property operated under D.C.'s Initiative 71.
8. In or around September 2023, DeLorean entered into a commercial lease agreement with PGFLP at the Property.

**EXHIBIT
D-1**

9. During the week of October 16, 2023, I met with Licensing Manager Sean Gordy of the Alcoholic Beverage and Cannabis Administration (“ABC”A”) regarding location approval of the Property for DeLorean to obtain a Medical Cannabis Business License (the “License”). Mr. Gordy confirmed that the Property would be able to obtain a License because the Hyde-Addison Elementary School (the “School”), located at 3219 O Street NW, Washington, D.C. 20007 (the “O Street Address”) and 3246 P Street NW, Washington, D.C. 20007 (the “P Street Address”), was classified as MU-4 and R-3/GT zoning and DeLorean would be able to obtain the License at the Property.
10. The entrance to the School is located at the O Street Address on Square 1244 Lot 0854 (the “School Lot”). *See Exhibit A.*
11. During the week of October 23, 2023, I met again with Mr. Gordy to request written confirmation of his verbal assurance DeLorean would receive a License. Mr. Gordy called Jonathon Berman, Assistant General Counsel to ABCA, who confirmed the School was located in MU-4 and R-3/GT and DeLorean would be able to obtain the License at the Property.
12. On October 25, 2023, I emailed Mr. Gordy seeking written confirmation DeLorean would be granted a License if they applied.
13. On October 26, 2023, I emailed Mr. Gordy again seeking written confirmation DeLorean would be granted a License if they applied.
14. On October 26, 2023, Mr. Gordy forwarded Mr. Berman’s response regarding my request. *See Exhibit B.*
15. On October 31, 2023, I went to the D.C. Department of Buildings (“DoB”) to speak with a Zoning Administrator. I spoke with Mary Morgan of DoB, a customer service

representative, who went to D.C. PropertyQuest to confirm the zoning of the School.

Ms. Morgan confirmed the School was zoned as MU-4 and R-3/GT. *See Exhibit C.*

16. On November 1, 2023, DeLorean submitted their License application.
17. On November 1, 2023, I called ANC2E03 Commissioner Paul Maysak to advise him DeLorean applied for a License at the Property. Later that day, I emailed Mr. Maysak Mr. Gordy's October 26, 2023, email that the Property had been approved.
18. In or around November 14, 2023, I called Mr. Gordy regarding DeLorean's License. Mr. Gordy advised me that ANC Commissioners contacted ABCA regarding the zoning of the School.
19. On November 15, 2023, I learned that the School's zoning classification had been changed from MU-4 and R-3/GT to R-3/GT. When I searched the School's listed address on D.C. PropertyQuest the address could not be found. *See Exhibit D.*
20. On or about November 27, 2023, ABCA advised DeLorean that the License application was deemed complete.
21. On December 13, 2023, I received a rejection letter from ABCA for DeLorean's License due to the Property's proximity to the School. *See Exhibit E.*
22. On December 27, 2023, DeLorean filed its Notice of Appeal and Request for Reconsideration. *See Exhibit F.*
23. On January 9, 2024, I met with Director of the D.C. Office of Zoning, Sara Bardin. Ms. Bardin informed me of a 78-foot distance measured from the alley on P Street. She showed me a 1958 map but did not show me any more current maps. Ms. Bardin told me she would reconsider reinstating the MU-4 zoning classification of the School Lot if the 78-foot distance from the corner of the alley encroached on the School Lot.

24. On January 9, and January 17, 2024, I measured 78-feet from the corner of the alley west on P Street NW multiple times and also measured 77-feet from the corner of the alley west. *See Exhibit G.* By comparing the D.C. Office of Zoning 3D Zoning Map, it seems clear that the MU-4 zoning line encroaches on the School Lot.

1/18/2024
Date:

S. J. Price
Sanjeev Price



EXHIBIT
A

DeLorean 88 LLC_1046



DeLorean 88 LLC_1047

From: [sonny preet](#)
To: [Leopold Harris](#)
Cc: [Phil Musolino](#)
Subject: Fwd: Re 1432 Wisconsin ave NW DC
Date: Wednesday, January 17, 2024 6:15:40 PM

See below

Sanjeev "sonny" k preet
Managing Member
1544 Spring Hill Rd
Ste #3502
McLean VA 22102
Direct # 202-867-7500
Mobile # 703-867-7291

Begin forwarded message:

From: sonny preet <preetsonny@yahoo.com>
Date: October 27, 2023 at 4:20:35 PM EDT
To: Cmixon@theveritaslawfirm.com
Cc: Scott Rome <srome@theveritaslawfirm.com>
Subject: Fwd: Re 1432 Wisconsin ave NW DC

See email chain below

Sanjeev "sonny" k preet
Managing Member
1544 Spring Hill Rd
Ste #9343
McLean VA 22102
Direct # 202-867-7500
Mobile # 703-867-7291

Begin forwarded message:

From: "Gordy, Sean (ABCa)" <Sean.Gordy2@dc.gov>
Date: October 26, 2023 at 5:51:20 PM EDT
To: sonny preet <preetsonny@yahoo.com>
Cc: easany@gmail.com
Subject: RE: Re 1432 Wisconsin ave NW DC

Sonny,

Thanks for your patience. As discussed, the response and guidance from ABCA's Assistant General Counsel Jonathan Berman is below.

**EXHIBIT
B**

Be advised that his response is based on current regulations and as such I defer to such regulatory guidelines. For further guidance and/or information regarding the zoning of this area, please reach out to the Zoning Commission of DC to clarify and insure that your interests are properly vetted.

SEAN GORDY · MANAGER | LICENSING DIVISION | ABCA
D: 202.442.4359 | O: 202.442.4423 | E: sean.gordy2@dc.gov

From: Berman, Jonathan (ABCA) <jonathan.berman@dc.gov>
Sent: Thursday, October 26, 2023 3:29 PM
To: Gordy, Sean (ABCA) <Sean.Gordy2@dc.gov>
Subject: Applicant located w/in 300 feet on a MU/R Zone

Sean,

So long as the property line of the premises facing the establishment is zoned MU, it is not prohibited per the following:

(c) For purposes of this section, the 300-foot restrictions shall not apply where the main entrance to the preschool, primary or secondary school, or recreation center, or the nearest property line of the school or recreation center, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.

Sincerely,

JONATHAN BERMAN (HE, HIM, HIS) · ASSISTANT GENERAL COUNSEL
D: 202.442.4448 | E: jonathan.berman@dc.gov

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
2000 14th Street NW, Suite 400 South, Washington DC 20009
abca.dc.gov | Last Call | Facebook | Twitter

From: sonny preet <preetsonny@yahoo.com>
Sent: Thursday, October 26, 2023 5:07 PM
To: Gordy, Sean (ABCA) <Sean.Gordy2@dc.gov>
Cc: easany@gmail.com
Subject: Fwd: Re 1432 Wisconsin ave NW DC

CAUTION: This email originated from outside of the DC Government. Do not click on

links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to phishing@dc.gov for additional analysis by OCTO Security Operations Center (SOC).

You don't often get email from preetsonny@yahoo.com. [Learn why this is important](#)

Hi Sean

Please send me that email for the location approval as per your counsel's verbal approval for 1432 Wisconsin ave NW DC

I didn't get that email yet

Thank you

Sanjeev "sonny" k preet

Managing Member

1544 Spring Hill Rd

Ste #9343

McLean VA 22102

Direct # 202-867-7500

Mobile # 703-867-7291

Begin forwarded message:

From: sonny preet <preetsonny@yahoo.com>

Date: October 26, 2023 at 10:51:15 AM EDT

To: Sean Gordy <sean.gordy2@dc.gov>

Cc: easany@gmail.com

Subject: Fwd: Re 1432 Wisconsin ave NW DC

Good Morning Sean

Just following up on this request from yesterday

Would you please confirm this location as per our conversation test day.

I really appreciate all your help in this matter

Sanjeev "sonny" k preet

General partner

The preet Group family LP

1544 Spring Hill Rd

Ste #9343

McLean VA 22102

Direct # 202-867-7500

Mobile # 703-867-7291

Begin forwarded message:

DeLorean 88 LLC_1050

From: sonny preet <preetsonny@yahoo.com>
Date: October 25, 2023 at 3:33:27 PM EDT
To: Sean Gordy <sean.gordy2@dc.gov>
Cc: easany@gmail.com
Subject: Re 1432 Wisconsin ave NW DC

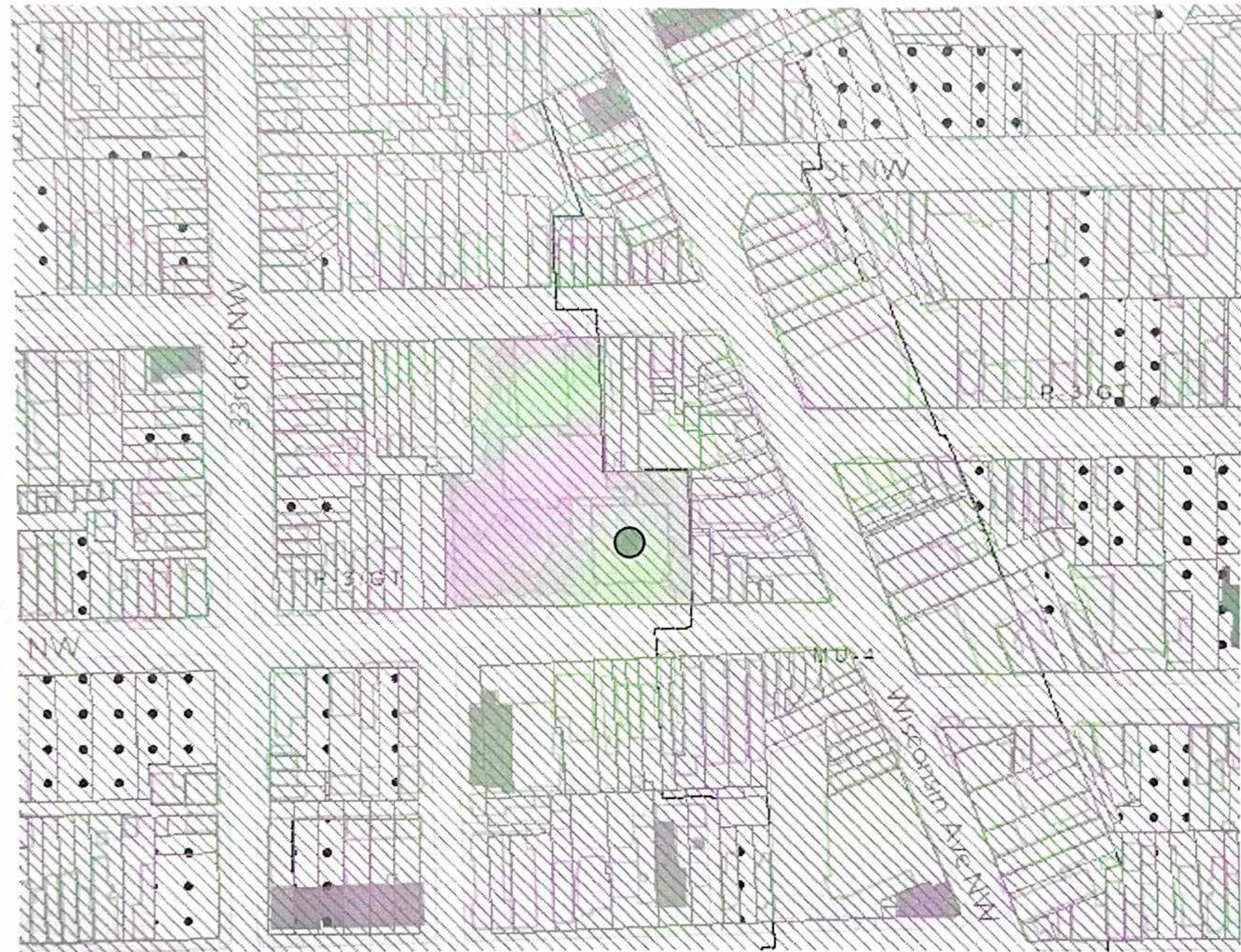
Hello Sean ,
It was nice to see you again and thank you so
much for your time
Please email me confirmation regarding my
building. 1432 Wisconsin ave NW DC 20007

Sanjeev "sonny" k preet
General partner
The preet Group family Lp
1544 Spring Hill Rd
Ste #9343
McLean VA 22102
Direct # 202-867-7500
Mobile # 703-867-7291

PropertyQuest report for 3219 O STREET NW created 31-10-2023



Interactive Map



Site Related Information

Highlights

- *In the Georgetown Historic District*
- *In the Commission of Fine Arts jurisdiction area*

**EXHIBIT
C**

Basic Information

3219 O STREET NW (HYDE-ADDISON ELEMENTARY SCHOOL)	
SSL (Square, Suffix & Lot)	1244 0854
Lot type	tax lot
Ward	Ward 2
ANC	ANC 2E
SMD	SMD 2E03
Neighborhood Cluster	Cluster 4
Police District	Second Police District
Police Service Area	PSA 206
Voting Precinct	Precinct 6
Zoning	<u>MU-4</u>
Zoning	<u>R-3/GT</u>
2020 census tract	<u>2.02</u>
2020 census block group	2
2020 census block	2006

Ownership and Taxes

Tax lot	1244 0854
Premises	3246 P ST NW WASHINGTON DC 20007
Owner	DISTRICT OF COLUMBIA
	2000 14TH ST NW 8TH FLOOR
	WASHINGTON DC 20009-4487
Use	Educational
Land area	64725 square feet
Tax rate	\$1.89 per \$100 assessed value
<i>Current assessment (2023)</i>	
land	\$10,572,830
improvements	\$4,040,650
total	\$14,613,480
<i>Proposed assessment (2024)</i>	
land	\$10,784,480
improvements	\$4,598,350
total	\$15,382,830

Re: 3219 O street NW DC 20007

DC Department of Buildings <dob@dc.gov>

Wed 11/15/2023 8:11 AM

To:preetsonny@yahoo.com <preetsonny@yahoo.com>

Cc:Phil Musolino <PMusolino@musolinodessel.com>

1 attachments (151 KB)

11-15-2023_-_1244__0854.pdf;

Good morning Mr. Preet:

According to the official zoning map maintained by the Office of Zoning, a separate District agency not part of the Department of Buildings, the subject property, square 1244, lot 0854 is zoned R-3/GT. I have downloaded a report for this property from the website and have attached it for your reference.

If you have questions about the zoning designation, please follow-up with the Office of Zoning directly. They may be reached by phone at (202) 727-6311 or email at dcoz@dc.gov.

Best regards,

Kathleen

Kathleen A. Beeton, AICP | Zoning Administrator

The Department of Buildings

kathleen.beeton@dc.gov | 1100 4th St SW, DC 20024

main: 202.671.3500 | desk: 202-442-4559 | cell: 202-705-3304

dob.dc.gov

On Tue, Nov 14, 2023 at 9:54 PM <dob@dc.gov> wrote:

Automatic Notification of New Conversation

On Tue, Nov 14, 2023 at 9:53 PM <preetsonny@yahoo.com> wrote:

CAUTION: This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to phishing@dc.gov for additional analysis by OCTO Security Operations Center (SOC).

Hello Ms Beeton

Please see attached DC map which I printed out November 1st 2023

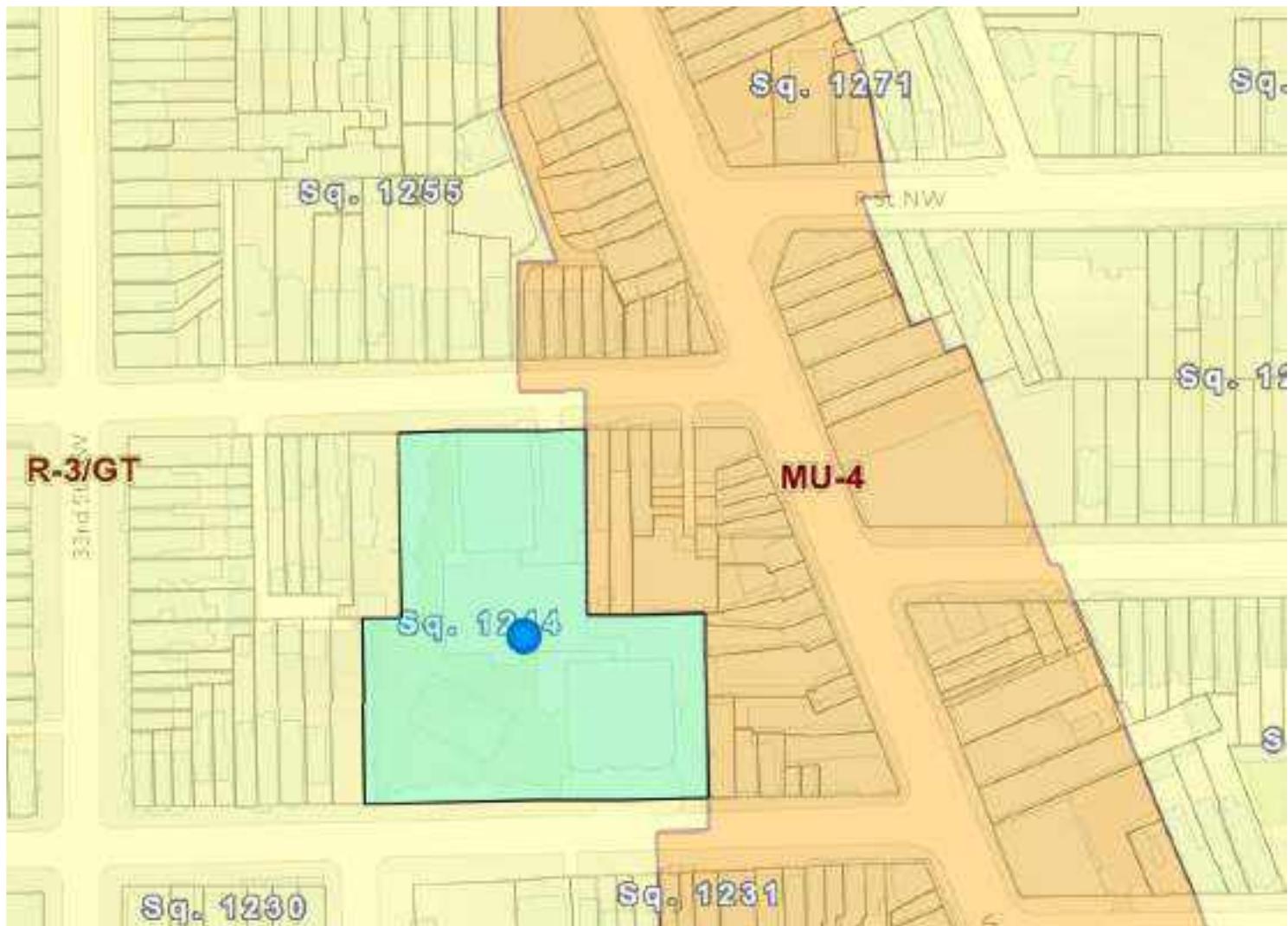
I need a Zonning confirmation from you that front door of this building 3219 O street NW DC 20007 is MU4 as per the Zonning map

I will really appreciate your attention in this matter

EXHIBIT

D

DeLorean 88 LLC_1054



Zoning Data Summary

Premises Address
3246 P ST NW WASHINGTON DC 20007

Council Member
Brooke Pinto

Square/Suffix/Lot
1244 0854

ANC
2E

Zoning District
R-3/GT

ANC Chairperson
Elizabeth H. Miller

PUDs
None

SMD
2E03

Ward
Ward 2

Commissioner
Paul Maysak

* For a detailed explanation of zoning related items, please refer to the DC Zoning Map glossary

** To the extent an active PUD exists on a particular site, the PUD zoning depicts the zoning in effect for that site

Zoning Details: R-3/GT

Description: Preserves mix of detached, semi-detached and attached dwellings and permits attached row houses on small lots

Building Category	Detached	Semi-Detached	Accessory Building not on a public or private alley
Dwelling Units	1	1	1
Minimum Lot Width (ft)	40	30	N/A
Minimum Lot Area (sqft)	4000	3000	N/A
Maximum Lot Occupancy (%)	40	40	100 sq ft
Maximum Height (ft)	35 (40 if adjacent building is already 40 ft or greater)	35 (40 if adjacent building is already 40 ft or greater)	10
Maximum Stories	3	3	1
Roof Structure	4 feet above building height	4 feet above building height	4 feet above building height
Front Setback (ft)	Consistent with at least one adjacent property	Consistent with at least one adjacent property	N/A
Front Build To (ft)			
Rear Yard Setback (ft)	20	20	5
Side Setback (ft)	5, if provided	5, if provided	N/A
Waterfront Setback (ft)			
Pervious Surface (%)	20	20	N/A
Maximum Floor Area Ratio			
Gross Floor Area			
Green Area Ratio			
Plaza			
Setbacks and Screening			
Design Requirements			
Tree Protection			

Zoning Details: R-3/GT

Description: Preserves mix of detached, semi-detached and attached dwellings and permits attached row houses on small lots

Building Category	Attached	IZ Attached	All Other Buildings & Structures
Dwelling Units	1	1	1
Minimum Lot Width (ft)	20	16	40
Minimum Lot Area (sqft)	2000	1600	4000
Maximum Lot Occupancy (%)	60	40	40
Maximum Height (ft)	35 (40 if adjacent building is already 40 ft or greater)	35 (40 if adjacent building is already 40 ft or greater)	35 (40 if adjacent building is already 40 ft or greater)
Maximum Stories	3	3	3
Roof Structure	4 feet above building height	4 feet above building height	4 feet above building height
Front Setback (ft)	Consistent with at least one adjacent property	Consistent with at least one adjacent property	Consistent with at least one adjacent property
Front Build To (ft)			
Rear Yard Setback (ft)	20	20	20
Side Setback (ft)	5, if provided	5, if provided	5, if provided
Waterfront Setback (ft)			
Pervious Surface (%)	20	20	20
Maximum Floor Area Ratio			
Gross Floor Area			
Green Area Ratio			
Plaza			
Setbacks and Screening			
Design Requirements			
Tree Protection			

Zoning Details: R-3/GT

Description: Preserves mix of detached, semi-detached and attached dwellings and permits attached row houses on small lots

Building Category	Institutional	Accessory Building on a public or private alley
Dwelling Units	1	1
Minimum Lot Width (ft)	40	N/A
Minimum Lot Area (sqft)	4000	N/A
Maximum Lot Occupancy (%)	60	450 Sq Ft
Maximum Height (ft)	90	15
Maximum Stories	N/A	1
Roof Structure	18 ft. 6 in. for mechanical space	4 feet above building height
Front Setback (ft)	Consistent with at least one adjacent property	N/A
Front Build To (ft)		
Rear Yard Setback (ft)	20	5
Side Setback (ft)	5, if provided	N/A
Waterfront Setback (ft)		
Pervious Surface (%)	20	N/A
Maximum Floor Area Ratio		
Gross Floor Area		
Green Area Ratio		
Plaza		
Setbacks and Screening		
Design Requirements		
Tree Protection		

CASES/ORDERS

Listed below are the ZC and BZA cases associated with the Square, Parcel, Lot(s) related to this zoning report. Case information is available online at <https://app.dcoz.dc.gov/Home/Search>

Board Zoning Adjustment (BZA) Case Number:

'No BZA case numbers associated with this Square and/or Lot'

Zoning Commission (ZC) Case Number:

77-46 0854

POLITICAL JURISDICTION REPRESENTATIVES

Ward Ward 2	ANC 2E	SMD 2E03
Council Member Brooke Pinto	ANC Chairperson Elizabeth H. Miller	Commissioner Paul Maysak
Phone Number (202) 724-8058	Phone Number	Phone Number TBD
Email Address bpinto@dccouncil.gov	Email Address 2E@anc.dc.gov	Email Address 2E03@anc.dc.gov
Office Location 1350 Pennsylvania Avenue NW Suite 106	Office Location Unavailable	Office Location 3267 P ST NW
Website	Website http://anc.dc.gov/page/advisory-neighborhood-commission-2e	Website https://anc.dc.gov/page/advisory-neighborhood-commission-2E

December 13, 2023

DeLorean 88, LLC
413 East Capitol St SE – Ground Floor
Washington, DC 20003

RE: Retailer License
ABCA-126807

Dear Applicant:

Thank you for submitting your application for a medical cannabis retailer license. We regret to inform you that your application has been denied as it does not meet the requirements set by the DC Official Code 7-1671.06A. This application is denied due to the following issue:

- Proximity of the proposed location to schools or recreation centers (within 300 feet of Hyde-Addison Elementary School)

Please be aware that if an applicant receives a written denial decision from the ABC Board, they have 15 days from the date of receipt to submit a written appeal to the ABC Board requesting reconsideration of the denial decision. Along with the appeal, the applicant may provide relevant documentation or evidence that challenges the findings of fact or conclusions of law in the written denial decision. If an appeal is submitted, the ABC Board is required to hold a hearing and provide a decision within 30 days.

If the applicant decides not to appeal the written denial decision or if the ABC Board renders a decision on an appeal, the ABC Board will notify the unlicensed establishment that it must close within 30 days of receipt of the denial. Failure to comply with this decision may result in penalties under D.C. Official Code § 47-2844(a2) (1B).

If you have questions or need further assistance, do not hesitate to contact me.

Sincerely,

Emoni Boone

Emoni Boone
emoni.boone@gov

**EXHIBIT
E**

THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

In the Matter of:

New Retailer License
DeLorean 88, LLC
1432 Wisconsin Avenue N.W.
Washington, DC 20007

Case No.:
License No.: ABCA-126807
Order No.:

**DELOREAN 88, LLC NOTICE OF APPEAL
AND REQUEST FOR RECONSIDERATION**

COMES NOW DeLorean 88 LLC ("DeLorean"), by and through undersigned counsel, and, pursuant to D.C. Code § 7-1671.06, including subpart(b)(2)(B)(i) and such other provisions of law as are applicable, notes its Appeal and request for reconsideration to the ABC Board of the December 13, 2023, Alcoholic Beverage and Cannabis Board denial (the "Denial") of Alcoholic Beverage and Cannabis Administration ("ABC") License No. 126807. A copy of the Denial is appended hereto as **Appendix A**.

Applicant/appellant adopts and incorporates as if specifically set out herein the Application and all attachments filed on or about November 1, 2023.

Applicant/appellant seeks review and reconsideration of the Denial, including the finding and conclusion that "[t]he application is denied due to...proximity of the proposed location to schools or recreation centers (with 300 feet of Hyde-Addison Elementary School.)" *See Appendix B-1* (unnumbered 4 pages appended to Application at "GIS Map"), **Appendix B-2** (map noting MU-4 and R3-GT zoning of Hyde-Addison Elementary School as of October 31, 2023) **Appendix B-3** (February 11, 2021 report from ABRA Investigator Kevin Puente regarding 1438 Wisconsin Ave., NW, and Hyde-Addison Elementary School), and *see Heyert v. D.C., Alcoholic Beverage Control Bd.*, 399 A.2d 1309, 1312 (D.C. 1979).

**EXHIBIT
F**

DeLorean 88 LLC_1061

DeLorean 88 LLC

Respectfully submitted,

/s/Philip M. Musolino

Philip M. Musolino
D.C. Bar No.: 294652
Musolino & Dessel, PLLC
1615 L Street, N.W., Suite 440
Washington, D.C. 20036
Phone: (202) 466-3883
Fax: (202) 775-7477
Email: PMusolino@MusolinoandDessel.com
Counsel for DeLorean 88 LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December 2023, I caused a true and correct copy of the foregoing to be served via electronic mail and certified mail to the following address:

Alcoholic Beverage & Cannabis Administration
2000 14th Street, N.W.
4th Floor, Suite 400 South
Washington, D.C. 20009
Email: abra.legal@dc.gov
Email: abca.legal@dc.gov
Email: abca.cannabislicensing@dc.gov
Email: emoni.boone@dc.gov
Email: sean.gordy2@dc.gov
Email: martha.jenkins@dc.gov
Email: jonathan.berman@dc.gov

/s/ Philip M. Musolino
Philip M. Musolino

December 13, 2023

DeLorean 88, LLC
413 East Capitol St SE – Ground Floor
Washington, DC 20003

RE: Retailer License
ABCA-126807

Dear Applicant:

Thank you for submitting your application for a medical cannabis retailer license. We regret to inform you that your application has been denied as it does not meet the requirements set by the DC Official Code 7-1671.06A. This application is denied due to the following issue:

- Proximity of the proposed location to schools or recreation centers (within 300 feet of Hyde-Addison Elementary School)

Please be aware that if an applicant receives a written denial decision from the ABC Board, they have 15 days from the date of receipt to submit a written appeal to the ABC Board requesting reconsideration of the denial decision. Along with the appeal, the applicant may provide relevant documentation or evidence that challenges the findings of fact or conclusions of law in the written denial decision. If an appeal is submitted, the ABC Board is required to hold a hearing and provide a decision within 30 days.

If the applicant decides not to appeal the written denial decision or if the ABC Board renders a decision on an appeal, the ABC Board will notify the unlicensed establishment that it must close within 30 days of receipt of the denial. Failure to comply with this decision may result in penalties under D.C. Official Code § 47-2844(a2) (1B).

If you have questions or need further assistance, do not hesitate to contact me.

Sincerely,

Emoni Boone

Emoni Boone
emoni.boone@gov

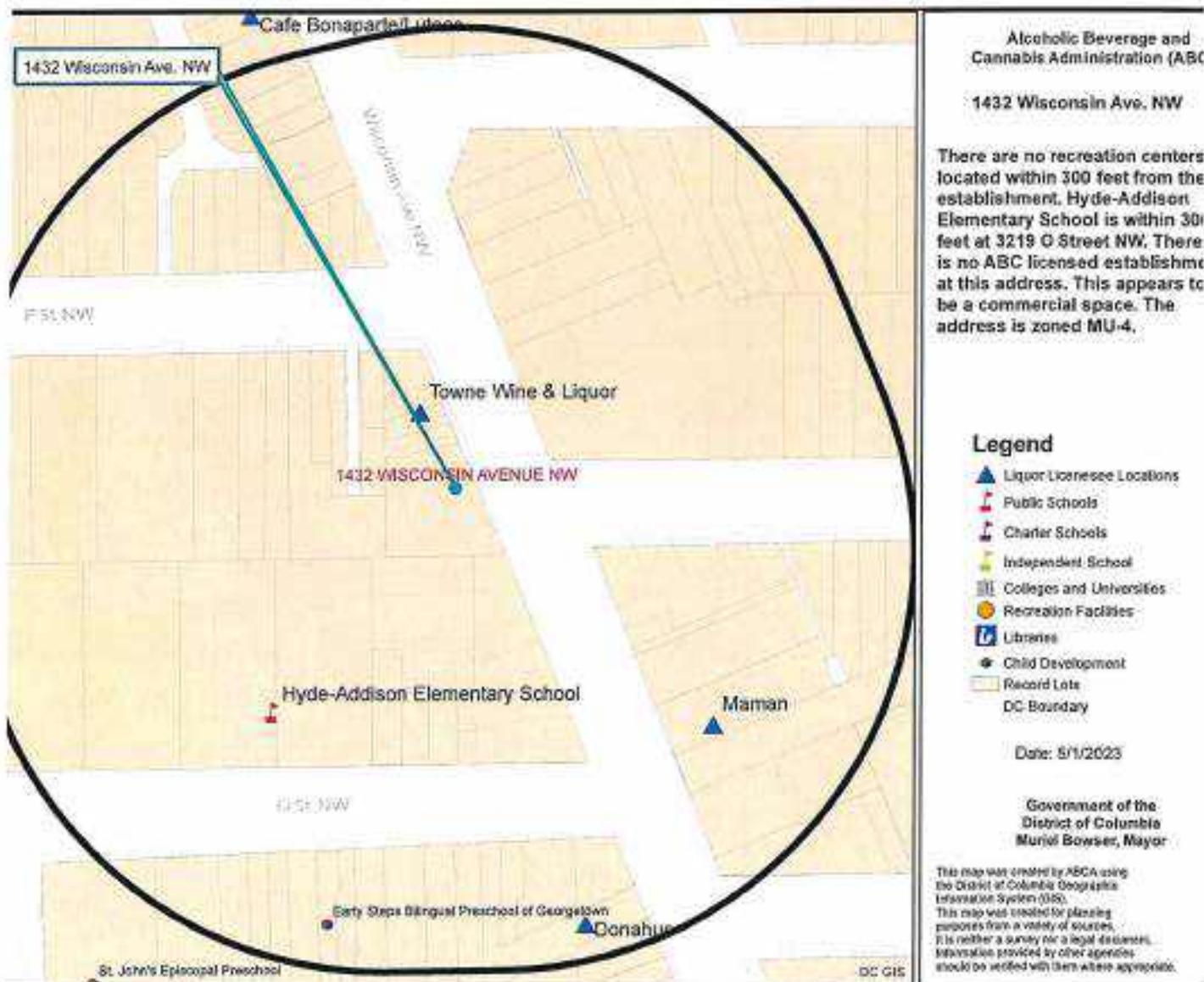
APPENDIX A

DeLorean 88 LLC

Medical Cannabis Business License Application –
Retailer

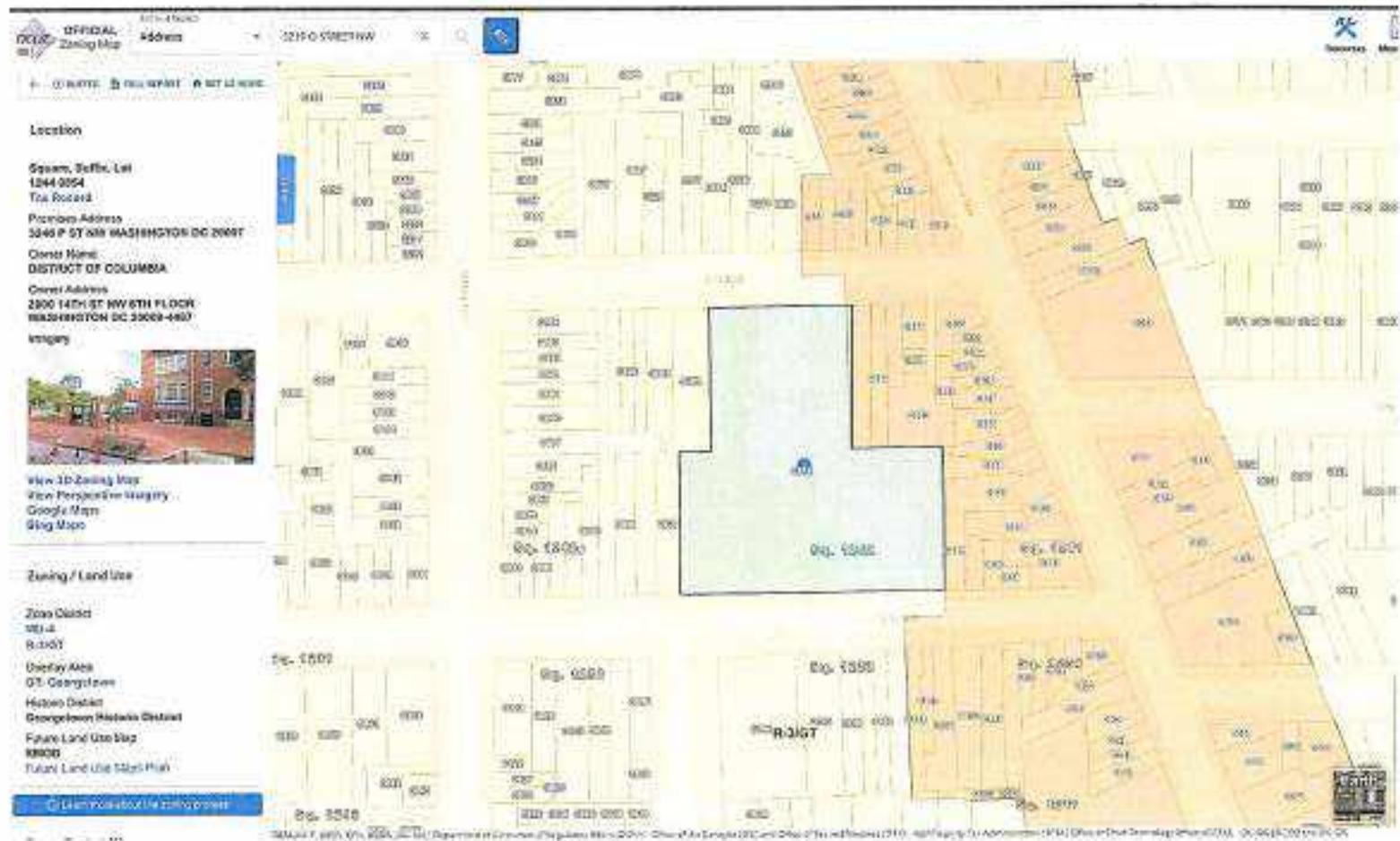
**GIS Map
1432 Wisconsin Ave, NW**

**APPENDIX
B-1**



DeLorean 88 LLC t/a DeLorean has identified property for its medical cannabis retail facility at 1432 Wisconsin Avenue, NW Washington, D.C. 20007. The property, which is zoned as MU-4, is located less than 300 feet from the property line of Hyde Addison Elementary School, located at 3219 O Street, NW Washington, D.C. 20007, however, it meets the exemption in 22 D.C.M.R. § C5200.1. Specifically, 22 D.C.M.R. § C5200.1 states that a proposed medical cannabis facility is exempt from the 300 foot setback, where “the nearest property line of the school...is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.”

The Zoning Report for 3219 O Street, NW, which is attached here, indicates that Hyde Addison Elementary has two zoning designations – MU-4 and R-3/GT. The Office of Surveyor’s survey of the Hyde Addison Elementary plat, also attached here, indicates that the property line which faces Wisconsin Avenue is in an MU-4 zone. This MU-4 designation satisfies the 22 D.C.M.R. § C5200.1 exemption.

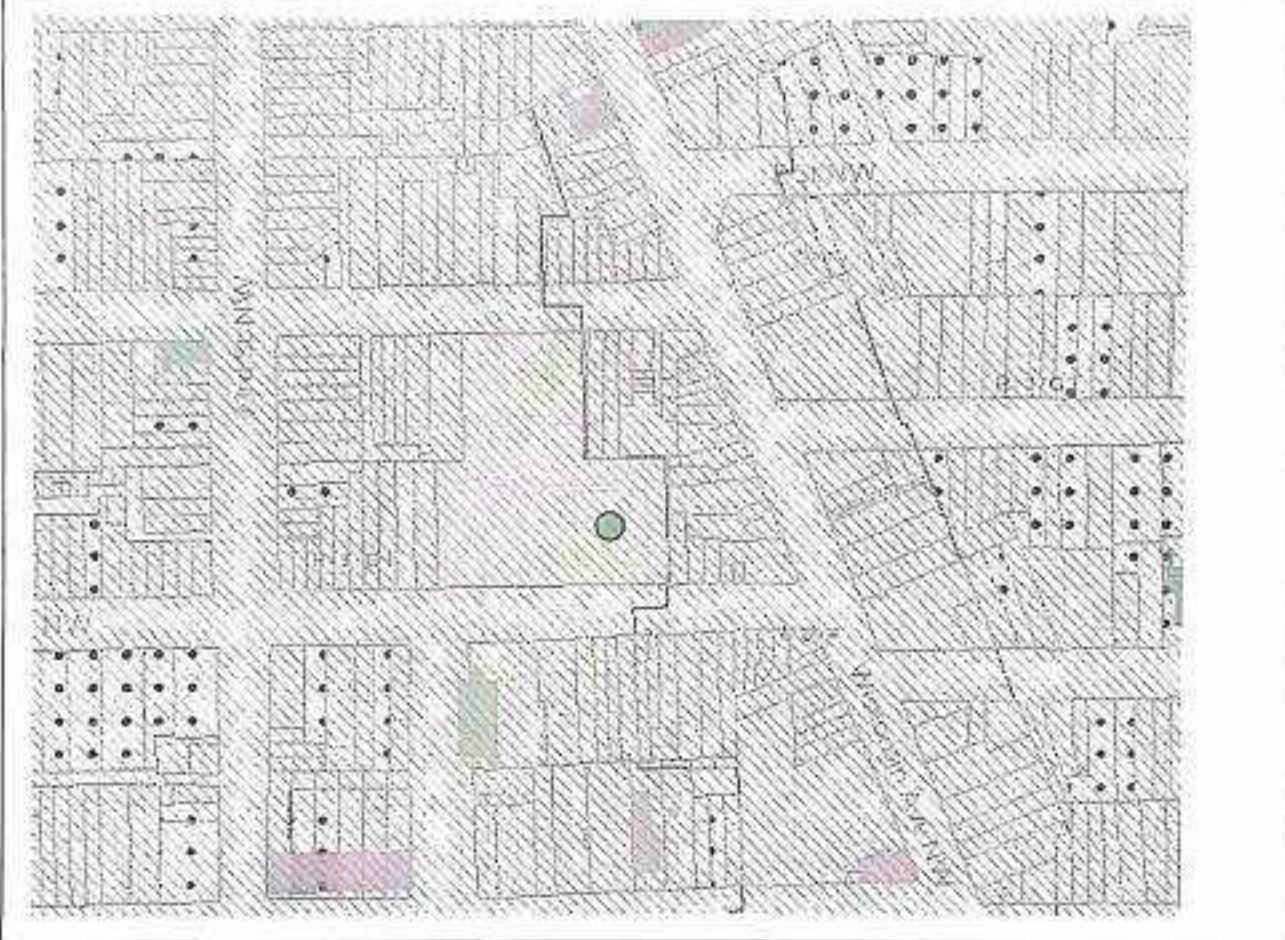


DeLorean 88 LLC_1067

PropertyQuest report for 3219 O
STREET NW created 31-10-2023



Interactive Map



Site Related Information

Highlights

- *In the Georgetown Historic District*
- *In the Commission of Fine Arts jurisdiction area*

APPENDIX B-2

Basic Information

3219 O STREET NW (HYDE-ADDISON ELEMENTARY SCHOOL)

SSL (Square, Suffix & Lot)	1244 0854
Lot type	tax lot
Ward	Ward 2
ANC	ANC 2E
SMD	SMD 2E03
Neighborhood Cluster	Cluster 4
Police District	Second Police District
Police Service Area	PSA 206
Voting Precinct	Precinct 6
Zoning	MU-4
Zoning	R-3/GT
2020 census tract	2.02
2020 census block group	2
2020 census block	2006

Ownership and Taxes

Tax lot	1244 0854
Premises	3246 P ST NW WASHINGTON DC 20007
Owner	DISTRICT OF COLUMBIA 2000 14TH ST NW 8TH FLOOR WASHINGTON DC 20009-4487
Use	Educational
Land area	64725 square feet
Tax rate	\$1.89 per \$100 assessed value
<i>Current assessment (2023)</i>	
land	\$10,572,830
improvements	\$4,040,650
total	\$14,613,480
<i>Proposed assessment (2024)</i>	
land	\$10,784,480
improvements	\$4,598,350
total	\$15,382,830

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Alcoholic Beverage Regulation Administration



DATE: February 11, 2021
TO: John Suero
Chief of Enforcement
THRU: Jason Peru
Supervisory Investigator
FROM: Kevin Puente *KP 4-29*
Investigator
SUBJECT: Towne Wine & Liquor

Details: On Wednesday, February 10, 2021, Investigator Puente conducted an investigation regarding Towne Wine & Liquor. Towne Wine & Liquor (Class A Liquor Store) is currently located at 1326 Wisconsin Ave N.W., has applied to move up the street to 1438 Wisconsin Ave N.W. The applicant's proposed address is located within 400 feet of Hyde Addison Elementary School which is currently located at 3219 O Street N.W. Hyde Addison Elementary School is currently zoned Residential and Mix Use according to the District of Columbia Zoning maps. Investigator Puente was tasked with determining whether the nearest property line of Hyde Elementary School to 1438 Wisconsin Avenue, NW is zoned MU-4 or R-20.

Investigator Puente went out to the establishment and measured the distance of Hyde Addison Elementary to Towne Wine & Liquors current location and then from the proposed new location. From the current location at 1326 Wisconsin Avenue N.W. to Addison Elementary school is 371 feet. From the new location at 1438 Wisconsin Avenue N.W. to Addison Elementary School is 381 feet.

Investigator Puente observed that on the east side of the property which abuts commercial buildings is separated by a fence down the entire property line.

**APPENDIX
B-3**

Investigator Puente conducted checks on the District of Columbia Zoning website, Property quest website and the Department of Transportation (DDOT), and determined that the east side property line runs into the MU-4 Zone. Investigator Puente was able to determine this by the maps that were provided on the websites and that are highlighted that shows the property line for Addison Elementary School starts in Residential and then moves into the Mix-Use Zone and back into the Residential Zone.

Investigator Puente determined that the nearest property line to 1438 Wisconsin Avenue N.W., falls into the Mix-Use Zone.

23-12-27 DeLorean 88 LLC Written Appeal

Final Audit Report

2023-12-27

Created:	2023-12-27
By:	Philip Musolino (pmusolino@musolinoanddessel.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAANxiXudEw9CeIAhIJh8BbgOgOLhmeq

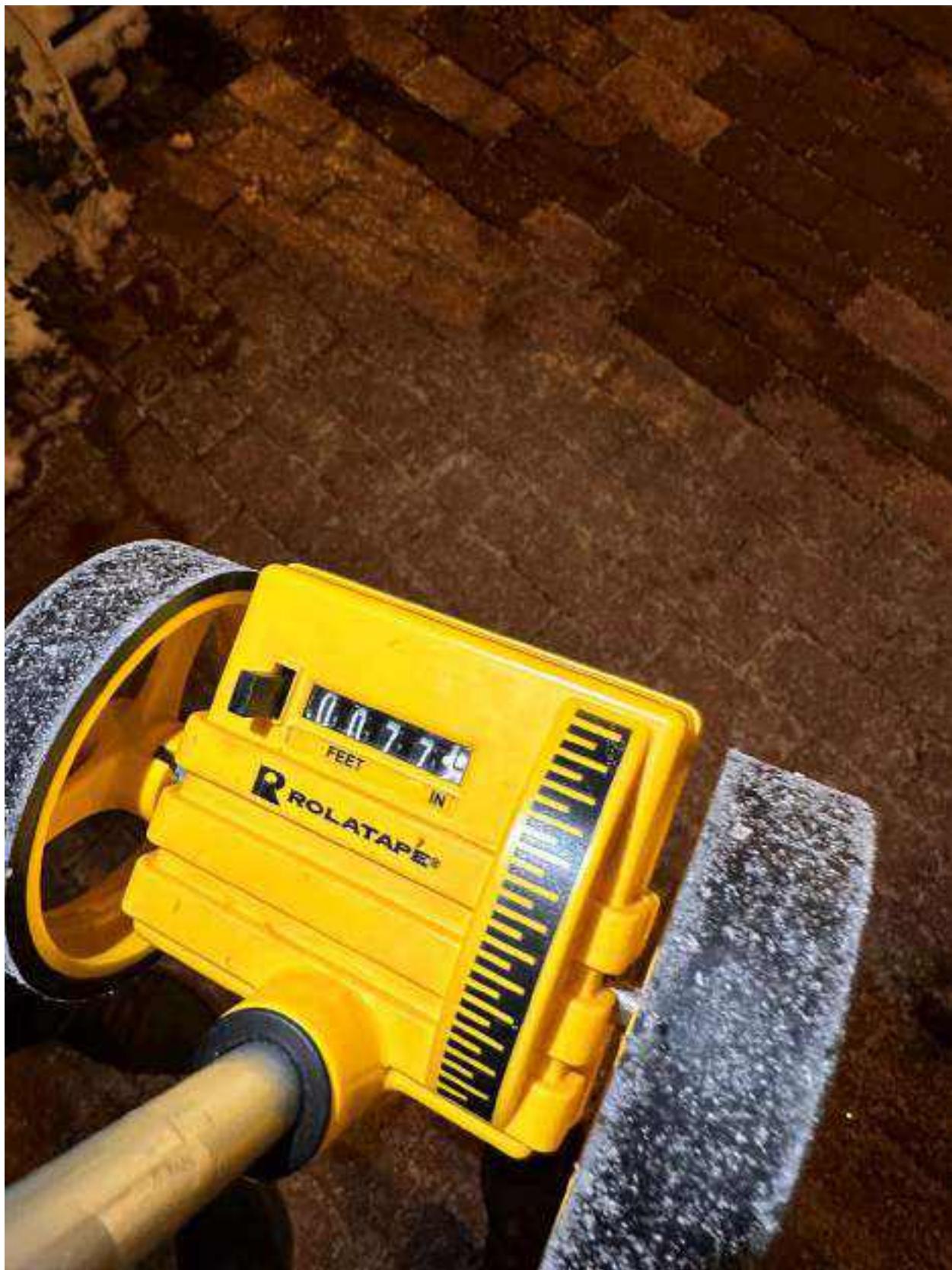
"23-12-27 DeLorean 88 LLC Written Appeal" History

- Document created by Philip Musolino (pmusolino@musolinoanddessel.com)
2023-12-27 - 6:58:50 PM GMT- IP address: 73.211.32.21
- Document emailed to jimmylee23@gmail.com for signature
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DeLorean 88 LLC_1072



DeLorean 88 LLC_1073

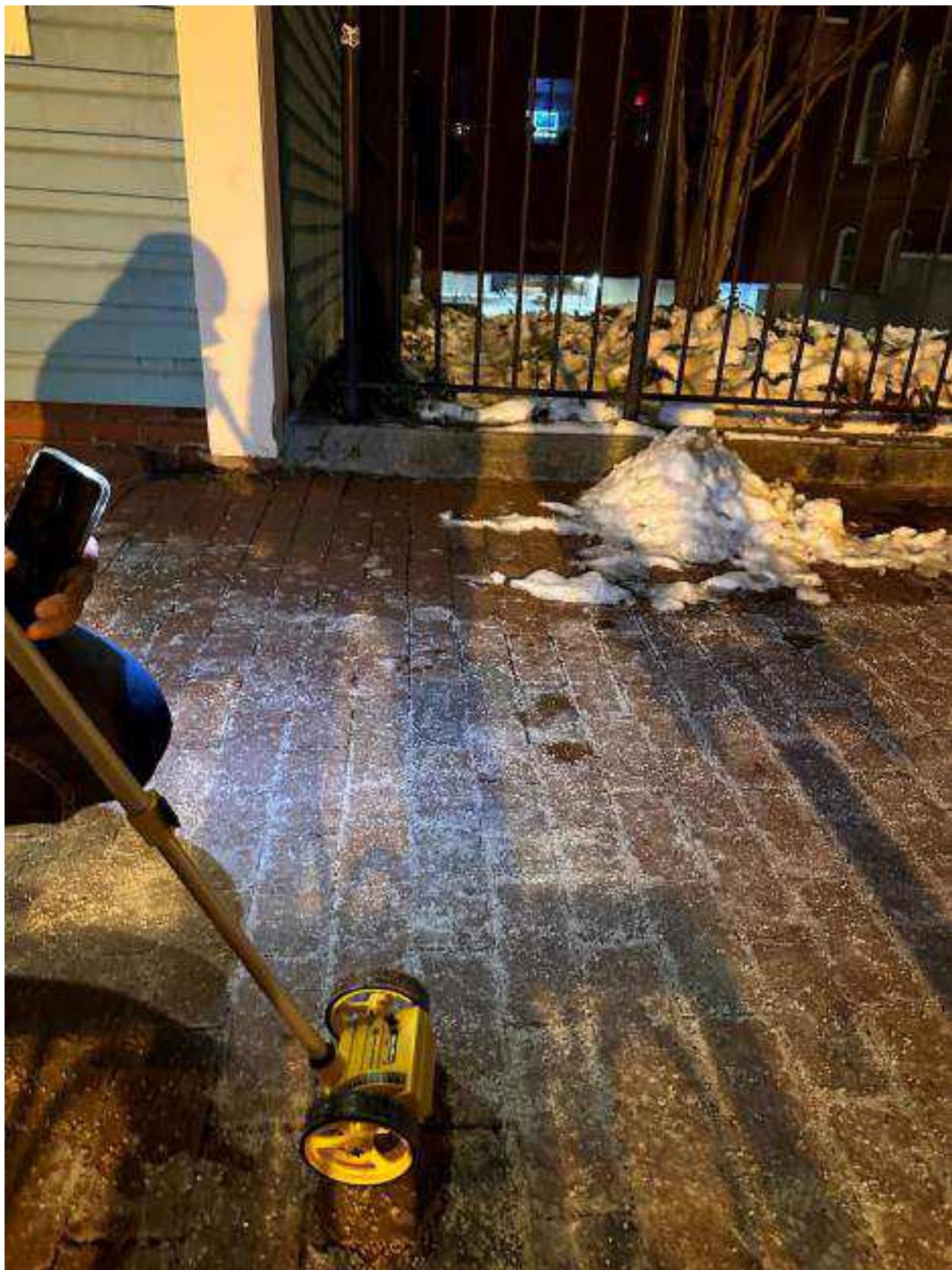
EXHIBIT
G



DeLorean 88 LLC_1074



DeLorean 88 LLC_1075



DeLorean 88 LLC_1076

From: "Bardin, Sara (DCOZ)" <sara.bardin@dc.gov>
Date: January 24, 2024 at 10:42:31 AM EST
To: sonny preet <preetsonny@yahoo.com>
Cc: "Phil Musolino (Lawyer)" <PMusolino@musolinoanddessel.com>, "Leopold (Phils Office) Harris" <lharris@musolinoanddessel.com>, sonny preet <sanjeevpreet@gmail.com>, "Schellin, Sharon (DCOZ)" <sharon.schellin@dc.gov>, "Sakinejad, Michael (DCOZ)" <michael.sakinejad@dc.gov>
Subject: RE: 3219 O street NW DC 20007

Mr. Preet:

My recollection (and my colleagues) is that we stated that if you provided us a survey from (an official source, ie. the DC Office of the Surveyor), that I would consider it. This does not satisfy our discussion.

Sincerely,
Sara

Sara Bardin
Director

**EXHIBIT
D-2**



Office of Zoning | District of Columbia Government

www.dcoz.dc.gov | sara.bardin@dc.gov

441 4th Street, NW | Suite 200-S | Washington, DC 20001

(202) 727-5372 (office) | (202) 727-6072 (fax)

From: sonny preet <preetsonny@yahoo.com>

Sent: Tuesday, January 23, 2024 6:54 PM

To: Bardin, Sara (DCOZ) <sara.bardin@dc.gov>

Cc: Phil Musolino (Lawyer) <PMusolino@musolinoanddessel.com>; Leopold (Phils Office)

Harris <lharris@musolinoanddessel.com>; sonny preet <sanjeevpreet@gmail.com>

Subject: 3219 O street NW DC 20007

DeLorean 88 LLC_1078

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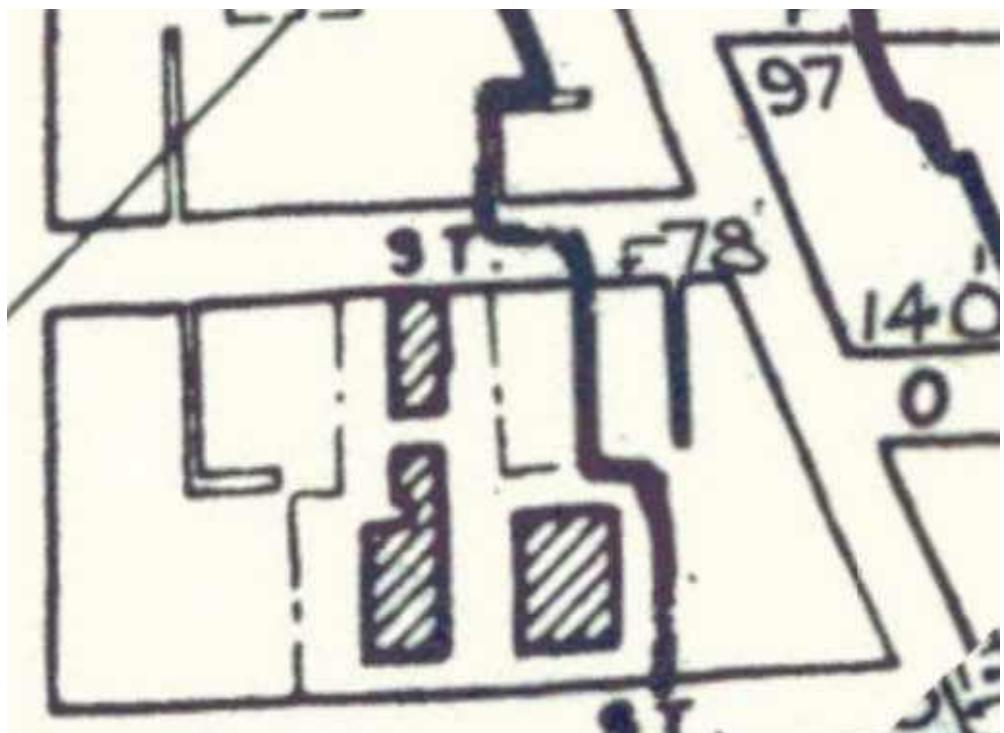
You don't often get email from preetsonny@yahoo.com. [Learn why this is important](#)

Dear Sara

Thank you for taking the time to meet with me on January 9, 2024, about the zoning at 3219 O Street NW, Washington, D.C. 20007. During our meeting, you suggested that you would reconsider if the 78-foot distance from the alley identified on the accompanying map suggests that the MU-4 zoning extended into the School Lot. On January 9, and 17, 2024, I and my cousin measured that space twice. As you can see from the attached photos, 78-feet extends beyond the building at the property line.

I would be happy to meet at the location with someone from your staff to review the measurements.

Thank you
Sanjeev " Sonny " k preet
General partner
The preet Group family LP
Direct 202-867-7500
Mobile 703-867-7291



1889-1929: Envisioning a World Class City

Home > 1889-1929: Envisioning a World Class City

NOV 23, 2019 | BOARD OF TRADE STAFF

At the time of the Board of Trade's founding, the District of Columbia was governed by committees in Congress rather than a local mayor and city council. The Board of Trade became a highly influential advocate for making the District a world-class city worthy of admiration and not just the seat of the federal government. Over the first forty years of its existence, the Board of Trade worked hard to establish itself as a trusted voice on the city's design, infrastructure, amenities, and policies.

Historical Facts on the Board of Trade (Part One)

(1) On November 27, 1889, many of the leading businessmen and professionals of Washington, D.C. traveled through heavy rain to gather in the Red Parlor of the Ebbitt House for the inaugural meeting of the Washington Board of Trade.

EXHIBIT
E-1

THE BOARD OF TRADE

Organization Effectuated Last Night by
Prominent Business Men.

THE OFFICERS AND DIRECTORS

**The Movement is a Popular One and Will
Result in Great Benefit to the City—A
Large Number Sign the Charter of the
New Washington Organization.**

When, a fortnight since, Mr. Isadore Saks suggested to some friends, while quietly enjoying their company at lunch, that this city needed a board of trade to make it rank with its sister cities and give it more prominence and a better standing throughout the country he little imagined that his suggestion would, in two weeks' time, ripen into an actual fact. From that coterie of gentlemen the movement evolved, spread, and grew. Business men gave it encouragement, the city papers boomed it, and with united indorsement on every side it could not be otherwise than popular, and success has been assured from the start.

(2) The Board of Trade was officially incorporated on December 2, 1889.

(3) The Board of Trade's original mission statement was "the advancement of material interests in the national capital... giving special attention to the promotion of public improvements."

(4) From the beginning, the Board of Trade's membership was not exclusively businessmen. It also included lawyers, physicians, journalists, and other professionals with a stake in the region's development.

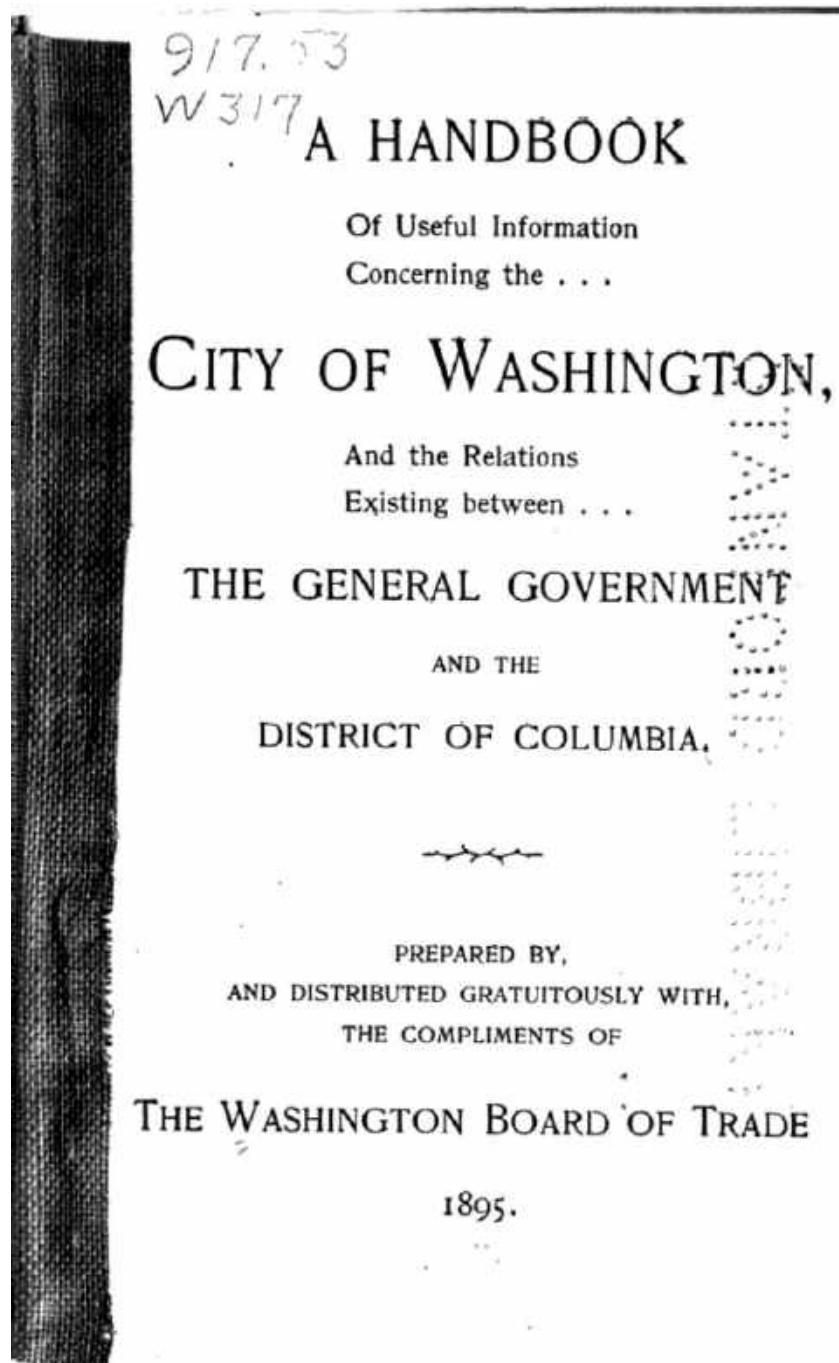
(5) At the time of the Board of Trade's founding, Washington, D.C. was federally governed. The Board of Trade sought to fill the vacuum of local governance, and in its 1892 annual report it claimed that it was "practically a state legislature, city council and chamber of commerce combined into one."

(6) Emma Gillet, a partner from the Newton & Gillet law firm, becomes the first female member of the Board of Trade in 1895.



Emma Gillet, partner of the Newton & Gillet Law Firm and first female member of the Board of Trade.

(7) The Board of Trade published a handbook about Washington in 1895 to explain the relationship between the federal government and the city and to provide useful information on area demographics, industries, schools, and tax rates.



A handbook of Washington, D.C. produced by the Board of Trade, 1895. Read the handbook [here](#).

(8) The Board of Trade's early committees were focused on urban services, including finance, taxation, transportation, arbitration, commerce, public buildings, parks and reservations, streets and avenues, charities, public health, trade organizations, water supply, harbor improvements, and railroads and boulevards to Baltimore.

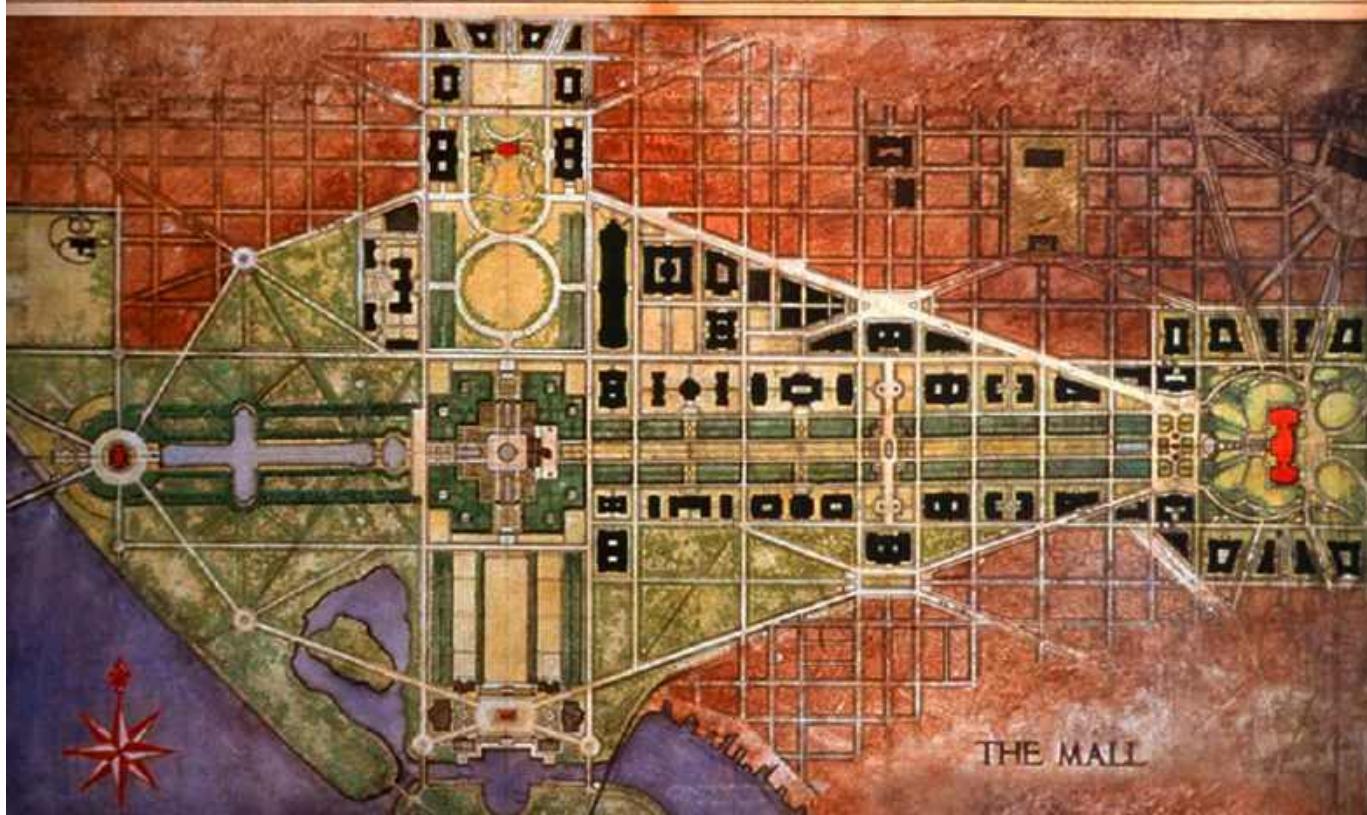
(9) In 1891, the Board of Trade began campaigning for a free public library in Washington which could be used by the general public. It secured legislation from Congress in 1895 and construction began a few years later.

(10) Inspired by the cultural grandeur of the World's Columbian Exposition in Chicago in 1893, the Board of Trade turned its focus in 1898 to beautifying Washington in honor of the nation's rich history.

(11) The Board of Trade moved its office to the new Evening Star building on Pennsylvania Avenue in 1900.

(12) In 1900, the Senate Park Commission Plan for the Washington, D.C. region was the first large-scale, comprehensive city plan in the nation's history. The Board of Trade influenced the design of this plan, namely in assuring that it included a large and thoughtfully planned park system. (See [What We Can Learn from Washington's History of Revolutionary City Planning](#).)

THE Mc MILLAN PLAN : 1901 - THE MALL



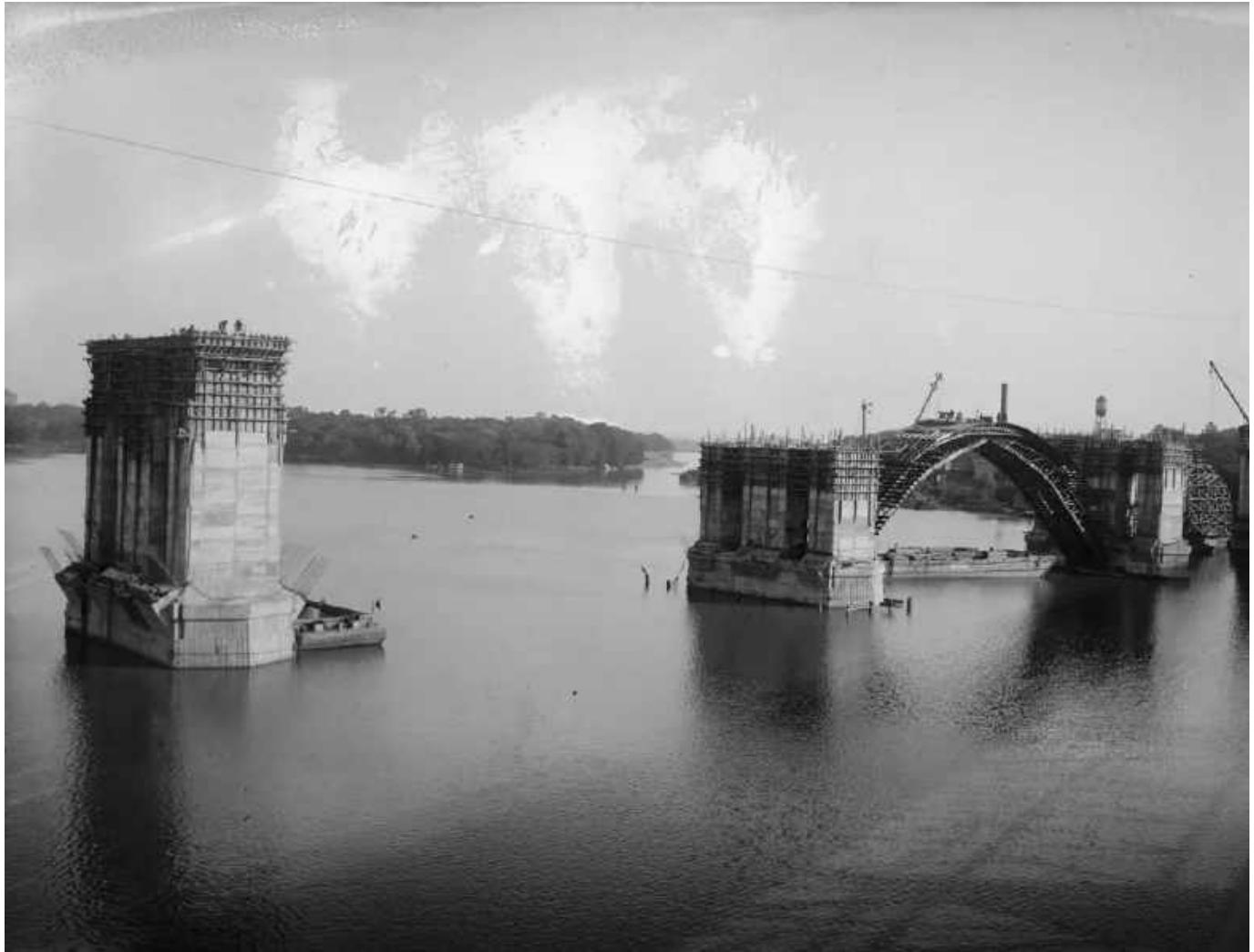
A part of the McMillan Plan, the first large-scale city plan in our nation's history.

(13) The Board of Trade established the Washington Chamber of Commerce in 1907 to address the city's industrial and commercial interests, leaving the Board of Trade to focus on civic matters and the general improvement and beautification of Washington. The Chamber and the Board of Trade played similar and complementary roles until they eventually merged back into one organization in the 1930's.



A dinner hosted by the Washington Board of Trade, 1907 (photo: Library of Congress)

(14) In 1908, the Board of Trade joined others in advocating for the reconstruction of the Aqueduct Bridge. In 1920, it was rebuilt as the Francis Scott Key Bridge and is the oldest surviving road bridge across the Potomac River.



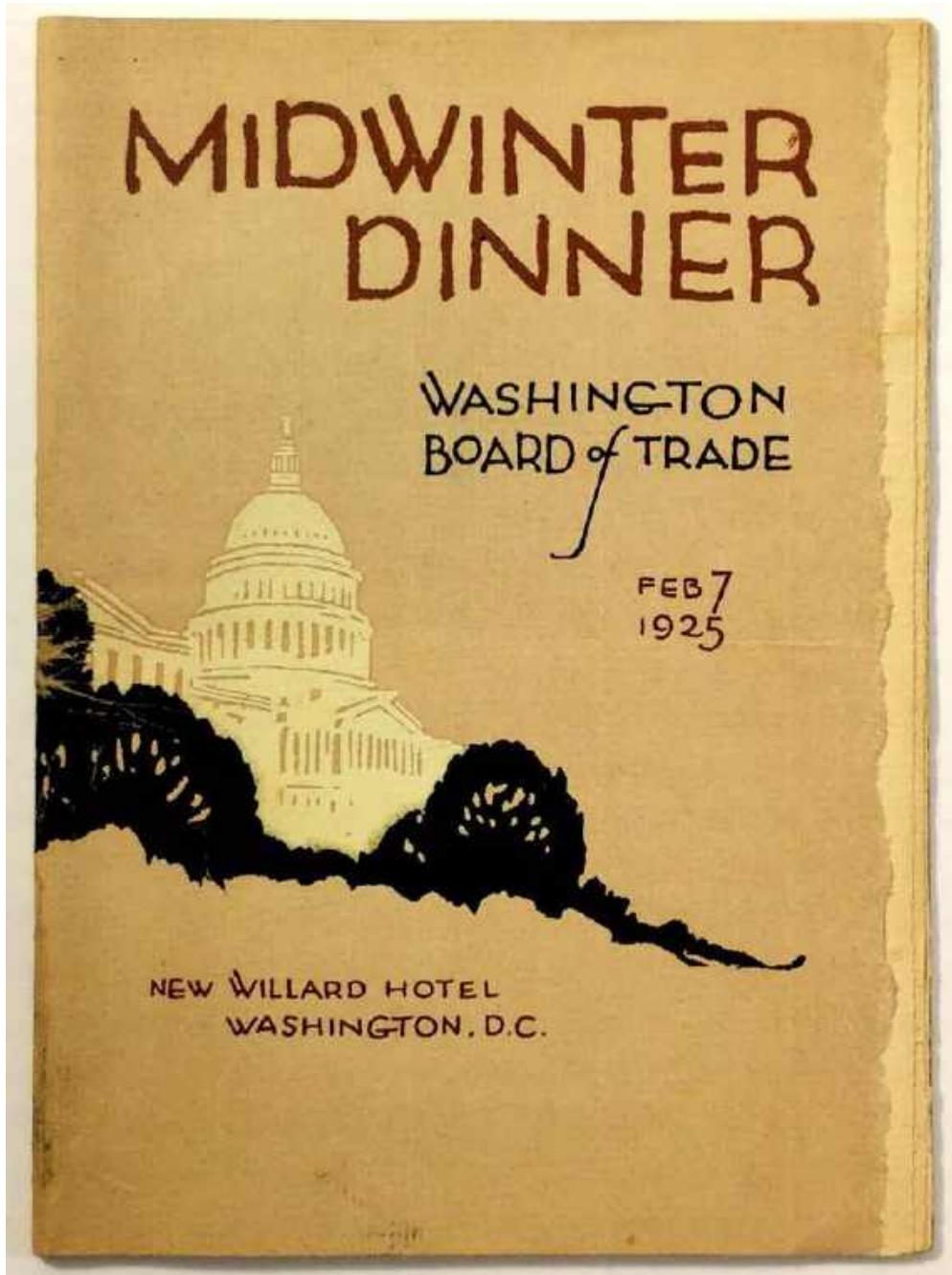
Key Bridge under construction, 1920 (photo: Library of Congress)

(15) In 1908, the Board of Trade urged the federal government to create a department of fine arts that included a board of consulting architects, artists, and sculptors who played critical roles in the beautification of the city.

(16) The Board of Trade formed a committee in 1916 to work for District representation in Congress and for the right of citizens to vote for President and Vice President.

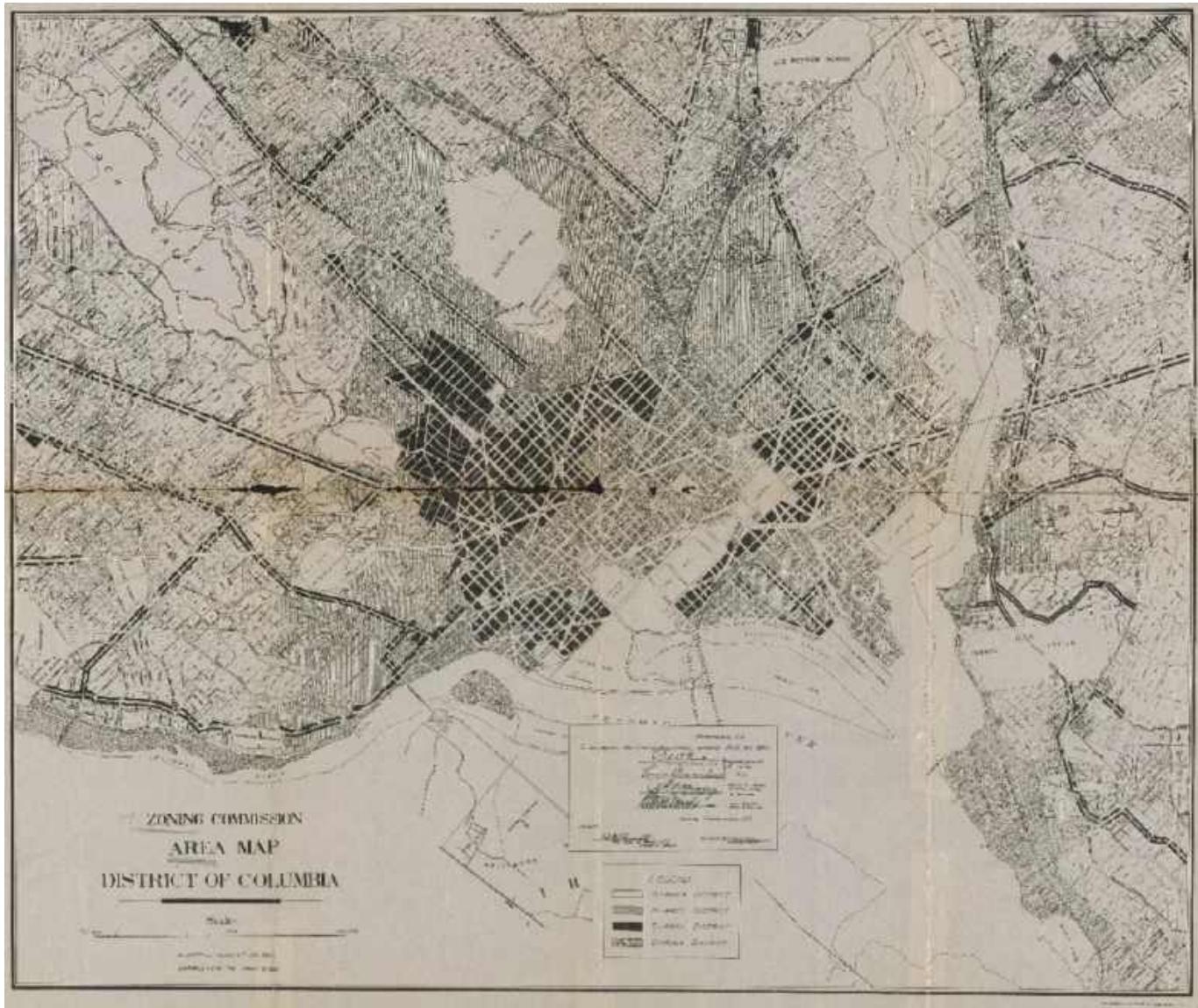
(17) In 1917 the Board of Trade issued a pictorial guide to Washington's sights entitled "Washington, The Nation's Capital." It claimed that Washington was a "model in government, in efficient municipal administration, in home building, street lighting, sanitary engineering, in education, policing, and in regulation of its public utilities."

(18) In 1919, the Board of Trade hosted its first Mid-Winter Dinner, a black-tie gala which has been an annual tradition ever since.



A program for the Mid-Winter Dinner, 1925

(19) In 1920, the District enacted its first zoning regulations. While this legislation was in development, the Board of Trade formed a zoning commission which persuaded lawmakers to extend industrial areas and increase building height limitations.



DC Zoning Commission Area Map, 1921 (photo: Intowner)

(20) In the 1920's, the Board of Trade became more formal, conservative, and risk-adverse. Though it already had several female members, in 1924 it amended its bylaws to disallow female members and removed those women from the rosters. This action was viewed as necessary for demonstrating the Board of Trade's seriousness. Women were not allowed in the Board of Trade again until 1959.

(21) The Board of Trade helped found the Washington Auditorium Corporation in January 1922 to build a venue for conventions and cultural events. The venue operated for over ten years but closed during the Great Depression.

(22) In 1924, the Board of Trade formed a special committee on conventions held in Washington. The committee helped organizers, provided information about the city, and assisted with registering conventioneers.

(23) In 1925, the Board of Trade helped establish the Washington Convention Bureau, which included representatives from the Board of Trade, the Washington Chamber of Commerce, the Merchants and Manufacturers Association, and the Hotel Men's Association.

(24) Congress authorized the construction of the Arlington Memorial Bridge in 1925, thereby fulfilling the last uncompleted obligation assigned to the Board of Trade by its original 1889 by-laws.



Arlington Memorial Bridge under construction, 1928 (photo: Library of Congress)

(25) A tax survey completed by the Board in 1927 helped prove that the District carried a fair tax burden and that the federal government needed to pay a greater share towards Washington's upkeep.

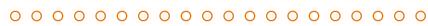
(26) In 1928, the Board of Trade's aviation committee toured airports and airplane factories throughout the country and urged the construction of the Washington National Airport to be placed within the District.

(27) The Board of Trade hosted its first themed Mid-Winter Dinner in 1929. The theme was "Around the World on a Cruise."

Continue reading >> 1930-1959: Mitigating Crises and Seizing Opportunities

(Unless otherwise stated, the source for the information presented in this article is Civics, Commerce, and Community: the History of the Greater Washington Board of Trade, 1889-1989.)

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Location

Square, Suffix, Lot

1244 0854

Tax Record

Premises Address

3246 P ST NW WASHINGTON DC 20007

Owner Name

DISTRICT OF COLUMBIA

Owner Address

2000 14TH ST NW 8TH FLOOR
WASHINGTON DC 20009-4487

Imagery



[View 3D Zoning Map](#)

[View Perspective Imagery](#)

[Google Maps](#)

[Bing Maps](#)

Zoning / Land Use

Zone District

MU-4

R-3/GT

Overlay Area

GT: Georgetown

Historic District

Georgetown Historic District

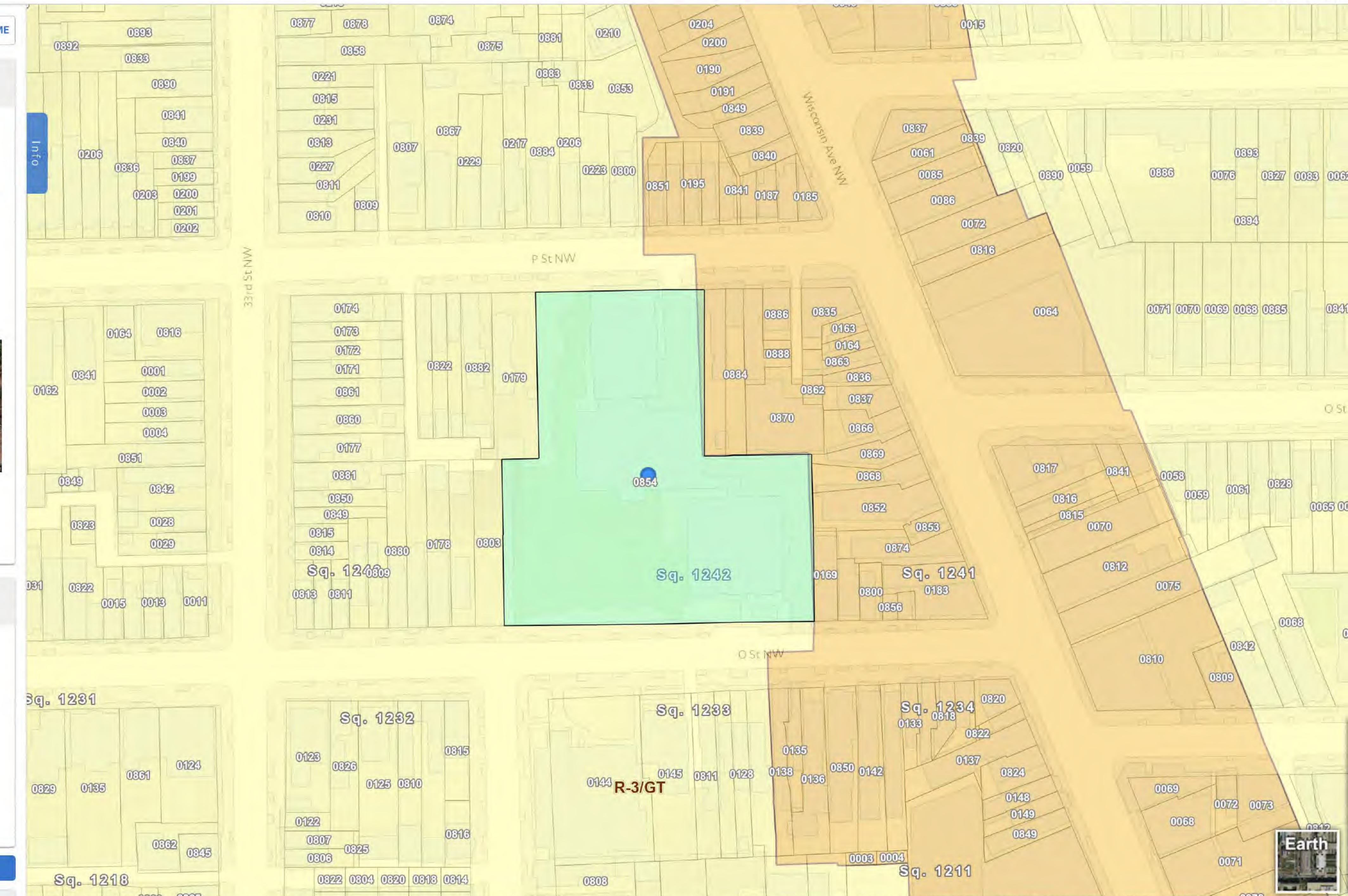
Future Land Use Map

RMOD

[Future Land Use Maps Plan](#)

[Learn more about the zoning process](#)

DeLorean 88 LLC _ 1091



PropertyQuest report for 3219 O STREET NW created 31-10-2023



Interactive Map



Site Related Information

Highlights

- *In the Georgetown Historic District*
- *In the Commission of Fine Arts jurisdiction area*

Basic Information

3219 O STREET NW (HYDE-ADDISON ELEMENTARY SCHOOL)	
SSL (Square, Suffix & Lot)	1244 0854
Lot type	tax lot
Ward	Ward 2
ANC	ANC 2E
SMD	SMD 2E03
Neighborhood Cluster	Cluster 4
Police District	Second Police District
Police Service Area	PSA 206
Voting Precinct	Precinct 6
Zoning	<u>MU-4</u>
Zoning	<u>R-3/GT</u>
2020 census tract	<u>2.02</u>
2020 census block group	2
2020 census block	2006

Ownership and Taxes

Tax lot	1244 0854
Premises	3246 P ST NW WASHINGTON DC 20007
Owner	DISTRICT OF COLUMBIA
	2000 14TH ST NW 8TH FLOOR
	WASHINGTON DC 20009-4487
Use	Educational
Land area	64725 square feet
Tax rate	\$1.89 per \$100 assessed value
<i>Current assessment (2023)</i>	
land	\$10,572,830
improvements	\$4,040,650
total	\$14,613,480
<i>Proposed assessment (2024)</i>	
land	\$10,784,480
improvements	\$4,598,350
total	\$15,382,830



DeLorean 88 LLC_1094

**EXHIBIT
E-3**



DeLorean 88 LLC_1095

Mo VA (4) Su We full DC DC US Sa DC M/ W Ta DC 13 20 Iss do + 

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CELEBRATIONS OF LEARNING

FINAL FRIDAY

CELEBRATIONS OF LEARNING

FINAL FRIDAY

CELEBRATIONS OF LEARNING

FINAL FRIDAY

School Office Hours 8 a.m. - 4:00 p.m.

School Hours 8:35 a.m. - 3:25 p.m. (early dismissal ends at 2:50 p.m.)

HYDE ADDISON ELEMENTARY SCHOOL, 3219 O STREET NORTHWEST, WASHINGTON, DC, 20007, UNITED STATES 202-282-0170 HYDE.ADDISON@K12.DC.GOV


DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

7:34 PM 1/18/2024

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Alcoholic Beverage Regulation Administration



DATE: February 11, 2021

TO: John Suero
Chief of Enforcement

THRU: Jason Peru
Supervisory Investigator

FROM: Kevin Puente *KP #22*
Investigator

SUBJECT: Towne Wine & Liquor

Details: On Wednesday, February 10, 2021, Investigator Puente conducted an investigation regarding Towne Wine & Liquor. Towne Wine & Liquor (Class A Liquor Store) is currently located at 1326 Wisconsin Ave N.W., has applied to move up the street to 1438 Wisconsin Ave N.W. The applicant's proposed address is located within 400 feet of Hyde Addison Elementary School which is currently located at 3219 O Street N.W. Hyde Addison Elementary School is currently zoned Residential and Mix Use according to the District of Columbia Zoning maps. Investigator Puente was tasked with determining whether the nearest property line of Hyde Elementary School to 1438 Wisconsin Avenue, NW is zoned MU-4 or R-20.

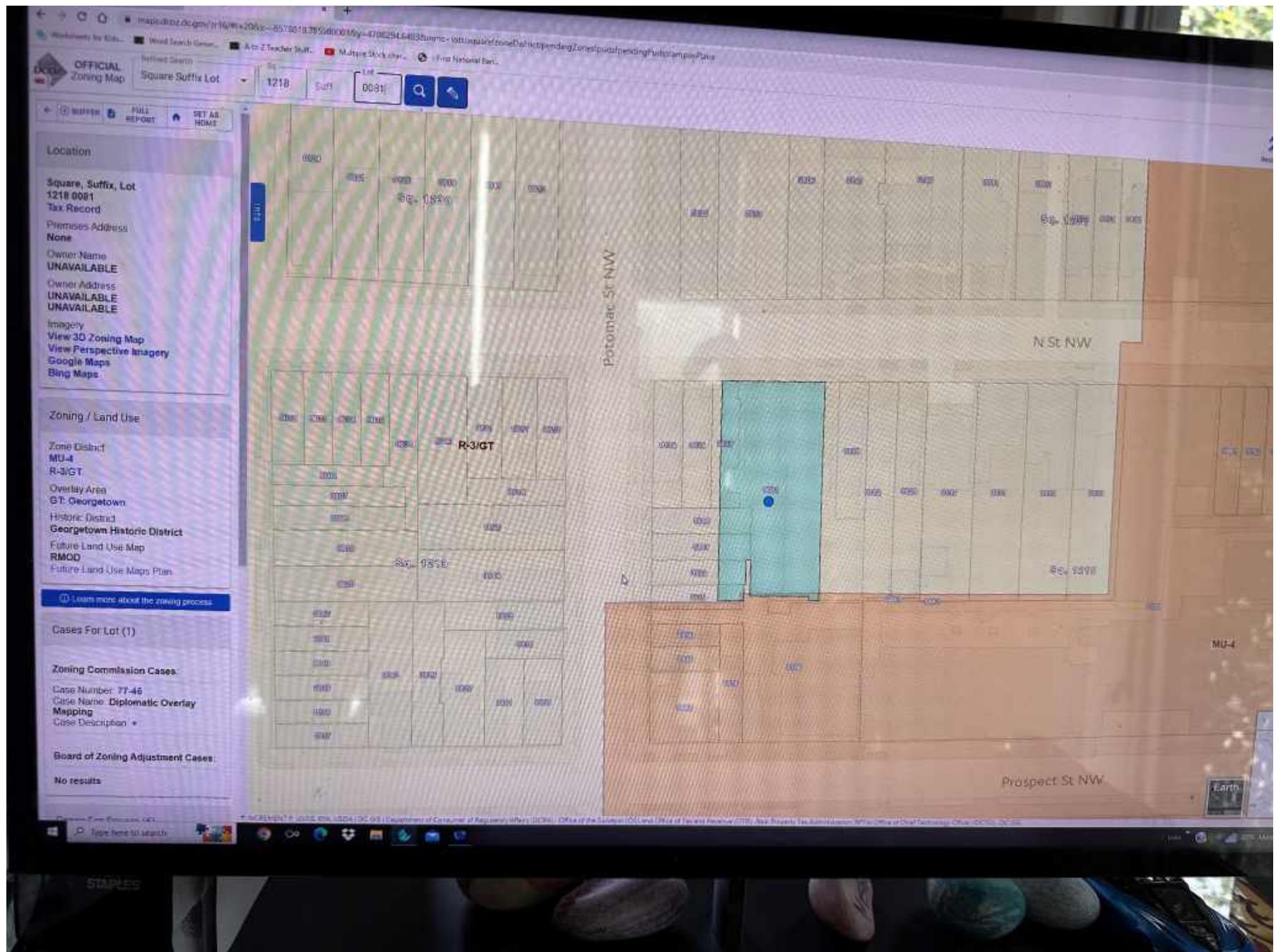
Investigator Puente went out to the establishment and measured the distance of Hyde Addison Elementary to Towne Wine & Liquors current location and then from the proposed new location. From the current location at 1326 Wisconsin Avenue N.W. to Addison Elementary school is 371 feet. From the new location at 1438 Wisconsin Avenue N.W. to Addison Elementary School is 381 feet.

Investigator Puente observed that on the east side of the property which abuts commercial buildings is separated by a fence down the entire property line.

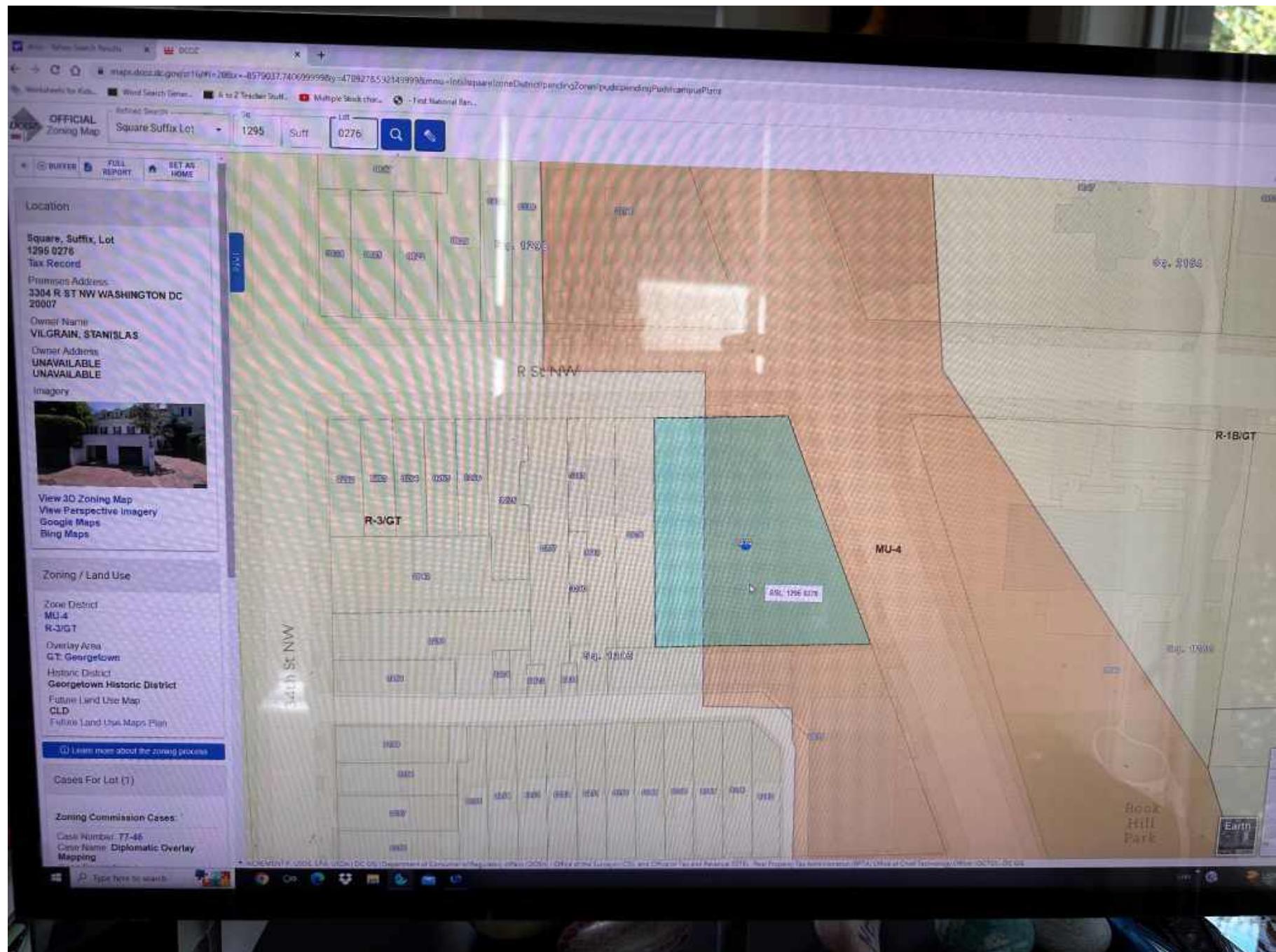
**EXHIBIT
E-4**

Investigator Puente conducted checks on the District of Columbia Zoning website, Property quest website and the Department of Transportation (DDOT), and determined that the east side property line runs into the MU-4 Zone. Investigator Puente was able to determine this by the maps that were provided on the websites and that are highlighted that shows the property line for Addison Elementary School starts in Residential and then moves into the Mix-Use Zone and back into the Residential Zone.

Investigator Puente determined that the nearest property line to 1438 Wisconsin Avenue N.W., falls into the Mix-Use Zone.



DeLorean 88 LLC_1099



DeLorean 88 LLC_1100