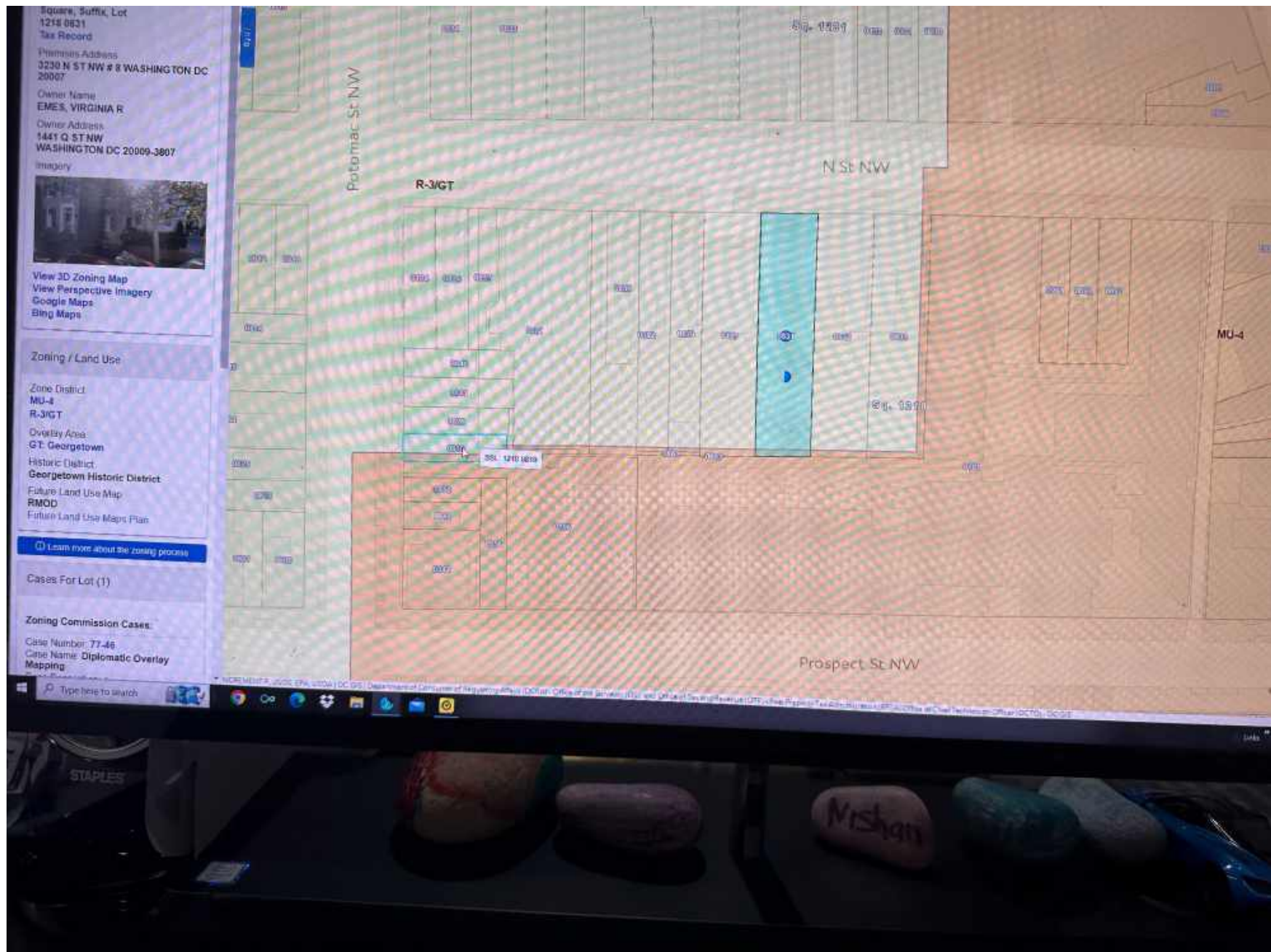


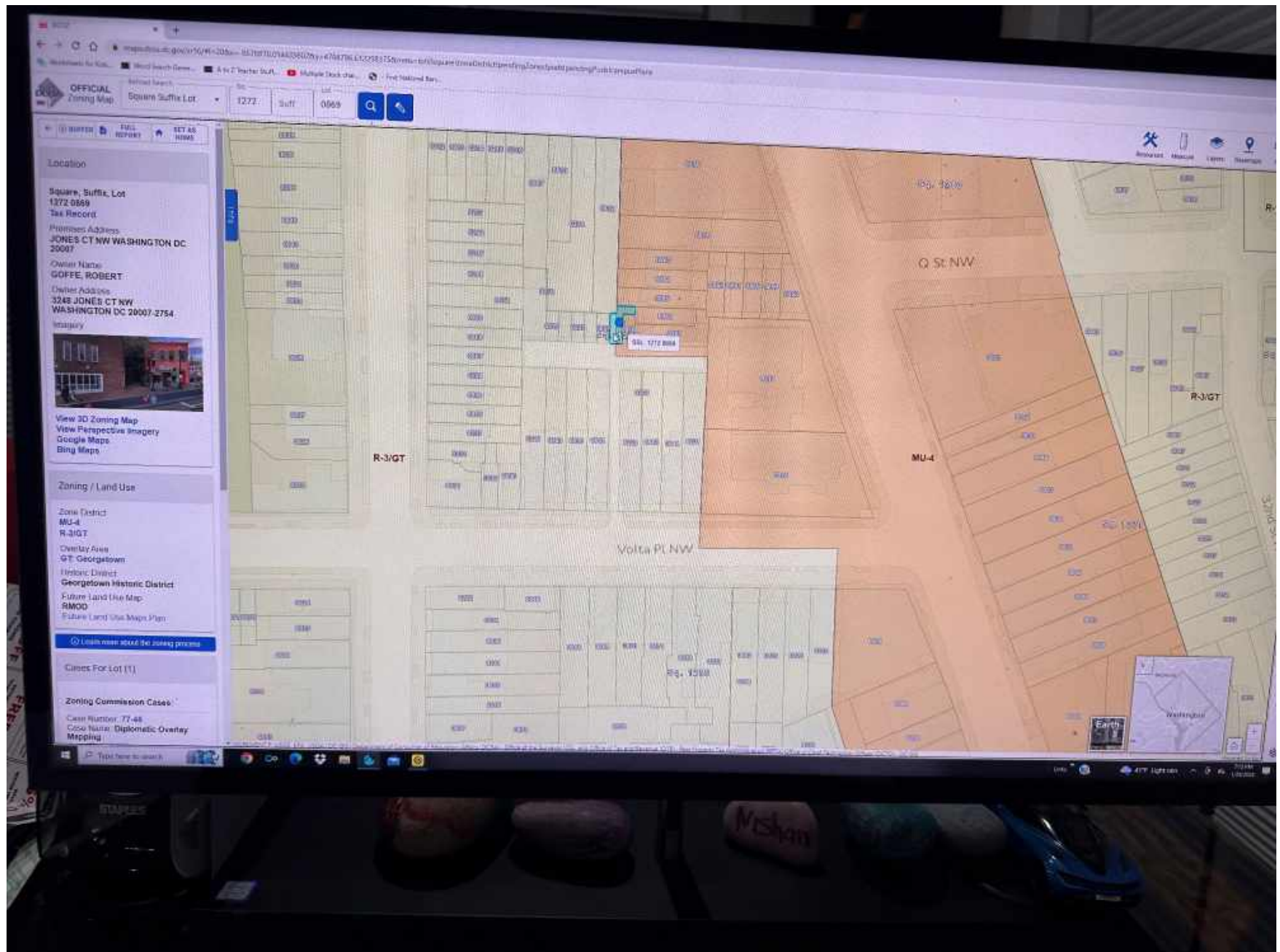
Board of Zoning Adjustment
District of Columbia
CASE NO.21107
EXHIBIT NO.19A12

DeLorean 88 LLC_1101

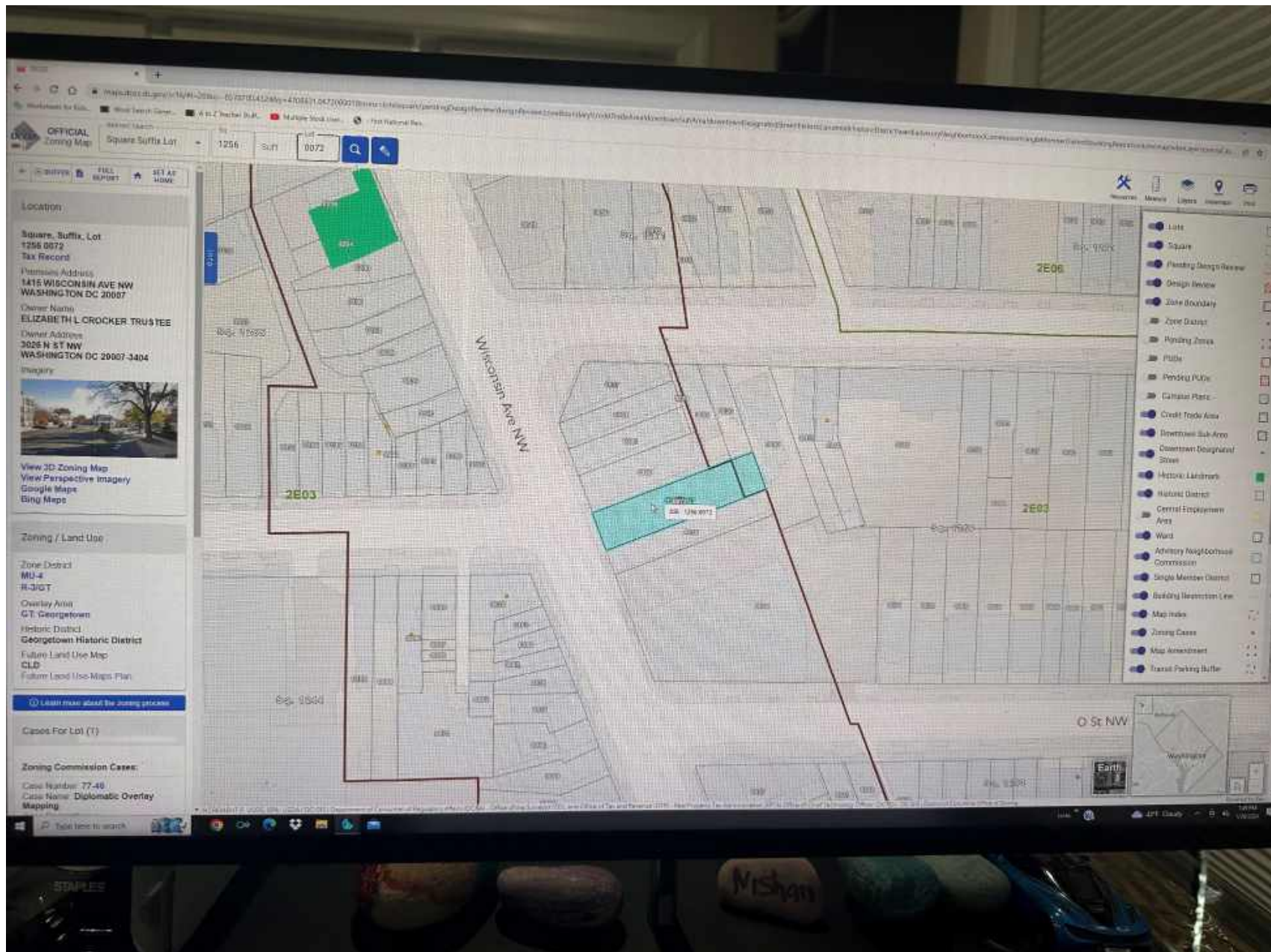




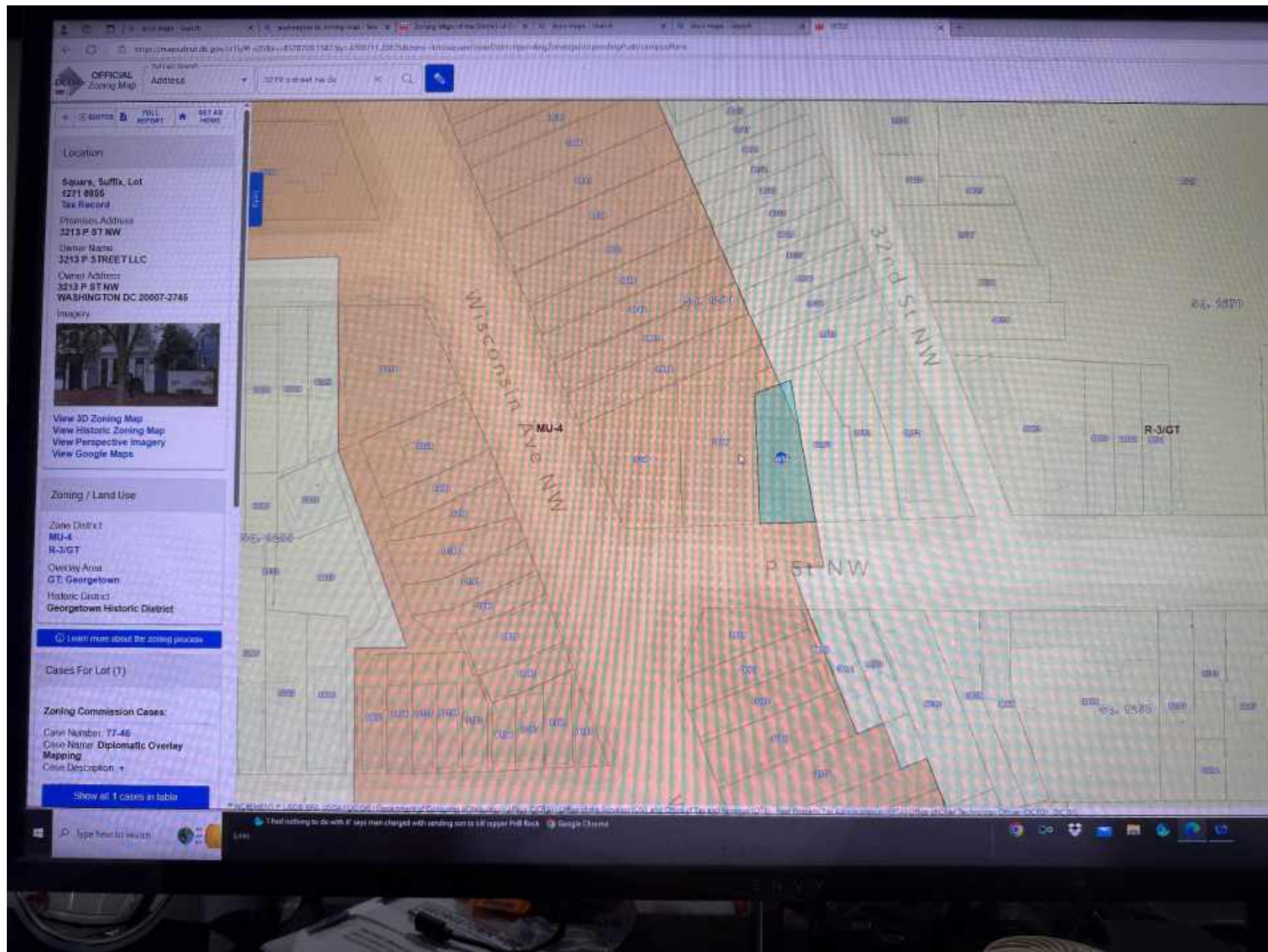
DeLorean 88 LLC_1103



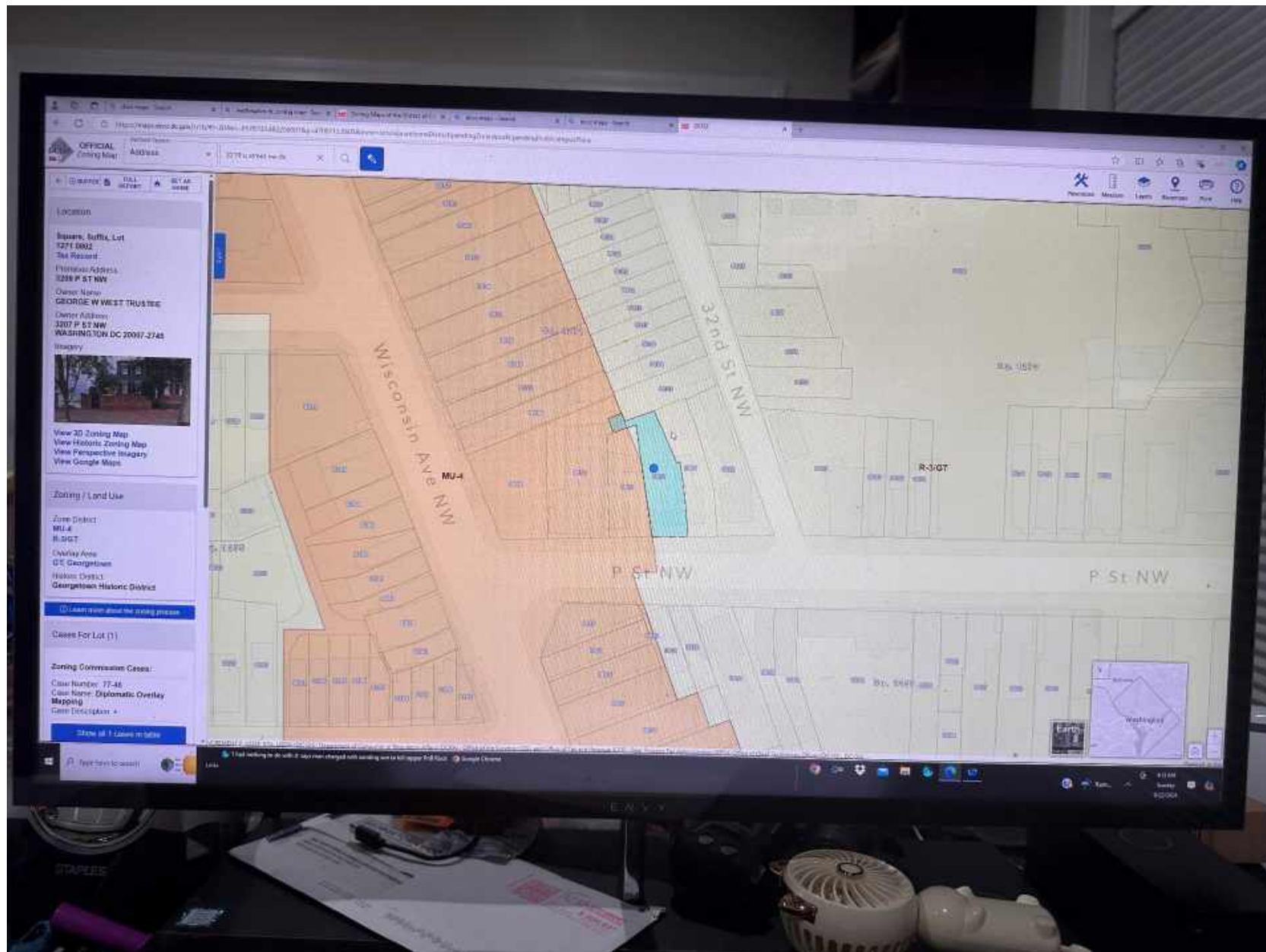
DeLorean 88 LLC_1104



DeLorean 88 LLC_1105



DeLorean 88 LLC_1135



DeLorean 88 LLC_1136

DCOZ 3D Zoning Map | Plate 4 | Library of Congress | DC Zoning Maps and Data | DCOZ

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DCOZ OFFICIAL Zoning Map

Refined Search Address 441 4th Street NW, Washington, D

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic Landmark
Barber-Caperton House

Historic District

Sq. 1244
Sq. 1243
Sq. 1230
Sq. 1231
Sq. 1232 R-3/GT
Sq. 1233
Sq. 1219
Sq. 1218
MU-4
Potomac St NW
Wisconsin Ave NW
Dumbarton St NW
N St NW

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DeLorean 88 LLC_1137

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DCOZ OFFICIAL Zoning Map

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Resources | Measure | Layers | Basemaps | Print | Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic Landmark
Barber-Caperton House

Historic District

Sq. 1244 | Sq. 1243 | Sq. 1232 R-3/GT | Sq. 1233 | Sq. 1218 | Sq. 1219

Potomac St NW | Wisconsin Ave NW | Dumbarton St NW | N St NW

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DeLorean 88 LLC_1138

DCOZ 3D Zoning Map | Plate 4 | Library of Congress | DC Zoning Maps and Data | DCOZ

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DCOZ OFFICIAL Zoning Map

Refined Search
Address: 441 4th Street NW, Washington, D.C.

Resources | Measure | Layers | Basemaps | Print | Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

Sq. 1244 | Sq. 1243 | Sq. 1231 | Sq. 1232 | Sq. 1233 | Sq. 1218

Wisconsin Ave NW | Dumbarton St NW | N St NW

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DeLorean 88 LLC_1139

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DCOZ OFFICIAL Zoning Map

Refined Search Address 1415 WISCONSIN AVENUE

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

Sq. 1271 Sq. 1270 Sq. 1255 Sq. 1256 MU-4 R-3/GT Sq. 1244 Sq. 1230 Sq. 1231 Sq. 1242

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DeLorean 88 LLC_1140

DCOZ

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DCOZ OFFICIAL Zoning Map

Refined Search Address 1415 WISCONSIN AVENUE

Resources Measure Layers Basemaps Print Help

Imagery

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

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DeLorean 88 LLC_1141

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

[Learn more about the zoning process](#)

Info

Sq. 1231

N St NW

Sq. 1218

SSL: 1218 0837

Earth

Washington

Prospect

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DeLorean 88 LLC_1142

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

[Learn more about the zoning process](#)

Info

Sq. 1230
Sq. 1231
Sq. 1232
Sq. 1219
Sq. 1218
Sq. 1206
Sq. 1207
Sq. 1243

Potomac St NW
N St NW
Prospect St NW
Dumbarton St NW
33rd St NW
34th St NW
35th St NW
36th St NW
37th St NW
38th St NW
39th St NW
40th St NW
41st St NW
42nd St NW
43rd St NW
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99th St NW
100th St NW

R-3/GT
MU-4

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DeLorean 88 LLC_1143

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

[Learn more about the zoning process](#)

Map Details:
Sq. 1200, Sq. 1201, Sq. 1206, Sq. 1207, Sq. 1208, Sq. 1209, Sq. 1231, Sq. 1232, Sq. 1243, Sq. 1248
Potomac St NW, N St NW, Prospect St NW, Dumbarton St NW, Conlin Ave NW
MU-4, **R-3/GT**

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DeLorean 88 LLC_1144

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

[Learn more about the zoning process](#)

Map Details:
Sq. 1230, Sq. 1231, Sq. 1232, Sq. 1233, Sq. 1238, Sq. 1239, Sq. 1206, Sq. 1207, Sq. 1243
Potomac St NW, Dumbarton St NW, N St NW, Prospect St NW, Conlin Ave NW
MU-4, **R-3/GT**

Earth

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DeLorean 88 LLC_1145

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DCOZ OFFICIAL Zoning Map

Refined Search Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

Learn more about the zoning process

Map showing zoning districts (MU-4, R-3/GT) and street names (Prospect St NW, Dumbarton St NW, Potomac St NW, Conno Ave NW, N St NW). A blue dot marks the location of 3219 O Street NW. A small inset map shows the location within Washington, D.C.

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DeLorean 88 LLC_1146

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

[Learn more about the zoning process](#)

Map showing streets: Potomac St NW, N St NW, Prospect St NW, Dumbarton St NW, Condo Ave NW. Parcel numbers: Sq. 1230, Sq. 1231, Sq. 1232, Sq. 1233, Sq. 1207, Sq. 1208, Sq. 1209. Zoning codes: MU-4, R-3/GT.

Map of Washington, D.C. showing the location of the map area.

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DeLorean 88 LLC_1147

DCOZ 3D Zoning Map | Plate 4 | Library of Congress | DC Zoning Maps and Data | DCOZ

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DCOZ OFFICIAL Zoning Map

Refined Search: Address 3219 O STREET NW

Resources | Measure | Layers | Basemaps | Print | Help

View 3D Zoning Map
View Historic Zoning Map
View Perspective Imagery
View Google Maps

Zoning / Land Use

Zone District
MU-4
R-3/GT

Overlay Area
GT: Georgetown

Historic District
Georgetown Historic District

Learn more about the zoning process

Sq. 1244
Sq. 1243
Sq. 1242
Sq. 1234
Sq. 1232
Sq. 1233
Sq. 1219
Sq. 1218
Sq. 1207
Sq. 1206
Sq. 1209

Potomac St NW
Wacostin Ave NW
Dumbarton St NW
N St NW
Prospect St NW

MU-4
R-3/GT

Earth

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Washington

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DeLorean 88 LLC_1148



MUSOLINO | DESSEL

September 10, 2024

Via Electronic Mail:

ANC 2E01 Kishan Putta
3831 T Street NW
Washington, DC 20007
2E01@anc.dc.gov

ANC 2E02 Christopher Mathews
1553 33rd Street NW
Washington, DC 20007
2E02@anc.dc.gov

ANC 2E03 Paul Maysak
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Washington, DC 20007
2E03@anc.dc.gov

ANC 2E04 Joseph Massaua
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Washington, DC 20007
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ANC 2E05 Mimsy Lindner
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Washington, DC 20007
2E05@anc.dc.gov

ANC 2E06 Gwendolyn Lohse
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Washington, DC 20007
2E06@anc.dc.gov

ANC 2E07 Daniel Chao
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Washington, DC 20007
2E07@anc.dc.gov

ANC 2E08 John Di Pierri
3700 O Street NW
Washington, DC 20057
2E08@anc.dc.gov

Re: DeLorean 88 LLC

Dear Commissioners:

I represent DeLorean 88 LLC (“DeLorean”). DeLorean is comprised of three members who are each persons of color, in contrast to the demographics of Georgetown, which is more than 70% white. As you know, DeLorean submitted an application on November 1, 2023 (the “Application”) to the Alcoholic Beverage and Cannabis Administration (“ABCA”) for a medical cannabis retailer license. That Application was denied on December 13, 2023 and reconsideration was denied on January 31, 2024. Those rulings were stayed by the Alcoholic Beverage and Cannabis Board (the “Board”) Orders dated February 28, 2024 and July 10, 2024, copies of which are attached for your convenience.

On February 13, 2024, DeLorean filed an appeal to the Board of Zoning Adjustment in Case No. 21107 (the “BZA Appeal”). A hearing on the BZA Appeal is scheduled for September 25, 2024.

On February 29, 2024, DeLorean filed an appeal of the Board’s rulings to the District of Columbia Court of Appeals in Case No. 24-AA-188 (the “DCCA Appeal”). The DCCA Appeal

has been stayed by consent pending any reconsideration by the Board. That reconsideration, in turn, awaits the outcome of the BZA Appeal. A copy of the pertinent DCCA Order is attached hereto.

On behalf of DeLorean, I attended virtually the September 3, 2024 Advisory Neighborhood Commission 2E's public meeting (the "September 3 Meeting"). The DeLorean BZA Appeal was among the matters included on the agenda for that evening. The Commission's consideration of DeLorean's BZA Appeal marks the second time that the Commission has involved itself in DeLorean's Application. Though it was not made public at the time, on November 9, 2024, ANC Commissioner Mathews, who is white, engaged in private exchanges with both the Office of Zoning and the Board in an ultimately successful attempt to secure from the Board a denial of the Application.

Commissioner Lindner, who is white, "chaired" the proceedings as they related to the DeLorean BZA Appeal because Commissioner Maysak, who is white, was at the airport on his way out of town. It seems undeniable that Commissioner Mathews was viscerally hostile to both my client and my client's representative. During the course of the discussion on that matter, ANC Commissioner Mathews was corrected when he incorrectly stated that DeLorean's site abutted the Hyde-Addison Elementary School's lot, and appeared to quarrel with the suggestion that the Board's decision was stayed.

Perhaps owing to the heavy schedule, my client's presentation was cut short. But anything else my client may have been prepared to present was of no interest to the Commissioners, because it is crystal clear that the Commissioners had already met in something other than a public meeting and had already reached a decision in advance of the public meeting. Indeed, without any deliberation at all after the public presentations, the Commissioners announced and read a resolution (the "Resolution"), which included the equivalent of fact-finding, which was drafted ahead of the public hearing but never disclosed in advance to the public. The Commissioners, not surprisingly in retrospect, unanimously approved the Resolution without further discussion.

This protocol – reaching a decision in advance of the public meeting and drafting in advance of the public meeting a resolution memorializing that decision – appears to have been followed in every other matter requiring or resulting in a resolution that evening.

To be clear, there was no suggestion that my client's matter or the unanimously adopted Resolution was an administrative matter, or involved personnel or legal issues, and the Resolution was certainly an official decision providing advice or recommendations to another government agency. Nor can it be reasonably argued that the Commission was somehow excused from its obligation to "...hear the views of residents ... and other affected persons...."

No attendee, other than commissioners, at the meeting raised any objections to or concerns about my client's proposal. The Commission appears to believe, however, that "hearing" the views of residents and affected persons does not include actually considering those views prior to making official decisions. Rather, the Commission appears to regard the public meetings, and the views and presentations over which many participants devoted considerable time, thought, and

effort, as nothing more than a going-through-the-motions exercise unconnected in any way to a decision-making process which the Commissioners allocate to themselves.

It is my hope that I am wrong, and, if so, I urge you to point out my error immediately, because the ANC's are designed to represent the voice of the neighborhoods, not the Commissioners.

In all events, please consider this letter for the following information, and for the preservation of the requested information, in anticipation of further proceedings including, but not necessarily limited to, the proceedings described above:

1. All drafts of the Resolution, including in particular the initial draft.
2. All communications between or among Commissioners or their staff with respect to the Resolution or drafts of the Resolution.
3. All votes, formal or informal, and all communications related to votes on the Resolution or drafts of the Resolution prior to or during the public meeting.
4. Any statute, regulation or other rulemaking authority authorizing official decisions in advance of a public meeting, excluding from your response administrative matters, personnel matters or legal matters.
5. All notes of any presentations made by DeLorean during the public meeting.
6. All evidence, including documents and statements, considered by all members of the Commission prior to the public meeting, including evidence related to whether DeLorean's place of business "abutted" the school and whether any Board decisions had been stayed.
7. All evidence supportive of or related to any statements made in the Resolution.
8. All evidence of any digitization process, or digitization error with respect to the zoning maps.
9. All communications between or among Commissioners with respect to the evidence identified in 6, 7, or 8 above.
10. All public statements, including statements made on social media, including but not limited to, blogs, forums, or other public mediums, by any Commissioner on this matter.
11. All communications between any Commissioner and any public official on this matter.
12. The complete contents of any file created by the Commission or any Commissioner on this matter.

Please also advise me as follows:

1. Is it the policy of ANC Commission 2E to prepare resolutions in advance of public meetings?
2. If so, has ANC 2E ever disclosed the prepared resolutions to public meeting attendees, residents, or interested persons in advance of the presentations at the public meetings?
3. In the preceding 12 months, has any resolution prepared by one or more Commissioners in advance of the public meetings been withdrawn, modified or rejected as a consequence of the public meeting. If so, please identify the matter or matters.
4. With respect to the DeLorean matter, does the Commission disagree with the statements contained in this letter? If so, explain the disagreement.

5. With respect to the DeLorean matter, has the Commission been informed of any objection to or protest of the proposed DeLorean business?
6. With respect to the DeLorean matter, has a Commissioner ever inquired as to the political views of any DeLorean member?
7. With respect to the DeLorean matter, has any Commissioner been made aware prior to the public meeting of the ethnic composition of the members of DeLorean?

Please advise me by close of business Friday if you expect to provide some or all of the requested information.

Sincerely,



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

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

In the Matter of:

DeLorean 88, LLC

t/a DeLorean

Applicant for a New
Medical Cannabis Retailer License

at premises

1432 Wisconsin Avenue, N.W.

Washington, D.C. 20007

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Case No.: N/A
License No.: ABCA-126807
Order No.: 2024-021

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 DENYING MOTION FOR RECONSIDERATION

INTRODUCTION

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. The Board affirms 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.

FINDINGS OF FACT

The following statements represent the Board's findings of fact based on the evidentiary record. In reaching its determination, the Board considered the evidence, the testimony of the

witnesses, the arguments of the parties, and all documents comprising the Board’s official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

I. Application and Denial

1. DeLorean 88, LLC, t/a DeLorean, (Applicant) has applied for a Medical Cannabis Retailer License at 1432 Wisconsin Avenue, N.W., Washington, D.C. *ABCA License No. 126807*.

2. On December 13, 2023, the Applicant received a notice of denial. *Letter from Emoni Boone, Licensing Specialist*, 1 (Dec. 1, 2023). The letter indicated that the basis of the denial was its location within 300 feet of Hyde-Addison Elementary School under D.C. Official Code § 7-1671.06A. *Id.*¹

II. Information Related to Zoning

3. The Board takes administrative notice that Hyde Addison Elementary School indicates that the school is located at 3219 O Street, N.W., Washington, D.C. 20007. District of Columbia Public Schools, Hyde Addison Elementary School, *available at* <https://hydeaddisondc.org/> (last visited January 22, 2024).

4. A printout from the Official Zoning Map, dated October 31, 2023, included in the motion, provides that Hyde-Addison is zoned MU-4 and R3/GT. *DeLorean 88, LLC Notice of Appeal and Request for Reconsideration*, at Appendix B-3 (Oct. 31, 2024). The document further indicates that the premises of the school are located at 3246 P Street N.W. *Id.* Nevertheless, this discrepancy in the address of the school provided on its website and in the zoning map does not appear to be in error as the school’s property touches both streets; therefore, it is understandable that the map would redirect searches of 3219 O Street, N.W., to 3246 P Street, N.W., as they are functionally the same for the purposes of the zoning map. *Id.* (See Square 1244 0854 on the map touching both O Street, N.W., and P Street, N.W.).

5. It is undisputed that in the October 31, 2023 document, there appeared an odd sliver on the map where the school’s zoning lines veers into the MU-4 zone. *Id.* Moreover, it is undisputed that after an inquiry from an Advisory Neighborhood Commission (ANC), the Office of Zoning determined that the sliver was a digitization error that caused the misidentification of the school’s zone. *Email from Sara Bardin, Director, District of Columbia Department of Zoning to Christopher Matthews, Commissioner, Advisory Neighborhood Commission 2E* at 1. In explaining its reasoning, the Director of the Department of Zoning stated:

¹ The Board did not consider a February 11, 2021, report by ABCA Investigator Kevin Puente relevant where it concluded that Hyde-Addison elementary school was located in a MU-4 zone based on the same faulty map relied upon by the Applicant. *Memorandum on Towne Wine & Liquor*, ABCA Investigator Kevin Puente, 2 (Feb. 11, 2021). The Board notes that the report only shows that the error has existed since 2021 and that the investigator made no effort to investigate whether the underlying information shown by websites was correct. *Id.* at 2. Moreover, the issuance of prior liquor licenses in a specific location has no bearing on the present matter, which were separate proceedings made before zoning’s present determination that an error existed in the map.

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

Id. As a result, as of November 9, 2023, the Department of Zoning has officially confirmed that the zoning for Hyde-Addison Elementary School is listed as R3/GT only.²

6. Finally, it is important to note that the online official 2D zoning map and 3D zoning map contains the following similar disclaimers:

Disclaimer

While DCOZ is committed to providing accurate and timely zoning information via the . . . Zoning App, DCOZ *cannot guarantee* the quality, *content, accuracy*, or completeness of the information, text, graphics, links, and other items contained therein. All data visualizations on the . . . Zoning App *should be considered approximate*. Information provided in the zoning map should not be used as a substitute for legal . . . or other professional advice. *DCOZ assumes no liability for any errors, omissions, or inaccuracies in the information provided* regardless of the cause of such or for any upon any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein. *DCOZ retains the right to change any content on its zoning map without prior notice.*

District of Columbia Department of Zoning, 3D Zoning Map, *available at* <https://maps.dcoz.dc.gov/3d/> (last visited January 22, 2024) (see the Disclaimer tab after clicking the HELP button) (emphasis added); District of Columbia Department of Zoning, Official Zoning Map, *available at* <https://maps.dcoz.dc.gov/zr16/> (last visited January 22, 2024) (see the Disclaimer tab after clicking the HELP button) (emphasis added).

7. The Applicant asserts that that the school's P Street building is closed. *DeLorean 88, LLC's Supplemental Memorandum*, at 4. However, pictures shown by the Applicant show that the P Street property is enclosed by a fence and has signs that read "Reserved Parking" and signs directing the public that the main entrance is located at 3219 O Street, N.W.

CONCLUSIONS OF LAW

8. The argument of the Applicant in favor of reconsideration are as follows: (1) the Board should rely on the zoning map at the time of application, which should be deemed MU-4 and R3/GT; (2) the District of Columbia Department of Zoning changed the zoning without an appropriate rulemaking; and (3) a remeasurement of the distance shows the business satisfies the

² The Board is aware of claims that not all zoning maps or documents may reflect this determination, but such documents are not relevant where they do not represent controlling authority, have likely just not been corrected, and the Department of Zoning has spoken conclusively upon a matter under its jurisdiction.

distance requirement under the Department of Zoning's 78 foot test. *DeLorean 88, LLC's Supplemental Memorandum*, at 10-19.³

9. The Board is not persuaded by the motion for several reasons. In particular, the motion for reconsideration cannot be granted because it requires the Board to overrule the District of Columbia Department of Zoning's determination that Hyde-Addison Elementary School is not zoned MU-4 but rather only R3/GT. As noted in *Craig*, 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."). The record in this case shows that the Department of Zoning has determined that the relevant property is not zoned MU-4. *Supra*, at ¶ 5. Moreover, none of the documents provided by the Applicant, including the 3D zoning map and the other documents are sufficiently authoritative to overrule this decision, as the disclaimer indicates that these documents are not controlling or definitive.⁴ *Supra*, at ¶ 6. Therefore, the Board has no authority to establish the zoning of Hyde-Addison Elementary School as an MU-4 zone and must respect the decision of the zoning department. Likewise, in accordance with *Craig*, the Board has no authority to declare that the Department of Zoning should have engaged in rulemaking or improperly followed its regulations. Moreover, in further accordance with *Craig*, to the extent that the Department of Zoning should change its determination based on a remeasurement, such a matter cannot be resolved by the Board, as the Board cannot make the Department of Zoning take any action or determine that it is wrong for not taking consideration of any fact related to a decision under its jurisdiction. As a result, the Applicant's request to overrule the Department of Zoning is in the wrong forum and must be made the Department of Zoning or to the courts to resolve.

10. Finally, although not clearly argued,⁵ the Board rejects the argument that the measurement for 300-foot purposes should be taken at 3219 O Street, N.W., and not take into consideration the P Street, N.W., location of the school that may encompass multiple separate lots when looking at the GIS map. *DeLorean 88, LLC's Supplemental Memorandum*, at 15, Appendix B-1.

³ The Board need not consider the second supplemental motion filed by the Applicant where no leave to file additional motions were requested or granted pursuant to 22-C DCMR § 9717.7. *DeLorean 88, LLC's Second Supplemental Memorandum*, at 1. Nevertheless, even if the motion were appropriately filed, the Board would not grant the requested relief because the Board cannot waive statutory requirements or overrule any determinations made by the Department of Zoning, even if incorrect, in accordance *Craig v. D.C. Alcoholic Beverage Control Bd.*, 721 A.2d 584, 588 (D.C. 1998). As a result, nothing in the second supplemental changes the need for the Applicant to get the Department of Zoning or the courts to overrule the determination made by the Department of Zoning to achieve its desired result.

⁴ It would also seem that the Applicant would have to provide a comprehensive zoning history of the relevant locations showing how the present zoning determination is or is not supported by records going back to the creation of the zoning system to argue that its initial map is in fact correct.

⁵ The Board did not find this point clearly argued but addresses what it believes the Applicant's argument to be.

11. In accordance with D.C. Official Code § 7-1671.06A(c):

(c) . . . 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.

D.C. Code § 7-1671.06A(c).⁶ The regulations further provide in § 5000 that

5000.1 In establishing the distance between one (1) or more places, (such as the actual distance of a medical cannabis business from a school or recreation center, as defined in the Act), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

5000.2 If a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.

22-C DCMR § 5000.1-.2 (West Supp. 2024).

12. In its motion, the Applicant provides no clear basis for excluding property located on P Street, N.W., to the extent those lots may actually be closer to the business. The mere fact that the school does not occupy or use any buildings is not sufficient to render the property not part of a school, as the usage of specific property is not relevant under § 7-1671.06A(c). *Supra*, at ¶ 7. Moreover, even if this were not the case, from the signage presented, the property appears to still be used for parking, and nothing presented by the Applicant excludes the likelihood that the school uses the property for other purposes such as rear vehicle access to the school grounds, storage, green space, outdoor activities, or even as large curb setback for the school grounds—as all such uses still render the property part of the school.⁷

13. Therefore, the Board finds that the Applicant’s selected location is prohibited based on its proximity to the Hyde-Addison Elementary School.

⁶ The Applicant cites *Heyert v. D.C. Alcoholic Beverage Control Board*, 399 A.2d 1309 (D.C. 1979) in its motion; however, fails to include sufficient explanation as to why the case is relevant. The Board notes that *Heyert* involves a somewhat similar statute in the alcohol law that does not include the “nearest property line” language found in D.C. Official Code § 7-1671.06A(c) and the “main entrance” clause does not appear applicable to the present matter. *Heyert v. D.C. Alcoholic Beverage Control Board*, 399 A.2d 1309, 1312 (D.C. 1979) (“(b) Said distance shall be measured between the nearest street main entrance to said place of business and the nearest street main entrance to said school, college, university, church, or recreation area by the shortest line between such entrances on, over, or across any public traveled way or public park or parking. This subsection shall not apply where the main entrance to said school, college, university, church or recreation area itself is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.”)

⁷ The Board further notes that the record in this case is not sufficient to determine the current usage of the P Street, N.W., lots, if such a factor was relevant.

ORDER

Therefore, the Board, on this 31st day of January 2024, hereby **DENIES** the motion for reconsideration filed by the Applicant.

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

IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision. The omission of any testimony or evidence in the Board's Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board's findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

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

District of Columbia
Alcoholic Beverage and Cannabis Board

esigned via SeamllessDocs.com
Donovan Anderson
Key: ac43cb09b69d5f09e4b730060d1dccc8

Donovan Anderson, Chairperson

esigned via SeamllessDocs.com
James Short
Key: 547ee373f020de6ac8d153325d294f8e

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:

DeLorean 88, LLC

t/a DeLorean

Applicant for a New
Medical Cannabis Retailer License

at premises

1432 Wisconsin Avenue, N.W.

Washington, D.C. 20007

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Case No.: N/A
License No.: ABCA-126807
Order No.: 2024-076

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.

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 SeamllessDocs.com
Donovan Anderson
Key: ac43cb09b69d5f09e4b730060d1dccc8

Donovan Anderson, Chairperson

esigned via SeamllessDocs.com
James Short
Key: 547ee373f020de6ac8d153325d294f8e

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 the its resolution.

BY THE COURT:

A handwritten signature in black ink, appearing to read "A. Blackburne-Rigsby".

ANNA BLACKBURNE-RIGSBY
Chief Judge

Copies e-served to:

Philip M. Musolino, Esquire

Elissa R. Lowenthal, Esquire

DeLorean 88 LLC_1122

No. 24-AA-188

Copies e-served to:

Caroline Van Zile, Esquire
Solicitor General - DC

pmg

DeLorean 88 LLC_1123

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

In the Matter of:

DeLorean 88, LLC

t/a DeLorean

Applicant for a New
Medical Cannabis Retailer License

at premises

1432 Wisconsin Avenue, N.W.

Washington, D.C. 20007

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Case No.: N/A

License No.: ABRA-126807

Order No.: 2024-497

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 SeamllessDocs.com
Donovan Anderson
Key: ac43cb9b69d5f0e4b730060d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamllessDocs.com
James Short
Key: 547ac373f820de0ac8d1b3325d294f8e

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).

RE: DeLorean 88 LLC

From Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Date Fri 9/20/2024 2:59 PM
To Phil Musolino <PMusolino@musolinodessel.com>

I have spoken with the Commissioners. The September 5 letter to the Zoning Commission is the only filing they plan to make, and it does constitute a report as outlined in the Rules.

I understand you would still like informal discovery, but neither the Commission nor the Commissioners wish to provide the information you are requesting nor are they required to in the case(s) at hand.

Denise

Denise Wiktor
General Counsel- Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, NW - Suite 11
Washington, DC 20004
Denise.Wiktor@dc.gov
(202) 727-9945 Main
(202) 478-5715 Desk
(202) 412-8483 Cell

From: Phil Musolino <PMusolino@musolinodessel.com>
Sent: Friday, September 20, 2024 12:37 PM
To: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Cc: Leopold Harris <lharris@musolinodessel.com>
Subject: RE: DeLorean 88 LLC

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Hi Denise:

My email reference to the resolution was to the ANC's resolution, as set out in Ms. Lohse's September 5, 2024 letter to Mr. Hill.

Regards,
Phil

Philip Musolino
Musolino & Dessel
1615 L Street, NE
DeLorean 88 LLC_1128

Suite 440
Washington, DC 20036
(202) 466-3883 EXT 103
pmusolino@musolinodessel.com

From: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Sent: Friday, September 20, 2024 11:29 AM
To: Phil Musolino <PMusolino@musolinodessel.com>
Subject: RE: DeLorean 88 LLC

Thank you. After I hit send it occurred to me to look at the Court of Appeals record. In the resolution you referenced, were you referring to the resolution in the ABCA case? I

Denise

Denise Wiktor
General Counsel- Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, NW - Suite 11
Washington, DC 20004
Denise.Wiktor@dc.gov
(202) 727-9945 Main
(202) 478-5715 Desk
(202) 412-8483 Cell

From: Phil Musolino <PMusolino@musolinodessel.com>
Sent: Friday, September 20, 2024 11:13 AM
To: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Cc: Leopold Harris <lharris@musolinodessel.com>
Subject: RE: DeLorean 88 LLC

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Thanks again Denise. I'm attaching for your convenience a copy of the consent stay in the District of Columbia Court of Appeals. As you correctly surmised, the Board order was subject to a direct appeal.

Here's the attachment as a link for your review:
[24-06-05 Order Granting Motion To Stay Appeal.pdf](#)

Regards,
Phil

Philip Musolino
Musolino & Dessel
1615 L Street, NW
Suite 440
Washington, DC 20036
(202) 466-3883 EXT 103
pmusolino@musolinodessel.com

From: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Sent: Thursday, September 19, 2024 5:25 PM
To: Phil Musolino <PMusolino@musolinodessel.com>

DeLorean 88 LLC_1129

Cc: Leopold Harris <lharris@musolinodessell.com>

Subject: RE: DeLorean 88 LLC

I am in receipt of your email and have sent an inquiry to the members of the ANC. Since all or most of them work full time, I don't expect to hear back until tonight or possibly until Saturday in order to make a substantive reply.

This is not a usual appeal as you are appealing the denial of an ABCA license to the Zoning Commission. Such an appeal would normally be taken to the Court of Appeals, which could have sent it back for further fact-finding.

Denise

Denise Wiktor
General Counsel- Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, NW - Suite 11
Washington, DC 20004
Denise.Wiktor@dc.gov
(202) 727-9945 Main
(202) 478-5715 Desk
(202) 412-8483 Cell

From: Phil Musolino <PMusolino@musolinodessell.com>

Sent: Thursday, September 19, 2024 4:40 PM

To: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>

Cc: Leopold Harris <lharris@musolinodessell.com>

Subject: RE: DeLorean 88 LLC

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Dear Denise,

Thank you for your prompt response. Please pass my thanks on to Ms. Lohse for her attention to my correspondence.

Without addressing here the complexities of the assertion of a deliberative process privilege claim outside of the executive branch, kindly note that certain categories of my request fall well outside any conventional assertion of that privilege. In particular, the facts presented or exchanged in the process of reaching an official decision or action are covered by the statutory requirement for official decisions and are not privileged. Since the resolution includes findings related to zoning and digitization of zoning maps, the facts on which the Commission relied are subject to disclosure. Similarly, findings of the distance between the school and the applicant's facility are not covered by any privilege.

I do not believe that the prospect of other proceedings is pertinent to disclosure now, because the disclosures are directly pertinent to the filing the ANC made with the BZA in a pending proceeding. Please, therefore, reconsider your position, at least with respect to those disclosures.

The facts I currently have with respect to the procedures that were followed certainly suggest that the Commission failed to meet its obligation to hear the views of attendees at a public meeting. If, as appears to be the case, the resolution was circulated, voted on and approved in advance of the public meeting, the public meeting becomes nothing more than a sham, violating both the letter and the spirit of controlling law. If you have information or authority inconsistent with that view, please forward it to me as soon as possible. Otherwise, we will be seeking relief at the BZA, without prejudice to proceeding in addition before the appropriate court and legislative committee.

DeLorean 88 LLC_1130

Can you also advise me if: (1) it is your position that the resolution is a “report” within the meaning of BZA’s rule; and (2) whether it is the intention of any representative of the ANC to appear and present testimony or argument at the BZA proceeding, and if so, which Commissioner intends to appear?

I’m happy to speak with you at your convenience to try to resolve these matters.

Regards,
Phil

Philip Musolino

Musolino & Dessel
1615 L Street, NW
Suite 440
Washington, DC 20036
(202) 466-3883 EXT 103
pmusolino@musolinodessel.com

From: Wiktor, Denise (OANC) <denise.wiktor@dc.gov>
Sent: Tuesday, September 17, 2024 1:53 PM
To: Phil Musolino <PMusolino@musolinodessel.com>
Cc: Leopold Harris <lharris@musolinodessel.com>; Gerst, Andrew (OANC) <Andrew.Gerst1@dc.gov>
Subject: RE: DeLorean 88 LLC

Dear Mr. Musolino:

ANC 2E forwarded me your letter of September 10, 2024, and asked me to respond to it. Your letter appears to be an attempt at discovery in anticipation of further proceedings.” It is unclear what further proceedings you are referring to.

In light of that it is ill-advised for the ANC or any of its members to engage in discovery. Should there be a future action you file in which they are party and subject to discovery, they will be represented by the Office of the Attorney General and you can file such requests with them.

In the unlikely event that discovery is allowed in either the ABCA or Zoning cases they will address it at that time and with the appropriate counsel.

Some of the information you seek is easily available:

The ANC Code is found at D.C. Code 1-309 *et. seq.*
Votes at meetings are recorded in the minutes and final minutes may be found at either their website at <https://anc2e.com/> or the Office of ANC’s website at <https://anc.dc.gov/node/1522756> . Keep in mind that ANCs are required only to meet 9 times a year and minutes are not posted until they are final, meaning voted on in a subsequent meeting. Agendas may also be found on the ANC 2E website.

Finally, much of what you ask for is likely protected under the Deliberative Processes Privilege.

Feel free to contact me if you have any questions.

Thank you,

Denise

Denise Wiktor

DeLorean 88 LLC_1131

General Counsel- Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, NW - Suite 11
Washington, DC 20004
Denise.Wiktor@dc.gov
(202) 727-9945 Main
(202) 478-5715 Desk
(202) 412-8483 Cell

From: Lohse, Gwendolyn (SMD 2E06) <2E06@anc.dc.gov>

Sent: Tuesday, September 17, 2024 1:19 PM

To: Phil Musolino <PMusolino@musolinodessel.com>; Putta, Kishan (SMD 2E01) <2E01@anc.dc.gov>; Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>; Maysak, Paul (SMD 2E03) <2E03@anc.dc.gov>; Massaua, Joseph (SMD 2E04) <2E04@anc.dc.gov>; Lindner, Mimsy (SMD 2E05) <2E05@anc.dc.gov>; Chao, Daniel (SMD 2E07) <2E07@anc.dc.gov>; DiPierri, John (SMD 2E08) <2E08@anc.dc.gov>

Cc: Leopold Harris <lharris@musolinodessel.com>; ANC 2E Office (ANC 2E) <2E@anc.dc.gov>; Wiktor, Denise (OANC) <denise.wiktor@dc.gov>

Subject: Re: DeLorean 88 LLC

Mr. Musolino,

Via this email, I am referring you to Denise Wiktor, General Counsel - Office of Advisory Neighborhood Commissions (OANC).

Given your stated anticipation of further proceedings, Ms. Wiktor will be better positioned to respond to you.

Regards

Gwen

Gwendolyn Lohse
Chair, ANC 2E
Commissioner, ANC 2E06
2E06@anc.dc.gov

From: Phil Musolino <PMusolino@musolinodessel.com>

Sent: Sunday, September 15, 2024 10:38 AM

To: Lohse, Gwendolyn (SMD 2E06) <2E06@anc.dc.gov>; Putta, Kishan (SMD 2E01) <2E01@anc.dc.gov>; Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>; Maysak, Paul (SMD 2E03) <2E03@anc.dc.gov>; Massaua, Joseph (SMD 2E04) <2E04@anc.dc.gov>; Lindner, Mimsy (SMD 2E05) <2E05@anc.dc.gov>; Chao, Daniel (SMD 2E07) <2E07@anc.dc.gov>; DiPierri, John (SMD 2E08) <2E08@anc.dc.gov>

Cc: Leopold Harris <lharris@musolinodessel.com>; ANC 2E Office (ANC 2E) <2E@anc.dc.gov>

Subject: RE: DeLorean 88 LLC

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Hi Gwen: Thanks for the acknowledgement.

DeLorean 88 LLC_1132

Do you anticipate being able to respond substantively in the next few days?

Regards,

Phil

Philip Musolino

Musolino & Dessel
1615 L Street, NW
Suite 440
Washington, DC 20036
(202) 466-3883 EXT 103
pmusolino@musolinodessel.com

From: Lohse, Gwendolyn (SMD 2E06) <2E06@anc.dc.gov>

Sent: Saturday, September 14, 2024 12:40 PM

To: Phil Musolino <PMusolino@musolinodessel.com>; Putta, Kishan (SMD 2E01) <2E01@anc.dc.gov>; Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>; Maysak, Paul (SMD 2E03) <2E03@anc.dc.gov>; Massaua, Joseph (SMD 2E04) <2E04@anc.dc.gov>; Lindner, Mimsy (SMD 2E05) <2E05@anc.dc.gov>; Chao, Daniel (SMD 2E07) <2E07@anc.dc.gov>; DiPierri, John (SMD 2E08) <2E08@anc.dc.gov>

Cc: Leopold Harris <lharris@musolinodessel.com>; ANC 2E Office (ANC 2E) <2E@anc.dc.gov>

Subject: Re: DeLorean 88 LLC

Mr. Musolino,

ANC 2E acknowledges receipt of your correspondence.

Regards

Gwen

Gwendolyn Lohse

Chair, ANC 2E

Commissioner, ANC 2E06

DeLorean 88 LLC_1133

2E06@anc.dc.gov

From: Phil Musolino <PMusolino@musolinodessel.com>

Sent: Tuesday, September 10, 2024 4:02 PM

To: Putta, Kishan (SMD 2E01) <2E01@anc.dc.gov>; Mathews, Christopher (SMD 2E02) <2E02@anc.dc.gov>; Maysak, Paul (SMD 2E03) <2E03@anc.dc.gov>; Massaua, Joseph (SMD 2E04) <2E04@anc.dc.gov>; Lindner, Mimsy (SMD 2E05) <2E05@anc.dc.gov>; Lohse, Gwendolyn (SMD 2E06) <2E06@anc.dc.gov>; Chao, Daniel (SMD 2E07) <2E07@anc.dc.gov>; DiPierri, John (SMD 2E08) <2E08@anc.dc.gov>

Cc: Leopold Harris <lharris@musolinodessel.com>

Subject: DeLorean 88 LLC

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Some people who received this message don't often get email from pmusolino@musolinodessel.com. [Learn why this is important](#)

Dear Commissioners:

Please see attached.

Sincerely,

Philip Musolino

Philip Musolino

Musolino & Dessel

1615 L Street, NW

Suite 440

Washington, DC 20036

(202) 466-3883 EXT 103

pmusolino@musolinodessel.com

DeLorean 88 LLC_1134



MyTax DC



< Home

Property Details

SSL : 1244- -0854



Make a Payment

Premise Address : 3246 P ST NW WASHINGTON DC 20007

Balance :

- Details
- Assessment
- Tax Information
- Map
- Applications and A

Assessment Information

| | | | |
|-----------|------------------|-----------|---------------|
| Tax Type | : Exempt | Land Area | : 64,725 |
| Tax Class | : 2 - Commercial | Appraiser | : Kevin Brown |

Assessment Values

EXHIBIT
G

Help

2025

| It | Land Value | Building Value | Assessment Value | Total Taxable |
|----|-----------------|----------------|------------------|-----------------|
| | \$10,784,480.00 | \$5,800,210.00 | \$16,584,690.00 | \$16,584,690.00 |
| | \$10,784,480.00 | \$5,800,210.00 | \$16,584,690.00 | \$16,584,690.00 |

2024

| It | Land Value | Building Value | Assessment Value | Total Taxable |
|----|------------|----------------|------------------|---------------|
|----|------------|----------------|------------------|---------------|

DeLorean 88 LLC_1149

| | | | | |
|-----------------|----------------|-----------------|-----------------|---|
| \$10,784,480.00 | \$4,598,350.00 | \$15,382,830.00 | \$15,382,830.00 | 1 |
| \$10,784,480.00 | \$4,598,350.00 | \$15,382,830.00 | \$15,382,830.00 | 1 |

2023

| It | Land Value | Building Value | Assessment Value | Total Taxable | T |
|----|-----------------|----------------|------------------|-----------------|---|
| | \$10,572,830.00 | \$4,040,650.00 | \$14,613,480.00 | \$14,613,480.00 | 1 |
| | \$10,572,830.00 | \$4,040,650.00 | \$14,613,480.00 | \$14,613,480.00 | 1 |

2022

| It | Land Value | Building Value | Assessment Value | Total Taxable | T |
|----|-----------------|----------------|------------------|-----------------|---|
| | \$10,572,830.00 | \$4,055,200.00 | \$14,628,030.00 | \$14,628,030.00 | 1 |
| | \$10,572,830.00 | \$4,055,200.00 | \$14,628,030.00 | \$14,628,030.00 | 1 |

2021

| It | Land Value | Building Value | Assessment Value | Total Taxable | T |
|----|-----------------|----------------|------------------|---------------|---|
| | \$10,572,830.00 | \$4,213,000.00 | \$14,785,830.00 | \$0.00 | 1 |
| | \$10,572,830.00 | \$4,213,000.00 | \$14,785,830.00 | \$0.00 | 1 |

2020

| It | Land Value | Building Value | Assessment Value | Total Taxable | T |
|----|----------------|----------------|------------------|---------------|---|
| | \$9,611,660.00 | \$4,335,440.00 | \$13,947,100.00 | \$0.00 | 1 |



| | | | | |
|----------------|----------------|-----------------|--------|---|
| \$9,611,660.00 | \$4,335,440.00 | \$13,947,100.00 | \$0.00 | 1 |
|----------------|----------------|-----------------|--------|---|

2019

| It | Land Value | Building Value | Assessment Value | Total Taxable | 1 |
|----|----------------|----------------|------------------|---------------|---|
| | \$8,737,880.00 | \$4,390,050.00 | \$13,127,930.00 | \$0.00 | 1 |
| | \$8,737,880.00 | \$4,390,050.00 | \$13,127,930.00 | \$0.00 | 1 |

2018

| It | Land Value | Building Value | Assessment Value | Total Taxable | 1 |
|----|----------------|----------------|------------------|---------------|---|
| | \$8,737,880.00 | \$4,443,290.00 | \$13,181,170.00 | \$0.00 | 1 |
| | \$8,737,880.00 | \$4,443,290.00 | \$13,181,170.00 | \$0.00 | 1 |

For more historical data, please contact OTR Customer Service at (202) 727-4TAX.



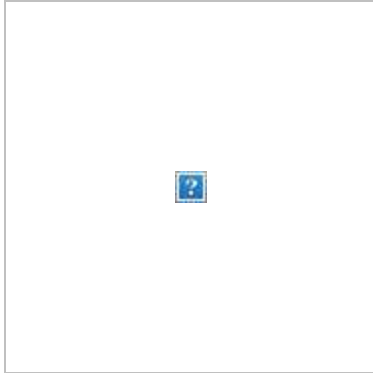
From: [DC Department of Buildings](#)
To: [Leopold Harris](#)
Subject: Re: Zoning Technician - Fatima Wabi [Filed 26 Jan 2024 08:57]
Date: Thursday, January 18, 2024 3:39:01 PM
Attachments: [Screenshot.docx](#)

Good afternoon,

Can you elaborate on what you mean by removal of the 3219 O Street, NW? Per the Master Address Repository which is the districts addresses system of record, this address is active.

Best Regards,

Nicole Rogers, MPP | Chief Building Official
The Department of Buildings
1100 4th St SW, 2nd Floor, DC 20024
main: 202.671.3500 | mobile: 202.246.2823 | dob.dc.gov



On Fri, Jan 5, 2024 at 10:00 PM <lharris@musolinodessel.com> wrote:

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Hi,

Thank you for your information. We have been provided some additional information which we will be happy to share with you Monday.

Can you let me know if your office would have been involved in the removal of the 3219 O Street NW property address as a searchable term on any of the D.C. property databases?

Again, thank you for your help.
Leo

Leopold Harris
Paralegal
Musolino & Dessel
1615 L Street, NW

Suite 440
Washington, DC 20036
(202) 466-3883 EXT 100
lharris@musolinoanddessel.com<mailto:lharris@musolinoanddessel.com>

On Thu, Jan 4, 2024 at 6:51 PM <dob@dc.gov> wrote:

Thanks again for contacting DOB and bringing this matter to our attention. It was my pleasure to assist you and I hope that the information I provided is helpful. Please let me know if you have any additional questions or concerns. If not, your inquiry will be closed in 24 hours.

In the future, if you require assistance from our office, or any other DOB administration, please feel free to let us know by completing the customer contact form on DOB's website via the 'Contact Us' page. You can select the following link to access the webpage, <https://dcra.kustomer.help/contact/contactus-SkowCOjX8>. We look forward to serving you soon!

Regards,

On Wed, Jan 3, 2024 at 8:22 PM <dob@dc.gov> wrote:

Good afternoon Mr. Harris,

Please refer to the link provided below for the amendment of the zones.

<https://dcoz.dc.gov/zrr/zone-conversion-table>.

Please let me know if you have any questions.

On Wed, Jan 3, 2024 at 8:18 PM <lharris@musolinodessel.com> wrote:

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Hi Fatima,

Can you provide me with the information regarding the updated zoning we discussed today?

Thanks,
Leo

Leopold Harris
Paralegal
Musolino & Dessel
1615 L Street, NW
Suite 440
Washington, DC 20036
(202) 466-3883 EXT 100
lharris@musolinoanddessel.com<mailto:lharris@musolinoanddessel.com>

On Wed, Jan 3, 2024 at 7:00 PM <dob@dc.gov> wrote:

Good afternoon Mr. Harris,

Per our phone conversation, you must receive the zoning certification letter from the Office of Zoning stating that both properties are also in MU-4 zone to proceed with your inquiry.

Please let me know if you have any questions.

On Wed, Jan 3, 2024 at 5:33 PM <dob@dc.gov> wrote:

Automatic Notification of New Conversation

On Wed, Jan 3, 2024 at 5:33 PM <lharris@musolinodessel.com> wrote:

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Hi,

Following up on my call.

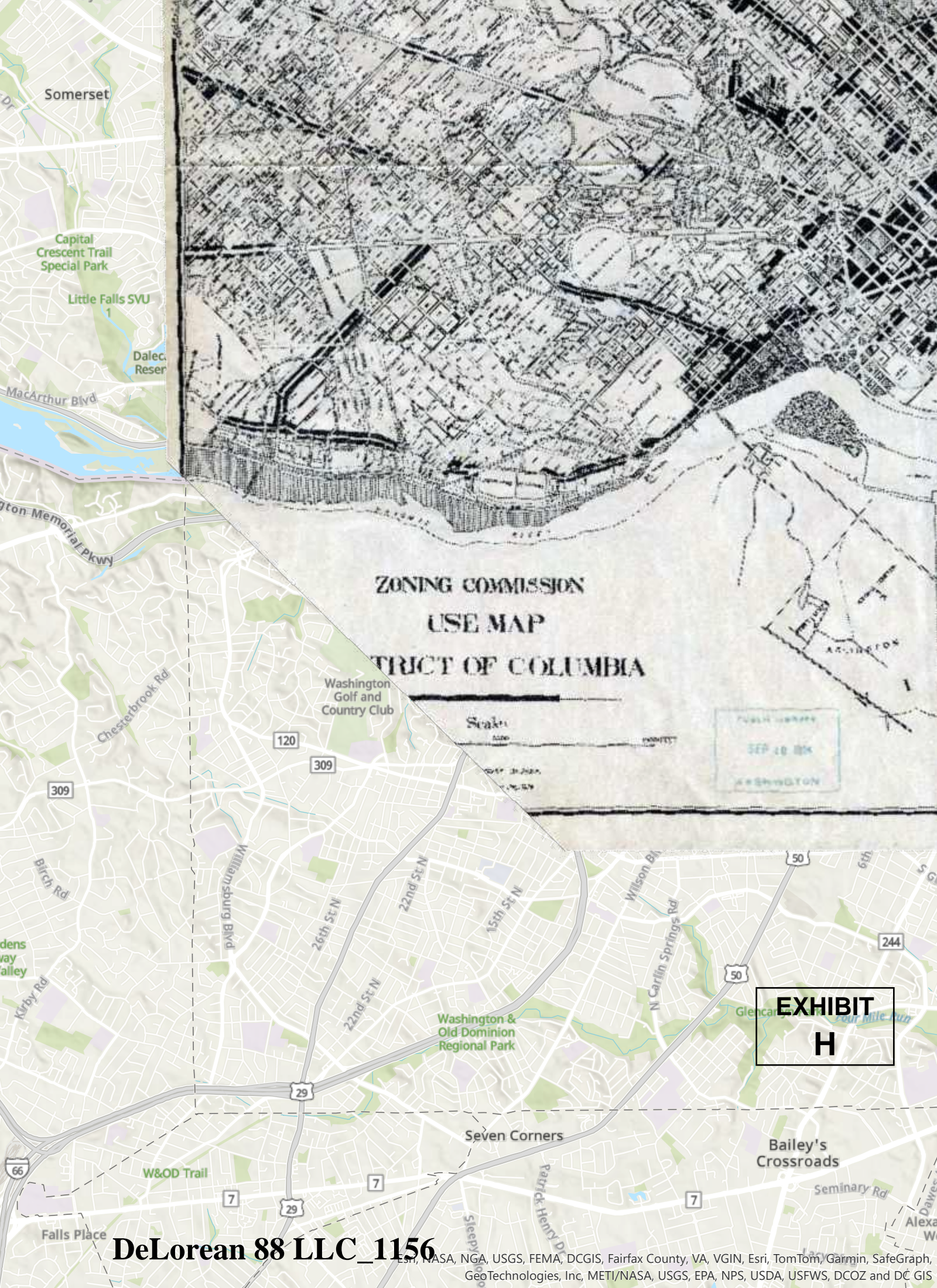
Leopold Harris
Paralegal
Musolino & Dessel
1615 L Street, NW
Suite 440
Washington, DC 20036
(202) 466-3883 EXT 100
lharris@musolinoanddessel.com

On Wed, Jan 3, 2024 at 5:20 PM <[+18478265350](tel:+18478265350)> wrote:

Voice Message

Location Details for 3219 O STREET NW

| Location | Units | Boundaries | Coordinates |
|-----------------------------|-------|--------------------------------|-------------|
| Full Address: | | 3219 O STREET NW | |
| <div>▼</div> | | | |
| Alias: | | HYDE-ADDISON ELEMENTARY SCHOOL | |
| MAR ID: | | 294558 | |
| Type: | | NON RESIDENTIAL | |
| Status: | | ACTIVE | |
| <div>SSLs<div>^</div></div> | | | |
| Total SSL(s): 2 | | | |
| 1244 0129 | | RECORD LOT | |
| 1244 0854 | | TAX LOT | |



ZONING COMMISSION
USE MAP
DISTRICT OF COLUMBIA

Scale

PUBLIC WORKS
SEP 10 1986
WASHINGTON

EXHIBIT
H

DeLorean 88 LLC_1156

Washington, D.C.

To Accompany the Zoning Regulations Adopted Aug. 30, 1920, and Amended Thereby

J.H. Doolittle
 Charles Doolittle
 J.H. Doolittle
 J.H. Doolittle
 J.H. Doolittle

Commissioner of the D.C.

Officer in Charge of Public Buildings and Grounds

Director of the Capital

Zoning Commission, D.C.

LEGEND

RESIDENTIAL DISTRICT - PUBLIC PRIORITY

1st COMMERCIAL DISTRICT

2nd COMMERCIAL DISTRICT

INDUSTRIAL DISTRICT

SEP 30 1924

WASHINGTON

POTOMAC RIVER

ARLINGTON

Wilson Blvd

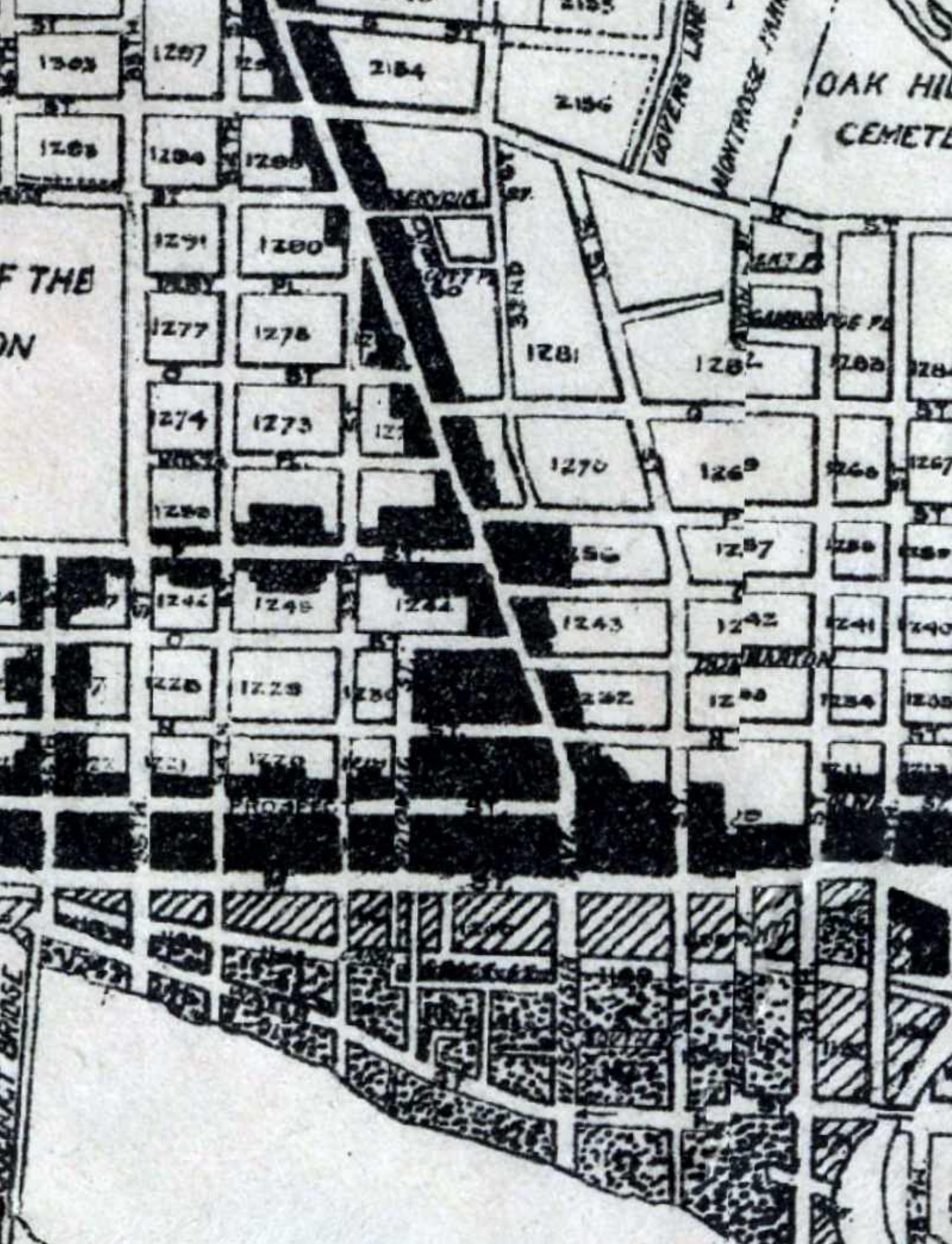
Glebe Rd

Mount Vernon Ave

Yard-Potomac Greens

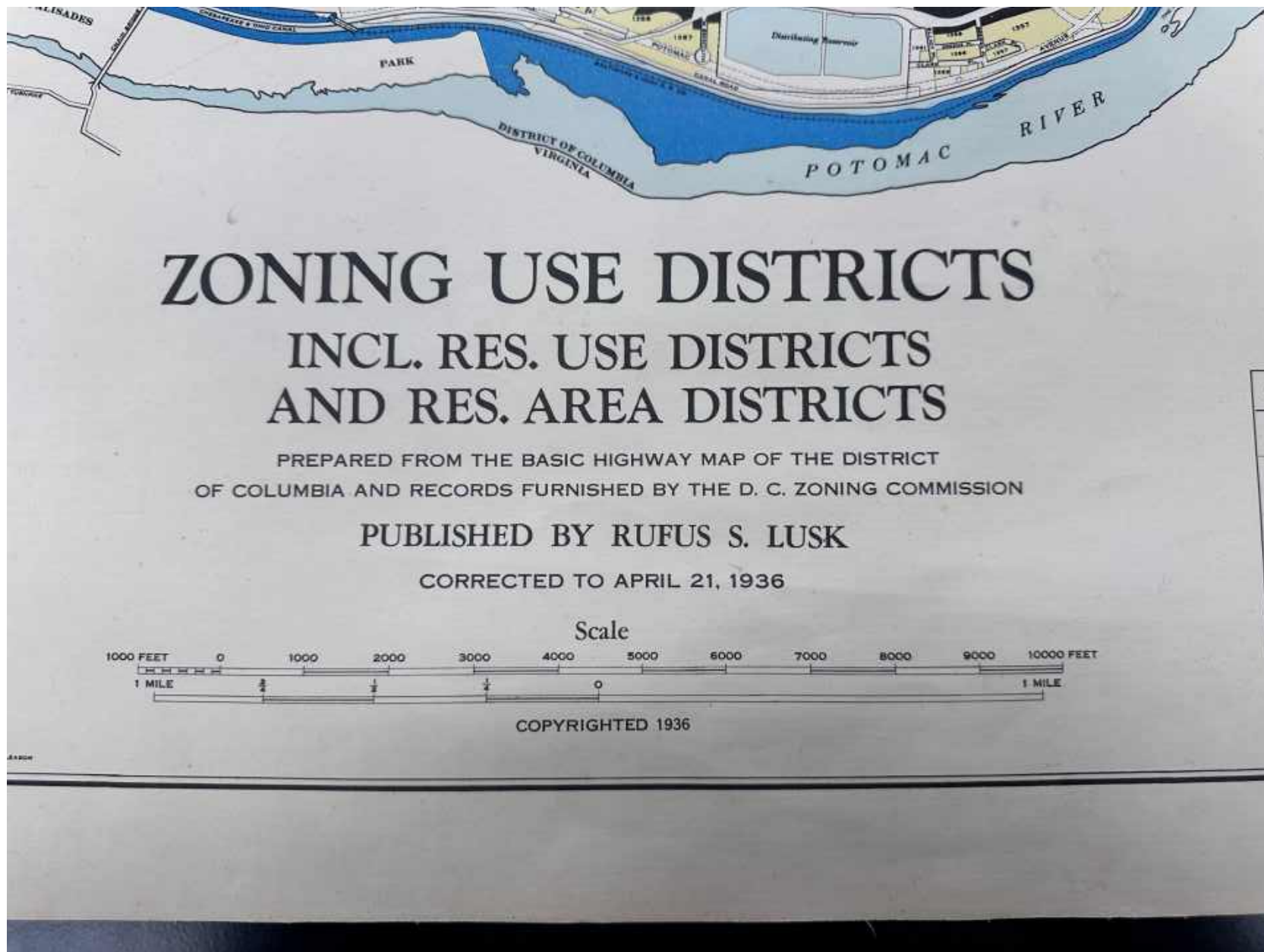
Northeast

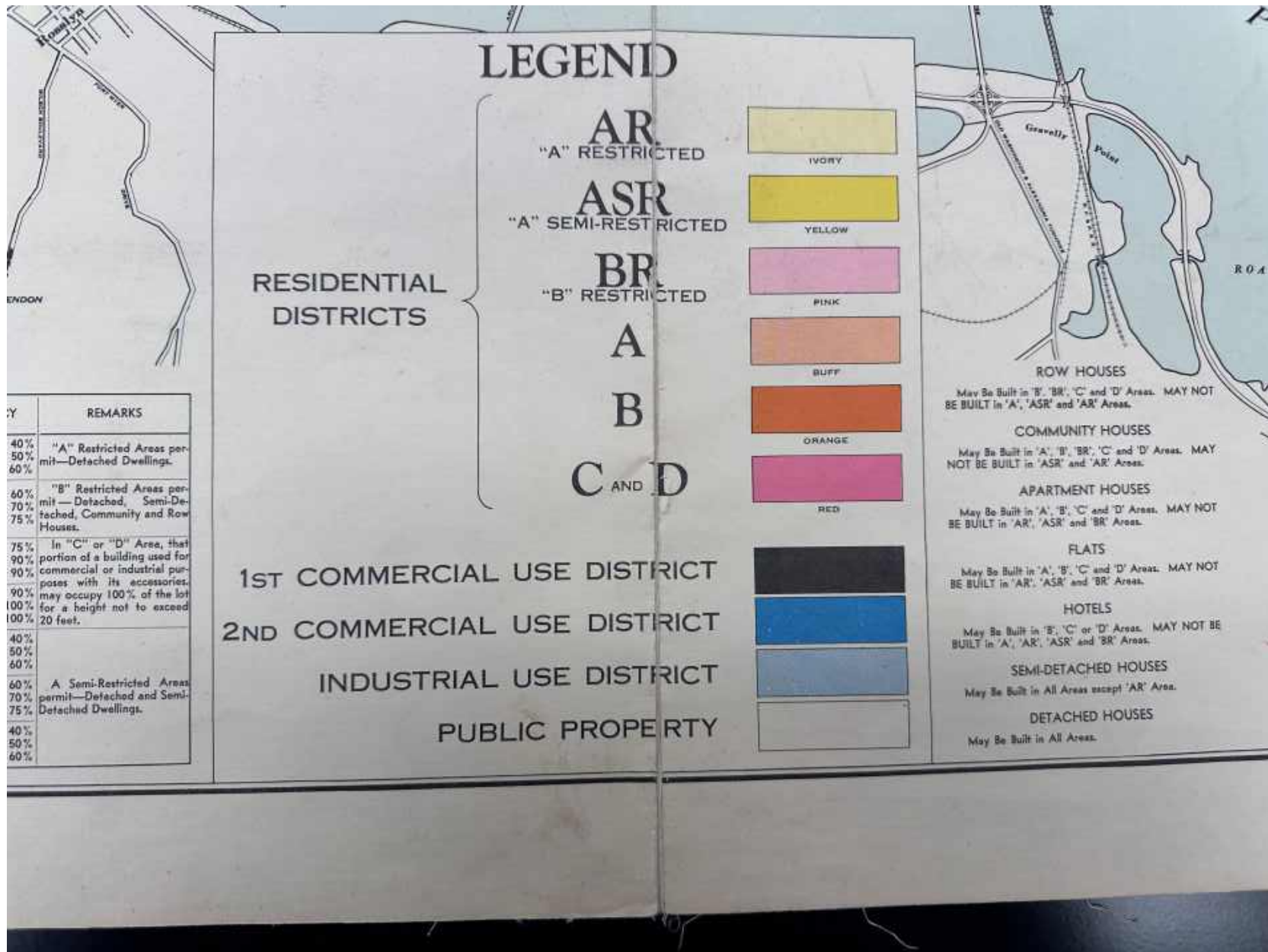
DeLorean 88 LLC_1157

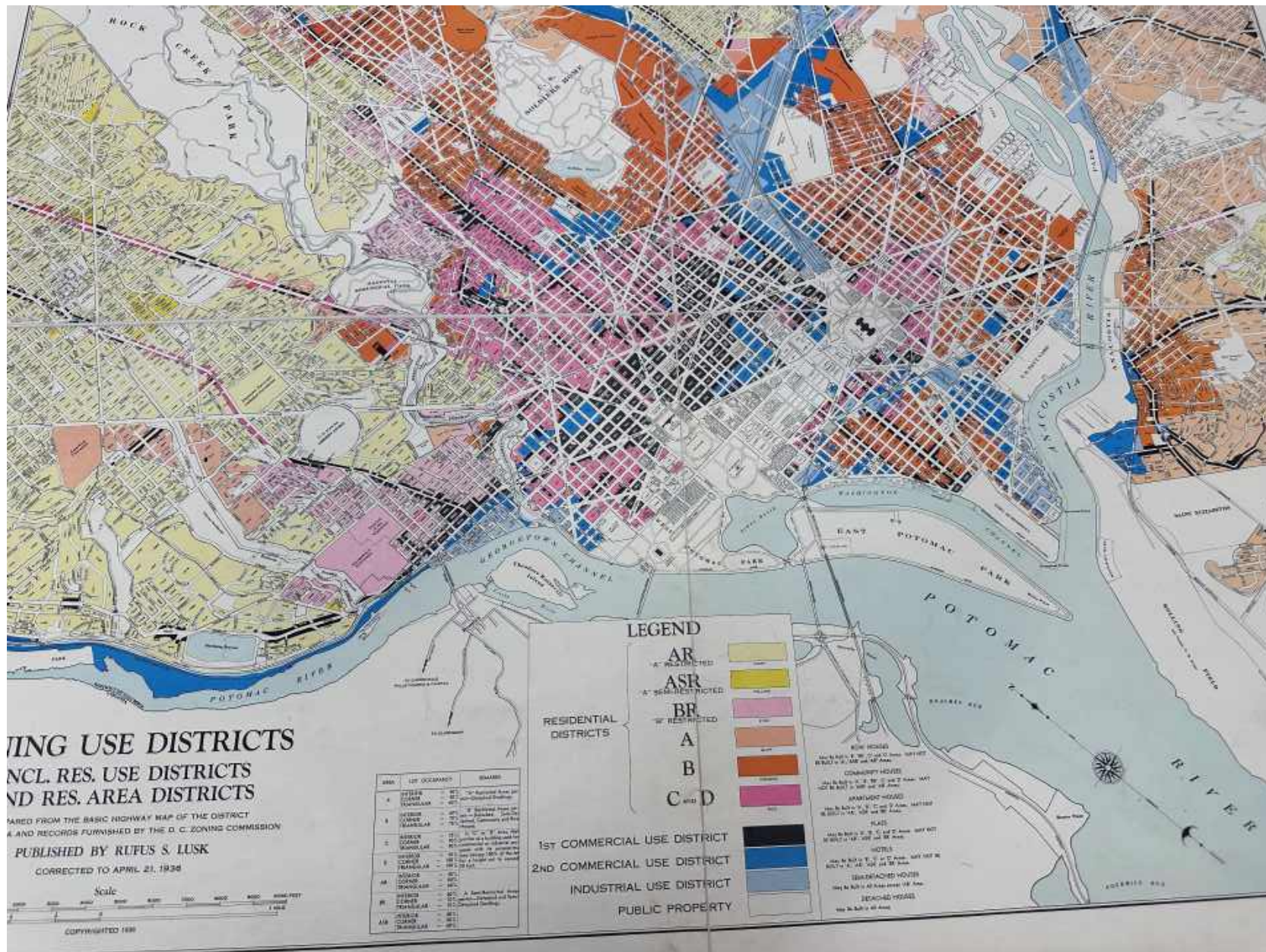


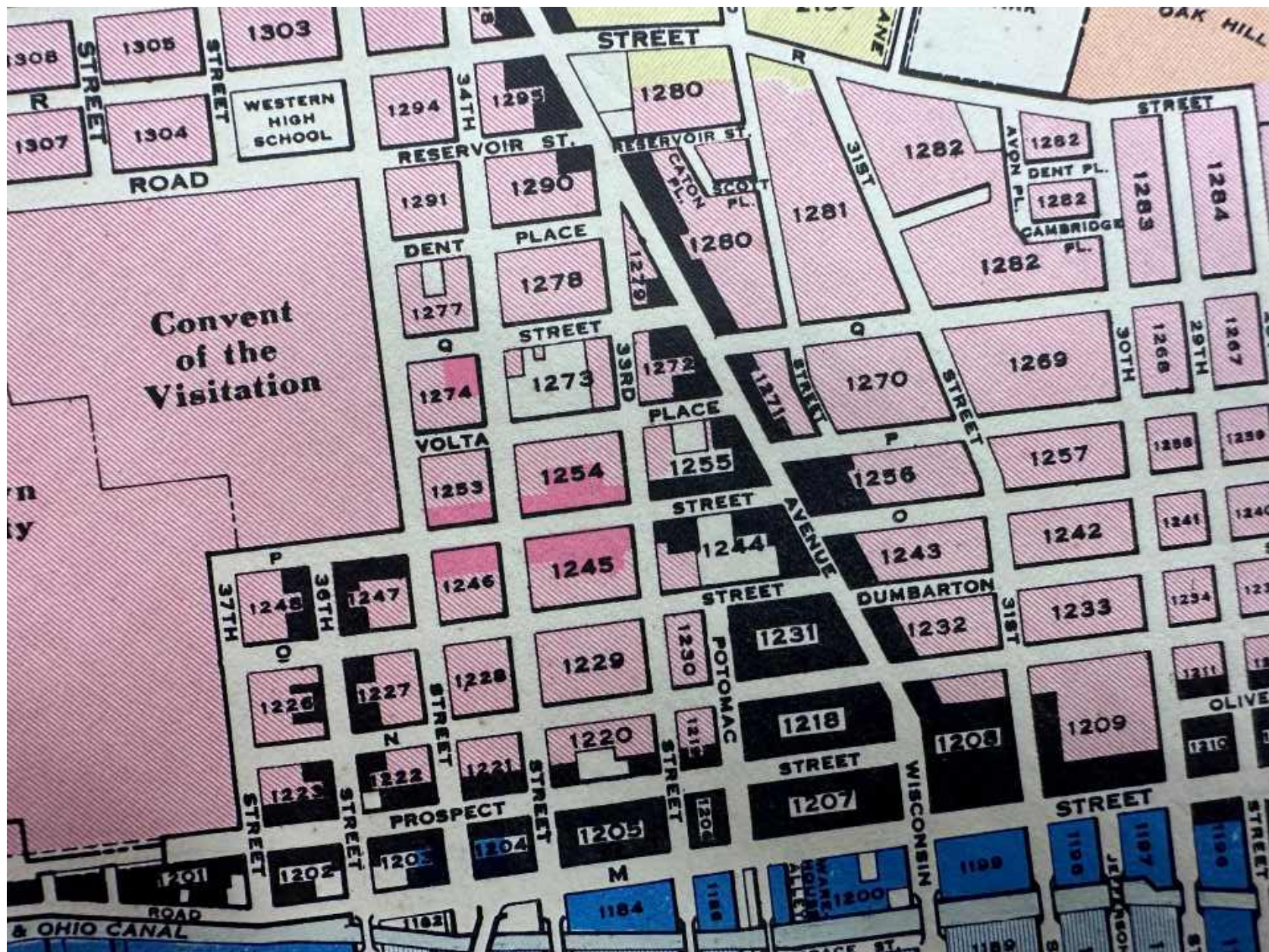
DeLorean 88 LLC 1158

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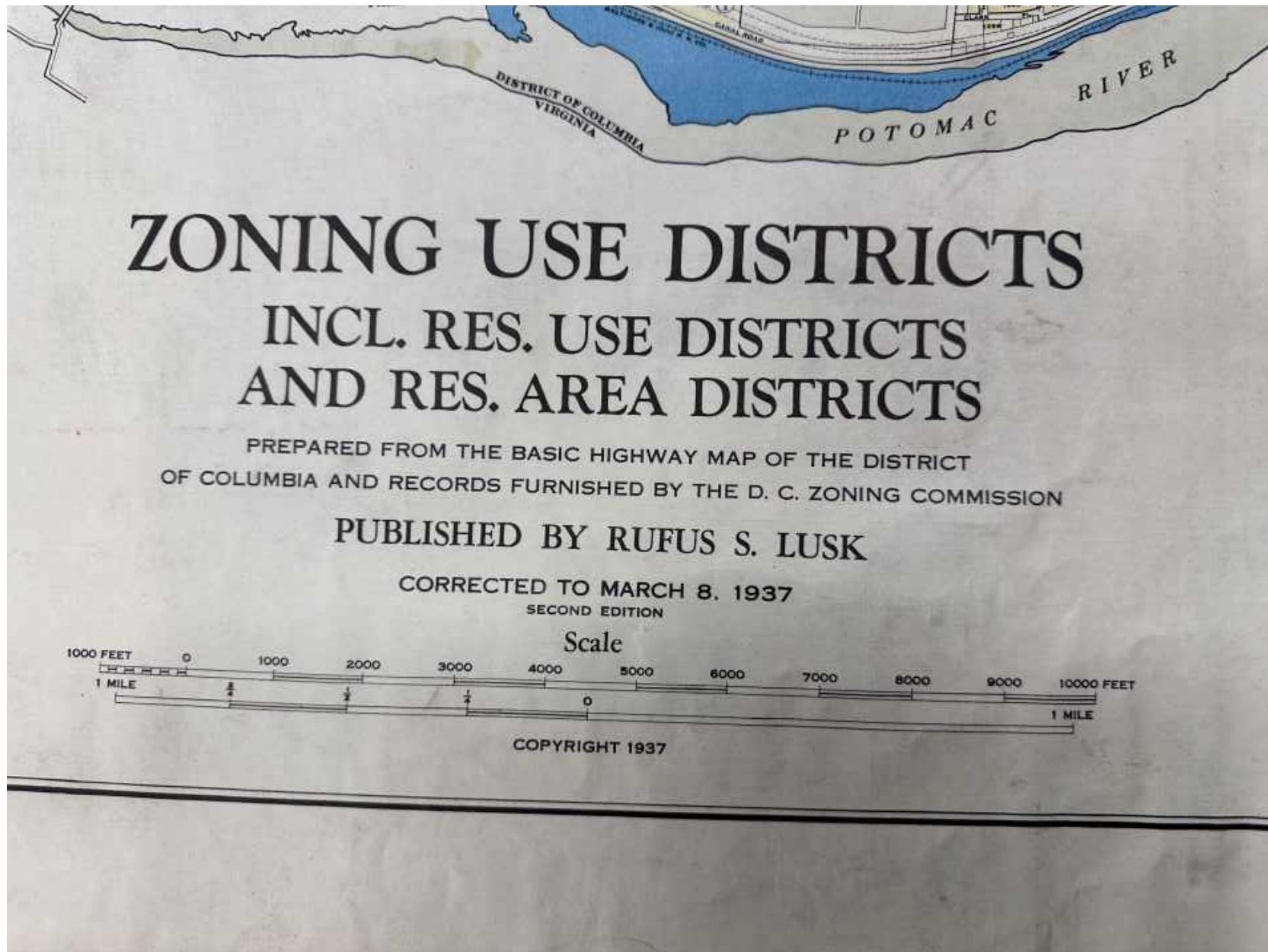


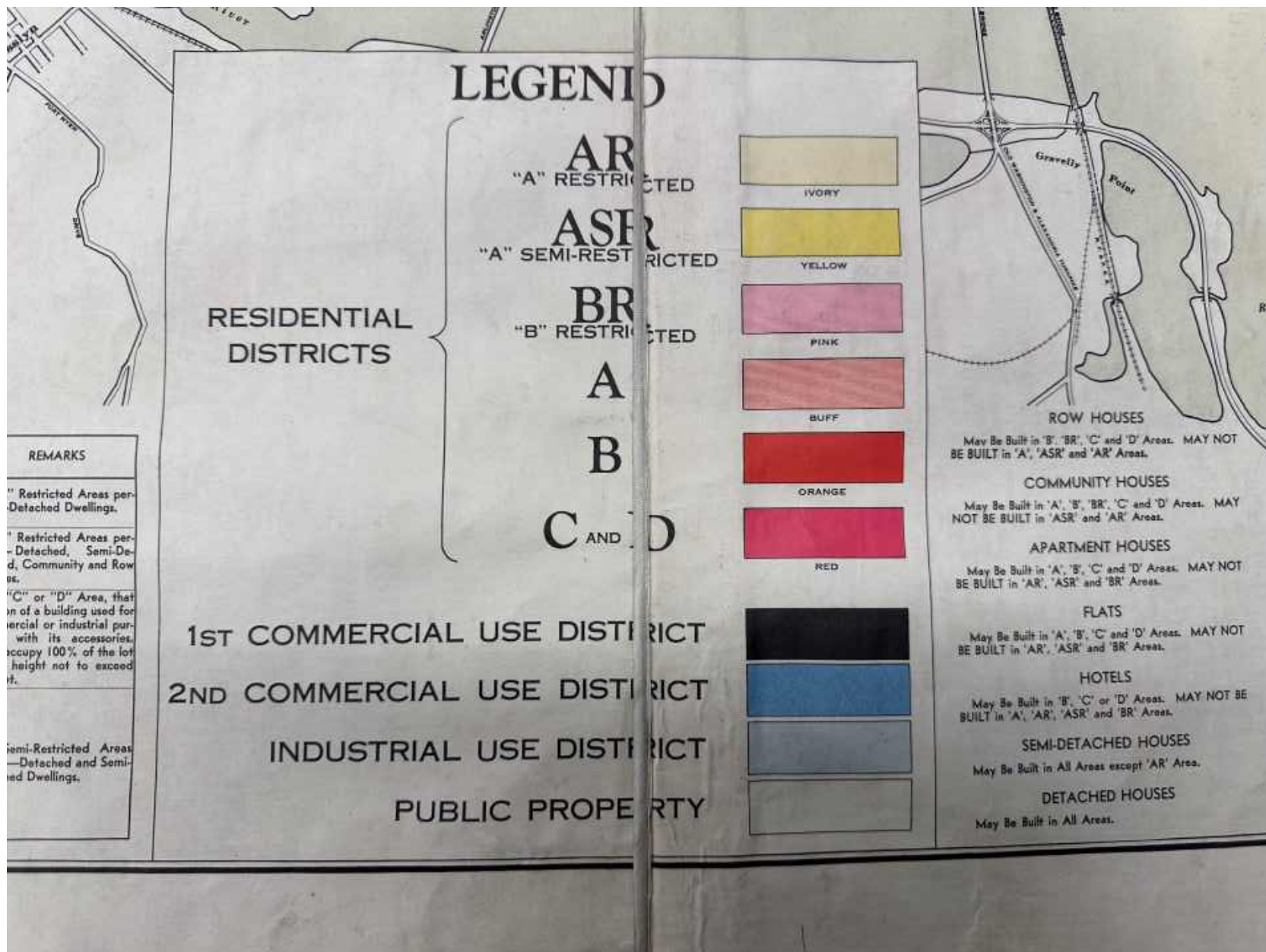


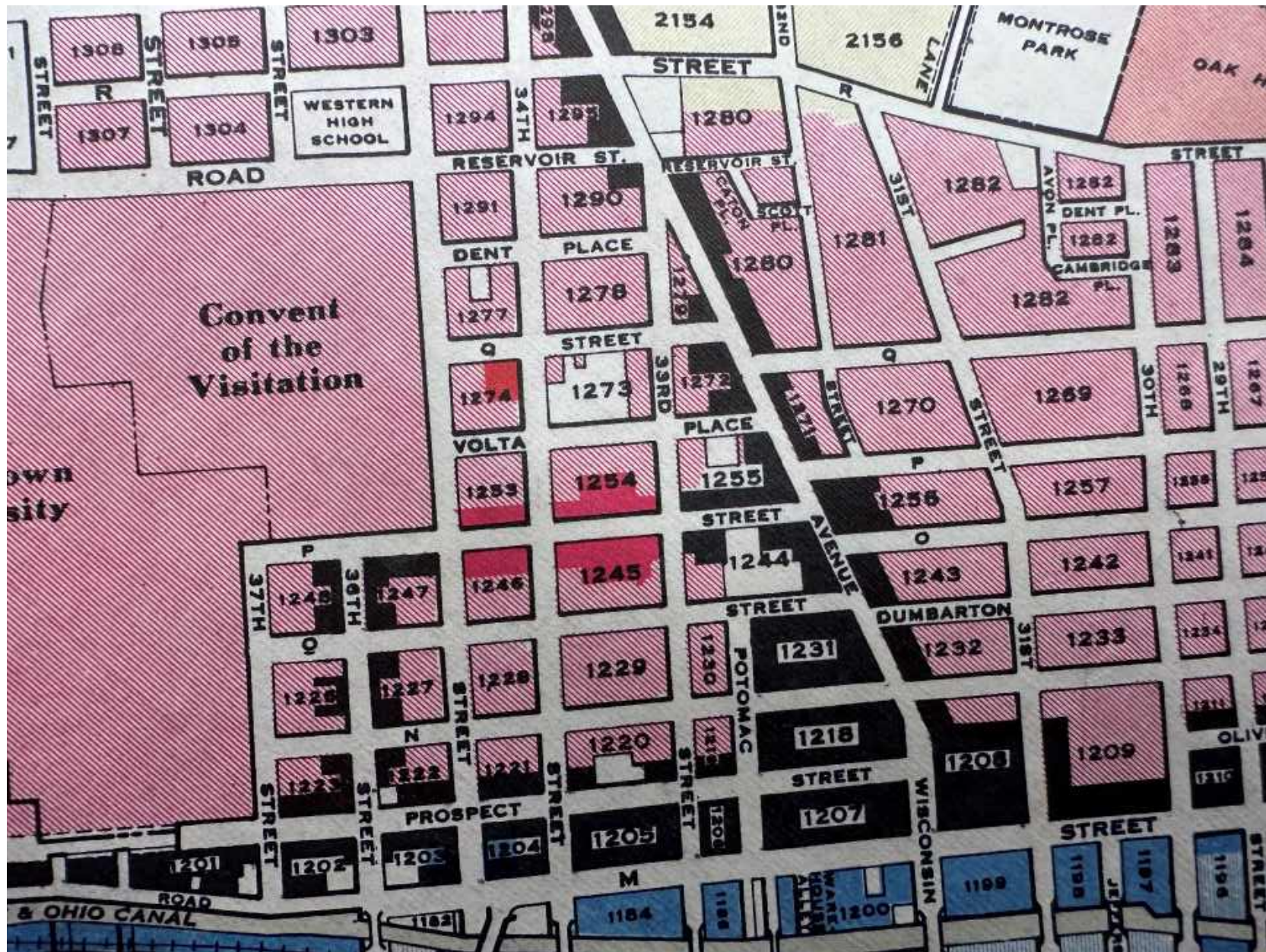




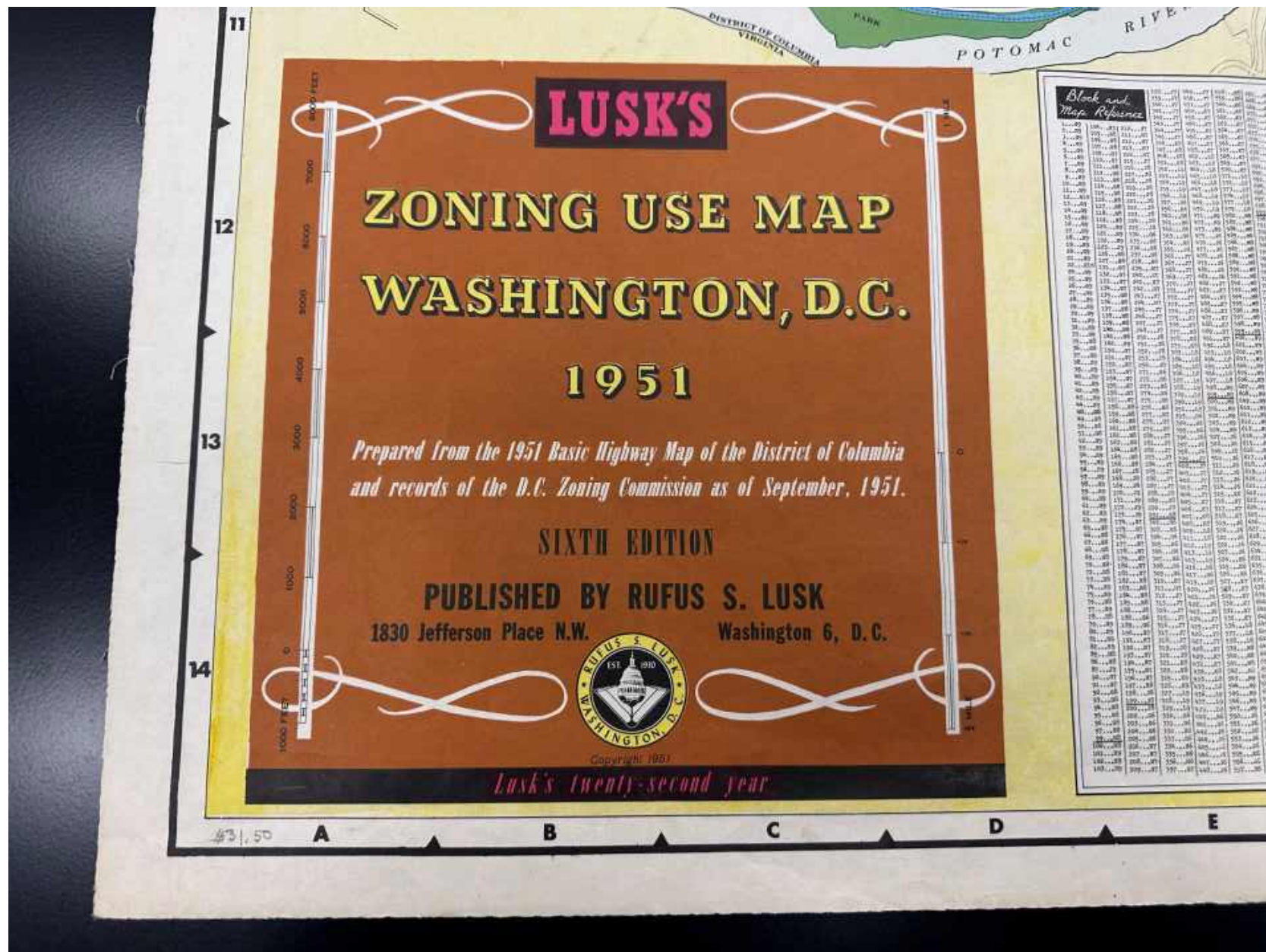
DeLorean 88 LLC_1162

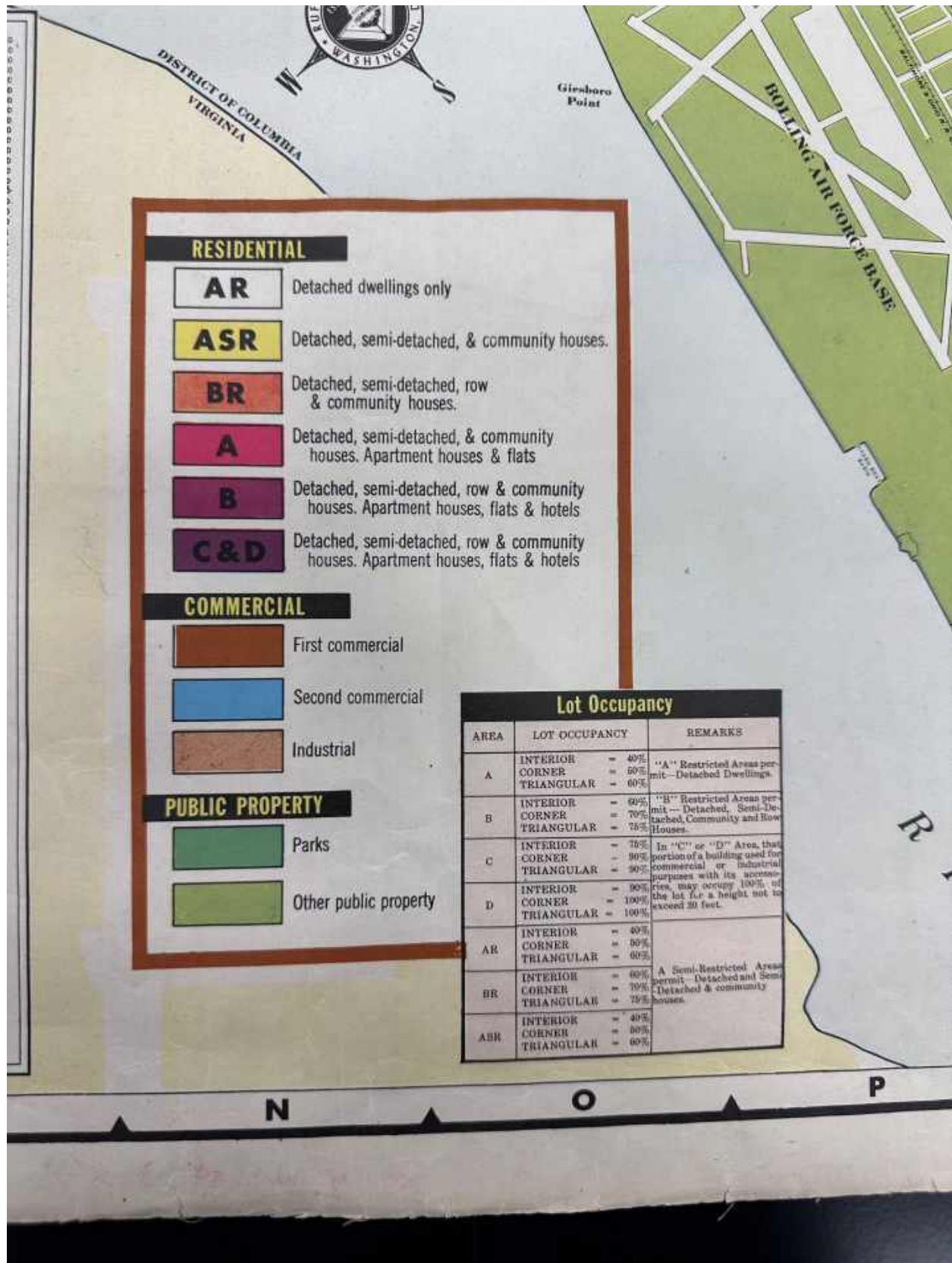


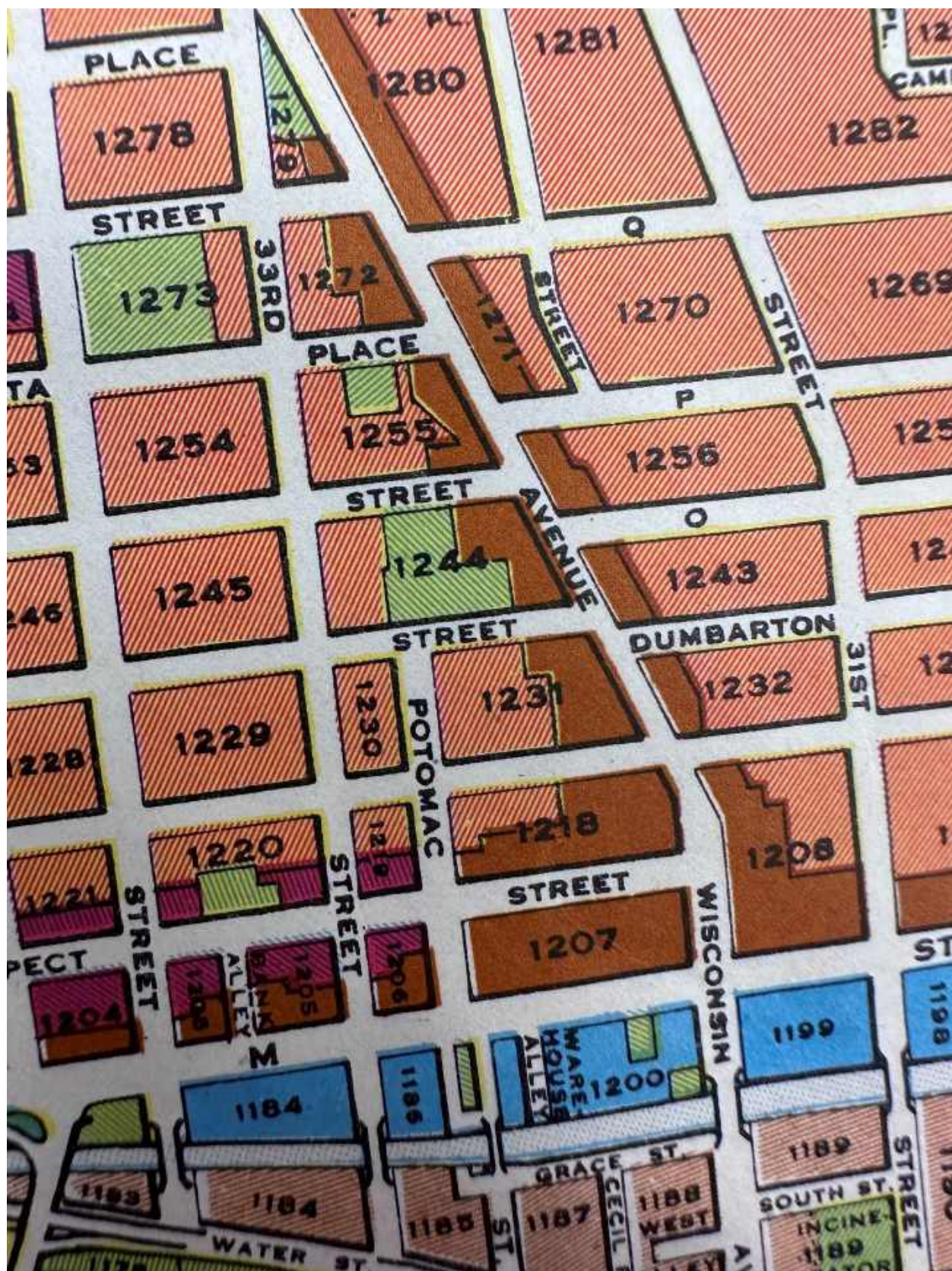




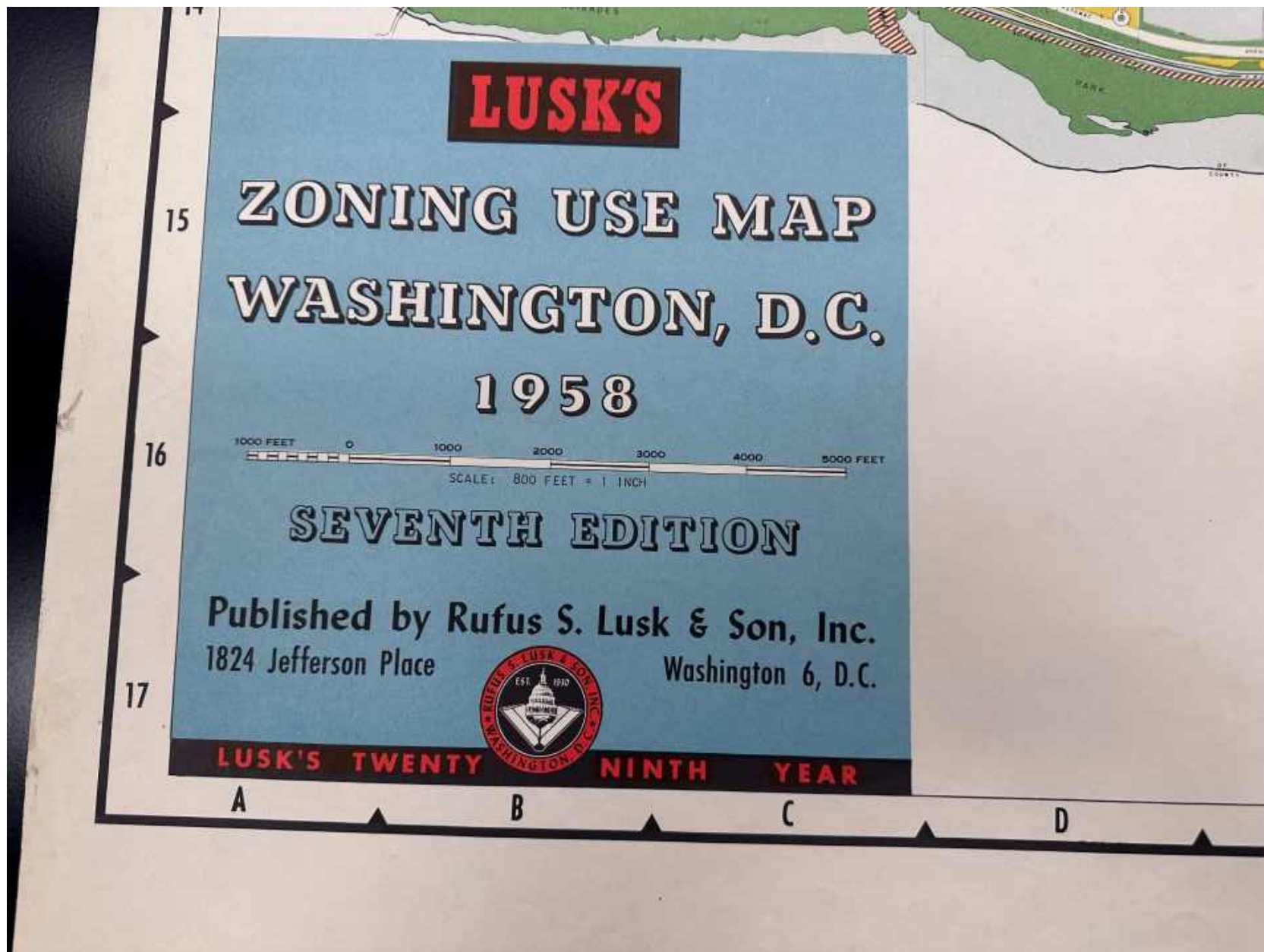
DeLorean 88 LLC_1165

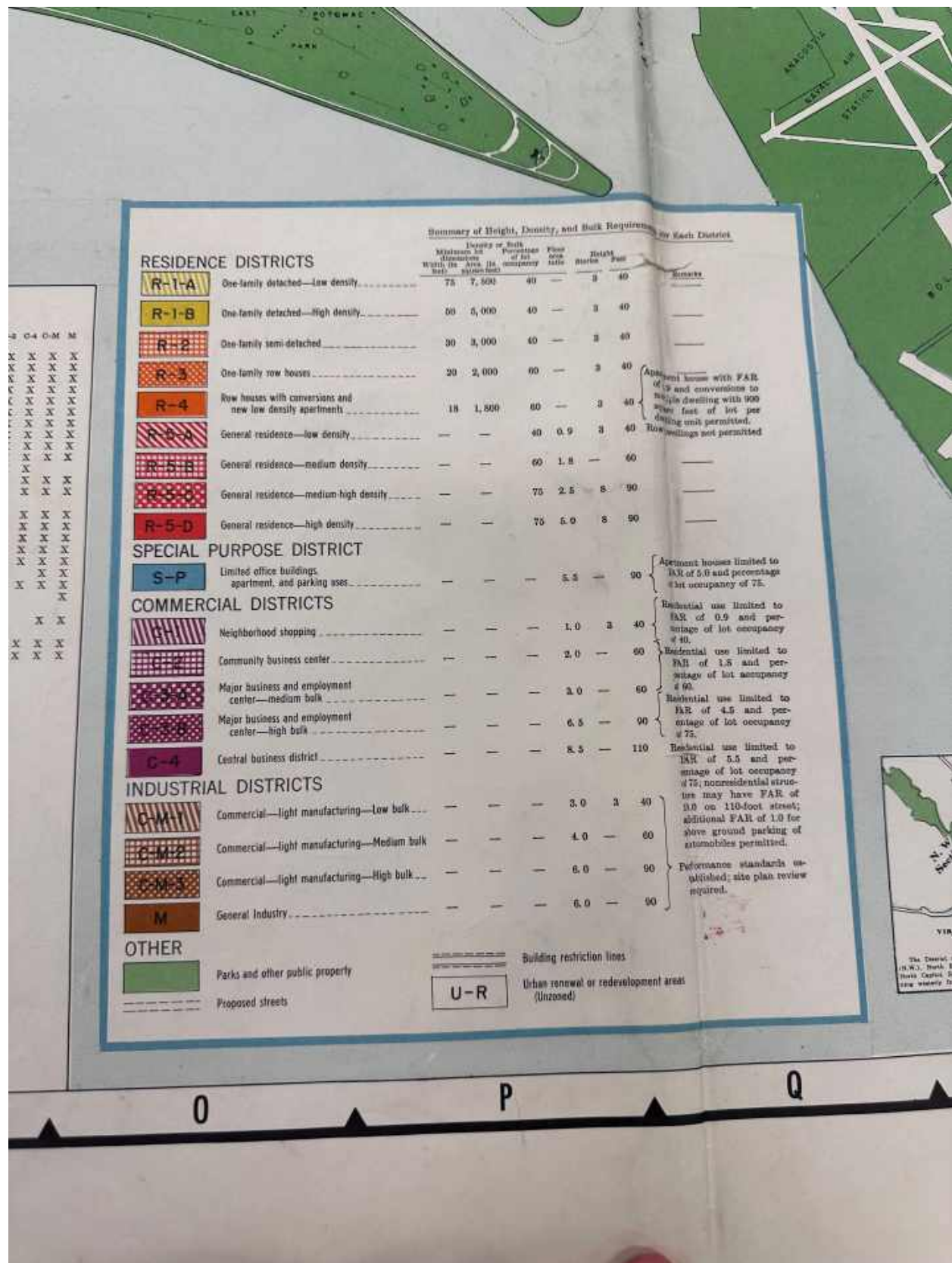


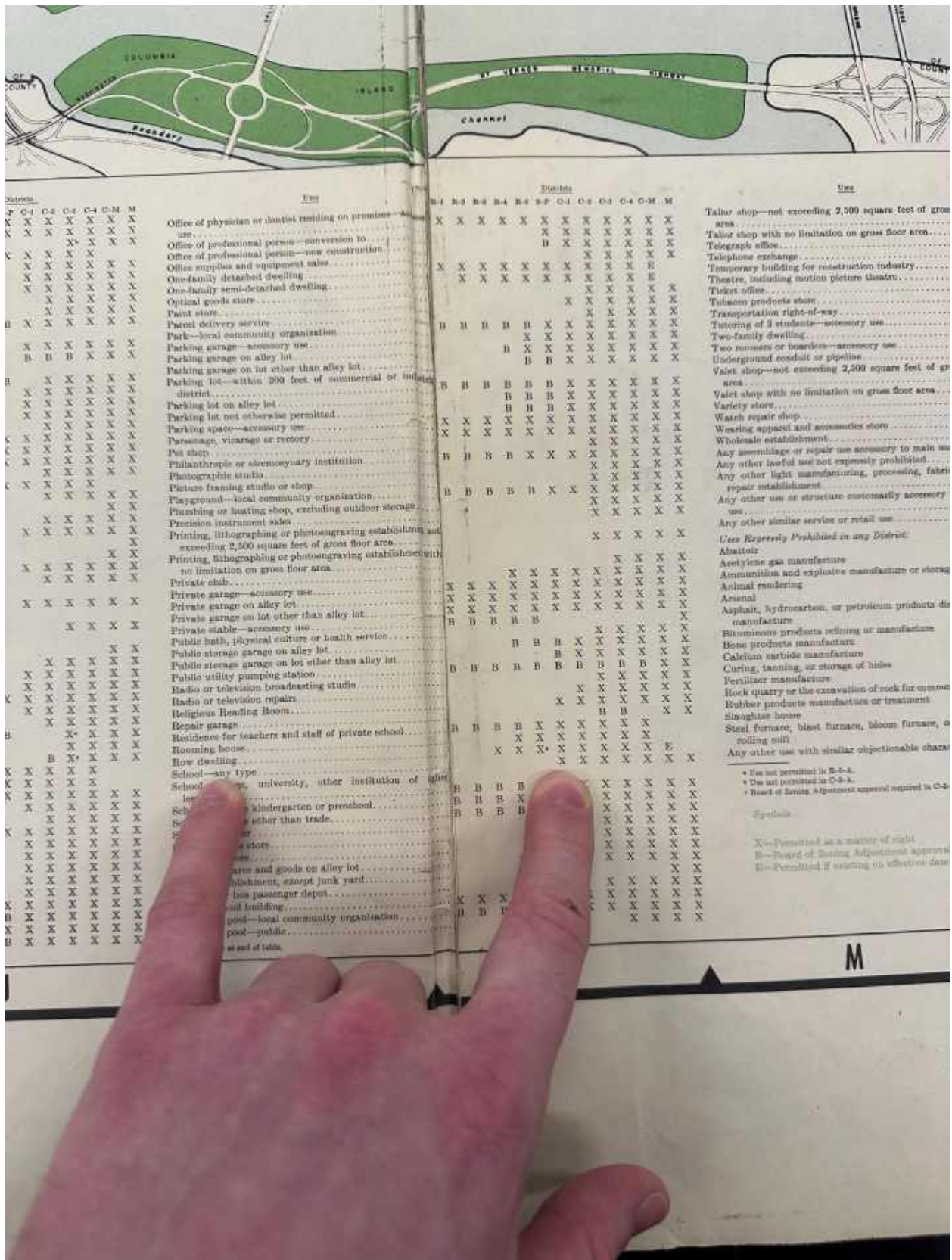


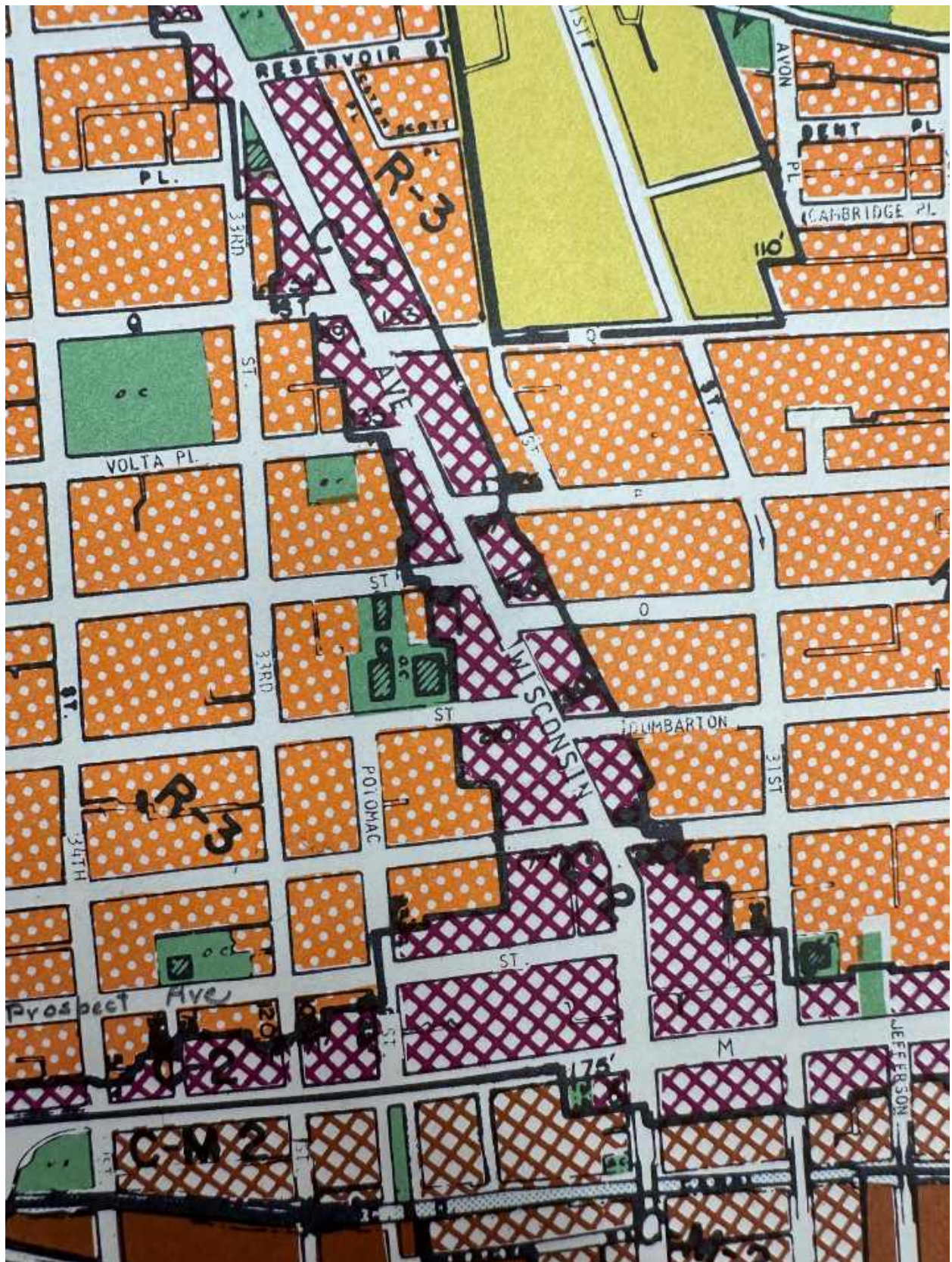


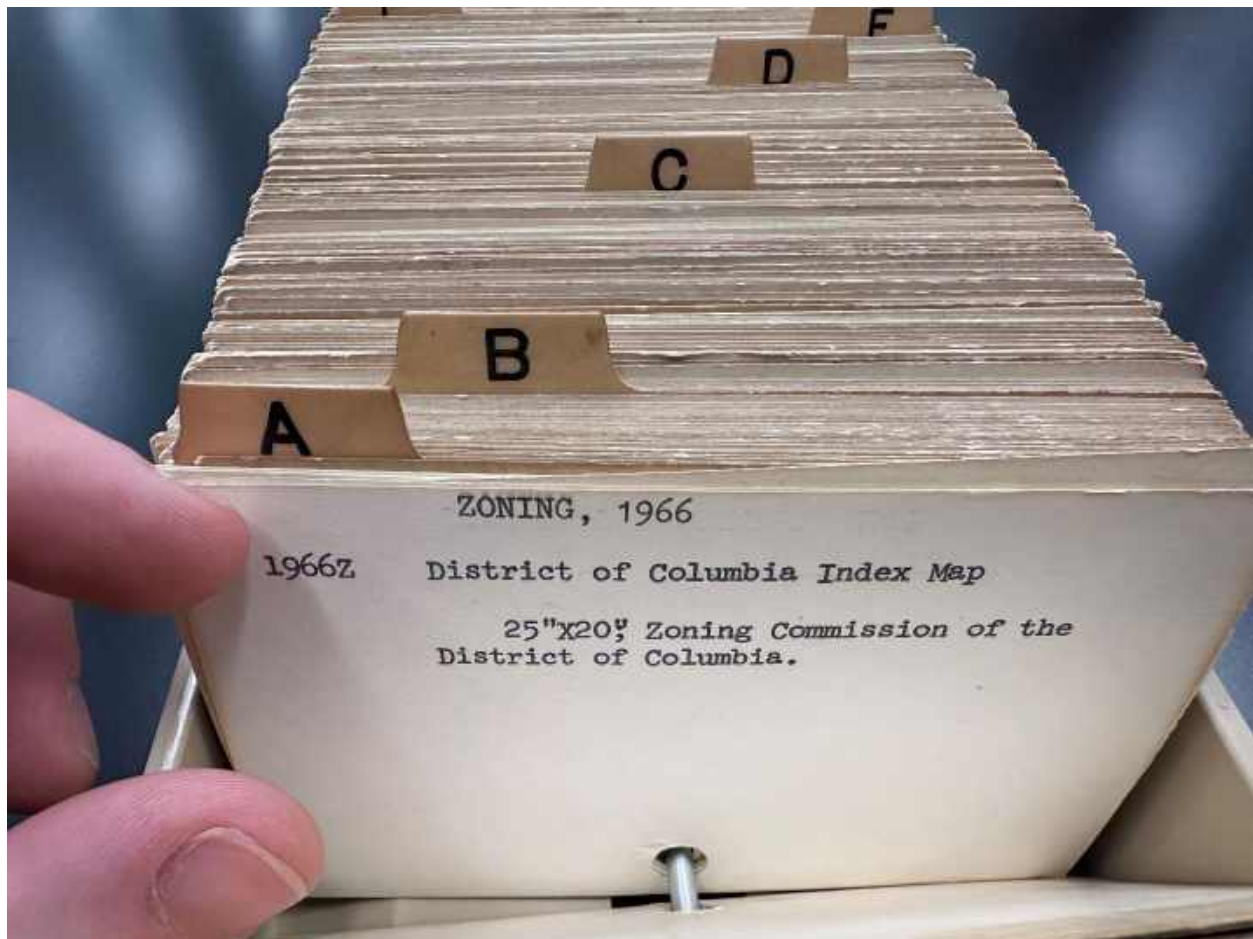
DeLorean 88 LLC_1168





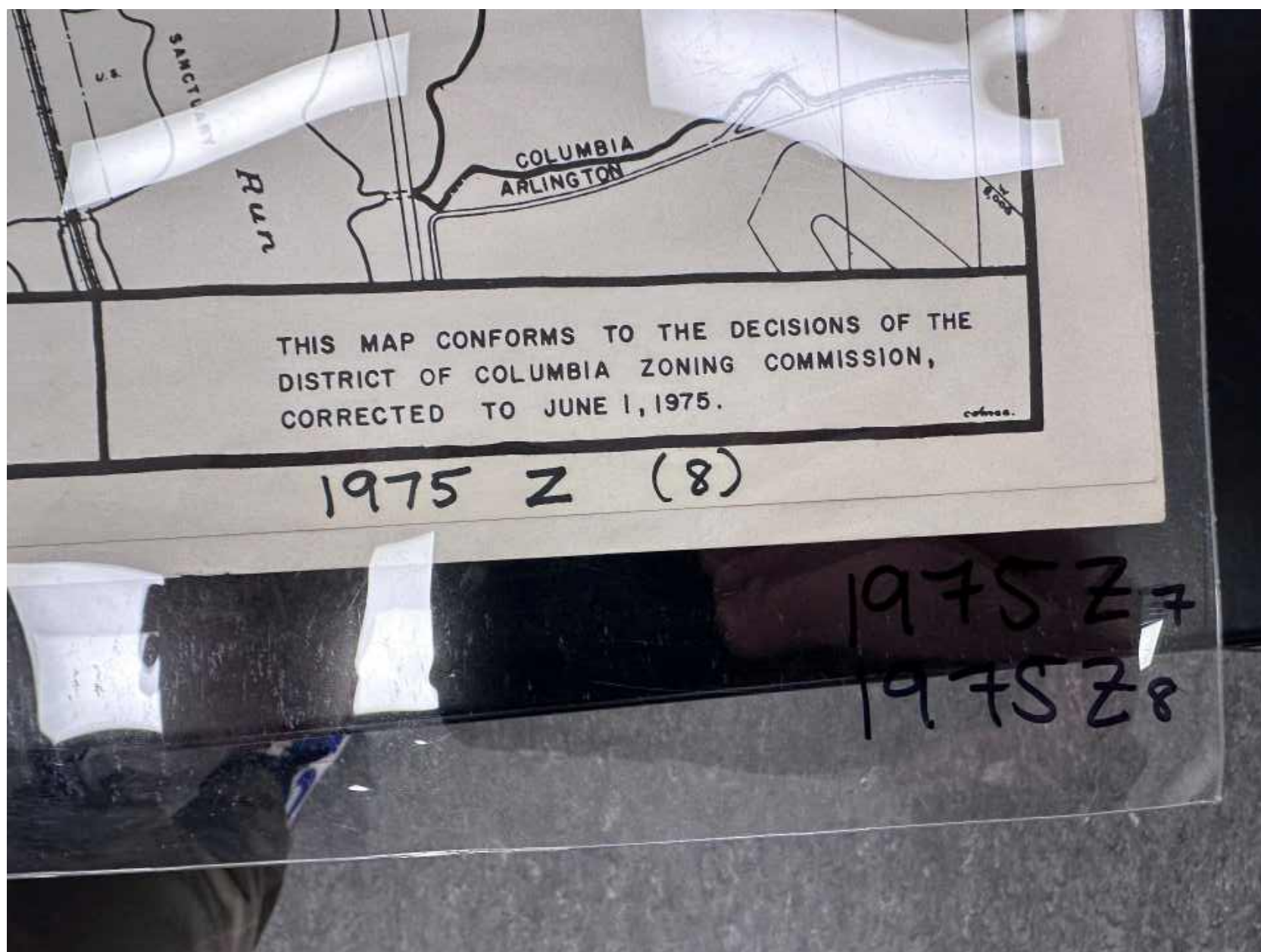




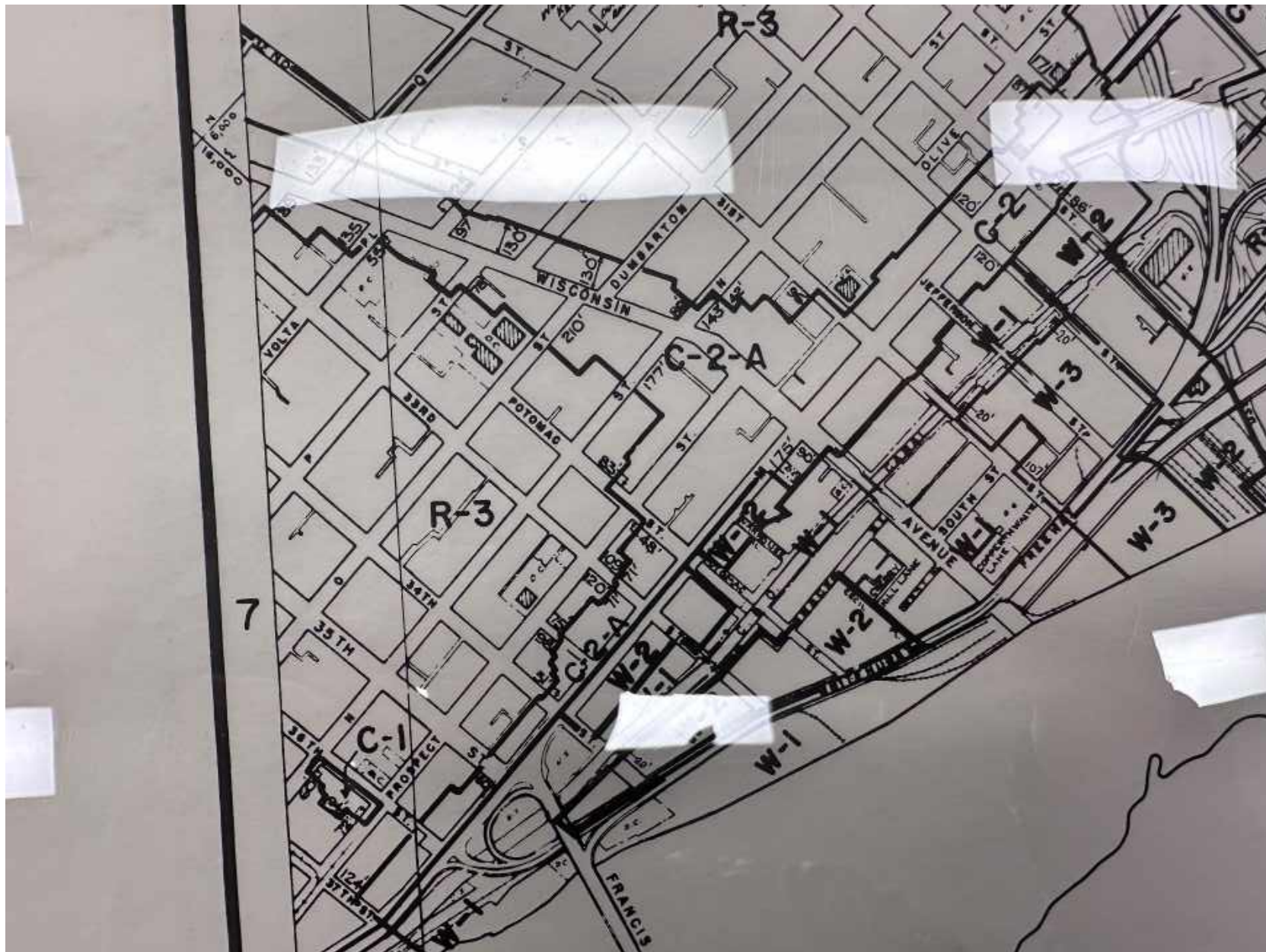




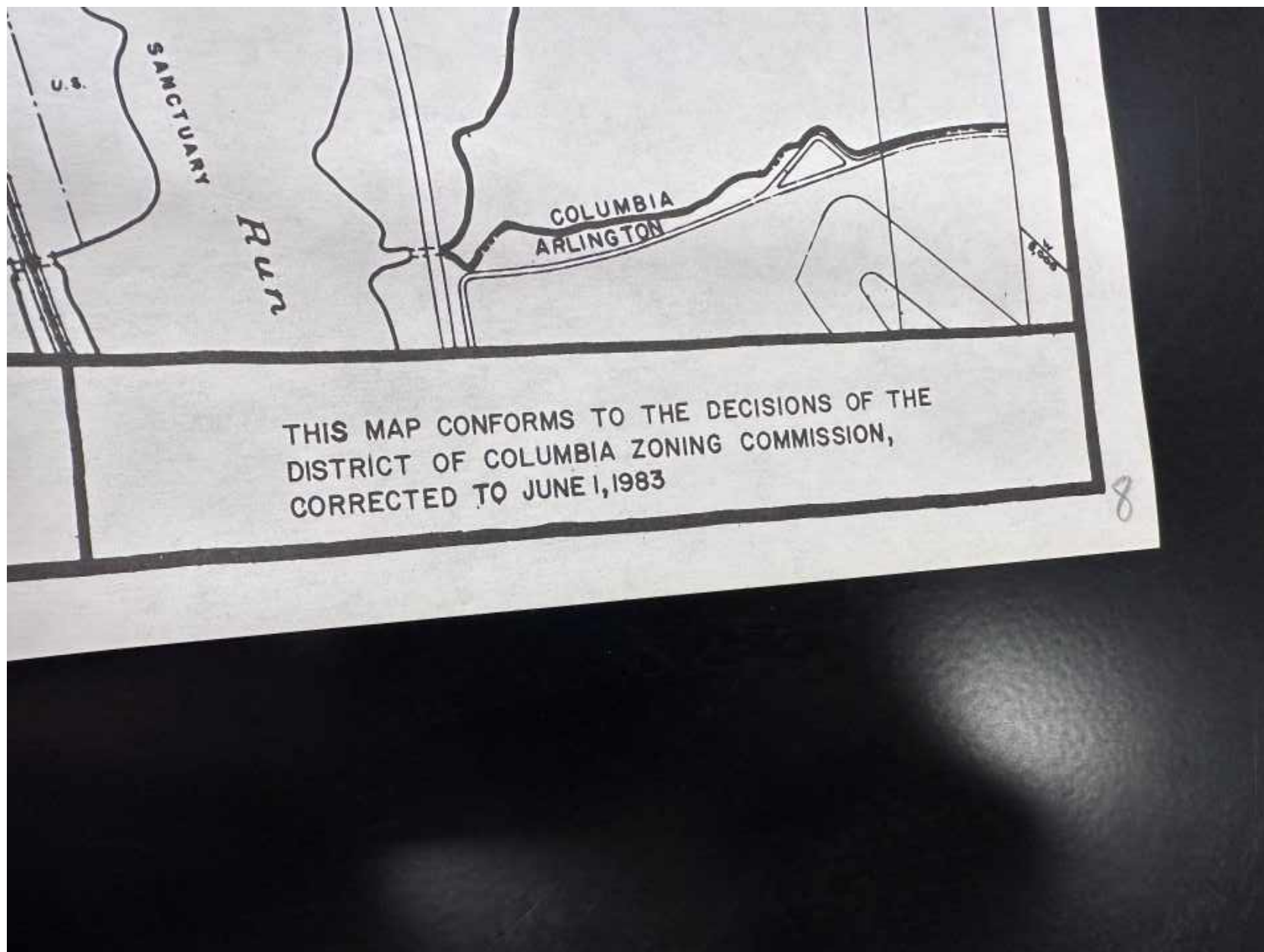
DeLorean 88 LLC_1174



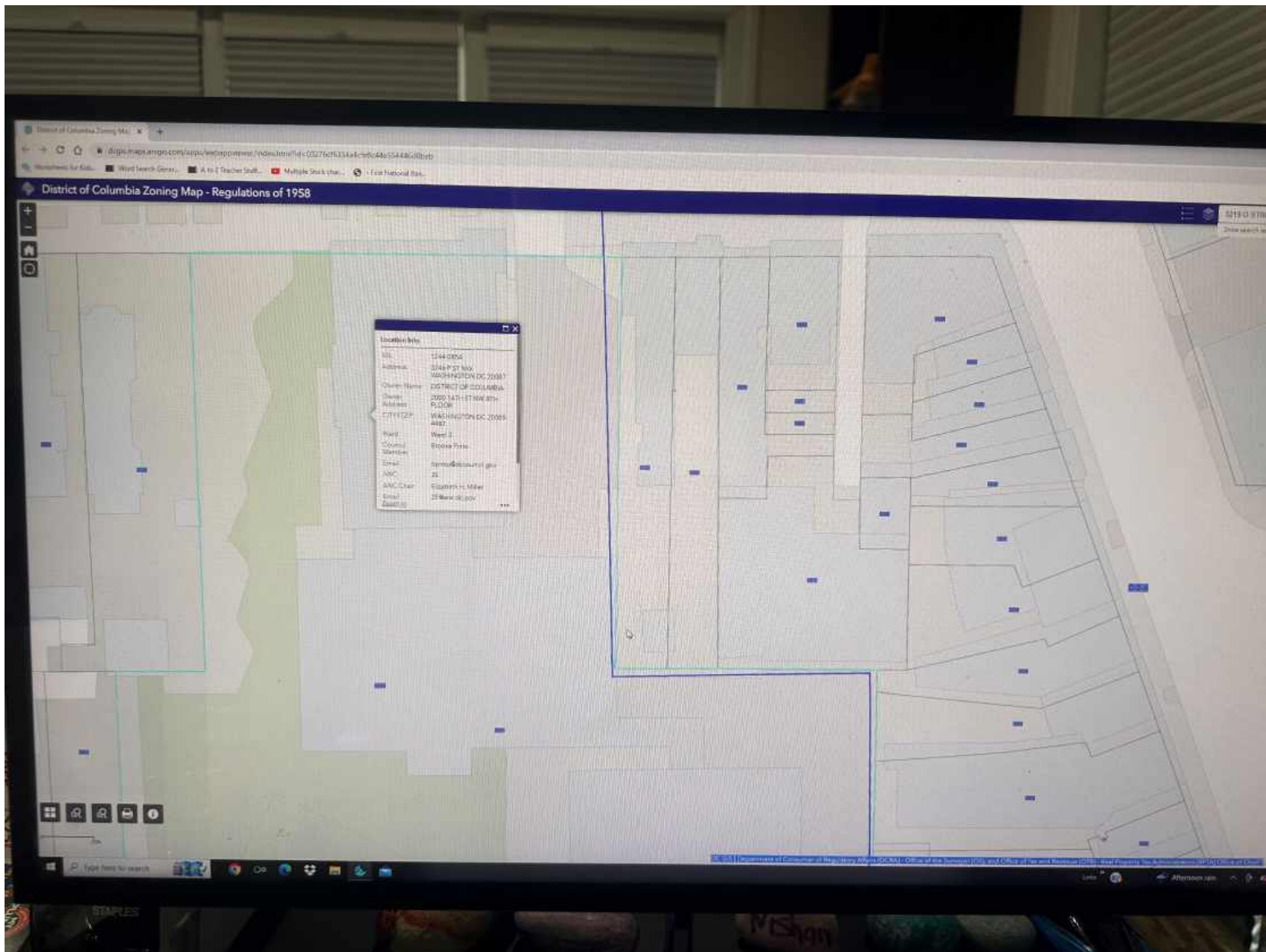
DeLorean 88 LLC_1175



DeLorean 88 LLC_1176







DeLorean 88 LLC_1179