GERALD N. FORSBURG

May 24, 2002

D.C. OFFICE OF ZONING
2002 MAY 24 PM 4:54

BY HAND

Jerrily R. Kress, FAIA
Director
Office of Zoning
441 4th Street, N.W.
Suite 210
Washington, DC 20001

RE: Petition for Map Amendment for Square 754, Lots 103-106 & 109. Properties located on 2nd Street NE between F Street and Capitol Court.

Dear Ms. Kress:

This letter, on behalf of the F Street Preservation Association (the "Petitioners"), constitutes a petition to amend the text of the Zoning Regulations. It is submitted pursuant to Section 3010.5(c) of the Zoning Regulations "by private…organizations … to amend the zoning map … where … the Petitioners do not own all of the property proposed to be rezoned …."

The F Street Preservation Association proposes that the Zoning Commission set down for a public hearing and, after such a public hearing, adopt a map amendment to rezone the subject lots from CAP/R-4 to CAP/C-2-A so as to "not inconsistent with the Comprehensive Plan." These subject lots are designated as mixed-use on the land use map and would be of great asset to our community if they were rezoned for commercial use.

The Petitioners further request that this matter be considered at the Zoning Commission's meeting held on June 10, 2002, in order to set the matter for public hearing at the earliest possible date thereafter.

In support and explanation of the petition, I enclose one (1) original and twenty (20) copies of the following:

a) A Statement of Support prepared by the Petitioners; and

b) A map depicting the area to be rezoned from CAP/R-4 to CAP/C-2-A.

Please call me with any questions you may have regarding this matter. Thank you.

Sincerely,

Gerald N. Forsburg

Project Consultant

GNF/tmf

215 F STREET, N.E. • WASHINGTON, DC • 20002
PHONE: (202) 548-8177 • FAX: (202) 548-8177

ZONING COMMISSION
District of Columbia
ZONING COMMISSION
Case District of Columbia
CASE NO.02-22
Exhibit EXHIBIT NO.1

cc: F Street Preservation Association (Mr. Richard Blackfort)
Capitol Hill Restoration Society (Attn: Nancy Metzger)
Capitol Hill Area Merchants and Professionals (Dennis P. Bourgault, Esq.)
Stanton Park Neighborhood Association (Drury Tallant)
Hon. Sharon Ambrose
Keith Jarrell, Chair of ANC 6A
Ms. Ellen McCarthy, Office of Planning
Mr. Alan M. Hantman, FAIA, Architect of the Capitol
Ms. Patricia Gallagher, AICP, Director, National Capitol Planning Commission
Mr. Charles McMillion
Mr. Richard N. Wolf
Mr. Lyle Schauer
(All enclosures w/ copies)

215 F STREET, N.E. • WASHINGTON, DC • 20002
PHONE: (202) 548-8177 • FAX: (202) 548-8177

PETITION FOR MAP AMENDMENT

OF SQUARE 754, LOTS 103-106 & 109

STATEMENT IN SUPPORT

OF THE
PETITION OF THE F STREET PRESERVATION ASSOCIATION
TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION
FOR THE
APPROVAL OF A MAP AMENDMENT

May 24, 2002

STATEMENT IN SUPPORT OF THE PETITION OF THE F STREET PRESERVATION ASSOCIATION FOR THE APPROVAL OF A MAP AMENDMENT

I. INTRODUCTION

This statement and the attached documents are in support of the petition of the F Street Preservation Association (hereinafter "Petitioners") for an amendment to the Zoning Map of the District of Columbia to change the zoning of Lots 103-106 & 109 in Square 754 ("Subject Lots"). Specifically, the Applicant requests that the Subject Lots be rezoned from the CAP/R-4 District to the C-2-A District, with the Capitol Overlay ("CAP") District (See Exhibits A, B, and C).

The Subject Lots are bounded by F Street, N.E. to the north; 2nd Street, N.E. to the west; and Capitol Court to the south and to the east. The Subject Lots contain a total of approximately 8,684 square feet of land area. Rezoning to CAP/C-2-A would not be inconsistent with the Comprehensive Plan, including the recent Comprehensive Plan Amendment Act of 1998, D.C. Law 12-275, 10 DCMR (1998) ("Comprehensive Plan"). The CAP/C-2-A District provides a control limiting the height of any future development to forty (40) feet or three (3) stories; would create no adverse impacts on the surrounding property; and would be advantageous to the District of Columbia. The surrounding area north and south on 2nd Street is primarily zoned CAP/C-2-A. Further, the Subject Lots have been identified as part of a preferred mixed use district of residential and commercial in the Comprehensive Plan for the District of Columbia and on the Generalized Land Use Map (See Exhibit F). In particular, Lot 109, was constructed in 1908 as a commercial property and has historically been commercial in use.

II.
EXHIBITS IN SUPPORT

The Petitioners submit the following exhibits in support of the application and this statement:

A. Surveyor's plats for the subject lots;

B. A copy of a portion of the Baist Atlas and Sanborn Atlas showing the subject lots;

C. A copy of a portion of the Zoning Map, dated April 1, 1996, showing the Subject Lots and the surrounding area;

D. A land use survey for the lots;

E. Photographs of the Subject Lots and the surrounding area;

F. A portion of the Generalized Land Use Map, dated May 1995, adopted as part of the Comprehensive Plan;

G. Zoning Commission Order No. 456, dated May 13, 1985, establishing the Capitol Interest District;

H. Zoning Commission Order No. 821, dated August 4, 1997, establishing the Union Station re-zoning;

I. Zoning Commission Order No. 955, dated February 11, 2002, establishing a consolidated Planned Unit Development and Zoning Map Amendment for the Station Place Development on Lots 178 and 179 in Square 720.

J. Map Amendment application form.

III.
DESCRIPTION OF THE SUBJECT LOTS

The Subject Lots, five (5) total, are currently zoned CAP/R-4. They are adjacent to one another, forming a rectangle along 2nd Street, N.E. and consist of approximately 8,684 square feet of land area. The Lots are bound by 2nd Street, N.E. to the west; F Street, N.E. to the north; a public alley and several commercial establishments to the east; and Capitol Court, N.E. to the south. Lots 103-106 are each currently improved with historic row house flat dwellings with two (2) units per structure. Lot 109 is currently improved with a small one-story vacant commercial building which was constructed in 1908. All lots are in the Capitol Interest District Overlay and the Capitol Hill Historic District.

IV.
DESCRIPTION OF THE SURROUNDING AREA

A. North

Lot 109 has frontage on F Street, N.E. which carries two-way traffic and has a right-of-way width of 100 feet. Immediately north of Lot 109 is Square 753 which is zoned C-2-A along 2nd Street, to the depth of one row house, and R-4 for the remainder of the Square. The Square is improved with a school; a police substation facility; various commercial establishments including Banducci's Restaurant (the corner lot opposite Lot 109), offices and the Capitol Hill Branch of the Dupont Veterinary Clinic; and two and three story row houses.

B. North West

To the North West of Square 754 is the 1.4 million square foot Station Place Development, currently under construction. The Zoning on this Square was recently

amended to C-3-C at the Zoning Commission's public meeting of February 11, 2002. (See Exhibit I.)

C. South

The Subject Lots are bound to the south by Capitol Court, a public alley with a right-of-way of 12', which provides access to the interior of the Square; to the rear entrances of the private and commercial row houses in Square 754; and to the office development at the interior of the Square. The C-2-A District continues south of the alley and turns east to include Massachusetts Avenue.

D. East

The Public Alley (Capitol Court) continues from the south to the east, behind the Subject Lots, and has a right-of-way which varies between 25 and 32 feet. Directly to the East of the alley, at the interior of the square, is a three story office development consisting of a lot of approximately 10,724 square feet and is zoned CAP/C-2-A.

E. West

The Subject Lots comprise approximately 135 feet of frontage on 2nd Street, N.E which has a right-of-way of 90 feet. Immediately west of 2nd Street is the Thurgood Marshall Federal Judiciary Building. The Square is not in a zone district in accordance the District of Columbia Regulations for federally owned property. (D.C. Code § 1-2004 (1981))

V.
EXISTING AND PROPSED ZONING

A. Subject Lots

The Subject Lots are currently zoned CAP/R-4. The R-4 District permits matter-of-right development of single family residential uses (including detached, semi-

detached, row dwellings and flats), churches and public schools with a minimum lot width of eighteen (18) feet, a minimum lot area of 1,800 square feet, a maximum lot occupancy of 60%, and a maximum height of three (3) stories or forty (40) feet. The Capitol Overlay ("CAP") District was established to promote and protect the public health, safety and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United Sates Congress as set forth in the Act, Master Plan for Future Development of Capitol Grounds and Related Areas (Public Law 94-59, July 25, 1975; 89 Stat. 288) and in accordance with the plan submitted to the Congress in accordance with the Act. (11 DCMR §1200.1) The CAP District is intended to provide particular controls adjacent to properties having an obvious and well-recognized general public interest. (11 DCMR §1200.4) In the CAP/R-4 District, a building may be built to the maximum height not to exceed forty (40) feet or three (3) stories. The maximum lot occupancy is 60 percent and the maximum floor area ratio (FAR) is not to exceed one and eight-tenths (1.8) for all uses permitted in the CAP/R-4 District.

The proposed zoning is CAP/C-2-A, which permits low density development, including office, retail, and all kinds of residential uses to a maximum lot occupancy of 60 percent. In the CAP/C-2-A District, the maximum FAR is 1.8, of which no more than 1.5 FAR is permitted for uses other than residential. (11 DCMR §§ 1203.1, 1203.3)

The maximum height in a CAP/C-2-A District is forty (40) feet (11 DCMR § 1203.1) and the maximum lot occupancy is 60 percent, in accordance with the underlying C-2-A District. (11 DCMR §772.1) Therefore, the total maximum height and bulk permitted on the Subject Lots under the existing zoning, 40 feet and 1.8 FAR, is exactly

the same as would be permitted on the Subject Lots pursuant to the requested CAP/C-2-A zoning and subject to the uses on the Subject Lots. (See FAR in chart below.) Thus, if the zoning in Square 754 is changed from CAP/R-4 to CAP/C-2-A, the proposed change in zoning would:

A. Allow retail or service uses.

B. Not increase the maximum permitted height of 40 feet.

C. Not change the maximum permitted lot occupancy of 60 percent.

D. Not change the overall permitted maximum FAR.

The following table compares the height and density provisions of the current and proposed zoning:

	CAP/R-4	CAP/C-2-A
HEIGHT	40'	40'
FAR	1.8 total	1.8 maximum, of which no more than 1.5 may be permitted uses other than residential
LOT OCCUPANCY	60%	60%

B. Surrounding Area

The area within which the Subject Lots are located is predominately zoned CAP/C-2-A and CAP/R-4. As shown on the official Zoning Map, the Subject Lots are surrounded by

VI.
ZONING AND PLANNING HISTORY

The Subject Lots were made part of the Capitol Interest (CAP) District in 1985. The CAP District was adopted to provide a transition zone between the monumental U.S. Capitol precinct and the historic residential sector. The CAP District further sought to

retain the existing historic and aesthetic context while establishing a sense of "limit" to prevent the massive encroachment of either public or private development into the area. As noted above, the CAP/R-4 District permits a maximum FAR of 1.8 and a maximum of 40 feet for residential uses.

The surrounding area was then the focus of the Union Station Rezoning in 1997. The rezoning was undertaken to eliminate inconsistencies between zoning and the Comprehensive Plan, as mandated by the Home Rule Act. While much of the area was rezoned to the more appropriate CAP/C-2-A zoning, including Square 753 to the north of the Subject Lots, the Subject Lots remained R-4, creating an interruption in the C-2-A District along 2nd Street.

VII.
STANDARDS APPLICABLE TO A PETITION FOR A ZONING MAP AMENDMENT

The Zoning Act (D.C. Code, Sections 5-412 et seq., 1994) sets forth the criteria which the Zoning Commission must apply in adopting zoning regulations. As set forth in Section 5-413, the underlying purposes of the regulations are to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital." Section 5-414 directs the Zoning Commission to make its regulations "not inconsistent with the comprehensive plan for the national capital." Section 5-414 sets forth further standards directed at supporting the general well-being of the District of Columbia. The Commission must apply these standards and criteria determining whether to approve a requested amendment. The proposed zoning of the Subject Lots to CAP/C-2-A meets the standards for approval.

A. Health, Safety and General Welfare

The proposed map amendment from CAP/R-4 to CAP/C-2-A would further health, safety and general welfare of the District of Columbia by facilitating the development potential of the Subject Lots thereby providing much-encouraged uses in the area of the CAP District. The map amendment would bring the Subject Lots in line with the surrounding CAP/C-2-A District and would be compatible with the Comprehensive Plan for the area. (Lot 109 has been vacant for nearly 30 years, allow originally constructed and used commercially, because of the R-4 zone presently attached to it.)

B. No Overcrowding of Land

Rezoning the Subject Property to CAP/C-2-A would result in neither the overcrowding of land nor the undue concentration of population, nor would it result in greater congestion in the streets. The maximum FAR permitted for commercial use in a CAP/C-2-A zone and that is permitted by the current CAP/R-4 zoning is the same at 1.8.

C. The Requested Zoning Will Not Produce Objectionable Traffic Conditions

A Zoning Map amendment to allow for CAP/C-2-A zoning in Square 754 will not produce objectionable traffic conditions. Located within a block of Union Station, as well as bus lines, the Subject Lots are adequately served by public transportation.

D. Comprehensive Plan

Zoning Commission Order No. 821 (See Exhibit H), stated that the Commission's task in the case was to "insure that the proposed map amendments [would not be] inconsistent with the Comprehensive Plan and [would be] appropriate for the area of the city in which they [were] to be located." Six goals were presented by the office of

planning during the Union Station Rezoning Case. Three of those goals are particularly relevant to the Subject Lots: 1) encourage a mixture of residential and commercial uses at moderate to medium density at various locations; 2) maintain the existing scale of the residential neighborhood and of the building stock in most of the area; and 3) establish suitable intermediate step-down building heights at the edges of the intensive commercial development. The petitioners believe that it is appropriate to institute this map amendment expeditiously so as to ensure the safety, welfare and economic development of our neighborhood.

Section 5-414 of the District of Columbia Code requires that the Zoning Commission's decision "shall not be inconsistent with the Comprehensive Plan for the Nation's Capital." This rezoning is consistent with the Comprehensive Plan and implements many of the themes and elements set for the in the Comprehensive Plan.

1. **Themes of the Comprehensive Plan**

Several themes of the Comprehensive Plan are supported by this rezoning: 1) stabilizing and improving the District's neighborhoods; 2) increasing the quantity and quality of employment opportunities in the District; 3) respecting and improving the physical character of the District; 4) preserving the historic character of the District, and 5) reaffirming the District's role as the economic hub of the National Capital Region. The CAP/C-2-A zone allows for commercial uses while regulating height, bulk and density. Thus, rezoning the Subject Lots to CAP/C-2-A will ensure and encourage an appropriate level of development in this historic area.

2. **Elements of the Comprehensive Plan**

The proposed rezoning of Square 754 to CAP/C-2-A is also supported by the different elements of the Comprehensive Plan.

The Comprehensive Plan Generalized Land Use Maps and Land Use Element are served by this rezoning. The District of Columbia Land Use Map designates Lots 103-106 & 109 in Square 754 to be included in the moderate-density residential/commercial mixed-use category. (See Exhibit F) The CAP/C-2-A District is consistent with this low-density residential/commercial mixed-use land use designation.

The proposed rezoning is consistent with the Ward 6 Element of the Comprehensive Plan, particularly the "Ward 6 Objectives for Economic Development" (10 DCMR §1701 et. seq). The Ward 6 Plan specifically provides the objectives to encourage a range of commercial services and facilities (10 DCMR §1701.1(a)) and to stimulate activity and employment opportunities and growth consistent with the respective needs of the various neighborhoods (10 DCMR §1701.1(b).) The proposed rezoning to CAP/C-2-A is an action which will stimulate commercial development for the underused Subject Lots.

VIII.
CONCLUSION

For the reasons stated herein, the Petitioners request approval of the subject application to amend the Zoning Map from CAP/R-4 to CAP/C-2-A. The rezoning is consistent with existing and proposed land uses and will encourage desired new development within this area of the District of Colombia. The rezoning will promote and improve the orderly development of land in conformity with the District of Columbia

zone plan as embodied in the Zoning Regulations, the Zoning Map and the Comprehensive Plan. The development of Square 754, encouraged by CAP/C-2-A zoning, will make a substantial contribution to the District's economy and to the health, welfare and prosperity of its citizens. Accordingly, the Petitioners urge the Zoning Commission to act favorably on this application and to approve the proposed rezoning to CAP/C-2-A.

Respectfully submitted,

The F Street Preservation Association

By: _____
Gerald N. Forsburg

MAY 24, 2002
PLAT FOR SQ. 754 LOTS 103-106 & 109
SCALE: 1 INCH = 20 FEET

NOTE: THIS PLAT IS NOT CERTIFIED AND HAS BEEN PROVIDED AS A COURTESY AS NO PLAT IS NOW REQUIRED AT THE FILING OF A PETITION.

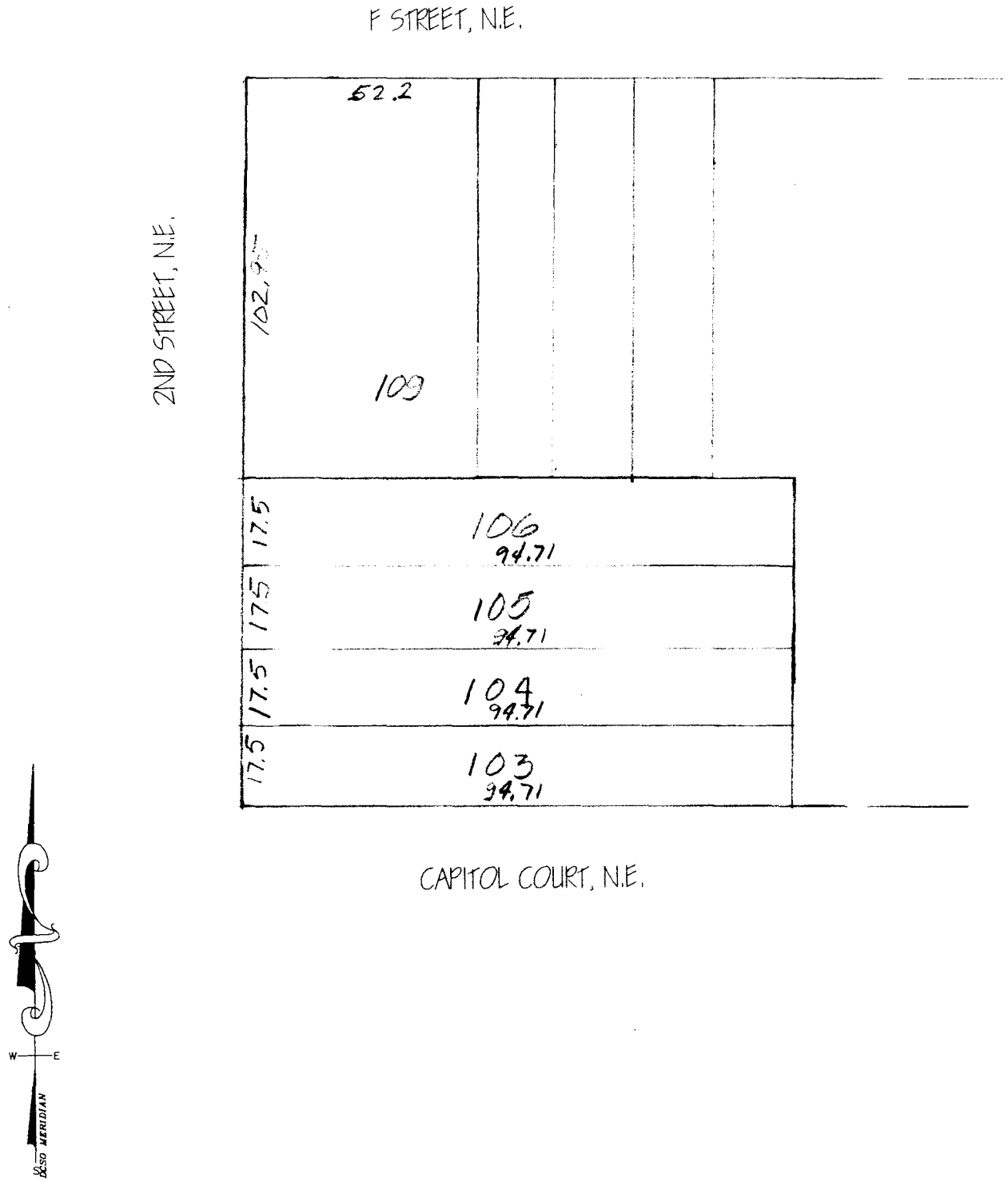
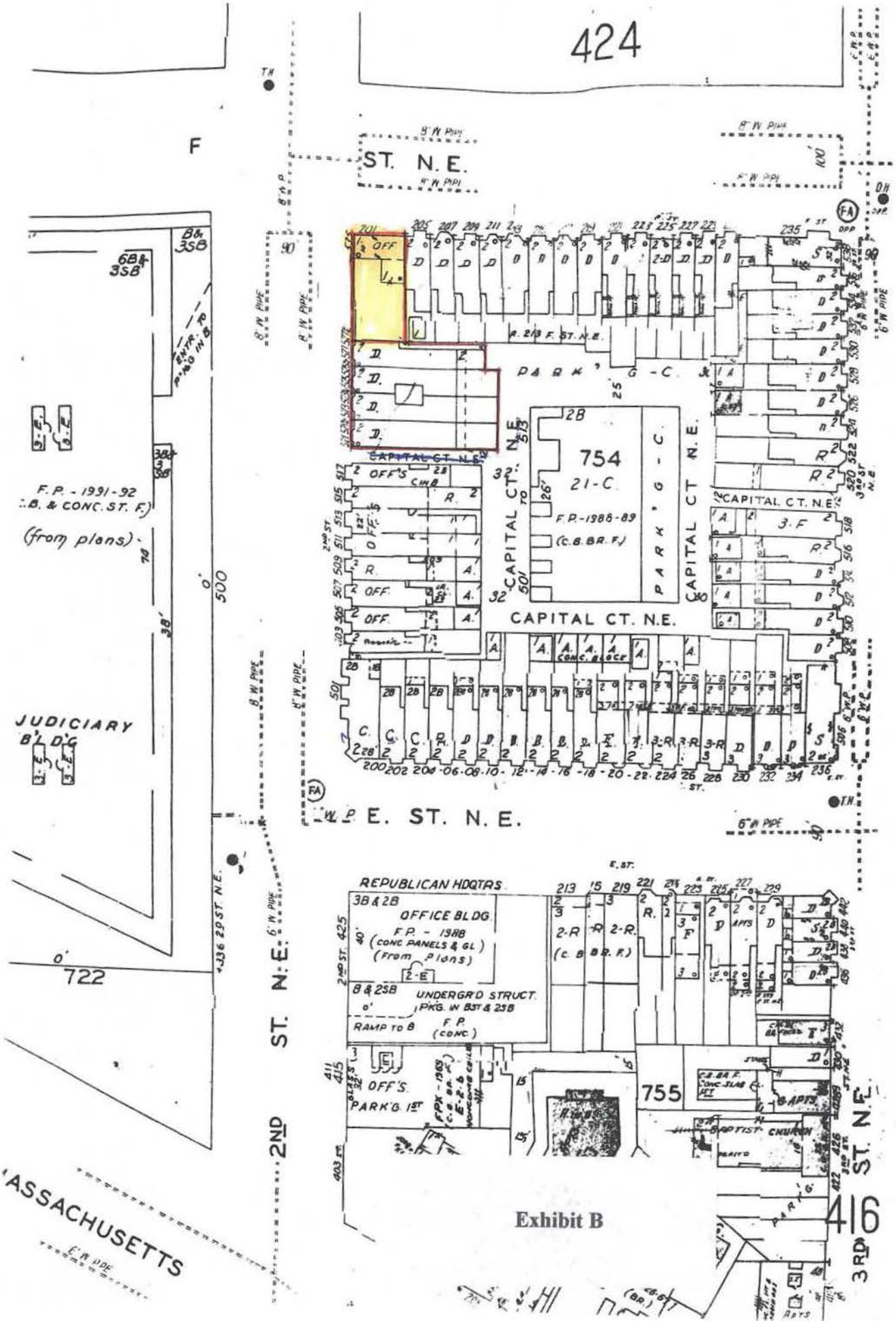


Exhibit A


424
ST. N.E.
CAPITAL CT. N.E.
754
21-C
PARK 'G-C
CAPITAL CT. N.E.
E. ST. N.E.
JUDICIARY BLDG
REPUBLICAN HDQTRS
OFFICE BLDG
F.P. - 1988
(CONC PANELS & GL)
(From Plans)
UNDERGR'D STRUCT.
PKG. IN B'ST & 2'B
RAMP TO B
F.P. (CONC.)
OFF'S
PARK'G 1ST
755
BAPTIST CHURCH
2ND ST. N.E.
3RD ST. N.E.
MASSACHUSETTS
722
500
Exhibit B

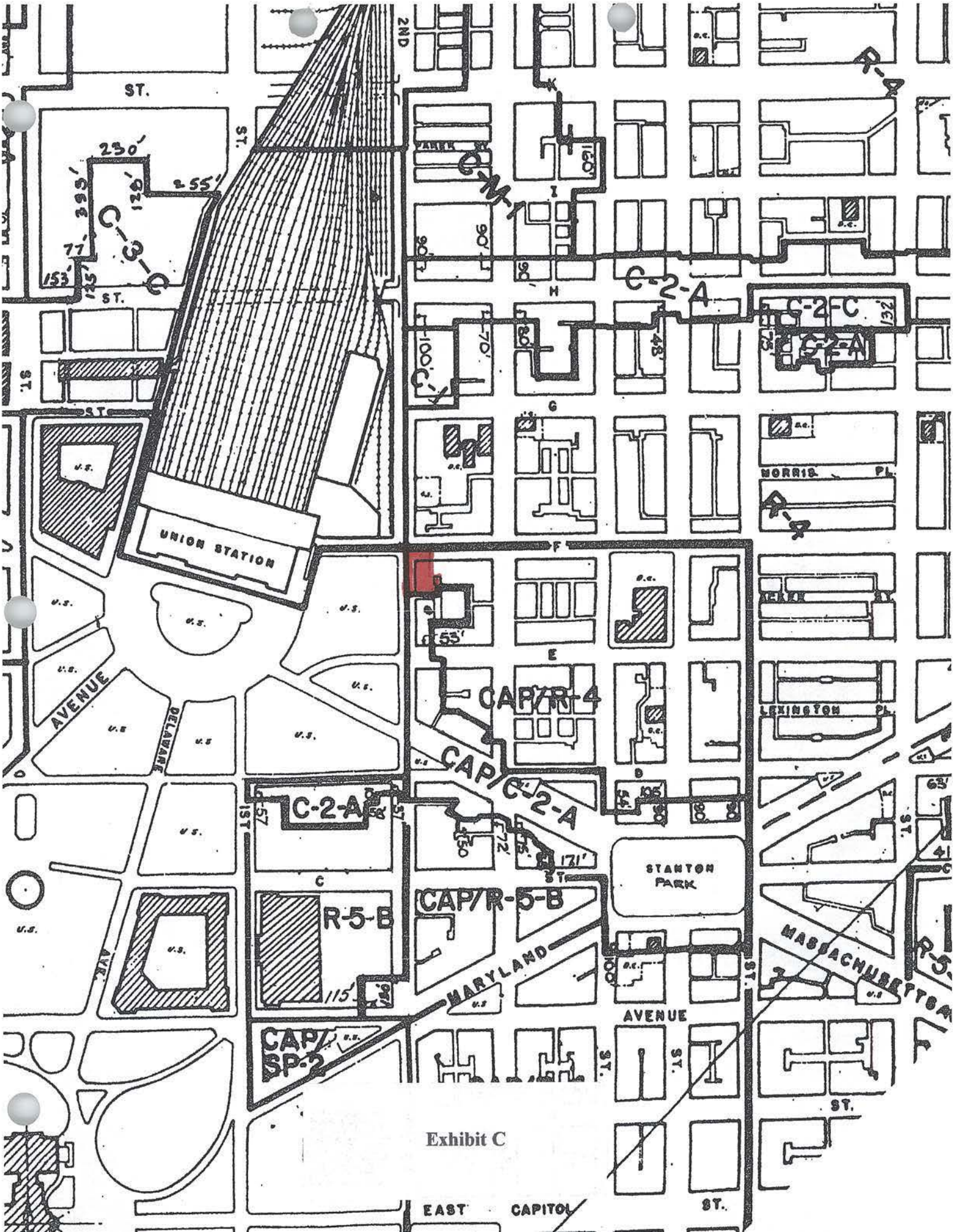

2ND
ST.
PARK
C-M-1
C-2-A
C-2-C
R-4
C-3-C
UNION STATION
NORRIS PL.
LEXINGTON PL.
CAP/R-4
CAP/C-2-A
C-2-A
R-5-B
CAP/R-5-B
CAP/SP-2
STANTON PARK
MARYLAND AVENUE
MASSACHUSETTS AVENUE
DELAWARE AVENUE
EAST CAPITOL ST.
U.S.
D.C.

Exhibit C

DESCRIPTION OF THE SUBJECT LOTS AND SURROUNDING AREA

A. Subject Lots

The subject lots are located along 2nd Street, N.E. (90 feet wide right-of-way) between Capitol Court (12 feet wide right-of-way) and F Street, N.E. (100 feet right-of-way). The subject lots are comprised of 5 lots with an approximate total of 8,684 square feet. Lots 103 though 106 are improved with two-story multi-family flats and lot 109 is improved with a one-story vacant commercial building.

B. Surrounding Area

The subject lots are located two blocks east of Union Station. The subject lots are surrounded by the following land uses and zone districts:

North - Directly north of the subject lots is Square 753, the southwest corner of which is zoned C-2-A. The western edge of Square 753 consists of several row houses with a combination of residential and commercial uses, including a veterinarian clinic and a restaurant. On the north portion of Square 753 is a private day school with parking lot, and the rest of the square improved with single and multi-family row houses.

South - The southwestern portion - the entire 2nd Street frontage and a portion of E Street - of Square 754 is zoned CAP/C-2-A; the rest of the Square is mostly R-4. The Square is comprised mostly of 2 and 3 story row structures. The CAP/C-2-A District continues south along 2nd Street in Square 755. This Square contains the Ronald Regan Republican Building at the corner of 2nd and E, and an Exxon gas station at the corner of 2nd and Massachusetts Avenue.

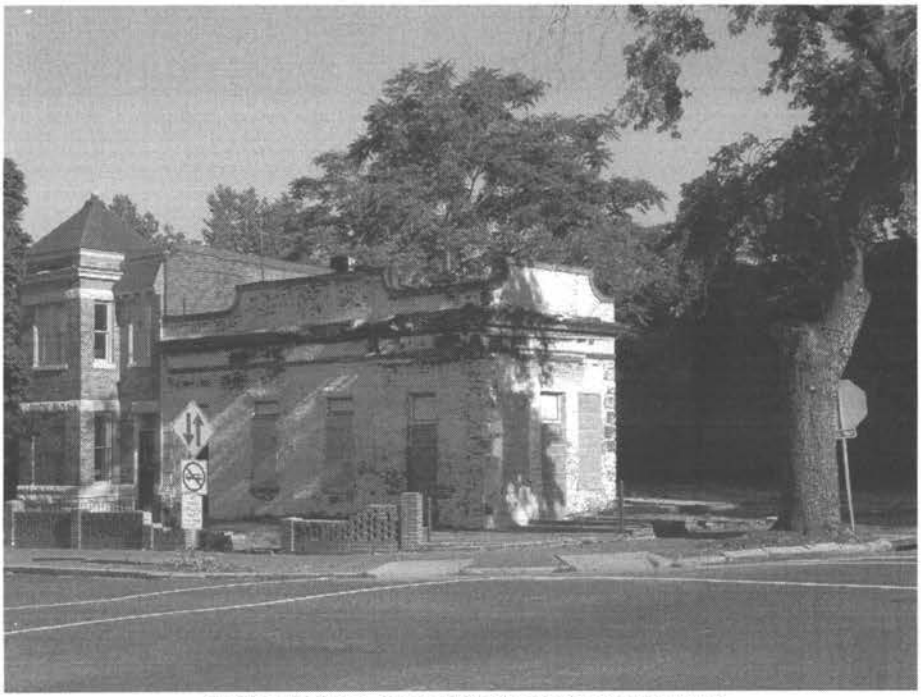
East – The interior of Square 754 contains a 3 story office development which wrapping the C-2-A District around and behind the subject lots. The rest of the Square and the Squares East of the Subject Lots are zoned R-4 with the CAP overlay. These are mostly 2 – 4 story row houses.

West – Across 2nd Street is Square 721 This Square is occupied by the Thurgood Marshall Judiciary Building and is un-zoned according to Federal and District Regulations for federally owned property.

Northwest – Across 2nd and F Streets is Square 720. Square 720 is large and irregularly shaped, and contains Union Station, and until recently a large surface parking lot. Lots 178 and 179 are soon to be improved with the recently approved 5.5 acre Station Place Planned Unit Development. The Generalized Land Use Map of the Comprehensive Plan designates these Lots in the mixed-use, medium-high density commercial/production and technical land use.



SUBJECT LOTS 103-109 IN SQUARE 754
(LOCATION 1 ON MAP)



SUBJECT LOT 109 IN SQUARE 754
(LOCATION 2 ON MAP)

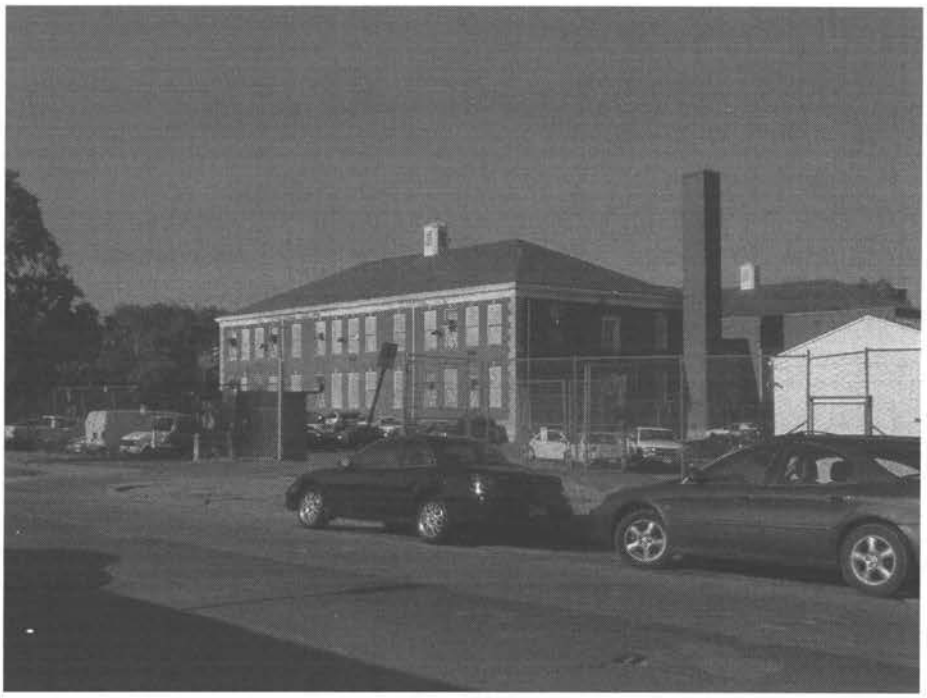
Exhibit E



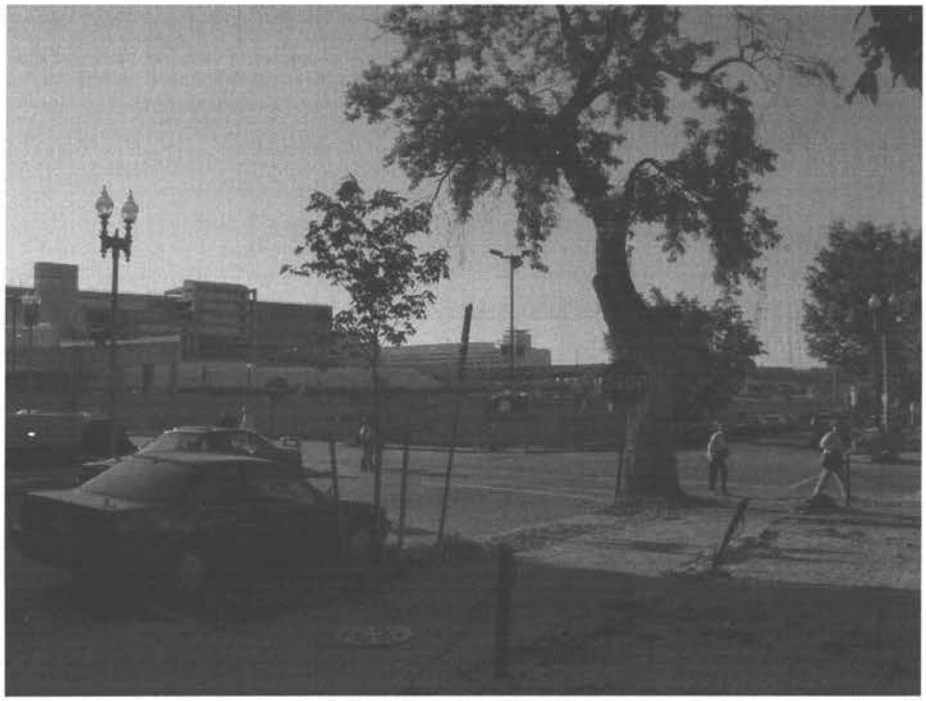
DIRECTLY NORTH OF SUBJECT LOTS – SQUARE 753
(LOCATION 3 ON MAP)



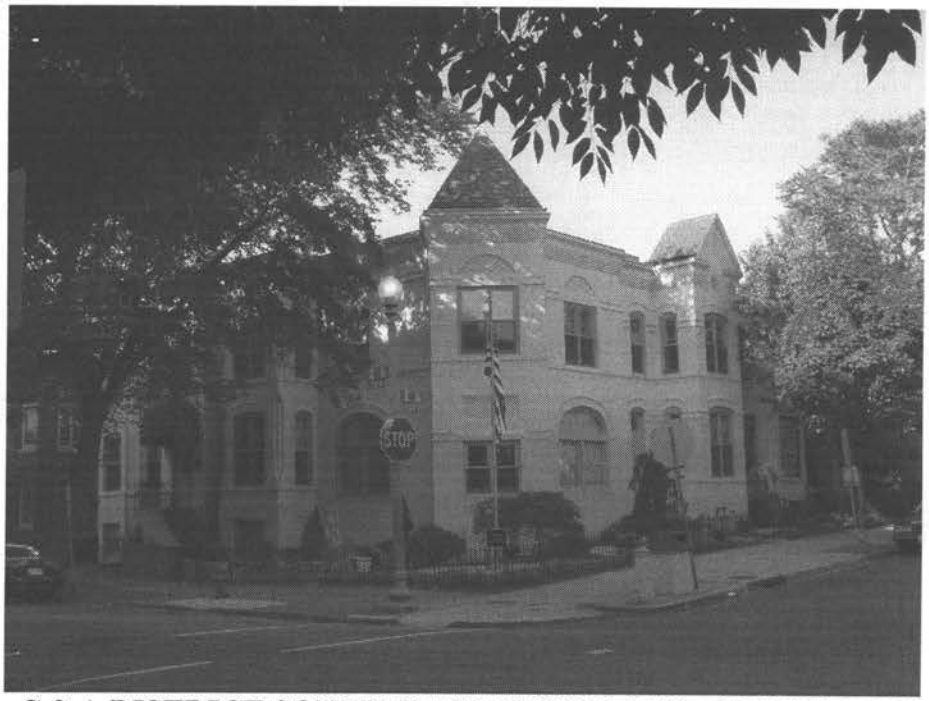
C-2-A DISTRICT NORTH OF SUBJECT LOTS – SQUARE 753
(LOCATION 4 ON MAP)



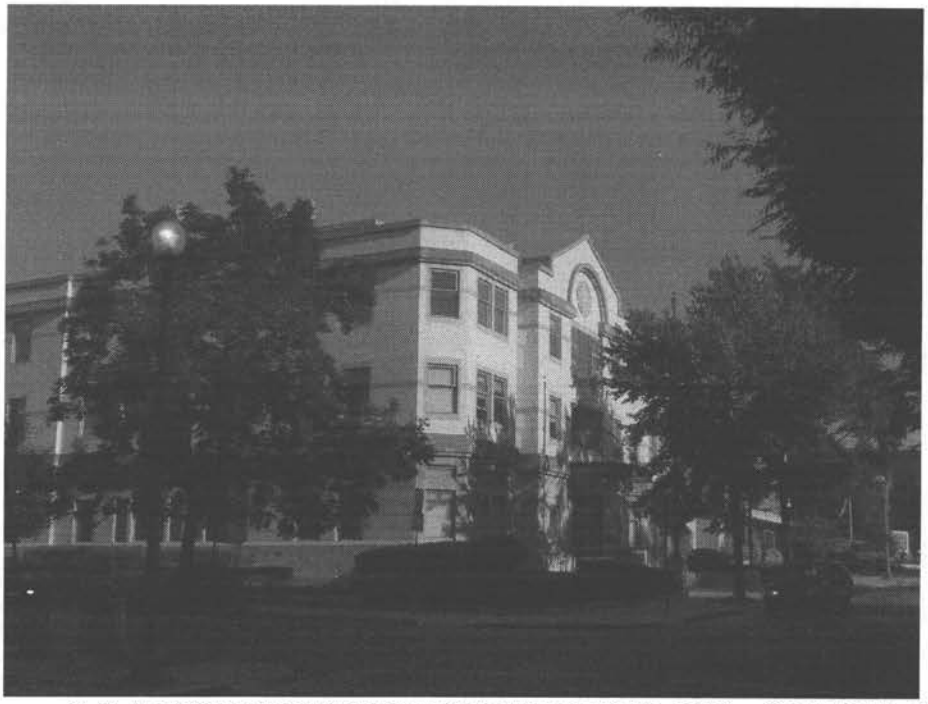
SCHOOL AND PARKING LOT NORTH OF SUBJECT LOTS –SQUARE 753 (LOCATION 5 ON MAP)



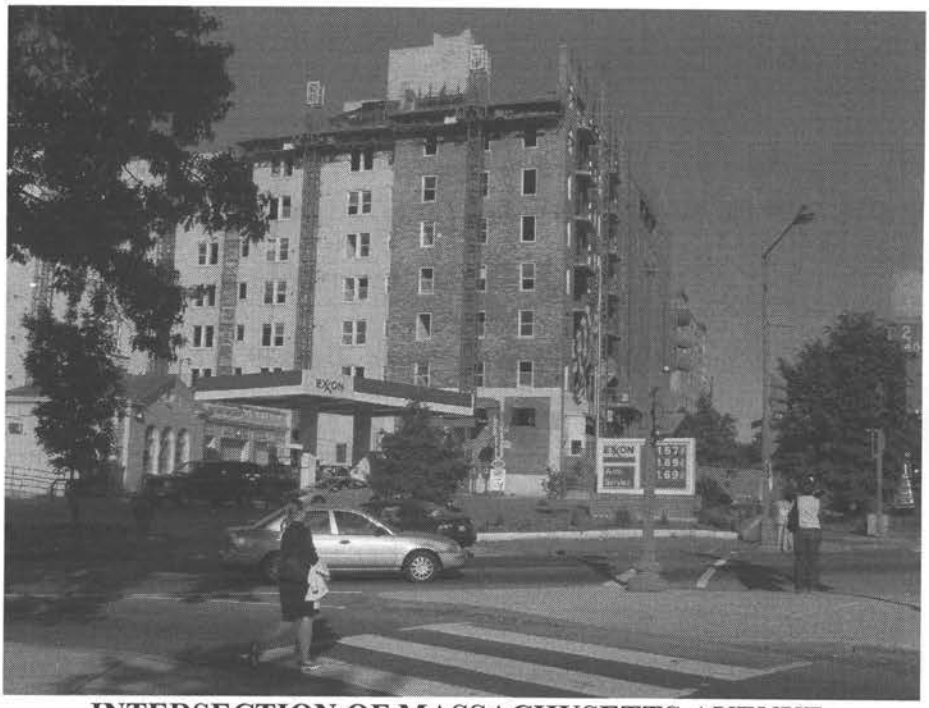
NORTHWEST LOOKING FROM LOT 109 –SQUARE 720 (LOCATION 6 ON MAP)



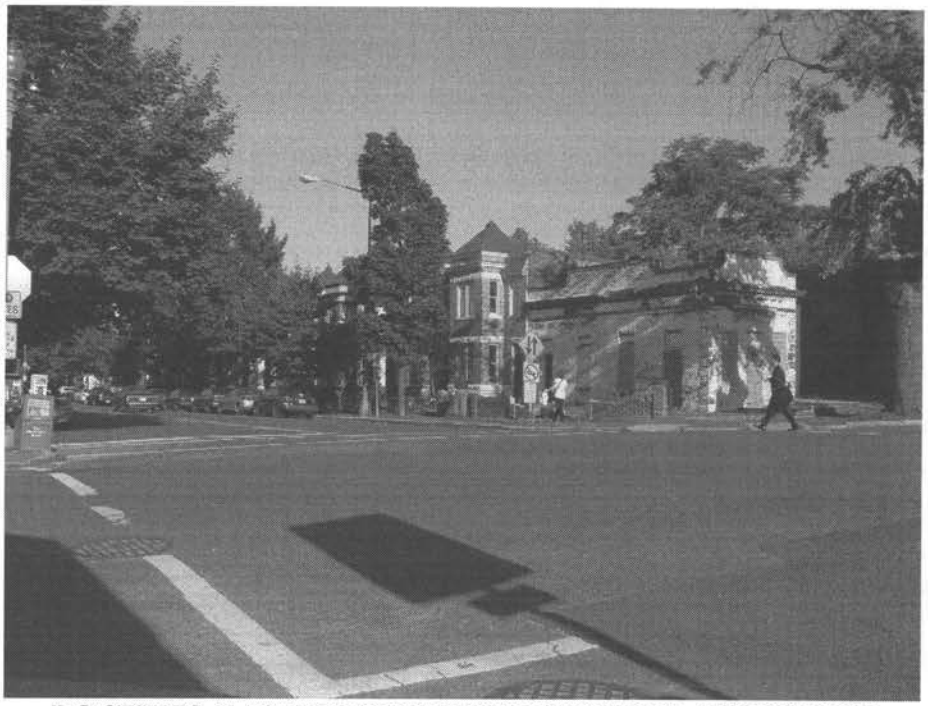
C-2-A DISTRICT SOUTH OF SUBJECT LOTS – SQUARE 754
(LOCATION 7 ON MAP)



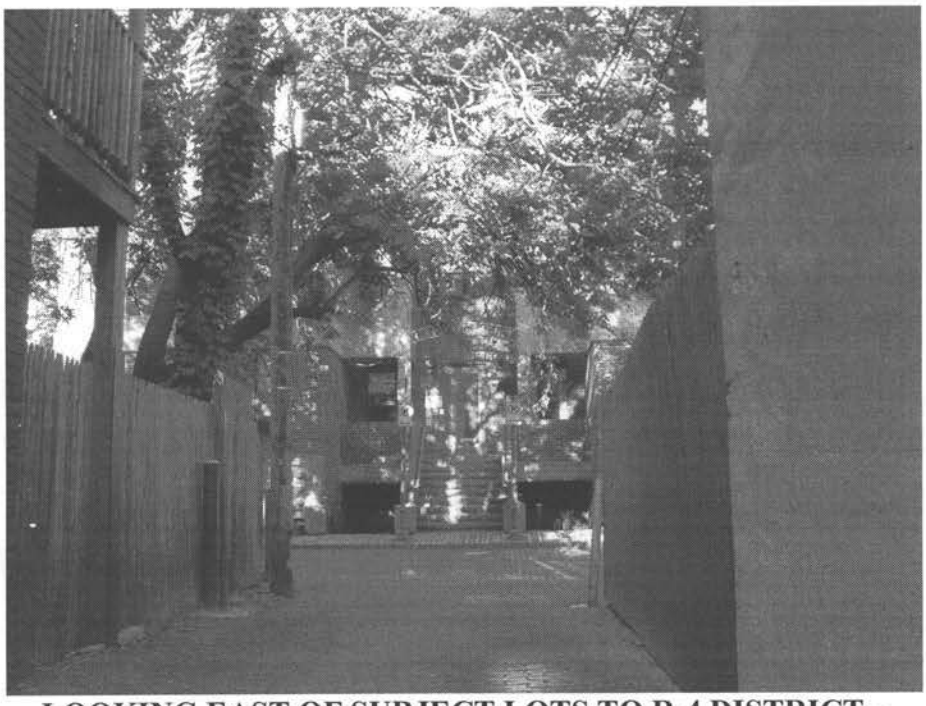
C-2-A DISTRICT SOUTH OF SUBJECT LOTS – SQUARE 755
(LOCATION 8 ON MAP)



**INTERSECTION OF MASSACHUSETTS AVENUE,
SOUTH OF SUBJECT LOTS – SQUARE 755
(LOCATION 9 ON MAP)**



**LOOKING EAST OF SUBJECT LOTS TO R-4 DISTRICT
(LOCATION 10 ON MAP)**



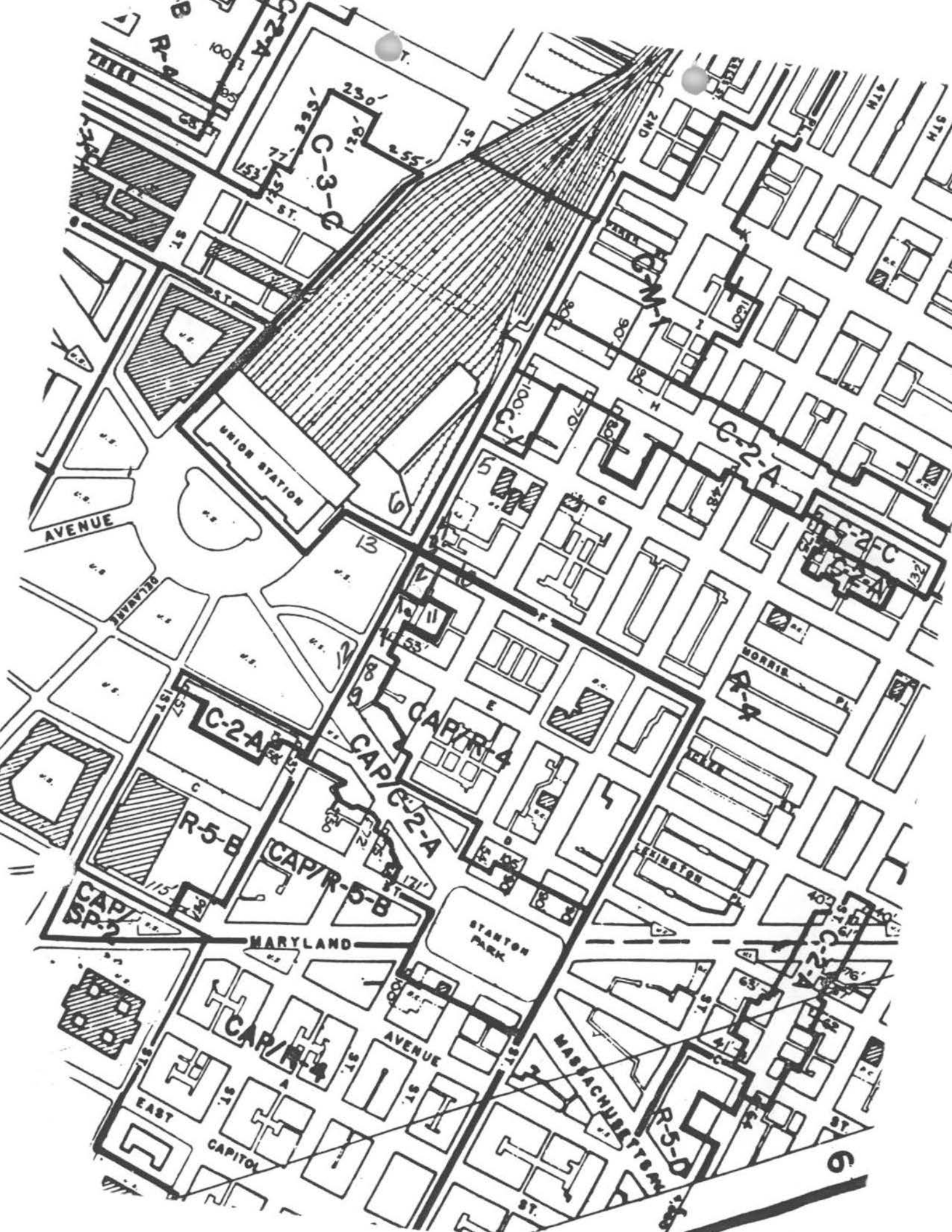
LOOKING EAST OF SUBJECT LOTS TO R-4 DISTRICT – INTERIOR OF SQUARE 754 (LOCATION 11 ON MAP)



THURGOOD MARCHALL FEDERAL JUDICIARY BUILDING WEST OF SUBJECT LOTS – SQUARE 721 (LOCATION 12 ON MAP)



VIEW WEST FROM INTERSECTION OF 2ND AND F STREETE, N.E.
THURGOOD MARCHALL FEDERAL JUDICIARY BUILDING
AND UNION STATION
(LOCATION 13 ON MAP)


C-3-C
R-5-B
C-M-1
C-2-A
C-2-C
UNION STATION
AVENUE
PENNSYLVANIA
CAP/R-4
CAP/C-2-A
C-2-A
R-5-B
CAP/R-5-B
CAP/SP-2
MARYLAND
STANTON PARK
CAP/R-4
EAST CAPITOL
MASSACHUSETTS
R-5-D
A-7
MORRIS
LEXINGTON
C-2-C
2ND
3RD
4TH
1ST
AVENUE
ST.
PL.

District of Columbia Generalized Land Use Map

Legend

residential land use categories



low density

Single-family detached and semi-detached housing are the predominant uses.



moderate density

Row houses and garden apartments are the predominant uses; may also include low density housing.



medium density

Multiple-unit housing and mid-rise apartment buildings are the predominant uses; may also include low and moderate density housing.



high density

High-rise apartment buildings are the predominant uses; may also include low, moderate, and medium density housing.

commercial land use categories



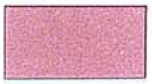
low density

Shopping and service areas that are generally low in scale, character and activity and that provide a limited range of retail goods and services are the predominant uses.



moderate density

Shopping and service areas that generally provide a much broader range of goods and services are the predominant uses. Chain drug stores and grocery stores as well as branches of department stores, some specialty shops, and personal service establishments may be present.



medium density

Shopping and service areas that generally offer a large concentration and variety of goods and services outside the Central Employment Area are the predominant uses. Most customers arrive by car, bus or subway.



medium - high density

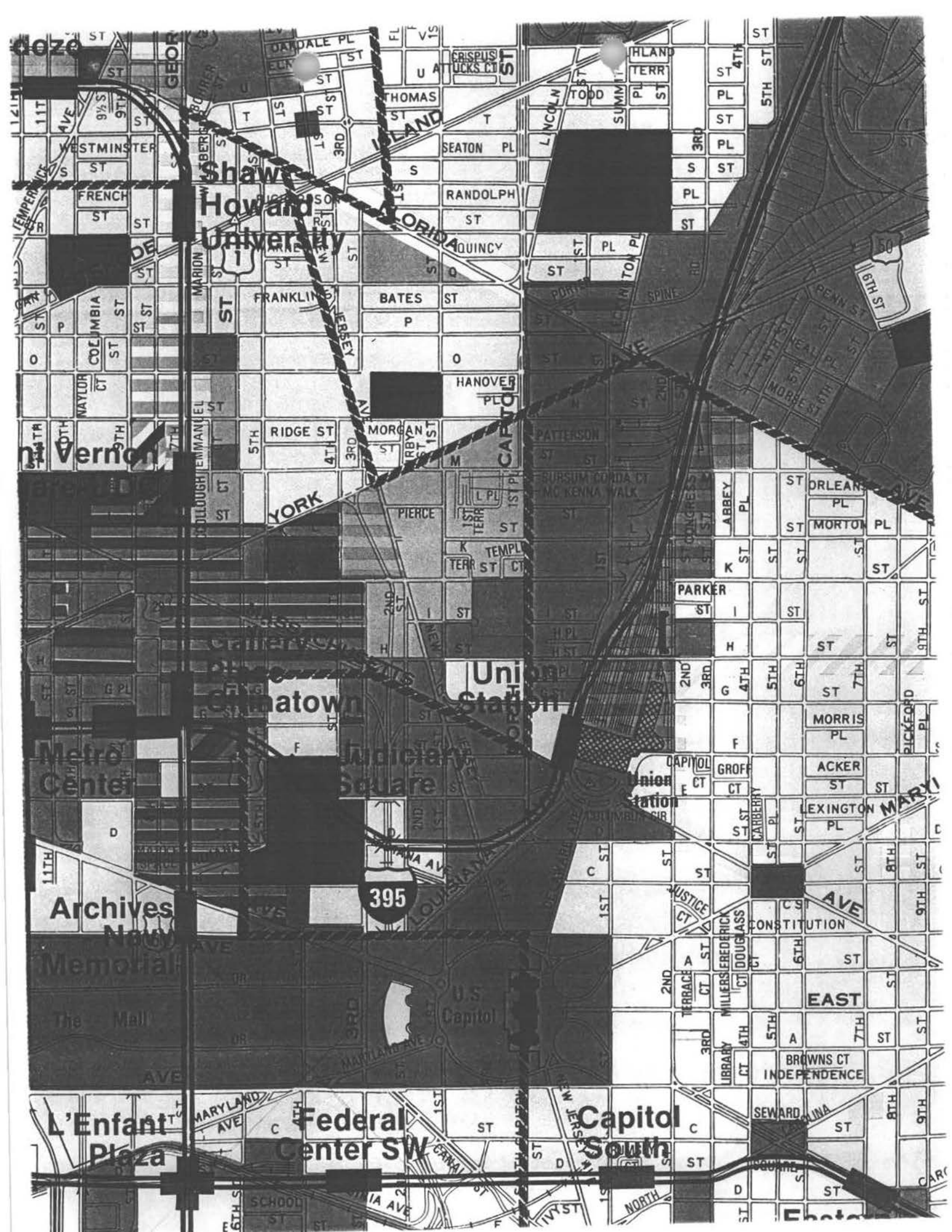
A shopping and service area that generally offers the largest concentration and variety of goods and services outside the Central Employment Area is the predominant use. Most customers arrive by car, bus or subway.



high density

The business and retail hea
employment, retail, office,

Exhibit F


Shaw
Howard University
Union Station
Metro Center
Judiciary Square
Archives
Federal Center SW
Capitol South
L'Enfant Plaza
U.S. Capitol
The Mall
EAST
395
FLORIDA
RHODE
YORK
NEW
CAPITOL
CONSTITUTION
INDEPENDENCE
MARYLAND
THOMAS
SEATON PL
RANDOLPH
BATES
HANOVER
RIDGE ST
MORGAN
PIERCE
PARKER
MORRIS PL
ACKER
LEXINGTON PL
GROFF
FRANKLIN
FRENCH
WESTMINSTER
MARION
QUINCY
SCHOOL
NORTH

Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 456
Case No. 83-14
(Capitol Interest District)
May 13, 1985

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on July 16 and 19, 1984. At those hearing sessions the Zoning Commission considered a proposal to amend the Zoning Regulations and Map of the District of Columbia, pursuant to Section 9101 of the Zoning Regulations. The proposal was to create new regulations for and to map the Capitol Interest (CAP) District. The hearing was conducted in accordance with the provisions of Chapter 5 of the Rules of Practice and Procedure before the Zoning Commission.

On May 20, 1982 and on November 8, 1983, Congressional Bills H.R. 6453 and H.R. 4332 were introduced in the United States House of Representatives to approve the "Master Plan for the Future Development of the Capitol Grounds and Related Areas."

On August 15, 1983, at the regular monthly meeting of the Zoning Commission, the Architect of the Capitol petitioned the Commission to consider amendments to the D.C. Zoning Regulations and Map to create and map the Capitol Interest (CAP) District. At that same meeting the Zoning Commission authorized the scheduling of a public hearing to consider such amendments.

The Architect of the Capitol proposed amendments that would limit development in the area around the U.S. Capitol to height, bulk, and density levels generally permitted in the R-4 District, and to restrict certain uses which would otherwise not be appropriate.

The CAP District is proposed to be an overlay district in conjunction with existing zone districts. The existing zone districts include property that is currently zoned R-4, R-5-B, SP-2, C-2-A, and C-M-1.

The CAP District is proposed to be mapped in the area generally bounded on the east by Sixth Street, N.E., on the north by F Stre :ginia Avenue

(Southeast/Southwest Freeway), and on the west by the Capitol precinct. The properties that are affected by the proposal are all of Squares 693, 694, 726, 733-736, 754-760, 762-765, 779-796, 811-823, and 835-847, and lot 885 in Square 725.

The R-4 District permits matter-of-right development of residential uses, including detached, semi-detached and row single-family dwellings, and flats, with a minimum lot area of 1800 square feet, a minimum lot width of eighteen feet, a maximum lot occupancy of sixty percent, and a maximum height of three stories/forty feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.

The R-5-B District permits matter-of-right medium density development of general residential uses including single-family dwellings, flats, and apartments to a maximum lot occupancy of sixty percent, a maximum floor area ratio (FAR) of 1.8 and a maximum height of sixty feet.

The SP-2 District permits matter-of-right medium/high density development including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professionals permitted as a special exception requiring approval of the Board of Zoning Adjustment (BZA), to a maximum height of ninety feet, a maximum FAR of 6.0 of which no more than 3.5 FAR may be devoted to other than residential uses, and a maximum lot occupany of eighty percent for residential uses.

The C-2-A District permits matter-of-right medium density development including office, retail, and all kinds of residential uses to a maximum FAR of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses.

The C-M-1 District permits matter-of-right heavy commercial and light industrial development along with retail and office uses with a maximum FAR of 3.0, and a maximum height of three stories/forty feet. New residential uses are prohibited.

The Capitol Hill area focuses on the Capitol precinct, which is defined as the area around the Capitol Building under the jurisdiction of the Architect of the Capitol. It generally extends from the Union Station on the north to the S.E./S.W. Freeway on the south and east to the Capitol Hill Historic District beginning at Second Street East. The Capitol precinct contains the U.S. Capitol Building and Capitol Square, the Senate Office complex, the area south of Union Station, the House of Representatives office complex, the Supreme Court Building, the Library of Congress complex, surface and underground parking and the Capitol Power Plant.

Because it is federally owned and used for public purposes, the Capitol precinct is unzoned.

The adjacent Category II Capitol Hill Historic District extends east of the Capitol precinct between F Street, N.E., on the north, the S.E./S.W. Freeway on the south and variously 11th to 14th Streets on the east. It includes the Capitol Hill community and portions of both the Stanton Park community to the north and the Lincoln Park community to the southeast. Primarily zoned R-4, it is a stable residential area consisting largely of homogeneous rows of townhouses and scattered apartments, but includes some commercial strips and numerous schools, parks and churches. While some buildings date back to the early 1800's, most of the buildings were constructed between 1870 and 1910. The D.C. Historic Preservation Review Board has review authority over buildings within the Capitol Hill Historic District, including their alteration, demolition, subdivision or new construction.

The proposed CAP District consists of the westernmost portion of the Capitol Hill Historic District (approximately seventy blocks) extending from F Street on the north to the S.E./S.W. Freeway on the south and from the Capitol precinct on the west (generally 2nd Street East) to 6th Street East on the east in a four block wide band. South of the Capitol precinct, the proposed CAP District extends west to South Capitol Street. Very much like the larger Historic District'. The proposed CAP District is a stable residential area consisting largely of homogeneous rows of two and three-story townhouses, scattered apartments and some commercial strips. It contains eleven churches, five large park/open space areas, four public schools, two private schools, a police station, an electric substation, the Folger Library and the Afro-Art Museum. Seven individual structures are landmarks as are Maryland Avenue, Massachusetts Avenue, Pennsylvania Avenue, North Carolina Avenue, South Carolina Avenue, New Jersey Avenue, 5th Street, East Capitol Street, all five park/open space areas and the land along East Capitol Street and around Stanton Square.

The proposed CAP District is generally zoned R-4 (all of forty-two squares and portions of twelve others). In addition, a portion of one square is zoned C-M-1, one square is zoned SP-2, three squares and portions of three others are zoned R-5-B and one square and portions of twelve others are zoned C-2-A in strips along First Street, S.E., 2nd Street, N.E., D Street, N.E., Massachusetts Avenue, N.E., Pennsylvania Avenue, S.E., and along the Stanton Square frontage of the four squares abutting Stanton Square on the north and south.

In the proposed CAP District, there are other existing development controls, in addition to zoning, including reviews by the D.C. Historic Preservation Review Board (throughout the Historic District), reviews by the Commission of Fine Arts for development activity fronting on or abutting the Capitol precinct, and the application of specific height limits contained in the 1910 Height Act for locations adjacent to the Supreme Court Building, the Library of Congress Building and Adams Annex, and the three House office buildings.

In 1976, the Architect of the Capitol received authorization from the U.S. Congress to prepare a Master Plan for the Capitol precinct, the first such plan since the McMillen Plan of 1902. That Plan, which evolved in three phases over five years, generally concluded that future development should accommodate the functional requirements of the Congress up to a defined environmental capacity while protecting and enhancing the historic and aesthetic heritage of the Capitol precinct. The Plan notes that this objective is to be balanced with the need to respect the integrity of the predominantly residential adjacent Capitol Hill Historic District. That delicate balance is to be achieved, in large part, by uniting the public (monumental) and private (residential) sectors along a transition zone or edge which generally follows 2nd Street East.

The transition zone is to be accomplished by retaining the existing historic and aesthetic context, and establishing a sense of "limit" to prevent the massive encroachment of either public or private development into this unique area which could have a deleterious effect on the desired ambiance of the Capitol precinct and the residential neighborhood.

The Master Plan for the Capitol precinct recommends that a "Special Public Interest District" be adopted as an overlay zone within the Zoning Regulations to further restrict the list of uses permitted under the existing Zoning Regulations and to provide additional controls on building height and bulk. It noted that the Master Plan is intended as a long term development guide that could accommodate Congressional expansion for the next fifty to seventy-five years.

The Architect of the Capitol requested amendments to the Zoning Regulations and Map because he determined that the existing development controls are not sufficient to assure compatible uses, bulk, and density in the area around the Capitol that will stabilize and enhance this important community and historic area. The Architect believed that the CAP District would provide for the implementation of the Master Plan and for long-term stability and enhancement of the adjacent neighborhood and commercial areas south and east of the Capitol precinct.

The District of Columbia Office of Planning (OP), by memorandum dated July 6, 1984 and by testimony presented at the public hearing, recommended approval of the proposal, subject to the following modifications:

1. Provide for existing gasoline service stations to be a conforming use, subject to Board of Zoning Adjustment (BZA) approval; while prohibiting new stations or additions to existing stations;

2. Provide for existing parking lots to be a conforming use, subject to BZA approval; while prohibiting new lots or additions to existing lots;

3. Provide for the inclusion of automobile accessory sales, excluding installation; and

4. Provide for economic development incentive for Square 693 through the PUD process.

The District of Columbia Department of Consumer and Regulatory Affairs (DCRA), by memoranda dated April 9, 1985, and undated but received by the OP on April 24, 1985, recommended the following:

1. That, to avoid errors, the abbreviation for the Capitol Interest District be distinguishable from the C-1 commercial district; and

2. That the R-4 District be excluded from the maximum permitted FAR limit of 1.8.

The DCRA indicated that the Capitol Interest District would not affect any review authority specified in D.C. Law 2-144, the "Historic Landmark and Historic District Protection Act of 1978".

The District of Columbia Department of Public Works (DPW), by memoranda dated March 29, and June 26, 1984, recommended that the existing gasoline service stations be permitted to continue operation within the CAP District, and concluded that the CAP District would cause no adverse traffic or parking affects.

Advisory Neighborhood Commission - 6A, which was the only ANC to participate in the proceedings, by report dated July 7, 1984 and by resolution dated July 31, 1984, supported the proposal with the following amendments:

1. Prohibit gasoline service stations, except the two existing ones;

2. Permit existing parking lots in the CAP/R-4 District to

continue to operate under existing special exception procedures;

3. Permit existing structures in the CAP/C-2-A District to rebuild to previous height levels, if destroyed by fire or other natural causes;

4. Eliminate the maximum 3-story height limit and permit a maximum FAR of 2.5, no more than 1.8 of which can be used for commercial uses.

5. Prohibit clubs, lodges, fraternity houses, museums and galleries, and sorority houses in the CAP/R-4 District;

6. Prohibit non-profit organizations from using existing residential buildings in the CAP/R-4 District; and

7. Omit a sentence in sub-section 4801.1 regarding the listing of permitted uses that would have a limited external impact.

Nine persons testified at the public hearing, and letters from two other persons expressed support and opposition to the proposal with concern for the following issues:

1. Retention of the two existing gasoline service stations;

2. Prohibition of museums, art galleries, and a few other matter-of-right R-4 type uses;

3. Loss of development rights;

4. Permission to allow utility sub-stations, as a special exception;

5. The concept of a CAP overlay District was the wrong procedural approach from a planning prespective;

6. The consideration of the CAP District was premature without approved Congressional action;

7. The CAP District was a duplication of existing controls and is therefore unnecessary;

8. Consideration was not given to provide for ample parking for visitors of the area; and

9. Square 693 should be excluded from the proposal.

As to the concerns regarding the two existing gasoline service stations, the Commission believes that it is in the best interest of the city and the residents and merchants in the area to allow the existing gasoline stations to remain

as conforming uses and to allow their reconstruction, if they are destroyed by fire or natural causes.

As to the concerns regarding the prohibition of many matter-of-right non-residential R-4 District uses, the Commission believes that, the various non-residential R-4 District uses should be considered for prohibition in the context of a comprehensive review of the R-1 through R-5 Districts.

As to the concerns regarding the loss of development rights, the Commission notes that each time the Commission approves a change of zoning, whether for a single property or a large area, someone either losses or gains development rights. The overall achievement of the public interest must control over any individual benefit or detriment. On this matter, the Commission, attempted to strike a balance when considering the concerns of all of the interests associated with this proposal. There is only one National Capital, and the protection of its integrity must be assured.

As to the concern regarding the propriety of the concept of the overlay approach, the Commission believes that, based on its experience with the D and H/R overlay Districts, the CAP overlay concept is effective, lawful, and an appropriate mechanism to achieve the goals proposed.

As to the concern regarding the prematurity of considering this matter, the Commission is mindful that Congress has not adopted legislation to implement the Master Plan. The Commission, however, believes that it can and is appropriate to consider the pending petition, notwithstanding the status of the matter before Congress. This matter stands on its own merit and is supported by the record before the Commission, notwithstanding any action the Congress might take on the Master Plan.

As to the concerns regarding parking, the Commission believes that, in its decision, it has addressed the concerns by providing the opportunity for existing parking lots to continue to operate in the CAP/residential districts, subject to special exception provisions of the Zoning Regulations.

As to the concerns regarding the exclusion of Square 693, the Commission is not persuaded that it should exclude the square because of its proximity to the Capitol precinct. The Commission, however, notes that development under the PUD provisions of the Zoning Regulations is a development incentive option.

As to the concerns regarding the elimination of the height limit and the change of the FAR limits, the Commission believes that those amendments are contrary to the basic

intent and design of the CAP District, to limit development to the scale of the R-4 District.

As to the concern regarding utility sub-stations, the Commission is mindful of a request by a utility company to locate utility sub-stations in the CAP District. The Commission, however, notes that the CAP District is a relatively small area in comparison to other areas of the city and region where utility sub-stations are permitted. The Commission believes that there would be no major detriment to the utility industry by prohibiting such uses in this relatively small area of the city.

As to the concern which question the necessity of the CAP District, the Commission is persuaded by the position of the Architect of the Capitol that the additional land-use controls are needed. As to the concern regarding the deletion of a portion of sub-section 4801.1, the Commission believes that the retention of the language helps to articulate the intent of the Commission.

As to the concerns regarding non-profit organizations using CAP/R-4 zoned property for offices, to the extent such uses are illegal uses, the Commission believes that this matter should more appropriately be addressed by the Zoning Administrator. To the extent such office uses are proposed as special exceptions before the Board of Zoning Adjustment, all affected persons will have an opportunity for input to the BZA. The advice of the Architect of the Capitol will specifically be solicited.

The proposed amendments to the Zoning Regulations and Map were referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by testimony presented at the public hearing and by report dated January 10, 1985, found that the proposed amendments would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission published a notice of proposed rulemaking in the D.C. Register on April 5, 1985 and solicited written comments from interested individuals. The Commission received no comments from interested individuals.

The Commission believes that the proposed amendments to the Zoning Regulations and Map contained herein are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Act (Act of June 20, 1938, 52 Stat. 797, as amended). The

amendments are not inconsistent with the Goals and Policies element of the Comprehensive Plan. The creation and mapping of the Capitol Interest District would ensure stability to the character of the entire Capitol Hill area. The Commission, in making its decision in this case, has accorded to the ANC that submitted a report the "great weight" to which it is entitled.

In consideration of the reasons set forth herein the Zoning Commission of the District of Columbia hereby orders APPROVAL of the following amendments to the Zoning Regulations and Map, and changes the zoning of all of Squares 693, 694, 726, 733-736, 754-760, 762-765, 779-796, 811-823, and 835-847, and lot 885 in Square 725 from R-4, R-5-B, SP-2, C-2-A, and C-M-1 to CAP/R-4 CAP/R-5-B, CAP/SP-2, CAP/C-2-A, and CAP/C-M-1.

The text amendments set forth below reference the format and numbering system of the May, 1984, edition of the District of Columbia Municipal Regulations (DCMR) Title 11. The numbers contained in the brackets reference the numbering system of the Provisional Edition of DCMR Title 11, dated August, 1983. The specific amendments to DCMR Title 11 (the Zoning Regulations) are as follows:

1. Add a new chapter 12 [Article 48] for the Capitol Interest District, as follows:

CHAPTER 12 [Article 48] CAPITOL INTEREST DISTRICT

1200 [4801] PREAMBLE

1200.1 [4801.1] The Capitol Interest (CAP) District is established to promote and protect the public health, safety and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress as set forth in the Act, Master Plan for Future Development of Capitol Grounds and Related Areas (Public Law 94-59, July 25, 1975; 89 Stat. 288) and in accordance with the plan submitted to the Congress in accordance with the Act.

1200.2 The land use controls embodied in the Zoning Regulations for the land adjacent to the U.S. Capitol should reflect the importance of the area to the District of Columbia and the nation.

1200.3 The Capitol Interest (CAP) District, controlling land use as well as height and bulk, shall provide sufficient controls for the areas south of the U.S. Capitol and the historic residential district to the east of the U.S. Capitol.

(b) [4802.22] In the CAP/R-5-B District, any use permitted as a matter-of-right in the R-5-B District;

(c) [4802.23] In the CAP/SP District, any use permitted as a matter-of-right in the SP District, except that an antenna tower for television and radio broadcasting and in conjunction therewith the erection, alteration, or use of buildings for transmission or reception equipment shall not be permitted; and

(d) [4802.24] In the CAP/C-2-A and CAP/C-M-1 Districts, any use permitted as a matter-of-right in the C-2-A District, except that the following uses shall not be permitted:

(1) [4802.241] Gasoline service station as an accessory use to a parking garage or public storage garage;

(2) [4802.242] Parking lot, parking garage or public storage garage;

(3) [4802.243] Antenna tower for television and radio broadcasting, and in conjunction therewith the erection, alteration or use of buildings for transmission or reception equipment;

(4) [4802.244] Antenna tower in conjunction with radio or television broadcasting studio;

(5) [4802.245] Automobile laundry;

(6) [4802.246] Automobile rental agency;

(7) [4802.247] Installation of automobile accessories;

(8) [4802.248] Automobile or truck sales;

(9) [4802.249] Boat or other marine sales;

(10) [4802.2410] Drive-in restaurant;

(11) [4802.2411] Parcel delivery service; and

(12) [4802.2412] Electric substation or natural gas regulator station.

1201.3 [4802.3] The following uses shall be permitted if approved by the Board of Zoning Adjustment subject in

accordance with the conditions specified in §3108 [Section 8207] and below in each case:

(a) [4802.31] In the CAP/R-4 and CAP/R-5-B Districts, any use permitted as a special exception in those districts, respectively, except that the following uses shall not be permitted:

(1) [4802.311] Parking lot, provided that a parking lot in existence on the effective date of this section may continue subject to the special exception provisions of the underlying zone;

(2) [4802.312] Telephone exchange;

(3) [4802.313] Public utility pumping station; and

(4) [4802.314] Storage of wares and goods on an alley lot;

(b) [4802.32] In the CAP/SP District, any use permitted as a special exception in the SP District, except that the following uses shall not be permitted:

(1) [4802.321] Parking lot or parking garage;

(2) [4802.322] Telephone exchange; and

(3) [4802.323] Public utility pumping station;

(c) [4802.33] In the CAP/C-2-A District, any use permitted as a special exception in the C-2-A District, except that the following uses shall not be permitted:

(1) [4802.331] Gasoline service station, provided that a gasoline service station existing on the effective date of this section may be remodeled, repaired or replaced subject to the special exception provisions of the underlying zone;

(2) [4802.332] Motorcycle sales and repairs; and

(3) [4802.333] Public utility pumping station.

1201.4 [4802.5] Accessory uses and accessory buildings customarily incidental to the uses otherwise authorized by this section shall be permitted.

1202 SPECIAL EXCEPTIONS

1202.1 [4802.4] In an application for a special exception in any CAP District, the Board of Zoning Adjustment shall consider whether the proposed development complies with the following factors:

(a) Is compatible with the present and proposed development of the neighborhood;

(b) Is consistent with the goals and mandates of the United States Congress set forth in the Master Plan for Future Development of the Capitol Grounds and Related Areas (Public Law 94-59, July 25, 1975, 89 Stat. 288, 289); and

(c) Is in accordance with the plan promulgated under the Act.

1202.2 [4802.42] Upon receipt of the application, the Board shall submit the application to the Director of the Office of Planning for coordination, review, report and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Public Works, Housing and Community Development and, if a historic district or historic landmark is involved, of the State Historic Preservation Officer.

1202.3 [4802.43] Upon receipt of the application, the Board shall submit the application to the Architect of the Capitol for review and report.

1202.4 [4802.44] The Board may require special treatment and impose reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified in the consideration of the application.

1203 [4803] HEIGHT, AREA AND BULK REGULATIONS

1203.1 [4803.1] Except as specified in the following paragraphs of this section and in chapters 20 through 25 [Chapter 7] of this title, the height of buildings or structures in the Capitol Interest District shall not exceed forty feet (40') or three (3) stories in height.

1203.2 [4803.11] The height of buildings or structures as specified in §1203.1 [Sub-section 4803.1] may be exceeded in the following instances:

(a) [4803.111] A spire, tower, dome, minaret, pinnacle or penthouse over elevator shaft may be erected to

a height in excess of that authorized in §1203.1 [Sub-section 4803.1]; and

(b) [4803.112] If erected or enlarged as provided in §411 [Section 3308], housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the District in which located, provided such housing is set back from all lot lines of the lot upon which such structure is located a distance equal to its height above the roof of the top story. In any case, a roof structure shall not exceed ten feet (10') in height above the roof upon which it is located.

1203.3 [4803.2] Except as specified in chapters 20 through 25 [Chapter 7] of this title, the maximum permitted floor area ratio of a building or structure in the Capitol Interest District shall not exceed one and eight-tenths (1.8).

1203.4 [4803.3] All provisions of §411 [Section 3308] shall also apply to roof structures in the Capitol Interest District. The gross floor area of roof structures permitted under this subsection shall not be counted in determining the amount of off-street parking as required elsewhere in this title.

2. Amend §105.1 [Section 2101] of DCMR Title 11 by adding a new §105.1 [Paragraph 2101.19] as follows:

105.1(i) [2101.19] Capitol Interest Overlay District, as follows:

(1) CAP Low to Medium Density

Vote of the Zoning Commission at its public meeting on December 10, 1984: 3-0 (George M. White, John G. Parsons, and Maybelle T. Bennett, to approve - Lindsley Williams and Patricia N. Mathews, not voting not having participated in the case.

This order was adopted by the Zoning Commission at its public meeting held on May 13, 1985 by a vote of 3-0 (George M. White, John G. Parsons, and Maybelle T. Bennett, to adopt - Patricia N. Mathews and Lindsley Williams, not voting not having participated in the case.

In accordance with the provisions of Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission, these amendments to the Zoning Regulations and Map are effective upon the publication of this order in the D.C. Register, specifically on 31 MAY 1985.

MAYBELLE T. BENNETT
Chairperson
Zoning Commission

STEVEN E. SHER
Executive Director
Zoning Secretariat

zco456/BOOTHS

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 821
Case No. 95-4
(Map Amendments - Union Station Area Rezoning)
August 4, 1997

The Zoning Commission for the District of Columbia initiated this case in response to a petition from the Office of Planning (OP) to amend the Zoning Map for the District of Columbia by rezoning a large area around Union Station. This area is formally designated in the Comprehensive Plan as the Northeast No. 1/ Eckington Yards Special Treatment Area. Amendments to the Zoning Map are authorized pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code Ann. Section 5-413 (1981)].

The petition filed on April 28, 1995, and the accompanying land use and rezoning study of the area, reviewed the land use and zoning patterns in the area to the east, west and north of Union Station and recommended rezoning much of the area to eliminate inconsistencies between zoning and the Comprehensive Plan, as mandated by the Home Rule Act.

At its public meeting on May 23, 1995, the Zoning Commission determined that the rezoning proposal submitted by the Office of Planning presented a sound basis for consideration and authorized a public hearing on the proposed map amendments.

The Office of Planning submitted a supplemental report dated July 24, 1995, requesting the Commission to authorize the inclusion of additional lots and squares for rezoning consideration in this case. At its public meeting on August 7, 1995, the Commission granted OP's request.

Pursuant to proper notice, the Zoning Commission held a public hearing on the amended proposal on September 25, 1995 and November 9, 1995. At the close of the public hearing, the Commission left the record of the case open until December 29, 1995 to receive additional public comments. The public hearing was conducted in accordance with the provisions of 11 DCMR 3021.

The Commission's task in this case is to insure that the proposed map amendments are not inconsistent with the Comprehensive Plan and are appropriate for the area of the city in which they are to be located. In correspondence prior to the hearing, the Commission was urged by CSX Real Property, Inc. to consider rezoning Square 720 (Station Place) from C-M-3 to C-3-C. The Commission declined and noted that the Board of Zoning Adjustment approval for this site was adequate to protect the proposed development.

At the hearing sessions, the Commission heard the presentation of the Office of Planning (OP), the testimony of Councilmembers Harry L. Thomas, Sr. and Harold Brazil, the report and testimony of Advisory Neighborhood Commission 6A, the testimony of a number of law firms representing clients with interests in the Union Station rezoning area. Additionally, the Commission heard testimony from the Near Northeast Task Force on the Uline Arena, Unified Owners of the 600 Block of 2nd Street, NE, the Free Congress Foundation, the National Learning Center/Capitol Children's Museum, Capitol Cab, the Stanton Park Neighborhood Association, Washington Area Bicycle Association/Coalition for the Metropolitan Branch Trail, LG Enterprises, Union Station Venture, and a number of individual witnesses in support or opposition to one or more of the proposed amendments.

In addition to the testimony presented at the public hearing, the Commission received many items of correspondence from persons and organizations expressing their support or opposition to one or more of the proposed amendments. The case file contains more than 100 exhibits, including correspondence, statements, reports, petitions and requests to testify.

By memorandum and the land use study attached to the report received from the Office of Planning on September 15, 1995, and by testimony presented at the public hearing sessions, the Office of Planning recommended adoption of map amendments proposed for the Union Station area. The OP noted that the proposal is part of the zoning consistency project around the city geared toward ensuring that zoning is not inconsistent with the Comprehensive Plan for the National Capital. The OP stated that during the process of determining what the proposed zoning should be for various sections of the study area, they met with the Advisory Neighborhood Commission, the Stanton Park Community Association and 12 to 16 property owners in the area.

The Office of Planning indicated that the 1994 amendments to the Comprehensive Plan changed the land use designations in the area to allow for office development, mixed residential/commercial development, institutional development, industrial development and other appropriate development for the area. OP noted that the office arrived at six summary goals for the area from the planning process and consultations with people interested in the future of the area. The six summary goals are as follows:

1. Stabilize the boundary between continuing economic development activity near the railroad tracks and the adjacent residential neighborhood.

2. Protect a great majority of existing dwellings in residential areas from conversion to commercial or demolition and redevelopment for commercial projects, so as to maintain the area's housing supply, number of residents, and residential character.

3. Allow a mixture of industrial and commercial uses at medium high density near the railroad tracks north of K Street in order to continue to provide business and job opportunities.

4. Encourage a mixture of residential and commercial uses at moderate to medium density at various locations.

5. Maintain the existing scale of the residential neighborhood and of the building stock in most of the area.

6. Establish suitable intermediate step-down building heights at the edges of the intensive commercial development.

The Commission heard testimony and received correspondence both in support of the proposal and in opposition to the proposal or a portion of the proposal. The following items summarize the salient issues raised in written and oral testimony, and provides the Commission's responses to those issues:

1. There should be a mechanism that would provide for or allow for the green space along the railroad tracks in the Union Station area to be dedicated for use as part of the Metropolitan Branch Trail. The Trail is a proposed bicycle trail in greenway that would run from Silver Spring in Montgomery County to Union Station and the mall with a branch over to West Hyattsville and the West Hyattsville Metro Station. The Commission noted that the Metropolitan Branch Trail is a wonderful idea, but that the zoning process is not the correct forum for dedication of private land to a use such as the Trail. The Commission noted that for many years, at least one Commissioner has indicated that the District would benefit from an overlay or special zoning category known as an open space or park zone.

2. The Congressional Black Caucus Foundation (CBCF) site should retain the C-M-1 zoning so that .5 floor area ratio (FAR) would not be lost and additional review by the Board of Zoning Adjustment (BZA) would not be required as is the case with the proposal for SP-1 zoning on the site. The Commission agrees that the CBCF should be allowed to develop the site as it proposes without losing FAR and having to go before the BZA for approval.

3. The 2nd Street frontage of Squares 752 and 753 (east frontage of 2nd Street from F Street to nearly H Street) should be rezoned from R-4 and C-1 to C-1 and not C-2-A as proposed by the OP. The area should be commercial because the properties cannot be rented as residential properties, however, the C-2-A zoning would allow too much FAR and height. The Commission disagrees with the residents who put forth this issue and agrees with the OP that C-2-A is more appropriate than R-4 or C-1. The Comprehensive Plan designation for the area is mixed use - moderate density residential and low density commercial, and neither the R-4 zone nor the C-1 zone is consistent with that designation; however, C-2-A is generally consistent. Additionally, the C-2-A commercial FAR of 1.5 will accommodate the floor area of most row structures in the area, whereas C-1 would create unnecessary instances of nonconformity.

4. The National Learning Center/Capital Children's Museum property should not be rezoned from C-2-A and C-M-1 to SP-1. The Children's Museum wants to maintain and enhance the residential nature of the area, but at the same time acknowledges the need and desirability for carefully controlled economic development and new commercial opportunities. The Museum would like to remain in its current location, however, the property is deteriorating and in need of major attention. Options that would allow income for renovations and improvements include the possibility of some commercial development either alone or with another party on the Museum's property. SP-1 would make the property less attractive for development. Besides the change in the allowed development envelope, the SP-1 zone district would require BZA approval, an additional review process. The Commission believes the Children's Museum should be rezoned, but that the SP-1 zone category is not appropriate. After discussions with the Office of Planning and the Office of Zoning, the Commission determined that the Children's Museum site should be readvertised for rezoning to C-3-A and C-3-B.

5. Square 748 which houses the Uline Arena should be rezoned to a strictly commercial zone that would not allow use as a solid waste transfer station. That a buffer area between the residential area and the Uline Arena area should be required. The other side of this issue was raised by L & G Industries who is in favor of retention of the M zone district. After listening to the testimony of the Office of Planning, two Councilmembers, two ANC 6A representatives, L&G Industries, and a multitude of residents in the area who continuously testified about the negative impacts of the L&G Industries solid waste facility at the Uline Arena, the Commission noted that there are businesses other than L&G Industries located in Square 748 and believes that the Comprehensive Plan designation of the area as mixed use PTE/medium density commercial translates into CM which rules out certain heavy industrial uses allowed in the M zone. The Commission also noted that the rezoning of the square did not mean that L&G Industries would move its operations. The Commission believes its decision to zone the portion of the square along the tracks to C-M-3 and the portion along 3rd Street across from the row dwellings to C-M-1 considers the concerns of the residents of the area and the businesses in the area.

6. Square 720 should be rezoned from C-M-3 to C-3-C for purposes of the Station Place development. The Commission disagrees with CSX Real property, Inc. and believes that C-M-3 is appropriate for the square and that the Station Place development is adequately protected by the Board of Zoning Adjustment approval.

7. The Commission noted that the proposal to rezone the triangular area bounded by New York Avenue, North Capitol Street, and Florida Avenue (Squares 668, 669, 670 and 709) from C-M-3 to C-3-C would eliminate a large area of industrial land. The Commission expressed its long-standing concern that industrial land should not continue to be redesignated and rezoned without a study or at least a quick analysis of how much industrial land should be retained for the industrial needs of the City. The Commission noted that the D.C. Council should support a study or analysis to

determine the industrial needs of the City, and to determine how much industrial land is left and how much has been redesignated and rezoned over the years.

The Commission notes that Advisory Neighborhood Commission 6A submitted a resolution in support of rezoning the portion of Square 748 containing the Uline Arena to C-2-C and in support of rezoning the L and M Street area to R-4. The ANC's resolution gave no specific reasons for its determination. However, the Commission notes that the ANC representative presented testimony regarding the adverse impacts on the neighboring properties from the current use of the Uline Arena. The Commission's rationale for rezoning Square 748 to C-M-1 and C-M-3 is stated in Issue No. 5 above.

A notice of proposed rulemaking was published in the D.C. Register on May 10, 1996. The Commission did not receive any comments as a result of the publication of its proposed rules.

The Zoning Commission believes that its decision to approve the map amendments set forth in this order is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act and is not inconsistent with the Comprehensive Plan for the National Capital.

Having discussed and considered the resolution from ANC 6A, the Commission determined that it has accorded ANC 6A the "great weight" to which it is entitled.

The proposed decision to approve the map amendments was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated May 2, 1996, found that the proposed amendments would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the following amendments to the Zoning Map:

1. **Rezone to C-3-C those lots now zoned C-M-3, M and C-2-A in the following squares:**
   Squares 668 through 676
   Squares 709 through 713
   Square 715.

2. **Rezone from M to C-M-3:**
   Square 747
   Square 748 - Lots 8 through 10, 19, 20, 23 through 34, 42 through 46, 810, 811, 818, 821, 822 and a portion of Lot 812
   Square 749 - those lots located to the west of the north-south alley closest to 3rd Street, NE.

3. **Rezone from M to C-M-1:**
   Square 748 - Lots 11, 71, 72, 74, 75, 78, 800, 804 through 809, 819, 820 and a portion of Lot 812.

4. **Rezone from C-M-1 to C-2-B:**
   Square 749 - those lots located to the east of the north-south alley located closest to 3rd Street, NE
   Square 750 - all lots except Lots 808 through 810, and Lot 128
   Square 773 - Lots 4, 87 and 88
   Square 774 - those lots located west of the north-south alley closest to 3rd Street, NE
   Square 775 - Lots 1, 3, 4, 48, 49, 802, 804, 805, 812, 818 through 820, 826 and 827.

5. **Rezone from R-4 to C-2-B:**
   Square 775 - Lots 22, 23 and 32.

6. **Rezone from C-M-1 to C-2-A:**
   Square 776 - Lots 25 through 27, 29 through 31, 53 and 814 through 817.

7. **Rezone from C-1 to C-2-A:**
   Square 752 - (those lots now zoned C-1) Lots 32, 39 through 44, 801, 804 through 806, 811, 813, 814, 856 and 857.

8. **Rezone from R-4 to C-2-A:**
   Square 753 - Lots 89, 92 through 95, 800 through 802 and the western portion of Lot 827.

9. **Rezone from C-M-1 to R-4:**
   Square 804 - Lots 11 through 15
   Square 773 - all lots west of Abbey Place, NE, except Lots 4, 87 and 88
   Square 775 - Lots 13 through 16, 29, 33 through 38, 44 through 47 and 801
   Square 776 - Lots 21 through 24, and 41 through 50.

10. **Rezone from C-2-A to R-4:**
    Square 777 - Lots 827 through 829, 832 through 838, 841 through 843, 864, 865, 870, 873, 875 and 879.

The Zoning Commission voted on the rezoning initiatives separately at its regular monthly meeting of February 12, 1996. The following order of the voting coincides with the numbering of the rezoning initiatives as delineated in this order:

Rezoning No. 1: 4-0 (William L. Ensign, Maybelle Taylor Bennett, Jerrily R. Kress and John G. Parsons to approve).

Rezoning No. 2: 4-0 (William L. Ensign, John G. Parsons, Maybelle Taylor Bennett and Jerrily R. Kress to approve).

Rezoning No. 3: 4-0 (Maybelle Taylor Bennett, John G. Parsons, William L. Ensign and Jerrily R. Kress to approve).

Rezoning No. 4: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

Rezoning No. 5: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

Rezoning No. 6: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

Rezoning No. 7: 4-0 (Maybelle Taylor Bennett, William L. Ensign, Jerrily R. Kress and John G. Parsons to approve).

Rezoning No. 8: 4-0 (Maybelle Taylor Bennett, William L. Ensign, Jerrily R. Kress and John G. Parsons to approve).

Rezoning No. 9: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

Rezoning No. 10: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and William L. Ensign to approve).

This order was adopted by the Zoning Commission at its public meeting on August 4, 1997, by a vote of 3-0 (Jerrily R. Kress, John G. Parsons and Maybelle Taylor Bennett to adopt; Herbert M. Franklin, not voting, not having participated in the case).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is on SEP 26 1997.

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

MADELIENE H. DOBBINS
Director
Office of Zoning

zco821/MHD

ZONING COMMISSION ORDER NO. 955
CASE NO. 01-09C
(Consolidated Planned Unit Development and
Zoning Map Amendment for Station Place)
February 11. 2002

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on November 8, 2001, November 29, 2001, and December 3, 2001, to consider applications from Louis Dreyfus Property Group for consolidated review and one-step approval of a Planned Unit Development and a Zoning Map Amendment (collectively, the "Applications"). The Zoning Commission considered the Applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Applications subject to the specified conditions.

FINDINGS OF FACT

The Applications, Parties, and Hearing

1. On May 2, 2001, Louis Dreyfus Property Group (the "Applicant") filed Applications for the consolidated review and approval of a Planned Unit Development ("PUD") and related Zoning Map amendment for property located on the west side of 2nd Street between F and H Streets, N.E. (the "Site"). The Site consists of Lots 178 and 179 in Square 720. The Site is currently zoned C-M-3 and the Applicant requests rezoning to the C-3-C District.

2. After proper notice, the Zoning Commission opened the public hearing on October 4, 2001, and continued the hearing to November 8, 2001. Public hearings were then held on November 8, 2001, November 29, 2001, and December 3, 2001.

3. The parties to the case were the Applicant; Advisory Neighborhood Commission ("ANC") 6A, the ANC within which the Site is located; the Stanton Park Neighborhood Association ("SPNA"); the H Street Merchants and Professionals Association ("HSMPA"); and the Near Northeast Neighborhood Task Force ("Near Northeast Task Force"). The Zoning Commission determined the parties to the case at the November 8, 2001, public hearing, except for the Near Northeast Task Force, which was given party status at the November 29, 2001, public hearing.

4. The Capitol Hill Restoration Society's ("CHRS") request for party status was denied by the Zoning Commission at the November 8, 2001, public hearing. By letter dated November 19, 2001, the CHRS requested reconsideration of its request. The Zoning Commission considered this request at the November 29, 2001, public hearing but did not grant the request for reconsideration. The Commission determined that the CHRS and the SPNA had overlapping memberships, that the CHRS was not more significantly, distinctively or uniquely affected than the public at large and that, because the SPNA had members from 2nd Street, SPNA would be admitted as a party and CHRS would not be admitted.

5. The Securities and Exchange Commission's ("SEC") request for party status was denied by the Zoning Commission at the November 8, 2001, public hearing. The Zoning Commission determined that the SEC's issues related to whether the Commission would approve the project but not zoning issues that the Commission would consider in the course of the case.

6. At its January 14, 2002, meeting, the Zoning Commission took proposed action by a vote of 5-0-0 to approve with conditions the Applications and plans presented at the public hearings.

7. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated February 7, 2002, found that the proposal would not adversely affect their interest or be inconsistent with the Comprehensive Plan for the National Capital. However, NCPC requested that the Commission specify that any crucial security element located in a public right of way should be submitted to NCPC to assure consistency with the recommendations of the federal security task force.

8. The Zoning Commission took final action to approve the Applications on February 11, 2002.

The Site and the Area

9. The Site is situated in Ward 6 along the west side of 2nd Street, between F and H Streets, N.E., adjacent to Union Station's rail yards. The Site contains approximately 240,644 square feet of land area, or approximately 5.5 acres. The Site has approximately 326 feet of frontage on F Street, 933 feet of frontage on 2nd Street and 139 feet of frontage on H Street.

10. The Site is located in the Central Employment Area. The Generalized Land Use Map of the Comprehensive Plan designates the Site in the mixed-use, medium-high density commercial/production and technical employment land use categories. The Site is also

located in the Northeast No. 1/Eckington Yards Special Treatment Area and the Northeast No. 1/Eckington Yards Development Opportunity Area.

11. The Site is presently improved with a surface parking lot, which is capable of accommodating approximately 800 cars. The sole access to the existing parking lot is from 2nd Street. Currently, access for the Union Station loading docks is from 1st Street (east) and F Street.

12. The Site is adjacent to Union Station, including Amtrak, MARC, VRE and Metrorail service, and the railroad right-of-way and tracks to the west. A parking garage serving Union Station is built on the air rights over the tracks. Between Station Place and the parking garage is an air rights parcel which is available for development over the rail yards. Union Station and the rail yards are zoned C-M-3 and the Comprehensive Plan designates this area in the same mixed use, medium-high density commercial/production and technical employment land use categories applicable to the Site. The area further to the west includes additional office buildings, in the C-3-C District and the North Capitol Receiving Zone, which permit development as a matter-of-right with transferable development rights to a maximum height of 130 feet with a maximum of 10.0 FAR, or 110 feet with a maximum of 9.0 FAR, depending upon the width of the street. The Comprehensive Plan designates this area in the medium-high density commercial land use category.

13. To the north of the Site is the H Street overpass, which is approximately twenty to thirty feet above the Site. A three-story commercial office structure known as the Railway Express building is further to the north and is zoned M. This area is designated by the Comprehensive Plan in the mixed-use, medium-high density commercial/production and technical employment land use categories. The current location of the Capital Children's Museum is also located to the north and is zoned C-3-B and C-3-A. The Comprehensive Plan designates this site institutional.

14. To the east of the Site, the area is characterized by moderate-density commercial and residential uses in townhouses and similar low-rise structures. The Comprehensive Plan designates the east side of 2nd Street as mixed-use, moderate-density commercial and moderate-density residential. The frontage on the east side of 2nd Street facing the Site is zoned for commercial use, predominantly zoned C-2-A. Approximately ninety-five percent of the existing properties on the east side of 2nd Street are devoted to nonresidential uses. The Comprehensive Plan designates the area further to the east, not fronting on 2nd Street, in the moderate-density residential category, predominantly zoned R-4.

15. To the south of the Site is the Thurgood Marshall Federal Judiciary Building (the "Judiciary Building"). Further to the south, the area is Federal land. These areas are unzoned and designated in the Federal land use category by the Comprehensive Plan.

overpass. Access to the loading docks on the northeast side of Union Station will be relocated from 1st Street (east) and F Street to the ramp from the H Street overpass.

23. Station Place will be constructed in three phases. Building 1 will include approximately 650,000 square feet of floor area and is proposed as the new headquarters for the SEC. Building 2 will include approximately 287,000 square feet of floor area. The SEC has an option to lease an additional 100,000 to 125,000 square feet in Building 2 at the end of five years, with a twenty-four month notice requirement, and a second option to lease 100,000 to 125,000 square feet ten and one-half years to twelve years out, again with twenty-four months notice. Building 3 will constitute the final phase of Station Place and will include approximately 460,000 square feet of floor area. The ramp from the H Street overpass will be constructed during the first phase of development.

24. The proposed gross floor area is approximately 46,900 square feet less than permitted under the existing matter-of-right zoning and approximately 168,000 square feet less than permitted as a matter-of-right under the proposed C-3-C District.

25. Station Place's design relates to its context and serves as a transition building between the various surrounding areas because of its stepped height, from the significant height of Union Station and its parking garage to the west to the lower rise commercial and residential area to the east. The design of Station Place incorporates a north-south spine adjacent to the Union Station rail yards, with the primary bulk and highest portion of the building situated on the western portion of the Site. The building steps down from the west towards 2nd Street to a height of ninety feet as measured from F Street and then steps down again to a height of seventy-eight feet along 2nd Street as measured from F Street. The ninety-foot portion of the building is set back at least fifteen feet from the property line, which is a setback of more than one-to-one above the height of the streetwall. In Building 1, the highest portion of the building is set back to the west at least eighty feet more. Across 2nd Street's ninety-foot right-of-way, the permitted height steps down again to fifty feet in the C-2-A District. The fifty-foot height extends for a depth of approximately 100 feet, at which point the permitted height steps down to forty feet. The height of the cornice lines of the wings of Building 1 lines up with the height of the Judiciary Building. The scale of the building is appropriate for the area, which is transitional from medium densities to the west to moderate/low densities to the east.

26. Station Place's façade is primarily a nonreflective glass curtainwall with varying amounts of granite. The 2nd Street façade is broken visually into three separate buildings. Building 1 includes a 160-foot-deep landscaped courtyard that separates the two wings that extend to the property line. Each wing is set back ten feet at the corners and at the center. The lower two stories of Building 1 on F and 2nd Streets are clad in granite with a flowering trellis at the top of the granite. The entirety of Building 2 is set back twenty feet from the property line, and the façade includes granite facing 2nd Street and wrapping around the corners. A public plaza is created by the setback, for which the Applicant has

presented extensive landscaping plans, water features, and a managed vending program. A three-story stepped connection with landscaped plazas separates Building 2 from Building 3. Building 3 is to be built to the property line with a ten-foot setback at the southeast corner. Building 3 is clad in granite facing 2nd Street, which wraps around to the H Street façade. The façade of Building 3 is still subject to review and modification by the Commission on Fine Arts (CFA).

27. As a result of the setbacks along the 2nd Street façade, Station Place includes a significant amount of open space for a commercial office building. Approximately one-half of the streetwall on 2nd Street is set back from the property line. The average setback is 26.5 feet from the property line and 56.5 feet from the curb. Although lot occupancy of 100% is permitted as a matter-of-right, the proposed lot occupancy for Station Place is seventy-two percent, with approximately 23,409 square feet of private property devoted to open space adjacent to the 2nd Street sidewalk.

28. The F Street entrance, which will be the primary entrance to the SEC headquarters, will be an atrium entrance flanked by the same type of stone as used for the Judiciary Building. The entrance incorporates a curved wall, and the curtain wall is stepped away from Columbus Circle to the north. The eighth floor is set back five feet from the property line on F Street, the ninth floor is set back an additional fifty-eight feet, and the tenth floor is set back an additional twenty feet.

29. The design incorporates a vehicular ramp from the H Street overpass that enters the parking garage on two levels. Access to the loading docks for both Station Place and Union Station will be from this ramp.

30. Station Place's design has been significantly modified since it was originally submitted to the Zoning Commission in May, 2001. The following major design changes were made in response to meetings with and issues raised by the community, the Office of Planning, and the CFA: the appearance of three separate buildings facing 2nd Street, rather than the more unified design of the original proposal; addition of full height stone facing to provide variety and separate identities to Buildings 2 and 3; the setback of Building 2 and the incorporation of a public plaza with significant landscaping and water features; the combination of Buildings 3 and 4 to create one building on the north portion of the Site; the incorporation of the three-story stepped landscaped break separating Buildings 2 and 3; the incorporation of a lobby entrance at the third floor level for direct access to the H Street overpass as well as further articulation of the H Street façade; the elimination of the glass mansard roof and the setback of the eighth floor a distance of fifteen feet, reducing the height on 2nd Street to 78.25 feet as measured from F Street; the carving out of the center portion of the 2nd Street façade of the wings of Building 1; the setback of the tenth floor from F Street, to reduce the height as perceived from Columbus Circle; reduction of the allowable 18.5 feet penthouse height to eleven feet for sixty-five percent of the penthouse length; and further articulation of the west façade.

31. Under the C-3-C District, 775 parking spaces are required. The Applicant will provide a minimum of 922 parking spaces on a self-park basis and 1,133 spaces on a stacked basis. This parking supply will adequately serve the parking needs of the tenants of Station Place.

32. Station Place will be primarily a commercial office building and may include some tenant-serving retail. The report submitted by Asadoorian Retail Solutions, the Applicant's retail consultant, concluded that retail in Station Place would not be economically viable at the present time.

33. The following benefits and amenities will be created as a result of the PUD project:

a. Urban Design, Architecture, Landscaping, and Open Space. Station Place has been designed to complement the surrounding area and create a link between the industrial and intense uses of Union Station to the west and northwest, the moderate-density commercial and residential to the east, and the Judiciary Building and monumental core to the south. Station Place has been designed to have the appearance of three separate buildings, breaking up the length of the façade on 2nd Street. To provide further articulation to the 2nd Street façade, a deep courtyard will be included in Building 1. Building 2 will be set back an additional twenty feet, creating a public plaza with landscaping, benches, and water features. Building 3 will be clad in warm-colored, soft rose granite and built to the property line. Significant open space and extensive landscaping and streetscape improvements have been incorporated into the design.

b. Special Value to the Neighborhood. The Applicant will invest $200,000 in streetscape improvements along the H Street commercial corridor in coordination with the HSMPA to assist in the continued revitalization efforts for that area. Furthermore, the Applicant has incorporated a direct connection from Station Place to the H Street overpass through a third floor lobby in Building 3. This direct connection will provide easy access to the businesses on the H Street commercial corridor. Because this access will not be constructed until the final phase of development, the Applicant has agreed to improve the sidewalks on G Street, between 2nd and 3rd Streets, to provide a pedestrian friendly walk from Station Place to the H Street commercial corridor.

c. Transportation Features. Station Place is located adjacent to Union Station, which provides significant opportunities for public transportation to service the development, with Metrorail, Metrobus, and local and regional trains all serving Union Station. Station Place will include a direct connection to Union Station for this purpose. In addition, the Applicant proposes a Transportation Management Plan to be implemented at Station Place. Many of the measures included in the Transportation Management Plan are already in place at the SEC, which has a strong record of transit ridership. Furthermore, the Applicant has agreed to

construct the portion of the Metropolitan Branch Trail along 2nd and F Streets, adjacent to Station Place, as part of its streetscape improvements. To further encourage bike ridership, Station Place will include a minimum of 190 bicycle parking spaces.

d. Employment and Training Opportunities. Station Place promotes commercial development at an appropriate location and will add to the economy of the District as well as provide expanded employment opportunities for District residents. Furthermore, Station Place will stimulate economic activity in an area targeted for further revitalization by the Comprehensive Plan.

e. Revenue for the District. Station Place will generate additional tax revenues for the District in a total estimated amount of $9.6 million annually.

f. Local Business Opportunities. The Applicant has executed a Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent participation by small, local, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project. This memorandum contributes significantly to the District of Columbia goal of ensuring adequate opportunities for small and local businesses to participate in development projects throughout the city.

g. First Source Employment Opportunities. The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the new jobs created by the PUD project. The Applicant will use DOES as its first source for recruitment, referral and placement of new hires for employees whose jobs are created by the PUD. Furthermore, the Applicant has committed to give special consideration to the hiring of residents from the Near Northeast community as part of these programs. The Community Advisory Committee will be responsible for receiving information regarding available jobs created by Station Place and disseminating this information to the surrounding communities. Additionally, in an effort to retain its construction employees, the Applicant, in connection with its General Contractor, J.A. Jones/Tompkins, ("General Contractor") will implement a Fitness for Duty Policy for applicants for construction positions and employees at the work site. The Fitness for Duty Policy will include job training for skilled and semi-skilled professions in the construction field with a substance abuse plan to assist both trainees and workers who have a prior history of substance abuse.

34. The proposed PUD requests flexibility from Section 411.5 of the Zoning Regulations which requires that enclosing walls of the penthouse from roof level shall be of equal height. The roof structure for the proposed PUD is eleven feet in height with the

exception of two cooling towers which are eighteen-feet, six-inches in height. Originally, all penthouses were the same eighteen-foot, six-inch permitted height. In an effort to minimize the visual impact of the height, the main penthouses were reduced. The cooling towers, however, needed to remain at the permitted eighteen-foot, six-inch height. The cooling towers are located toward the center of the roof and are substantially set back from the edges of the roof and all property lines. The Zoning Commission finds that there will be no adverse impact from this deviation and that the deviation from the strict requirements of the Zoning Regulations serves to benefit the surrounding areas.

Office of Planning Report

35. By report dated November 5, 2001, and through testimony presented at the public hearings, the Office of Planning ("OP") recommended approval of the Applications with specified conditions. The OP supported the height as proposed, including the setbacks at upper floors. The OP found that the proposed PUD is consistent with the goals of the Comprehensive Plan and that the proposed PUD is consistent with the Comprehensive Plan's Generalized Land Use Map. The OP further found that the proposal is consistent with the objectives and evaluation standards of the PUD regulations. The OP conditioned its recommendation on the following requirements: provide pedestrian access to H Street from the building; require that the courtyard around Building 2 be open for public access with the landscape and water feature proposed in the developer's amended submission; require that the Applicant implement a managed vending program in the public courtyard; require implementation of the Transportation Management Program proposed by the Applicant; and require implementation of a Construction Management Plan and agreement with the neighbors to protect nearby houses from construction-related damage.

36. The OP identified the public benefits outlined by the Applicant in its submission, including exceptional urban design, architecture, and landscaping; transportation features (primarily the direct connection to Union Station), employment and training opportunities, first source employment opportunities, and local, small, or disadvantaged business opportunities. The OP stated that although the Applicant claims exceptional urban design, architecture and landscaping, some members of the community had been very critical of the design. The OP further stated that the design had been significantly modified to address these concerns. The OP further indicated that the Site is within the jurisdiction of the CFA, which should ensure a quality design for the Site. Furthermore, the OP stated that with respect to transportation features, the Applicant primarily relied on the Site's proximity to existing transit infrastructure. However, the OP further noted that strong transit ridership is already present at the SEC and the transportation management plan proposed by the Applicant enhanced the proposal.

37. The OP further recognized additional benefits offered by the Applicant, but not included in the initial submission, including the provision of a pedestrian connection from the building to H Street and instituting a managed vending program in the landscaped plazas.

38. The OP recognized the agreements with the Local Business Opportunity Commission and DOES as other amenities proffered by the Applicant. The OP requested that the Applicant supply confirmation from these agencies that these documents are adequate or provide executed copies. The Applicant satisfied that request by providing the Zoning Commission with an executed copy of the First Source Agreement at the November 8, 2001, public hearing, and an executed copy of the Memorandum of Understanding for Local, Small, and Disadvantaged Business Enterprises at the November 29, 2001, public hearing.

Commission of Fine Arts Recommendations

39. The CFA initially reviewed the design for Station Place on September 20, 2001. The CFA requested modifications to the design and the project was again presented to the CFA on October 18, 2001. At that time, the CFA voted to approve the design of Buildings 1 and 2 along with the below-ground parking levels and vehicular access ramps for the entire project. By letter dated October 31, 2001, the CFA set forth its approval of Buildings 1 and 2 and made certain recommendations for further study and modification to the design of Buildings 3 and 4.

40. The CFA reviewed and approved the overall massing and setbacks for Building 3 (which included the previously presented Buildings 3 and 4) on November 15, 2001, confirmed by letter dated November 27, 2001. The CFA requested that the elevations of Building 3 be furthered studied and submitted for further review.

Department of Public Works Report

41. In its report dated November 1, 2001, and through testimony at the November 29, 2001, public hearing, the District Division of Transportation, Department of Public Works ("DPW") stated that, in consideration of the accessibility of the Site provided by the road network, pedestrian access, the excellent proximity to mass transit, access to the Metropolitan Branch Trail, and availability of on-site parking, DPW supported the proposal with the following three conditions: the cost of any modification to the Massachusetts Avenue and 1st Street (east) intersection signal light will be borne by the Applicant, with modifications being in place by the time any part of the development is operational; development of a more detailed construction traffic management plan including the truck routes for accessing the Site during the construction phase; and the Applicant's commitment to work with DPW in constructing portions of the Metropolitan Branch Trail adjacent to Station Place.

42. In addition, DPW agreed with the Applicant's traffic consultant's capacity analysis and level of service calculations at the critical intersections in the vicinity of the Site. The results of the analysis indicate that most of the intersections will experience only a slight change due to Station Place and will operate at levels of service D or better during the peak hours.

43. The DPW further found that the amount of parking provided at Station Place is more than adequate to meet the parking needs of the project (employees and visitors) and to encourage the use of other modes of transportation such as public transit, bicycle, and pedestrian.

44. The DPW issued another report on December 14, 2001 that responded to supplemental information provided by the Applicant regarding the proposed truck route for the Construction Management Plan. The DPW stated that it supports the truck routes proposed by the Applicant for the construction phase of Station Place. The DPW further reported that the proposed routes minimize routing along residential streets and cause the least amount of traffic congestion within the District.

ANC 6A Report

45. By letter dated November 1, 2001, Advisory Neighborhood Commission ("ANC") 6A supported the PUD project with the following conditions:

a. The Applicant should provide a workable construction management plan that will not impact residential properties during the construction phase, especially with regard to the exit artery north from 2nd Street onto M Street.

b. Neighborhood residents should retain access to Union Station through F Street.

c. The proposal should incorporate a design that will support pedestrian access from Station Place onto the H Street corridor.

d. The Applicant should attempt to comply with the 64-foot setback at the southern most point of the project to conform to the current setbacks.

e. The Applicant should conduct a survey of homes within an acceptable range to document present conditions.

f. A community advisory committee should be established prior to the construction of Station Place.

g. The Applicant should donate funds for community improvements to be administered by the advisory committee, with the H Street CDC acting as the conduit for the funds and technical liaison for ensuring that the funds are used to improve the H Street community, both residential and retail. The initial contribution to the community should be .005 of the project gross revenue deriving from the lease agreement with the SEC, with the same percentage for a period of six years if the remaining portion of the project is still vacant and not contributing to the H Street community.

h. District of Columbia residents should be the first source for hiring with no less than 51% total work force of District residents, with a set-aside for local and disadvantaged businesses. Residents from the H Street, Benning Road corridor should be given special consideration for hiring and the community advisory committee should receive notices of available job vacancies for distribution to the surrounding communities.

i. Job training should be provided for skilled and semi-skilled professions in the construction field, with a substance abuse plan to assist both trainees and workers who have a history of substance abuse in order to assist in stabilizing the work force. The community advisory committee should work in partnership with the developer, general contractor, and Federal and District government agencies to implement these conditions.

Party Testimony in Support

46. The HSMPA testified as a party in support of the project. HSMPA testified that Station Place would provide a positive impact on the business corridor of H Street and help stimulate the needed economic revitalization for the H Street commercial corridor.

Party Testimony in Opposition

47. The CHRS and the SPNA formed a task force (the "Task Force") to review and evaluate the proposed project. The Task Force stated that it conditionally supported the project and raised several conditions that became the basis of the contested issues for this case. The Task Force's primary concerns included an additional setback of the building from 2nd Street, based on asserted aesthetic and security concerns and construction management issues.

48. The Near Northeast Neighborhood Task Force was admitted as a party in opposition to these proceedings. Venious Parker submitted a statement on behalf of the Near Northeast Neighborhood Task Force and indicated support for the project with the organization's one concern being the proposed construction truck route.

CONTESTED ISSUES

Sixty-Four Foot Setback on 2nd Street

49. The Task Force testified that an additional setback of thirty-four feet from the property line on 2nd Street, for a total setback of sixty-four feet from the curb, was necessary for this project. The Task Force based the request primarily on the stated need for a greater transition area to the low-rise commercial and residential neighborhood to the east and the need for greater security protection for the SEC in Building 1.

50. The testimony of the project architects and the Applicant's submissions to the record show that the design of Station Place as revised minimizes any impact on adjacent areas. The project serves as a transition building for the four very distinct surrounding areas, including the monumental core to the south, the rail yards to the west, the H Street overpass to the north, and the low-rise commercial and residential neighborhood to the east. The most dense portion of Station Place has been placed on the western spine of the building, with the heights of the building stepping down to a height of seventy-eight feet as measured from F Street along 2nd Street. The side of the building facing 2nd Street is broken up by two large courtyards and by other setbacks in the façade, such that approximately one-half of the streetwall is set back from the property line. Additional setbacks occur at higher floors. The F Street entrance serves as a background building for Columbus Circle and the monumental core. Furthermore, the north façade on the H Street overpass is designed in a scale that fits well with the existing buildings and incorporates an entrance to encourage pedestrians to enter and exit on H Street. The height of mechanical penthouses has been reduced to only eleven feet, except for two cooling towers.

51. The design was submitted to the CFA for its approval. The CFA first reviewed the design of Station Place at its September 20, 2001, public hearing. Members of the Task Force attended that public hearing and presented their arguments as to why a sixty-four foot setback was important to the project. The CFA reviewed a revised design on October 18, 2001, when representatives from the Task Force again requested a 64-foot setback along 2nd Street. The CFA approved the design of Buildings 1 and 2, as set forth in a letter to the Commission dated October 31, 2001, which did not require or suggest additional setbacks for Building 1.

52. On November 15, 2001, the CFA reviewed the design of Building 3 (a combination of the previous Buildings 3 and 4) and approved the overall massing and setbacks for Building 3 and requested that Building 3's elevations receive additional study. At this hearing, representatives of the Task Force again appeared before the CFA and requested the incorporation of an additional setback. The CFA again did not accept this request and approved the massing and setbacks of the entire project as now before the Zoning Commission.

53. Kevin Roche, an expert in architecture and design and architect for the Applicant, testified that no additional setback should be incorporated into the 2nd Street design, because a setback of sixty-four feet from the curb line for the entire project would cause a loss of approximately 200,000 square feet. Possible infill of courtyards to recover a portion of the lost square footage would not be in accordance with the SEC design parameters, would create an unappealing, continuous façade along 2nd Street, and would still result in a loss of 108,000 square feet.

54. Donald Sherman, Operations Officer for the Office of Administrative and Personnel Management at the SEC, testified that the incorporation of an additional setback along 2nd Street would not fit within the SEC's design parameters. Mr. Sherman testified that the solicitation for the project included specific requirements for the building, including a high ratio of glass to office space, minimum floor plate sizes for contiguous space, and proximity to Metro. Mr. Sherman testified that any changes to the design as proposed would be a serious concern to the SEC and would cause the SEC to reconsider its position of moving to the area.

55. One specific concern described by Mr. Sherman was the fact that the requested setback would cause divisions to be broken apart and change the way the offices fit together from a departmental perspective. The architects for the project prepared blocking and stacking plans to show how the SEC's functions and programs would be accommodated in this space, which was one basis for the SEC's selection of this project.

56. In response to questions from the Zoning Commission, Mr. Sherman testified that although cantilevering additional space over the driveway could make up some lost space, the SEC solicitation requirement specifically prohibits cantilevered space around the building.

57. The Task Force also based the request for an additional setback on the Architect of the Capitol's Master Plan ("Master Plan"), alleging that this master plan dictates this setback. Mr. Roche testified that the Master Plan's discussion of this setback does not include the Site. Specifically, the transition zone to which the Task Force referred is applicable only to the south of the intersection of 2nd and F Streets and does not apply to the north side of that intersection.

58. Steven Sher, the Applicant's land planning expert, testified that the Master Plan was intended to provide a design framework for accommodating the physical needs of the Capitol, that it was not binding in any sense and was not legally binding on private property. The subject property has not been acquired nor is it proposed to be acquired for Congressional use.

59. Mr. Sher testified that most references within the Master Plan do not include the subject property. Notwithstanding the depiction of a "peripheral garage" in two places in the Plan, the most specific reference to 2nd Street in the Master Plan is the section dealing with the "Periphery and Historic District Transition Area." The Master Plan states that this zone starts at the corner of 2nd and F Streets, and extends south along 2nd Street to C Street, S.E. The zone does not include the Site.

60. At the conclusion of the hearings, the Zoning Commission requested that the Applicant further study and evaluate the possibility of the additional setback and advise on its feasibility. The Applicant and the SEC provided analysis of how the additional setback prevents compliance with the SEC's stated design parameters. Specifically, the

additional study and evaluation established that changes to the design and floor plate by reducing the length of the wings of Building 1 by an additional thirty-four feet adversely affect the SEC's space and program requirements and create a building that does not meet the SEC's design parameters.

61. Specifically, the Applicant and the SEC provided evidence establishing that the additional setback would cause a loss of 207 of the SEC's windowed offices, with a total loss of 299 offices, and a loss of approximately 65,202 square feet for Building 1. Various alternatives for recouping space were described; however, none of these scenarios solved the problems with the setback while working within the SEC's design parameters and within the permitted height of the building. Specific problems included the continued loss of windowed offices, failure of the layout to conform to SEC functional and programmatic requirements, the prohibition against cantilevered space, and the addition of floors increasing the height of the building beyond that permitted under the Act of 1910. Furthermore, the Applicant provided additional information regarding the adverse impacts that an additional setback would have on the internal operations of Station Place, including relocation of parking garage entrances, as well as analysis of the results of the setback being contrary to the CFA' approval of the design for the Site.

62. The Zoning Commission finds that the design as presented adequately serves the transition function requested by the Task Force representatives. The Applicant and its architects have been responsive to concerns and directions as articulated by the CFA, OP, and the community at large, including the Task Force. The present design includes significant reductions in the height of the building from west to east, and the ninety-foot width of 2nd Street and the permissible height of the commercial zoning on the east side of 2nd Street further provide for the transition to the residential area. In consideration of SEC concerns, the Zoning Commission finds that no additional setback is necessary even though it is desirable.

63. The Zoning Commission finds that the Master Plan does not apply to the Site and that, taken in its entirety, the Plan does not suggest that 2nd Street north of F Street should be afforded the same kind of treatment as is applied to 2nd Street south of F Street.

Security Issues Related to the SEC

64. As stated above, one basis for the Task Force's request for the additional setback were security issues related to the SEC. Mr. Sherman testified that the SEC did not have any security concerns regarding the location of the wings of Building 1 at the property line and that, although the SEC was reviewing security issues, the SEC believed that Building 1 as proposed is defensible.

65. The Zoning Commission requested that the SEC provide additional information regarding its plans for perimeter security. The SEC's security analysis indicates that the SEC is not

a primary target for security threats and that the emphasis of security for its headquarters is personal safety of individual employees and preventing unauthorized access to SEC space. With respect to perimeter security measures, the SEC intends to incorporate security bollards at the curb along the curve of the main building entrance on F Street as well as retractable bollards at the F Street garage entrance. The exact design and placement of the bollards has not been finalized, although it is anticipated that the form of the bollards will follow those used at the White House and Lafayette Square. The Applicant agreed that the exact design and placement would be subject to review by the CFA and the DPW (Public Space Division).

66. The Zoning Commission finds that the additional setback of Building 1 is not necessary for the security of Building 1. The Zoning Commission further finds that concerns about the impact of any exterior visual security measures can be addressed, in that such measures must go through the appropriate approval process, including review by the CFA and the DPW (Public Space Division).

Community Advisory Committee

67. As part of its amenities package and Construction Management Plan, the Applicant proposed the creation of a Community Advisory Committee ("Committee") to oversee and coordinate community concerns and issues during the construction phase of Station Place.

68. The Applicant further proposed that the Committee meet monthly and that the meetings include a representative of the Applicant and of the General Contractor. The Applicant proposed allowing any member of the Committee to convene a meeting at any time to respond to immediate concerns.

69. In its Post-Hearing Submission, the SPNA stated that the Committee provides a suitable vehicle for the conveyance of community opinion to the Applicant and general contractor during the development of Station Place, and for interaction on construction issues of importance to the community.

70. The Zoning Commission finds that the proposed Community Advisory Committee is an appropriate means to address neighborhood concerns that arise in conjunction with development of Station Place. The Commission encourages broad representation from the affected areas on the Committee.

Pre-Construction Condition Survey and Possible Damage to Property

71. As part of its Construction Management Plan, the Applicant proposed to conduct a pre-construction survey of residential properties within 200 feet of the property line of the Site in order to document the pre-construction condition of homes. The Applicant later agreed to expand the scope of the pre-construction condition survey for the construction

of Building 1 to include properties on the west side of 3rd Street, from the midpoint of the block between E and F Streets, to the houses on the north side of G Street. The Applicant agreed further that it would expand the pre-construction condition survey prior to the construction of Buildings 2 and 3 to include the block between G and H Streets and 2nd and 3rd Street. This expansion results in a radius of greater than 400 feet from the 2nd Street property line. Furthermore, the Applicant agreed to provide a checklist of the areas reviewed in a typical pre-condition survey to those individual property owners outside of the survey area who want to document the pre-construction condition of their homes.

72. The Task Force testified that the pre-construction condition survey should be expanded to include each home or building in the blocks bounded by 2nd Street, H Street, 3rd Street, and E Street. Further, the Task Force representatives recommended that surveys should be available upon request by home and building owners in the blocks between 3rd, 4th, E, and H Streets as well as by owners of all homes and buildings along the route for construction vehicles between 2nd and H Streets and Florida Avenue. The Task Force stated that the surveys should include appropriate monitoring of each home or building to determine the impact of construction activities stemming from the building of Station Place.

73. The Applicant also agreed to designate a representative to be the key contact for interaction with members of the community regarding construction. The representative will have a local office, phone, fax, and voice mail and be accessible during all hours of construction activity operation. In the event that any problem begins to occur with respect to residents' homes or property, this representative could be contacted immediately.

74. The Applicant also agreed as part of its Construction Management Plan to monitor construction dewatering during excavation of the below-grade levels and the installation of building foundations and below-grade walls. In addition, the Applicant agreed to monitor vibrations during pile driving operations to confirm that potentially damaging vibrations do not extend into the adjacent residential development. Seismographs will be placed on the east side of 2nd Street and an additional set will be placed at the 200-foot limit. Seismographs will also monitor vibrations at Union Station, the Judiciary Building, and the H Street overpass piers. The Applicant further agreed to implement a comprehensive monitoring program for the settlement of structures, including the installation of three-dimensional reflectors, tilt plates, and ground water monitoring wells to monitor any settlement of buildings facing Station Place across 2nd Street.

75. In its Post-Hearing Submission, the Applicant agreed to expand the scope of the pre-construction condition survey for the construction of Building 1 to include properties on the west side of 3rd Street, from the midpoint of the block between E and F Streets, to the houses on the north side of G Street. The Applicant agreed further that it would expand the pre-construction condition survey prior to the construction of Buildings 2 and 3 to

include the block between G and H Streets and 2nd and 3rd Street. This expansion results in a radius of greater than 400 feet from the 2nd Street property line. Furthermore, the Applicant agreed to provide a checklist of the areas reviewed in a typical pre-condition survey to those individual property owners outside of the survey area who want to document the pre-construction condition of their homes.

76. The Commission finds that the Applicant's proposed Construction Management Plan is a good-faith effort to address concerns raised by neighboring residents. Those plans for surveying properties are more than sufficient in light of the expert testimony and expert information presented.

Request for Arbitration Panel

77. The Task Force and other residents in the area requested that the Zoning Commission establish an arbitration panel to serve as an impartial body to deal rapidly and at no cost to the residents with any and all damage claims. The Task Force requested that all findings by the panel be made binding on all parties.

78. The Applicant objected to the request for the binding arbitration board, stating that the Zoning Commission has no authority to appoint, establish, or monitor such a board and such a board is not feasible or appropriate within the legal relationships of a developer and general contractor.

79. The Zoning Commission finds that this issue is outside the scope of the zoning process and cannot serve as a basis for consideration of this PUD. The Zoning Commission recognizes the concerns of the community but finds that it does not have jurisdiction to oversee or adjudicate these claims.

Other Construction Management Issues

80. As part of its Construction Management Plan, the Applicant proposed that construction traffic traveling from Maryland and Virginia utilize North Capitol Street and Route 395 to New York Avenue (Route 50). From Route 50, the flow of traffic will turn onto 4th Street, Florida Avenue, 3rd Street, M Street, 2nd Street, adjacent to the Trash Transfer Station, south to the Site. Traffic leaving the Site will go north on 2nd Street to M Street, turn right to 3rd Street to Florida Avenue, eliminating any traffic between G Street south to F Street.

81. Greg Ferrell, the ANC 6A representative, also testified in opposition to the proposed construction truck route and expressed concern regarding the signal light at the intersection of M Street and Florida Avenue.

82. Venious Parker, on behalf of the Near Northeast Task Force, testified that, although the Near Northeast Task Force supported the project, it did not support any construction

truck route which calls for the use of 3rd and M Streets, N.E. Mr. Parker testified that his community was already faced daily with noise, odors, and truck traffic produced by the Uline Arena Trash Transfer Facility located at 3rd and M Streets and that any additional truck traffic would upset his once quiet residential community.

83. This proposed construction truck route was submitted to the DPW on November 30, 2001, for comment. In its December 14, 2001, memorandum to the OP, the DPW stated that it supports the proposed construction truck route. The DPW found that the proposed construction truck route minimizes routing along residential streets and causes the least amount of traffic congestion within the District.

84. The Zoning Commission notes the DPW's recommendation that the proposed construction truck route is the best alternative. This proposed construction truck route minimizes routing along residential streets and causes the least amount of traffic congestion within the District. To the extent that issues arise, the Applicant must work with DPW to determine the best route for construction traffic.

85. The Task Force requested that the Zoning Commission establish appropriate penalties for truck and other service traffic that violates the established construction truck route. The Task Force based this request on its assertion of the vulnerability of the surrounding residential neighborhood.

86. The Applicant described its disciplinary procedure for construction trucks that violate the construction truck route. The General Contractor has put such procedures in place for this project. All subcontractors and suppliers will be provided with written instructions and maps showing the approved truck routing to and from the job-site, and all contracts will include the requirement that the routing be followed. Violators of the truck route will be issued a notice that a repeat offense will result in that driver not being allowed to enter the job-site in the future. Violations may be reported to the job-site office of the General Contractor by the public by providing the license plate number and state plus the truck company identification on the side of the truck.

87. The Zoning Commission finds that the Applicant has attempted to address community concerns and has spelled out an appropriate and credible enforcement procedure for violations of the construction truck route.

88. The Task Force and other residents requested that construction traffic be minimized on neighborhood streets by using the ramp from H Street or by using rail to remove and deliver construction materials.

89. The ramp to the H Street overpass will be constructed prior to occupancy of Building 1. The ramp will be used for truck traffic for the loading docks of both Station Place and Union Station. Due to the configuration of the ramp, excavation of the Site for Building 1 must be completed prior to initiating construction of the ramp. Therefore, construction

vehicles from the excavation and construction of Building 1 will not be able to use the ramp for ingress and egress to the Site.

90. The Applicant, along with its General Contractor examined the possibility of using the ramp during excavation for Buildings 2 and 3 and concluded that it could not be used for several reasons. The excavation for Building 2 will be supported by sheeting and shoring on the west, south and east sides and will be sloped toward the north. Therefore, the logical location for the ramp utilized by trucks leaving the excavation site is to the north. In order to use the ramp to leave the Site, the truck ramp would have to be oriented toward the west, and this would require construction of a temporary ramp within the Building 2 construction footprint.

91. In addition, the Building Code requires a wash-down area for all trucks leaving an excavation site. If the ramp were used for trucks leaving the Site, there would be no room at the west side of the project to install such a facility without having the wash-down water fall back into the excavation. Furthermore, the Applicant indicated that, if the ramp was used by fully-loaded dump trucks, there will be a constant conflict with the trucks entering and leaving the construction site, cars entering and leaving the parking garage for Building 1, and trucks entering and leaving the Union Station loading docks.

92. The Applicant also stated that the ramp is not available for use during the excavation of Building 3. The construction of Building 2 reduces the distance available on the ramp and does not allow for sufficient clearance required for any construction vehicles to enter or exit the Site safely. Fully loaded dump trucks would have to make a three point turn on the flat section of the ramp to clear the west side retaining wall. During these times, it will be necessary to stop all traffic on the ramp in both directions, which will cause a back-up of vehicles on the ramp and possibly onto the H Street overpass. Furthermore, the requirement to stop all traffic will cause conflicts on the ramp with cars from Building 1 and trucks for the Union Station loading docks.

93. The Zoning Commission finds these arguments persuasive and finds that use of the ramp for use by construction trucks during the excavation is not practical and presents safety issues.

94. The Applicant described the problems associated with trying to bring in and remove materials by rail. Notwithstanding that the Site immediately adjoins the rail yard, that yard is controlled by Amtrak, which will not permit freight operations which would interfere with its passenger service.

95. The Commission finds that the use of rail for construction traffic is not feasible or reasonable for this project.

Measurement of Height and Height as a Development Incentive

96. The SPNA and the Task Force testified that Station Place's height should not be measured from the H Street overpass. Mr. Drury Tallant, representative of the SPNA, testified that he believed measurement from the H Street overpass should be rejected but that it did not preclude the requested height. Mr. Tallant indicated that the change in measuring points creates an application that requests significant development incentives because the project gains an additional 200,000 square feet, and therefore, design alterations and a significant amenity package are appropriate and necessary.

97. In its report, the OP noted that all proposed conditions except building height are within the limits of the matter-of-right requirements of the new zone. The OP indicated that it was informed verbally by the Zoning Administrator's office that it felt that F Street was the appropriate measuring point. A written ruling from the Zoning Administrator was not entered into the record.

98. The OP cited Section 1703.1(u) of the Comprehensive Plan, which requires any building located directly adjacent to the H Street overpass to measure its allowable height (from street level to parapet and permissible penthouses) from the existing grade of 2nd Street, N.E., or 1st Street, N.E., and not from any part of the overpass itself. The OP, accordingly, stated that the Applicant should seek flexibility from the height requirement and that a corresponding increase in the amenities package was required as a result of this development incentive.

99. Through the architectural plans and drawings and testimony of Mr. Roche and Mr. Sher, the height of Station Place was established from both the H Street overpass and F Street. When measured from the curb on H Street, the highest point of the roof is at 89.32 feet. When measured from F Street, the highest point of the roof is at 115.5 feet.

100. Mr. Sher further testified that the Applicant has the absolute right to take its height from the curb either on H Street or F Street. As measured from H Street, the height is within that permitted as a matter of right under the Zoning Regulations. As measured from F Street, the height is within that permitted as part of a PUD in the C-3-C District.

Notwithstanding the arguments of OP and the parties, the Zoning Commission finds it unnecessary to decide the appropriate point of measurement. Even if measured from F Street, the height of Station Place is within limits allowed under the Zoning Regulations for PUDs in a C-3-C District. Although the Commission agrees that the additional height allowed for a PUD in a C-3-C District would constitute a development incentive, the provision of open space on the Site as well as the other public benefits and project amenities proffered as part of this development are sufficient to allow for the grant of this additional height .

Additional Density

101. In its testimony to the Zoning Commission, the OP testified that when the height is measured from H Street, the Applicant gains approximately 200,000 square feet in additional density. Mr. Tallant also testified that using H Street as the measuring point for the height of Station Place creates an additional 200,000 square feet, and therefore, design alterations and a significant amenity package are appropriate and necessary.

102. Mr. Sher testified that no additional density is gained by the height of the project. Specifically, Mr. Sher indicated, as shown on the architectural plans and drawings submitted as part of the record, that the proposed project is in fact 47,000 square feet less than the current (C-M-3) matter-of-right zoning. As a matter-of-right under the proposed C-3-C zoning, the project could be built to an FAR of 6.5 with ninety feet. Mr. Sher reviewed several buildings currently built in the District of Columbia which have achieved an FAR of 6.5 with a height of ninety feet. Furthermore, Mr. Sher pointed out to the Commission that the maximum height of the building was only reached on the west side of the building and therefore, had minimal impact on adjacent properties.

The Zoning Commission finds that the project is proposed to be developed at less than the matter-of-right density of the existing zone and that if the height of the building was measured from H Street, the Applicant does not gain additional density. The Zoning Commission therefore finds that no additional amenities are necessary to off-set additional density or to counter any impact.

Environmental Issues

103. The Task Force, Norman Williams, and Richard Blackford requested that an environmental impact statement ("EIS") be required for the project.

104. The OP testified at the public hearing that an EIS is not required. The OP testified that the D.C. Environmental Policy Act exempts properties within the Central Employment Area from the EIS requirement. The Site is within the boundaries of the Central Employment Area, as defined in the Zoning Regulations and the Comprehensive Plan and, therefore, no EIS is required.

105. The Applicant concurred in the position taken by the OP. The Applicant further stated that, even though the lead tenant proposed for Building 1 is a Federal agency, such tenancy does not constitute a "major federal action" under the National Environmental Policy Act ("NEPA"). The privately developed building can be occupied by both public and private commercial office uses. Thus, approval of the Applications under the District's zoning law and regulations does not trigger a requirement for an EIS under Federal law.

106. The Zoning Commission finds that the project is exempt from review under the District's Environmental Policy Act because the Site is located within the Central Employment Area. The NEPA does not require the Zoning Commission to prepare an EIS because approval of the Applications is not a major Federal action.

107.

Compliance with PUD Standards

108. The Task Force, the SPNA and other individuals asserted that the application did not provide sufficient benefits to the community to warrant approval of the PUD. This argument was advanced in large part as the basis for imposing a greater setback on the project as it faces 2nd Street.

109. Greg Ferrell, the ANC 6A representative, and the Task Force suggested that phasing of the project resulted in an insufficient amenities package for Building 1, prior to the construction of Buildings 2 and 3.

110. The Applicant argued that the proposed amenities and benefits are sufficient for a project which proposes less density than that currently permitted on the Site as a matter-of-right.

111. The Zoning Regulations require that an application for a PUD be evaluated and approved or disapproved according to the standards set forth in Chapter 24 of DCMR. The Zoning Commission must judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.

112. The Zoning Commission finds that the Applicant's proffered project amenities and public benefits sufficiently offset any potential adverse effects of the project.

113. The Zoning Commission finds that the Applicant does not request any additional density, as the proposed gross floor area is less than that permitted as a matter-of-right under the existing zoning and is substantially less than that permitted as a matter-of-right under the proposed zoning.

114. With respect to the proposed height, the Commission, earlier in this order, found that even if height is measured from the curb on F Street, the maximum height of 115.5 feet would have no potential adverse impacts and is balanced by the package of amenities presented by the Applicant, including the provision of significant open space adjacent to the public sidewalk on 2nd Street.

Consistency with the Comprehensive Plan

115. The Task Force asserted that Station Place does not comport with the policies and objectives of the Comprehensive Plan. The Task Force focused on specific elements of the Ward 6 element and generally concluded that Station Place is inconsistent with these provisions.

116. The Applicant's Land Planner asserted that the project was not inconsistent with the Comprehensive Plan noting that

a. The Generalized Land Use Map designates the Site in the mixed-use, medium-high density commercial/production and technical employment land use categories;

b. The property is in the Central Employment Area, defined to be the business and retail heart of the District of Columbia and the metropolitan area;

c. The property is in the Northeast No. 1/Eckington Yards Special Treatment Area, which targets the area south of Florida Avenue for an office district;

d. The property is in the Northeast No. 1/Eckington Yards Development Opportunity Area, which includes areas that represent unrealized development potential and where development can be used to improve neighborhood quality and stability;

e. The project meets the policies of the Economic Development element, to generate job opportunities and tax revenues;

f. The project meets the goals of the Transportation element to simplify and economize transportation services;

g. The project meets the goals of the Urban Design element, to create appropriate arrangements of materials, height, scale and massing to complement the immediate arrangements; and

h. The project is consistent with the Ward 6 element, in that it located more intensive development in an area which can accommodate that type of use.

117. The OP reported that the Applicant's proposal is consistent with the goals of the Comprehensive Plan, citing the following specific components of the proposal:

a. Pedestrian connection to H Street;

b. Pedestrian plaza on 2nd Street with a managed vending program;

c. A design approved by the CFA;

d. Landscaping and stormwater removal;

e. A coordinated construction management plan to minimize neighborhood disruption;

f. Pedestrian connection to Union Station and a transportation management plan;

g. Participation in the H Street revitalization process; and

h. First Source and local and disadvantaged business opportunities.

118. The Zoning Commission credits the testimony of the Applicant's Land Planner and the OP and finds that the project is not inconsistent with the Comprehensive Plan.

119. The Commission finds that Station Place is consistent with many of the Comprehensive Plan's major themes and that the development is not inconsistent with Comprehensive Plan. The Comprehensive Plan encourages making maximum use of the District's location at the center of the region's Metrorail and commuter rail systems. Station Place takes advantage of this asset by its proximity and direct connection to Union Station, which is served by Metrorail, Metrobus, and local and regional rail lines. Furthermore, the expansion of the quantity of employment opportunities is a central theme of the Comprehensive Plan. Station Place furthers the District's goal of establishing more jobs, as this facility will create more than one million square feet of additional commercial office space and a significant number of jobs being created by and associated with Station Place.

120. The Economic Development element sets a goal to encourage development, economic diversification, and job generation in portions of the Central Employment Area outside the Downtown. In addition, the District seeks to generate new and productive uses of currently underused commercially- and industrially-zoned lands. The Comprehensive Plan also recommends continuing to promote economic development in the District's neighborhoods by attracting grocery stores and other retail to the city's underserved markets, promoting neighborhood retail along the city's commercial corridors, and moving government agencies into the neighborhoods in an effort to spur private investment. The Zoning Commission agrees with the OP's assessment and finds that the interface of Station Place with the H Street commercial corridor in light of the direct connection to the H Street overpass furthers these goals. Furthermore, the Zoning Commission finds that the improvement of G Street, which is the primary route to H Street from Station Place, will lead to revitalization and economic development of the H Street commercial corridor as well. The placement of Station Place in this neighborhood with the SEC as the primary tenant will lead to revitalization of the commercial areas in underserved markets. The Zoning Commission notes that the proposed development will

replace a surface parking lot and will further screen the view of the rail yards from the neighborhood to the east.

121. Furthermore, the Comprehensive Plan states that the District seeks to generate new and productive uses of currently underused commercially- and industrially-zoned land. The Site exemplifies a currently underused industrial site that will be converted into productive commercial office space which encourages job generation within the Central Employment Area outside of Downtown.

122. The Zoning Commission finds that the landscaping components of the project provide the opportunity for trees and other plantings to enliven the space and provide positive environmental effects. Similarly, the street trees and plantings,, incorporated into the streetscape design, foundation plantings, and trellis system will soften the hardscape and provide shade, pollution absorption, oxygen, and decreased stormwater runoff.

123. Furthermore, stormwater management is an important environmental concern according to the OP report, and the Zoning Commission finds that the development of Station Place furthers goals associated with stormwater management. By decreasing the impervious area in comparison to the existing situation, the development will potentially decrease runoff and pollution. The Zoning Commission agrees with the OP report that the significant landscaping proposed will significantly decrease stormwater runoff and pollution from the Site. Finally, the construction management plan proposed by the Applicant furthers the environmental goals established by the Comprehensive Plan.

124. The Transportation element of the Comprehensive Plan identifies the need for the efficient movement of people and goods within the District. The Zoning Commission finds that proposed development ties into the existing transportation network and provides transportation measures to minimize and mitigate the impacts of the development. Additionally, the creation of a minimum of 922 parking spaces on a self-park basis will adequately accommodate the market parking demand for Station Place. Finally, the Applicant will construct the portion of the Metropolitan Branch Bike Trail along the frontage of the Site.

125. The Urban Design element seeks compatibility of the development with its environs. Important factors include architectural compatibility, materials, scale, massing, and streetscape. The Zoning Commission finds that the height and massing of the building furthers the goal of designing buildings using an appropriate arrangement of building materials, height, scale and massing, and buffering to complement the immediate region. The Commission notes the approvals given by the CFA for the design, massing, and setbacks of the project, with only the final exterior façade of Building 3 still to be approved by the CFA. The Commission finds that the building fits well within the context of the four differing sides of the building, including the monumental core to the south and the Victorian row structures to the east. The stepping down of the height and the reduction of the penthouses reduce the impact on adjacent areas, as do the setbacks

within the 2nd Street façade. The Zoning Commission notes that the east side of 2nd Street directly across from the Site is not in a historic district.

126. The Zoning Commission finds that Station Place serves as a transitional development and reduces negative physical impacts through the use of open-space and traffic circulation. The ingress and egress to the Site has been developed to protect the residential area, with primary access, including all access for trucks and service vehicles, being provided from the H Street overpass. The direct connection to Union Station and public access to H Street promote the establishment and growth of mixed-use commercial centers at appropriate Metrorail stations to reduce automobile congestion, improve air quality, and reduce reliance on the automobile.

127. The Ward 6 element identifies commercial development that is compatible with current neighborhood uses and historic districts as a goal. The development of office uses in the Ward's commercial zones is encouraged to relieve pressures for conversion of residential neighborhoods to commercial and office uses. Station Place furthers this goal.

128. Furthermore, the Environmental Protection element of the Ward 6 element encourages restricting heavy vehicle through traffic on residential streets lacking sufficient supporting structure and street width to prevent damage to surrounding buildings. The Zoning Commission finds that the Applicant's proposed construction truck route furthers this goal as well as the requirement of all trucks accessing the loading docks of both Station Place and Union Station to use the H Street overpass.

129. The Transportation element of the Ward 6 element seeks to ensure that development adjacent to Ward 6 Metrorail stations enhances ridership. The Zoning Commission finds that Station Place's location next to and direct connection to Union Station will enhance ridership and that the Transportation Management Plan proposed by the Applicant, and the strong history of transit usage by the SEC will further this goal of the Ward 6 element. Furthermore, the Zoning Commission finds that construction of the ramp from the H Street overpass, the distribution of traffic among the three driveways, and the requirement of truck and service deliveries accessing Station Place from the H Street overpass further the goal of establishing traffic management strategies to separate local traffic from through-traffic within adjacent residential neighborhoods.

130. The Zoning Commission also finds that the Urban Design element of the Ward 6 element is furthered by the proposed development. Station Place encourages a high quality of architecture that is consistent with the styles and characteristics of buildings in Ward 6. Station Place also ensures that redeveloped and new structures in Ward 6 commercial corridors strengthen the urban design image of those areas and relate to adjacent residential neighborhoods. The connection to H Street will strengthen the H Street commercial corridor, and the design of the façade along 2nd Street relates to adjacent residential neighborhoods. Furthermore, the significant streetscape and landscaping improvements associated with Station Place as well as the improvements within the

public plaza enhance the environment in Ward 6 and continue to improve the design and upkeep of public spaces, including streets, sidewalks, small open spaces, and large formal squares of Ward 6.

131. The Zoning Commission finds that the location of Station Place at the Site is appropriate under the Land Use element of the Ward 6 element, which has as a goal the location of more intensive and active uses in areas of Ward 6 that, by virtue of existing and planned infrastructure, can accommodate and support these types of uses. The Land Use element of the Ward 6 element also encourages redevelopment of the Ward 6 portion of the Northeast No. 1/Eckington Yards Special Treatment Area as a primary and secondary commercial area, and the Zoning Commission finds that Station Place furthers that goal.

Impact on Traffic

132. The Task Force presented generalized concerns that the development would cause an increase in congestion and result in more traffic on neighborhood streets

133. Issues were raised concerning the SEC's shuttle bus and access to parking from the garage entrance on F Street.

134. Martin Wells, the Applicant's traffic consultant, was recognized by the Commission as an expert in traffic and transportation engineering and testified on behalf of the Applicant in support of the Applications. Mr. Wells evaluated the Site in terms of potential traffic impacts created by the PUD, parking requirements, and location of the three garage entrances.

135. Mr. Wells' analysis concluded that all intersections that were studied operated at acceptable levels of service and that these intersections would continue to operate at acceptable levels of service in 2011, with full build-out and occupancy of Station Place. Mr. Wells stated the additional trips generated by Station Place would be distributed among three driveways. All trucks would use the ramp from the H Street overpass.

136. Mr. Wells also presented the elements of the Transportation Management Plan ("TMP") to be implemented at Station Place. The TMP incorporates various elements, including an Employee Transportation Coordinator, encouraging use of public transportation modes, encouraging use of bicycles and walking, limiting parking to encourage transit use, encouraging carpools, encouraging Station Place tenants to implement alternate work schedules and telecommuting, providing information regarding Guaranteed Ride Home programs, establishing an Employee Commuter Center, and conducting periodic promotional activities.

137. The TMP reflects a modal split of 75% based on the SEC's strong transit usage history. The goal of the TMP is to reduce single occupancy vehicle trips and increase carpools and public transit trips during peak hours in order to support community and national

efforts to reduce traffic congestion and vehicle emissions. The specific goal of the Station Place TMP is to achieve a seventy-five percent non-auto driver mode split. The SEC currently achieves a seventy-five to seventy-seven percent non-auto mode split at their downtown offices, and this non-auto mode split is anticipated to increase with the SEC's relocation to Station Place.

138. The DPW supported the analysis and conclusions of the Applicant's traffic expert.

139. The Zoning Commission finds that, based on the DPW's reports and the Applicant's traffic expert, the proposed development will not have an adverse or unmanageable impact on the street system and other traffic conditions in the area.

F Street Garage Entrance

140. The Task Force urged that the Zoning Commission restrict the garage entrance on F Street to official vehicles and very few visitors and that the F Street garage entrance provide access to no more than 100 spaces with no vehicle connection to the rest of the parking area.

141. According to the Applicant's traffic analysis, three driveways, from which any parking space can be accessed, results in the best traffic movement into and out of Station Place. This solution: (1) provides the most direct access to Station Place from the many approach routes on the public street network; (2) distributes traffic most evenly over the public street network, rather than concentrating it at only one or two driveways; and (3) results in the least traffic impact on nearby residential neighborhoods.

142. According to Mr. Wells, the F Street driveway is projected to accommodate approximately 183 A.M. peak hour trips and 201 P.M. peak hour trips. In his expert opinion, 1st Street (east) and F Street can adequately accommodate these traffic volumes. The F Street/Judiciary Building garage driveway and F Street/Station Place driveway intersections are forecast to operate at acceptable levels of service during both the A.M. and P.M. peak hours, with full access at the F Street Station Place driveway. Furthermore, all truck traffic currently serving the Union Station loading docks from F Street will be removed from F Street.

143. According to Mr. Wells, limiting F Street traffic would concentrate more traffic at the two other driveways, particularly the 2nd Street driveway, which would carry twice as much Station Place traffic at project build-out. This would result in greater traffic impact to nearby residential neighborhoods to the north. Mr. Wells stated that traffic entering the F Street driveway must use Massachusetts Avenue and 1st Street (east) to access the F Street garage, since F Street operates one-way eastbound. This traffic would, therefore, be precluded from using residential neighborhood streets to the east. Mr. Wells concluded that the use of the F Street garage entrance as proposed will lead to the most efficient and

effective operation of the Station Place parking garage and the distribution of vehicular traffic on the public road network.

144. The DPW supported the Applicant's expert's conclusions regarding traffic impacts and levels of service. The DPW did not raise any concern or issue regarding the use of the driveway in any of its reports on the Applications. The DPW's position about the location of the driveway is discussed elsewhere in this order.

145. The Commission finds Mr. Wells' expert opinion persuasive and finds that the number of parking spaces to be accessed from the F Street driveway should not be limited by conditions in this order. The Zoning Commission further notes that the submissions and recommendations by the DPW did not raise or cite this issue as a problem which needed to be addressed.

Proposed SEC Shuttle Service

146. The Task Force testified and requested in its submissions that the Zoning Commission prohibit the Applicant or the SEC from providing shuttle bus or similar service that would use the 1st Street (east) – F Street connection with Columbus Plaza and 2nd Street.

147. The SEC shuttle buses are sixteen passenger vans that make round trips between the SEC's Washington, D.C. office and its Alexandria, Virginia office. The two shuttle vans are active from 8:15 A.M. to 5:00 P.M. Monday through Friday. Only one van is at the Washington location at any given time. The shuttle vans pause for no more than five minutes at the Washington location before leaving for their return trip to Virginia. Use of the shuttle reduces the number of private trips that would be required to commute between the two facilities.

148. The Applicant indicated that if the shuttle was required to use the H Street overpass, it would be required to pick up its passengers in the loading dock area. This location would cause problems for pedestrian safety and handicap accessibility to the building from the vans, due to a four-foot difference in elevation between the loading berth area and the ramp serving Building 1.

149. The Zoning Commission finds that the SEC shuttle will not cause adverse impact on traffic or the surrounding area due to the short length of time that the shuttle van is present at the F Street entrance. The Zoning Commission also finds that the shuttle service reduces single occupancy vehicle trips that would be required to commute between the two offices. Furthermore, the Zoning Commission recognizes the difficulties and safety issues with accessing Building 1 from the H Street overpass and finds that restricting access of the shuttle service to that location is not necessary.

SEC's Option to Purchase Building 1 and Tax Implications of Same

150. The Task Force raised questions regarding the SEC's option to purchase Building 1 and its expansion options within Station Place. The Task Force suggested that if the SEC purchased Building 1, a substantial portion of the economic benefits for the District from Station Place would not be realized.

151. Bolan Smart, Applicant's expert witness on economic benefits, indicated that the SEC purchase option is only exercisable before the commencement of the lease term, at a very high annual rate compared with the lease without purchase. It was Bolan Smart's expert opinion that the government is not likely to exercise the option, because it would have to obtain a separate Congressional appropriation within the next two years.

152. Bolan Smart stated that, even if the government was to exercise the option before the lease commencement, the District would continue to collect real estate property taxes for the first fourteen years on Building 1. Bolan Smart opined that, during that period, the District would still receive well in excess of $100 million in real estate tax revenue from Station Place. After the fourteen-year period, the District would continue to receive close to $5 million per year in real estate tax revenue on the remaining portion of the property.

153. The Zoning Commission finds the expert report of Bolan Smart persuasive and finds that the construction of Station Place will provide significant economic benefit to the District, whether or not the SEC exercises an option to purchase its portion of the Site.

Response to Issues and Concerns of ANC 6A

153. In its report, ANC 6A supported the project with conditions that the Applicant was to address. With respect to those issues and concerns, the Commission finds that:

a. Construction management and truck route issues have been adequately addressed by the Applicant .

b. The project includes improvement of the G Street sidewalks to enhance access to the H Street corridor prior to the construction of Building 3.

c. Access to Union Station will be provided along the improved sidewalk and bike path in the F Street right-of-way. Access to Union Station through the F Street lobby of the building cannot be provided due to the security requirements of the SEC.

d. The project includes a direct public connection from the third floor of Building 3 onto H Street.

e. The Applicant and the SEC have demonstrated why a setback of sixty-four feet from the curb of 2nd Street should not be required.

f. The Applicant has increased the area to be surveyed prior to construction to include properties up to 3rd Street.

g. The Applicant has proffered to establish a community advisory committee.

h. The Applicant has proposed to commit funds to help with the revitalization of H Street. The Commission finds that the Applicant's proposal, as part of its overall package of amenities and benefits, is an appropriate balance with the impacts of the project and the development incentives requested. The Commission is not persuaded that a percentage of the gross revenue of the project deriving from the lease with the SEC is an appropriate formula to be diverted to community projects.

i. The Applicant has signed agreements with the Department of Employment Services and the Local Business Opportunity Commission. The Applicant has further demonstrated a commitment to undertake activities that will make these agreements successful.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, the height and density will not cause a significant adverse effect on any nearby properties and will, in fact, include less density on the Site than is permitted as a matter of right. The office use for this project is appropriate on this Site, which is located in the Central Employment Area and within immediate proximity to mass transit. The impact of the project on the surrounding area is not unacceptable. As set forth in the findings of fact, the 2nd Street façade has been appropriately designed to respect the surrounding areas, including the monumental core to the south and the low-rise commercial and residential area to the east.

6. The Applications can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities, particularly the quality of the design of the building and the provision of open space, are a reasonable trade-off for the development incentives requested. The proposed development is both an F Street building and a 2nd Street building, and the use, height, bulk and design are appropriate for all sides and all contexts of the building.

8. Approval of the Applications is appropriate because the proposed development is consistent with the present transitional character of the area.

9. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan, including the designation of the Site as part of the mixed-use, medium-high density commercial/production and technical employment land use categories.

10. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval with conditions. The Commission has addressed, through the conditions imposed in this order, the ANC's specific issues and concerns.

11. The approval of the Applications will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

12. The Applications are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

13. The Applicant is exempt from preparing an Environmental Impact Statement under the District of Columbia Environmental Policy Act.

14. The Architect of the Capitol's Master Plan for the United States Capitol does not apply to the Site and does not require a setback of sixty-four feet.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Applications for consolidated review of a Planned Unit Development and for a Zoning Map amendment from C-M-3 to C-3-C for property located on the west side of 2nd Street, N.E., between F and H Streets, N.E., in Square 720, Lots 178 and 179. This approval is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by Kevin Roche John Dinkeloo and Associates, dated November 8, 2001, as supplemented by drawings dated November 29, 2001, marked as Exhibits 67 and 95, respectively, in the record, as modified by the guidelines, conditions, and standards herein.

2. The PUD shall be a commercial office development, with retail and service uses, consisting of approximately 1,396,950 square feet of gross floor area. The PUD project shall not exceed a density of 5.9 FAR. The building shall not exceed a height of 115.5 feet, as measured from F Street, or 89.32 feet as measured from the H Street overpass, with setbacks as shown on the plans.

3. The façade elevations of Building 3 shall be as finally approved by the Commission of Fine Arts.

4. Bollards may be placed outside the main entrance to Building 1 on F Street and retractable bollards may be placed at the entrance to the garage on F Street. All exterior, visual security measures shall be as approved by the Commission of Fine Arts and, if in public space, the Department of Public Works.

5. Station Place shall include a direct pedestrian connection to Union Station.

6. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and as approved by the Department of Public Works (Public Space Division). The Commission also recommends submission of security elements located in a public right of way to the National Capital Planning Commission to assure consistency with the recommendations of the federal interagency security task force.

7. There shall be a minimum of 922 parking spaces and six loading berths, as shown on the plans submitted to the record.

8. As part of its streetscape improvements, the Applicant shall construct the portion of the Metropolitan Branch Trail in the public right-of-way on the west side of 2nd Street between H and F Streets and on the north side of F Street, between 2nd Street and First Street (east).

9. The Applicant shall construct the ramp to access Station Place from the H Street overpass. The ramp shall be constructed and operational prior to the occupancy of Building 1.

10. After the completion of Building 1 and prior to the construction of Building 2, the Applicant may utilize the northern portion of the Site for a surface parking lot in accordance with the plans marked as Exhibits 93 and 94 of the record.

11. The Applicant shall follow the Construction Management Plan, with the specified exceptions stated herein, filed as Exhibit 120 of the record.

12. As part of the Construction Management Plan, the Applicant shall establish, in consultation with the community, a Community Advisory Committee. It is recommended that the Committee include representation of ANC 6A, the H Street Merchants and Professionals Association, the H Street Community Development Corporation, the Stanton Park Neighborhood Association, the Union Station Redevelopment Corporation, the Administrative Office of the U.S. Courts, the Capitol Hill Restoration Society, the Near Northeast neighborhood, and the residential community bounded by H Street, 2nd Street, E Street, and 4th Street. The meetings of the Community Advisory Committee should also include a representative of the Applicant and of the General Contractor, J.A. Jones/Tompkins.

13. The purpose of the Community Advisory Committee will be to oversee and coordinate community concerns and issues during the construction of Station Place. The bylaws of the Community Advisory Committee should be worked out upon its convocation and the duties and responsibilities of the Committee will be defined during the process of creating bylaws.

14. The Applicant shall conduct a pre-construction condition survey prior to the construction of Building 1, to include all residential properties between 2nd Street and the west side of 3rd Street, N.E., from the midpoint of the block between E and F Street, N.E., to and including the houses on the north side of G Street, N.E. For the construction of Buildings 2 and 3, the Applicant shall expand the scope of the survey area to include all residential properties in the block between G and H Streets, N.E. and 2nd and 3rd Streets, N.E.

15. The Applicant shall make a checklist of the areas reviewed in a typical pre-construction condition survey available to homeowners outside of the survey area so that these homeowners can document the pre-construction condition of their homes.

16. The Applicant shall designate a representative to be the key contact for interaction with members of the community regarding construction. The representative shall have a local office, phone, fax, and voice mail and be accessible during all hours of construction activity operation. In the event that any problems begin to occur with respect to resident's homes or property, this representative can be contacted immediately.

17. The design of Building 3 shall include a pedestrian entrance directly from the H Street overpass. This entrance will be open to the public.

18. To support pedestrian access from Station Place to the H Street commercial corridor prior to the construction of Building 3, the Applicant shall upgrade and beautify the sidewalks along G Street, N.E., between 2nd and 3rd Streets, N.E., in connection with the Department of Public Works.

19. The Applicant shall make or cause to be made specific landscaping, façade, and streetscape improvements along the H Street Commercial Corridor. The specific improvements will be reviewed by the Community Advisory Committee and ANC 6A, in coordination with and with consensus from the HSMPA. The Applicant shall invest a minimum of $200,000 for such specified improvements over a two year period from the effective date of this order.

20. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. The Applicant shall provide information regarding available jobs created by Station Place to the Community Advisory Committee and the ANC 6A, which both will be responsible for disseminating this information to the surrounding communities. After the completion of construction of each building, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

21. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the jobs created by the PUD project. In addition, the Applicant will give special consideration for hiring of residents from the Near Northeast community. The Applicant shall provide information regarding available jobs created by Station Place to the Community Advisory Committee and the ANC 6A, which both will be responsible for disseminating this information to the surrounding communities. After the completion of construction of each building, the Applicant shall provide a written status report to the Zoning Commission and the Department of Employment Services regarding compliance with this agreement after the construction of each building.

22. The Applicant, in connection with J.A. Jones/Tompkins Builders, its General Contractor for the construction of Station Place, shall implement a Fitness for Duty Policy for applicants for construction positions and employees at the work site. The Fitness for Duty Policy will include job training for skilled and semi-skilled professions in the construction field with a substance abuse plan to assist both trainees and workers who have a prior history of substance abuse.

23. The Applicant shall institute a managed vending program for the private space located in front of Building 2. As part of the managed vending program, the Applicant shall encourage use of the public space for vendors consistent with the District of Columbia Regulations.

24. The Applicant shall maintain the courtyard surrounding the entrance to Building 2 open for public access, with the landscape and water features proposed in the plans prepared by Kevin Roche John Dinkeloo and Associates, dated November 8, 2001, as supplemented by drawings dated November 29, 2001, marked as Exhibits 67 and 95, respectively, in the record.

25. The Applicant shall bear the cost of the modification to the Massachusetts Avenue and First Street (east) intersection signal light, which should be in place by the time any part of the development is operational.

26. The Applicant shall evaluate its Transportation Management Plan two years after the SEC occupies Building 1, and thereafter every two years. Employee surveys and/or peak hour traffic and parking counts shall be conducted to measure the effectiveness of the program. This information shall be submitted to the Department of Public Works and the Zoning Commission. If the Department of Public Works recommends that modifications are necessary, the Applicant shall modify the approved Transportation Management Plan activities or add new Transportation Management Plan activities in a manner consistent with the goals of the Transportation Management Plan.

27. The size of the shuttle bus which provides shuttle service for the SEC shall not exceed a sixteen passenger van. The shuttle bus shall not block traffic and shall not be permitted to idle in front of the subject site in excess of the time permitted under D.C. law.

28. The Applicant and the U.S. General Services Administration shall execute a mutually acceptable easement modification agreement so that the Applicant may construct a portion of its improvements within this easement area.

29. Building 1 shall be occupied as office space for the SEC during the initial lease term of 14 years. Any change in the occupant of office space in Building 1 during this period shall require the consent of the Zoning Commission through the PUD modification process.

30. The Applicant shall have flexibility with the design of the PUD in the following areas:

    a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;

    b. To vary the location and design of the direct connection to Union Station, consistent with arrangements approved by the Union Station Redevelopment Corporation;

    c. To vary the number and location of parking spaces, not to decrease below the minimum of 922 spaces on a self-park basis;

    d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;

    e. To make architectural changes initiated and required by the Commission of Fine Arts to be consistent with the final approval of the Commission of Fine Arts; and

    f. To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.

31. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

32. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

33. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit for Building 1 as specified in 11 DCMR § 2409.1. Construction shall begin on Building 1 within three years of the effective date of this order. Within two years after the issuance of a certificate of occupancy for Building 1, an application must be filed for a building permit for Building 2, and construction shall begin on Building 2 within three years after the issuance of a certificate of occupancy for Building 1. Within two years after the issuance of a certificate of occupancy for Building 2, an application

must be filed for a building permit for Building 3, and construction shall begin on Building 3 within three years after the issuance of a certificate of occupancy for Building 2. Notwithstanding the forgoing, if the construction of Building 3 does not commence within ten (10) years of the effective date of this order, the PUD shall expire with respect to that building.

Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act

The Commission on January 14, 2002, voted to approve the application on a vote **5-0-0** (Carol J. Mitten, Anthony J. Hood, John G. Parsons, Peter G. May, James H. Hannaham to approve)

The order was **adopted** by the Zoning Commission at its public meeting on February 11, 2002, by a vote of **5-0-0** (Anthony J. Hood, John G. Parsons, Peter G. May, and James H. Hannaham voting to **adopt**, Carol J. Mitten voting to **adopt** by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the *D.C. Register*; that is on _____.

Z.C. Form #1 (5-93)

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

PETITION ~~APPLICATION~~ TO AMEND THE ZONING MAP

Before filling out this form, please see the instructions on the reverse side. Print or type all information unless otherwise indicated.

In accordance with the provisions of Section 102 of the Zoning Regulations, request is hereby made for an amendment to the Zoning Map as follows:

Square No.	Lot Nos.	Existing Zoning	Requested Zoning
754	103-106	CAP/R-4	CAP/C-2-A
754	109	CAP/R-4	CAP/C-2-A

Address or description of the premises:

521, 523, 525, 527 2nd St, NE and 201 F Street, NE

Area of the Site: 8,684 square feet or acres: _____

Baist Atlas No. 2, Page 7.

The above information and attached documents are true to the best of my knowledge.

Not Applicable to Petition
~~Owner's~~ Signature

5/24/02
Date

Owner's Printed Name

Person(s) to be notified of all actions:

GERALD N. FORSBURG
Name

202-548-8177
Telephone Number

215 F Street, NE
Address

Washington, DC
City

20002
Zip Code

DO NOT WRITE BELOW THIS LINE

Date Received:

Date Accepted: _____ Z.C. Case No. _____

Exhibit J