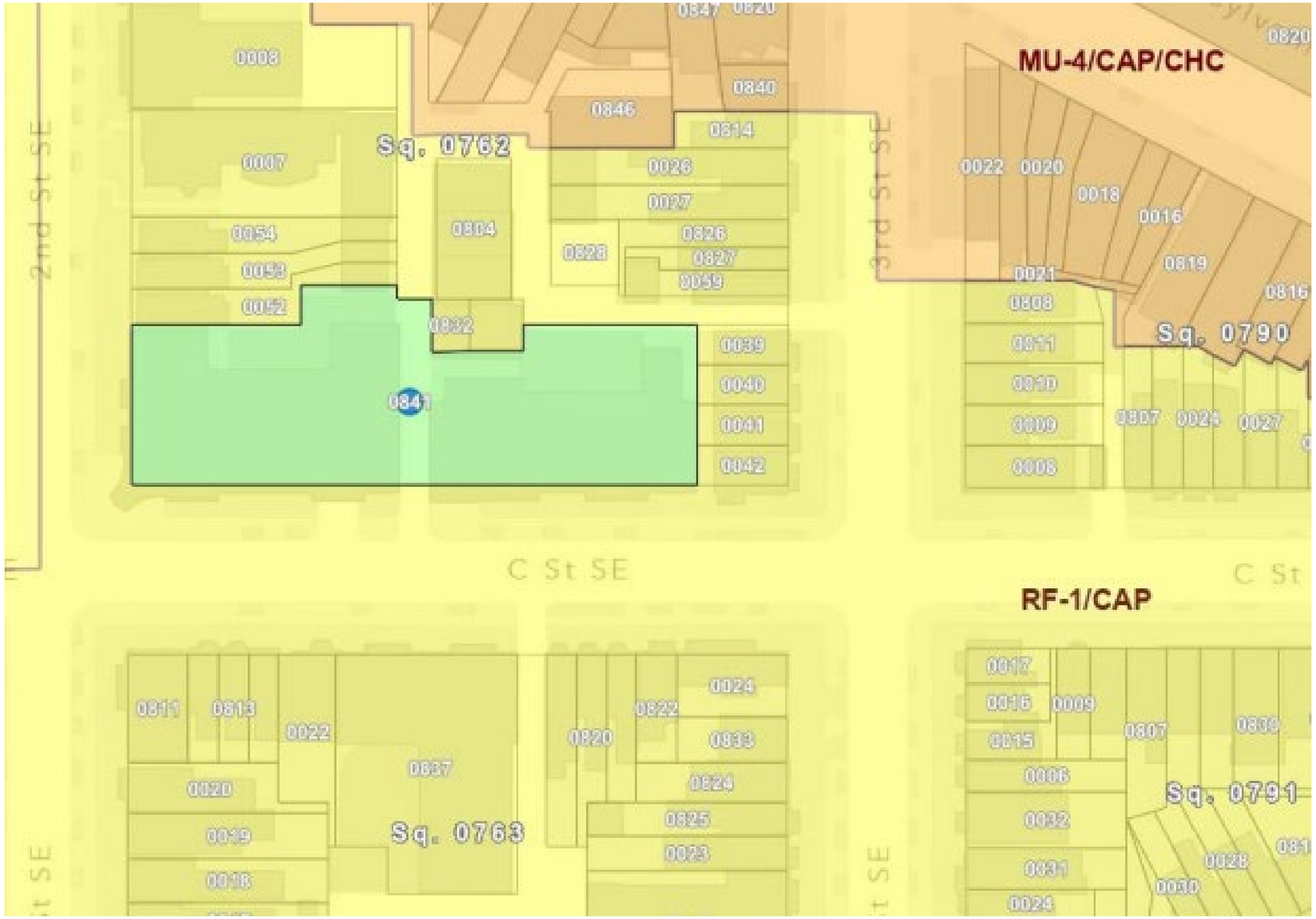
Capitol Hill Hotel – 200-220 C Street SE
BZA Case 21485

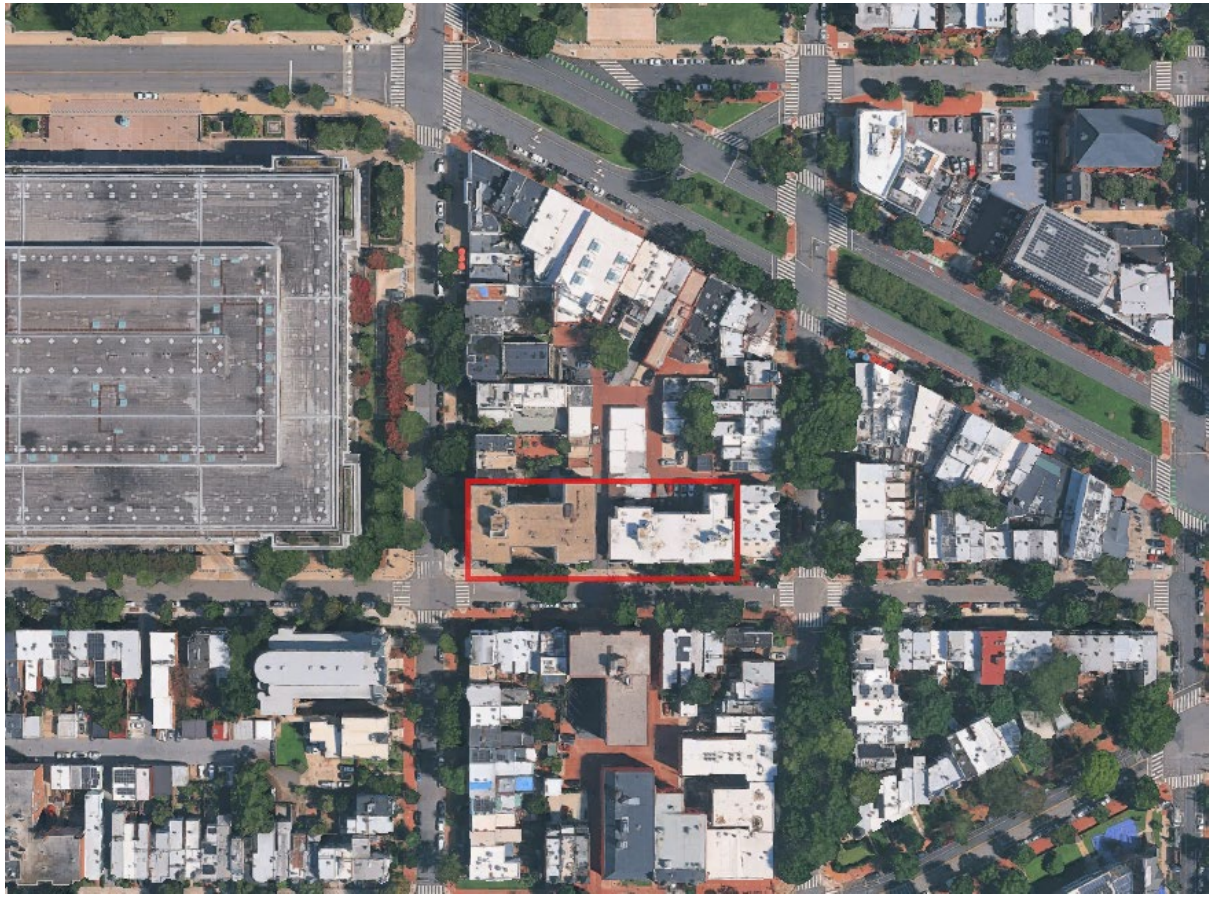
Board of Zoning Adjustment
District of Columbia
CASE NO. 21485
EXHIBIT NO. 25

Zoning Map

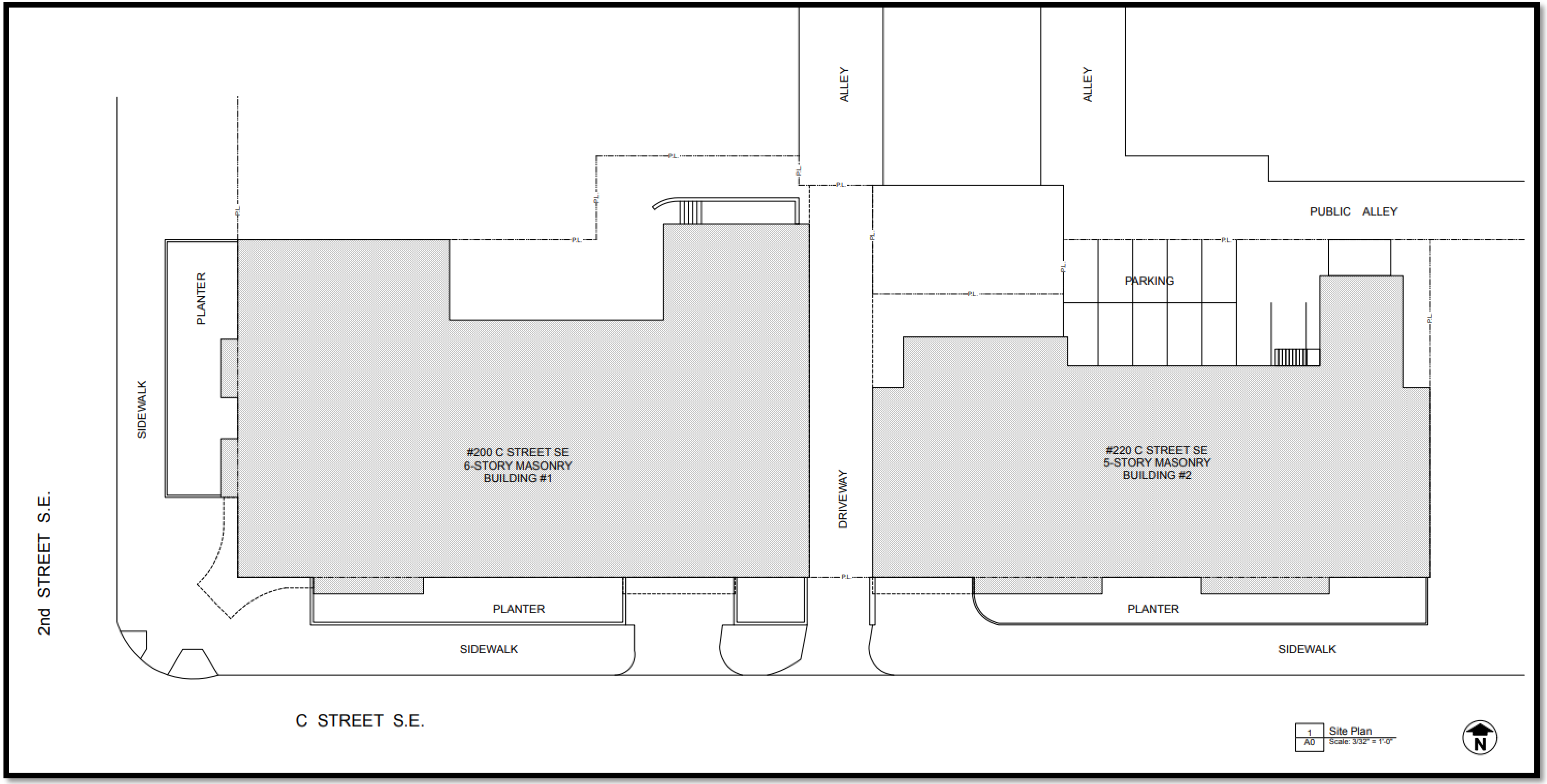

MU-4/CAP/CHC
RF-1/CAP
Sq. 0762
Sq. 0763
Sq. 0790
Sq. 0791
C St SE
2nd St SE
3rd St SE
0841

The Property

- Corner of C Street SE and 2nd Street SE
- Two buildings – 6-story and 5-story
  - 153 rooms
  - 12 parking spaces
  - No formal loading berth – loading activities in alley
- Bisected by a private alley that connects to the larger public alley network
- Capitol Hill neighborhood
  - One block to Pennsylvania Avenue
  - Across street from Library of Congress and nearby to U.S. Capitol, Supreme Court and other prominent government buildings

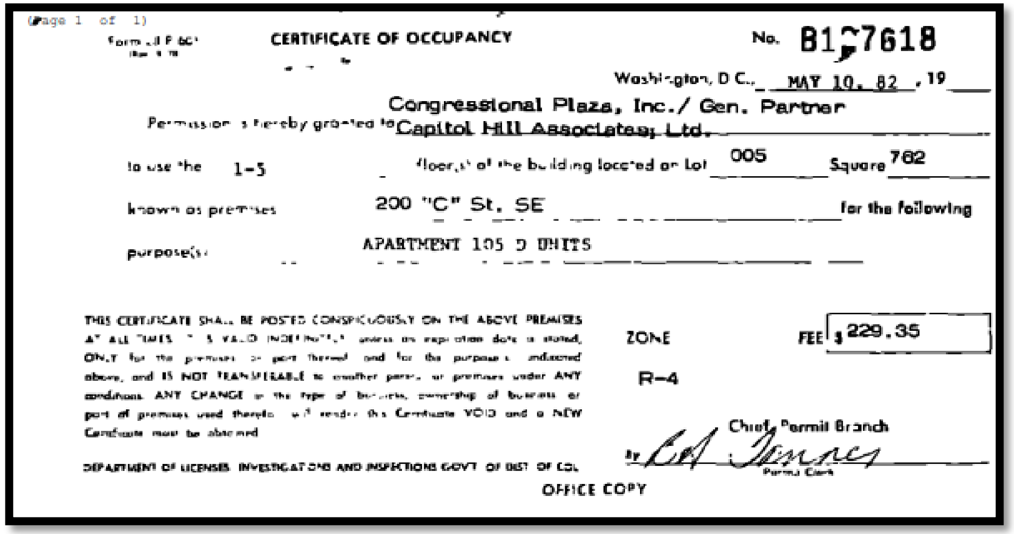


Site Layout


ALLEY
ALLEY
PUBLIC ALLEY
PARKING
PLANTER
SIDEWALK
#200 C STREET SE
6-STORY MASONRY
BUILDING #1
DRIVEWAY
#220 C STREET SE
5-STORY MASONRY
BUILDING #2
PLANTER
PLANTER
SIDEWALK
SIDEWALK
2nd STREET S.E.
C STREET S.E.
1
A0
Site Plan
N

History of Transient Use

- Constructed in the 1950's with original C of O's for "Apartment House" use
- Operated as a transient hotel-type use since at least the early-1980's
    - Prior to 1989, no "minimum length of stay" associated with apartment house use
- In 1989, Zoning Commission enacted text amendment (ZC Case 87-31) to define apartments as requiring a stay of a month or longer
- In 1993, Zoning Administrator issued determination that existing buildings could continue to operate as "apartment houses" but with no limitation on the period of rental
    - Confirming that the transient use was a legal non-conforming use
    - Re-affirmed by Zoning Administrator in 2021 and 2026



(Page 1 of 1)

CERTIFICATE OF OCCUPANCY

No. B1[illegible]7618

Washington, D.C., MAY 10, 82, 19

Permission is hereby granted to Congressional Plaza, Inc./ Gen. Partner Capitol Hill Associates, Ltd.

to use the 1-5 floor(s) of the building located on Lot 005 Square 762

known as premises 200 "C" St. SE for the following

purpose(s): APARTMENT 105 D UNITS

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business or part of premises used therefor will render this Certificate VOID and a NEW Certificate must be obtained.

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOV'T OF DIST. OF COL.

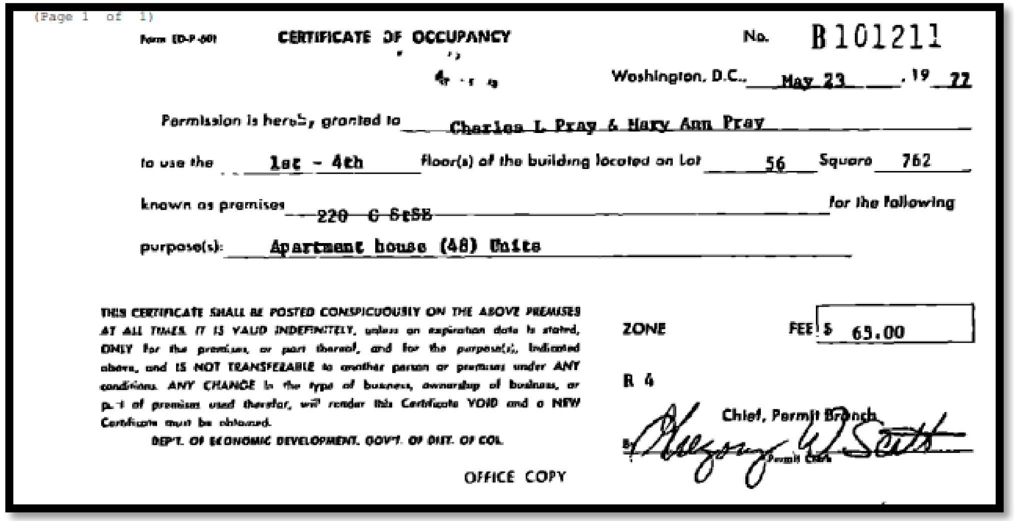
ZONE R-4

FEE $229.35

Chief, Permit Branch

By Permit Clerk

OFFICE COPY



(Page 1 of 1)

Form ED-P-601

CERTIFICATE OF OCCUPANCY

No. B101211

Washington, D.C., May 23, 19 72

Permission is hereby granted to Charles L Pray & Mary Ann Pray

to use the 1st - 4th floor(s) of the building located on Lot 56 Square 762

known as premises 220 C St SE for the following

purpose(s): Apartment house (48) Units

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

ZONE R 4

FEE $ 65.00

Chief, Permit Branch

By Permit Clerk

OFFICE COPY

1993 ZA Decision

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

January 6, 1993

'93 JUL 29 P3:31

Ms. Agnela E. Vallot
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Re: 200 and 220 C Street, S.E., Lots 55, 56, 57, 800, 829 and 831 in Square 762

Dear Ms. Vallot:

Reply is made to your letter dated November 6, 1992, pertaining to the above referenced property. I have reviewed the contents of your letter and agree with your findings that the buildings at 200 and 220 C Street, S.E. have the right to continue as an apartment house use without limitation to the period of rental. The existing apartment buildings were constructed prior to November 3, 1989. November 3, 1989 is when the Zoning Commission officially amended the D.C. Zoning Regulations imposing a time frame on rentals to avoid transient occupancy. Since the D.C. Zoning Regulations are not retroactive, the apartment buildings in question have the right to continue rentals without limitation to a specific time period.

If I can be of further assistance, you may reach me at 727-7350.

Sincerely,

Joseph F. Bottner, Jr.
Zoning Administrator

Applicant’s Proposal

- Applicant purchased the property in 2025 and seeks to correct the long-standing deviation between the property’s use and its certificate of occupancy
- The hotel will remain as-is:
  - No exterior structural changes
  - No operational changes
  - No increase to room count
- Use variance – Lodging use not permitted in RF-1 zone
- Special exception – Loading requirement due to change in use

Community/Agency Outreach

- ANC 6B – Support (Ex. 17)
- OP – Support (Ex. 20)
- DDOT – No Objection (Ex. 21)

Use Variance – Exceptional Condition

- Unique zoning history
  - Transient hotel-like use of the property for over 40 years
  - Only became legal non-conforming in 1989 with passage of text amendment
  - Use affirmed by three different Zoning Administrators
- Case law supports reliance on events "extraneous" to the land, such as zoning history
  - *Deazcarate v. DC Bd. Of Zoning Adjustment*, 388 A.2d 1233
  - *Oakland Condo v. DC Bd. Of Zoning Adjustment*, 22 A.3d 748

Use Variance – Undue Hardship

1. Legal compliance
    - "Legal gray area" creates confusion and uncertainty
    - Employment and operational laws are different for hotels and apartments
    - For employees, this uncertainty effects workplace policies, job classifications and compliance planning
    - For the hotel, this increases legal risk and makes employee recruitment and retention for difficult
2. Liability
    - Insurers are forced to reconcile the actual operations (hotel) with the use classification (apartment)
        - Hotels operate under substantially higher duty of care to employees/guests
        - Hotels also carry a different risk profile with short-term guests, front desk and housekeeping operations, public access, and more employees
    - Reduces the number of willing carriers, increases premiums, limits coverage or leads to exclusions

Use Variance – Undue Hardship (Cont’d)

3. Management/Franchising
    - Substantial challenges in attracting brands to manage or franchise the hotel
    - Creates uncertainty in scope of permissible operations, brand standards, guest services and compliance/liability
    - Limits applicant’s ability to pursue ordinary hotel management or franchise opportunities
4. Licensing
    - Hotel operates with a basic business license for a “housing” business
    - Increases regulatory uncertainty
5. Investment/Borrowing
    - Already challenging hospitality financing market
    - Lenders and investors must evaluate whether hotel can continue operating, whether future permits/licenses will be issued, whether enforcement or compliance will impair revenue
    - Narrows pool of lenders/investors and results in less favorable loan terms

Use Variance – Undue Hardship (Cont’d)

6. Reverting to compliant, non-lodging use
   - To operate true “apartment” use, applicant would need to install full cooking facilities in 153 rooms
   - Some rooms in the hotel have a “wet bar” with a sink, microwave and small refrigerator
   - Full kitchen would require installation of new electric or gas lines and full cooktop appliances
   - Unreasonable to add cooking facilities where the property can and would continue to operate the transient hotel-like use under the existing CofOs

Use Variance – No Substantial Detriment

- De Minimis Relief
  - Unlike most use variance cases, the applicant is not seeking to introduce a new, non-permitted use or even to expand an existing non-permitted use
  - *Gilmartin v. D.C. Bd. Of Zoning Adjustment*, 579 A.2d 1164
- Hotel operations will stay the same
  - Same number of rooms
  - No expansion to buildings
  - Relief creates no external impacts
- ANC support
- Taxation – Reclassifying property as commercial will benefit District by increasing tax revenue

Special Exception – Loading

- No loading berth currently serving the property
- Subtitle C § 901.5(a) – When a property changes use categories, additional loading berths are required when the loading requirement for the new use category exceeds the loading requirement for the old use category
  - Subtitle C § 901.5(b) – It is assumed prior use provided minimum number of loading spaces required
- Apartment use required one loading berth
- Lodging use greater than 50,000 sq. ft. requires two loading berths
- Loading relief for one loading berth

Special Exception – Loading

- *Relief is Harmonious with Purpose and Intent of Zoning Regs*
  - Although technically a change in use, the actual operations at the property will not change
  - The hotel has used the private alley for loading activities and will continue to do so

- *Relief Will Not Adversely Affect Neighboring Properties*
  - Hotel space is limited to guest rooms and smaller lobby/common area
  - No large events
  - Private alley is sufficient to meet these limited loading needs
  - DDOT supports loading relief given site constraints and limited loading needs

- *Special condition (Subtitle C § 909.2(a)(1))*
  - The use will generate lower loading demand than the minimum requirement
  - Less need for loading as compared to similarly-sized hotels that may have large event space
  - Hotel has operated for 40+ years without formal loading berth

Questions?