

August 3, 2005

Carol J. Mitten, Chair
D C Zoning Commission
441 4th Street, N W
Suite 210
Washington, D C 20001

RE Zoning Commission Case No 05-12
International Hostel
Pre-Hearing Submission

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Dear Ms Mitten and Members of the Commission

This document, with an attachment, constitutes the Pre-Hearing Submission in Zoning Commission Case No 05-12, which is a petition from Hostelling International USA for text amendments relating to hostel use on a site in Downtown Washington. Twenty copies of this Pre-Hearing Submission are transmitted herewith.

Background – Original Petition. As set forth in the Petition submitted and dated March 15, 2005, the proposed zoning amendments would allow the existing International Hostel at 1009 11th Street, N.W. to expand or rebuild on its existing site to a density of 9.5 FAR and without providing a 3.5 FAR housing component as normally required under the DD/C-3-C zoning applicable to the site. Accordingly, a proposed new § 1706.20 was proposed to accomplish this regulatory change.

The petition also proposed a definition of “hostel,” together with amendments to the mixed use and commercial zones that would allow hostel in the same zone districts that currently allow hotel or inn use. Hostel is currently regulated as a type of “inn,” accomplished by specific reference within the definition of “Inn.” The definition of Inn in 11 DCMR § 199 is as follows:

Inn – a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term “inn” may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house or apartment house.

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District of Columbia

The primary reason the Petitioner proposed a separate definition for “hostel” is the indication that “central dining is not allowed.” Hostels typically have one or more self-service kitchens with eating areas where guests can economize on meal costs as part of the generally low-cost travel style represented by youth hostels. The concern was that if the International Hostel applied for a building permit showing two self-service kitchens, the application would be denied as being in conflict with the prohibition against central dining.

Setdown for Public Hearing and Amended Petition. The Commission considered setting the text amendments down for public hearing at its meeting of April 11, 2005. At that time, Commissioners expressed concerns about defining hostel and amending the use provisions in those zone districts allowing “inn” and “hotel” to indicate “hostel” as well. The stated preference was for an amendment to the Downtown Development District (“DD Overlay”) to allow the rebuilding options on the existing site of the International Hostel and to confine the case to that issue. Accordingly, the case was set down for public hearing to include only an amendment to the DD Overlay to accommodate the requested 9.5 FAR and the waiver of a housing requirement if the International Hostel were to be rebuilt or enlarged on-site. For this discussion and setdown action, the Office of Attorney General (“OAG”) had provided alternative text that was similar to the DD Overlay amendment proposed in the petition.

After this action, the Petitioner continued to be concerned that an application by the International Hostel to rebuild as an “inn” that included two self-service kitchens with eating areas might be denied in the building permit process because of the prohibition against central dining in the definition of “inn.” Petitioner’s representatives discussed this issue with Alan Bergstein, Esq., at the Office of the Attorney General (“OAG”). After some deliberation, he proposed adding the following sentence to the existing definition of “inn”:

For the purposes of this definition, the limitation on central dining does not prohibit an Inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area

The Petitioner is pleased to concur with this approach, which resolves any ambiguity about self-service kitchens and simplifies the case by eliminating the need to define “hostel” and to amend the use regulations accordingly. We also concur with the modified proposed text amendment to the DD Overlay.

Proposed Text Amendments – Revised. Based on the above-referenced series of events and substantive issues, the Petitioner concurs with the Zoning Commission’s revisions to the proposed text amendments, and with the OAG’s proposed additional language to be added to the definition of “inn.” Petitioner notes that the proposed additional language is within the scope of the definition of “hostel” as contained in the original petition. The text amendments to be advertised would accordingly be as follows

1706.20 *The hostel existing as of [THE EFFECTIVE DATE OF THIS AMENDMENT] at Lot 810 in Square 342 may be expanded or rebuilt to the maximum permitted density of 9.5 FAR, and the housing requirement specified in § 1706.5 (b) shall not apply to such expansion or rebuilding for so long as the hostel use continues.*

199 *Inn – a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term “inn” may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house or apartment house. For the purposes of this definition, the limitation on central dining does not prohibit an Inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area.*

A copy of the Petition dated March 15, 2005 is attached for reference. It includes information about Hostelling International, its programs, goals and operating environment; a statement of public benefits of the existing hostel in Downtown, including citations from the Comprehensive Plan, and an analysis of the zoning and development issues that prompted the petition, including maps.

Public Hearing Fee. Pursuant to § 3041.3 of the Zoning Regulations, a check in the amount of \$500 payable to the D.C. Treasurer is enclosed for the Hearing Fee.

Thank you for your consideration of this case.

Respectfully submitted,
ARNOLD & PORTER LLP



Cynthia A. Giordano



Nathan W. Gross, AICP

Enclosures

ARNOLD & PORTER LLP

Nathan W Gross
Zoning and Land Use Specialist
Nathan_Gross@aporter.com

Not Engaged in the Practice of Law

202 942 5956
202 942 5999 Fax

555 Twelfth Street, NW
Washington, DC 20004-1206

March 15, 2005

Carol Mitten, Chair
D C. Zoning Commission
441 4th Street, N W
Suite 210
Washington, D C. 20001

Re: Petition for Text Amendments
Hostelling International USA

Dear Ms Mitten

Submitted herewith are twenty (20) copies of a zoning petition that proposes text amendments relating to hostels and the International Hostel in Downtown Washington operated by Hostelling International USA, the petitioner in this case. As explained in the attached Statement in support of the petition, the International Hostel is constrained by a complex interrelationship of regulations and definitions.

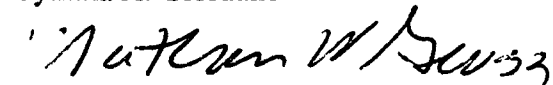
The rationale for the proposed amendments is fully set forth in the Statement. We have met with the Office of Planning and shared the full text of the Statement with them, which resulted in some follow-up communications. We request that the Zoning Commission schedule a public hearing to consider these proposed amendments. A check payable to the D C. Treasurer in the amount of \$250 is attached for the filing fee.

If additional information is needed, please contact the undersigned.

Sincerely,
ARNOLD & PORTER LLP



Cynthia A. Giordano



Nathan W Gross, AICP

Attachment

STATEMENT IN SUPPORT OF TEXT AMENDMENTS TO THE DOWNTOWN DEVELOPMENT DISTRICT INTERNATIONAL YOUTH HOSTEL

March 15, 2005

I. Purpose

The purpose of the text amendments proposed herein is to enable the only Hostelling International Youth Hostel in Washington, D C., to expand or be rebuilt to full density on its existing site in Downtown. The hostel is located at 1009 11th Street, N W. Hostelling International USA and The Potomac Area Council of American Youth Hostels, Inc , the nonprofit owners and operators of the hostel, have recently received an offer to purchase the property but would prefer to remain in Downtown, which has unique advantages for an international hostel. In order to be viable over the long term, the hostel would need to be redeveloped to the full density of the existing DD/C-3-C District. Zoning complications as described below prevent this result. The proposed redevelopment would not occur for several years, but Hostelling International USA needs to know whether long-term expansion on this site will be feasible in order to make an informed and fair decision about the use of its property.

II. Background

Hostelling International. Hostelling International is the brand name of more than 90 Youth Hostel Associations in over 80 countries, operating 4,000+ hostels. It is a not-for-profit, educational and charitable organization. Its mission is “to help all, especially the young, gain a greater understanding of the world and its people through hostelling.” Hostelling is defined as educational travel. A primary desired result of the hostelling experience is for travelers to develop intercultural understanding through exposure to a variety of people and settings from around the world and the country.

All hostels are inspected regularly and must meet international standards for comfort, security, cleanliness, privacy and welcome. A self-service kitchen or on-site meal services is provided, as well as separate male and female shower and restroom facilities. The living areas or common rooms, kitchens, and dorms are where much of the interaction among travelers occurs. It is this deliberate creation of opportunities for interaction and conversation among guests that delivers the mission. Further mission delivery is accomplished through a variety of programs offered at the hostels.

Travelers who use hostels include both individual “backpackers” and organized groups. For groups, hostels provide shared accommodations in separate male and female dormitory-style rooms with 4 -12 beds, as well as separate male and female shower and restroom facilities. Individual bunk beds are provided to ensure each group member's comfort and not having to share a double bed. Bed linens and towels are provided to all group participants. Hostels have on-site meeting/program rooms, with presentation equipment available upon request at most locations.

Groups such as the Girl Scouts and others are an important component in international hostelling. Hundreds of Girl Scout troops, representing thousands of Girl Scouts, stay in HI hostels in the United States and abroad each year. Hostels provide an excellent and inexpensive alternative to hotels or camping, and hostel staff can provide ideas for things to do, tips for getting around, saving money, how to travel with intercultural respect, and more. As a bonus, the girls meet interesting people from around the world, in the hope that their horizons will become a little broader and their dreams a little bigger. Girl Scouts ages 11-17 can earn the Hostelling International Girl Scout Patch ("Discover Your World") at any U.S. hostel or council. Participants spend a night or two in a hostel, figure out how to create a travel budget, learn to say "Hello" and "Goodbye" in different languages, and take part in local volunteer projects coordinated by the hostel. All these are possible ways to complete the patch.

The signature program delivered by Hostelling International USA councils around the U.S. is "Opening Doors, Opening Minds." There are several components of this program initiative: community outreach, international exchange and the Travel Scholars program.

- Community outreach components include the Community Walls program wherein local groups of young people (including Girl Scouts, school groups, and after-school programs) created a "community wall" which depicts and answers the question "what's it really like to live in your community?" Community Walls are displayed at hostels around the country so that travelers from other parts of the U.S. and the world gain a true understanding of what the local community is really like for young residents.
- The international exchange program engages young representatives from the U.S. as well as other Hostelling International nations in international intercultural exchange and educational travel programs each summer. HI-USA will be hosting a multilateral exchange program in 2006.
- The Travel Scholars program allows groups of at-risk youth to travel from their local communities and learn about the cultural differences within their own state, region or nation.

The Opening Doors, Opening Minds programs seek to build a new generation of global citizens through the dialogue and education that come through hostelling.

Central to HI-USA educational programs are "World Travel 101" seminars. These two-hour workshops reach people of all ages, but are primarily aimed at young people. The content focuses on traveling responsibly—being safe, budget-conscious and culturally sensitive. Volunteers and staff around the country deliver these workshops to future travelers who are eager to travel in a way that respects the myriad cultures and peoples they will encounter whether they travel close to home or far afield.

Another program of Hostelling International is the World Teach-In program. This program brings the world to local middle school and high school students through discussions with international and domestic guests staying at U S hostels. Hostel guests are taken into local World Geography, Language and Sociology classes to talk about their travels, their country and customs. Through cultural games, map exploration, and guided conversations, travelers and students share their views of the world. This program is run from September until May of each year and thrives on participation from international travelers and local students.

Another feature of hostels is local educational and cultural tours. Volunteer guides at HI-USA hostels share their neighborhoods, local stories, and tips for the best meals and deals. Volunteers are an important aspect of hostelling. "Volunteers are an essential part of the hostelling movement, playing a key role in sharing their own life experiences and passion for travel with hostellers locally and from around the world, providing innovative ideas, resources, and serving as hostelling ambassadors in their local communities." There are approximately 3 million members of Hostelling International.

The Washington, D.C. International Hostel. The International Youth Hostel in Washington is located at 1009 11th Street, NW (Square 342, Lot 810). It is a facility of Hostelling International USA, which is the U.S.A. Association of the Youth Hostel Federation and a non-profit, 501(c)(3) membership organization. The building is on the east frontage of 11th Street, slightly to the north of K Street, N W. It was established in this older brick building in 1987 with a Rooming House Certificate of Occupancy ("C of O") and has operated continuously at that location for the past 17 years. The area of Lot 810 is 5,043 square feet ("sf"). The building has approximately 28,000 sf of gross floor area ("g.f.a."), a density of approximately 5.55 FAR, a height of 85 feet and eight (8) stories and 60 percent lot occupancy.

At present the hostel has 250 beds, but demand could support 400 beds. Approximately 25 percent of guests are educational/ and cross-cultural groups, and 75 percent are international and domestic backpackers. The hostel currently hosts 55,000 overnight stays per year, with each individual spending approximately \$75 per day, including the hostel fee. There is currently only one kitchen, whereas a new hostel would likely have two or three self-serve kitchens. There is also meeting space for special events, educational programming and activities of group guests. However, the existing space for this purpose is relatively small, and a new facility would have larger spaces for educational and program activities.

III. Planning Benefits of the Use

The international hostel in Downtown Washington offers numerous public benefits that are consistent with and help carry out the objectives to achieve and maintain a "living Downtown" as called for in the *Comprehensive Plan for the National Capital*. It is a unique facility, bringing many international travelers to the city and bringing diversity to Downtown. This role is especially suitable and desirable given the international role of Washington as the Nation's Capital.

The hostel contributes to pedestrian and evening activity and the goal of an 18-hour active Downtown. Visitors are arriving at and leaving the hostel at all hours of the day and into the evening hours. Many of the guests are part of educational and cross-cultural groups, aiming to abet cross-cultural understanding and enrich the lives of participants. The facility provides an opportunity for travelers on a budget, thereby meeting an important need for moderate price accommodation in a setting of very high hotel rates. The capital cities of all major world countries host Hostelling International hostels.

If the existing hostel leaves or is closed, high land and building prices quite definitively preclude a replacement Downtown, which is the ideal location. Hostelling International USA has researched a few sites outside of Downtown, but no other location offers comparable advantages – nearby Metrorail, bus and taxi services; walking distance to the Mall and many national historic landmarks and other tourist attractions, as well as government offices and buildings.

IV. Zoning and Development Issues

As stated previously, Hostelling International USA has received an offer to purchase the property but would prefer to stay at this location and rebuild with a significantly larger facility in a few years. Because of other financial obligations (in another city, primarily) and the need to raise funds, the redevelopment could not be done before 2008. The “Catch-22” is that the Association needs to decide on whether to sell the property in the near term. Rather than sell, it would prefer to have long-term assurance that development of a full-density hostel will be possible if the hostel stays in place in Downtown. Development plans are proceeding for development of properties in Square 342 and assemblages are being created that could leave the small hostel property as isolated and with limited redevelopment potential and reduced value if the hostel were ultimately forced to relocate in order to expand. The zoning text amendments proposed herein, if adopted, would enable the Petitioner to make informed and sound decisions regarding its future in Washington and have the opportunity to stay in the optimal location -- Downtown.

The replacement hostel would need approximately 48,000 sf of floor area – a 9.5 FAR on the site. Given the small site, an addition to achieve this density when the existing building occupies 60 percent of the lot is not practical. The existing zoning is DD/C-3-C, where DD signifies the Downtown Development District overlay zone and C-3-C is the base zoning. This zone allows up to a 9.5 FAR of density, including up to 6.0 FAR for commercial and other nonresidential uses, together with a requirement for development of 3.5 FAR of residential use on or off site. A recent text amendment to the DD overlay allows residential development to have an unlimited density within established height limits, but that is not relevant to the projected future development discussed herein. The International Hostel needs no more density than 9.5 FAR, as allowed in DD/C-3-C.

A planned unit development (“PUD”) is not a practical option because the site is far too small to meet the minimum area requirement of 15,000 sf for a PUD. And a PUD

would not resolve the use issue, i.e., the residential use requirement and the maximum commercial density of 6.0 FAR¹

Transiency The first zoning issue is that the hostel was established in 1987 using a rooming house C of O, as stated previously. At that time, the rooming house C of O was commonly used to authorize transient uses such as bed and breakfast establishments, tourist homes, small inns, and in this case, the international hostel. Rooming houses had no restrictions as to the minimum stay of individual residents or visitors. A rooming house could have some residents staying on a long-term basis, others staying for only a week or on a daily basis. Many bed and breakfast establishments operated on a purely transient basis using the rooming house C of O.

The Zoning Commission adopted Order No. 614 (Transient Accommodations) on April 10, 1989. In that case a revised definition of "Rooming House" included the following language:

A rooming house provides accommodations on a monthly or longer basis. The term "rooming house" shall not be interpreted to include an establishment known as, or defined in this title as, a hotel, motel, inn, bed and breakfast, private club, tourist home, guest house, or other transient accommodation. (11 DCMR § 199)

Thus, rooming houses were redefined to be residential housing, and were explicitly not to be transient.

The newly adopted definition of "inn" included the following language:

The term "inn" may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home. (11 DCMR § 199)

Thus, a hostel was defined to be a type of "inn" in the Zoning Regulations. At this point – the effective date of Order No. 614 -- the international hostel became a nonconforming use. Under the nonconformity provisions of 11 DCMR Chapter 20, it could continue indefinitely in use on a transient basis, so long as it did not expand or perform structural alterations. {The Petitioner in the instant case was not aware of the Transiency amendments at the time of the public hearing or adoption.}

Downtown Development District The adoption of the Downtown Development District ("DD overlay") in Order No. 681, dated January 18, 1991, further complicates the international hostel's ability to rebuild on-site. In the applicable DD/C-3-C District, a minimum of 3.5 FAR of residential use or development is required, and if a project

¹ Subsection 1700 7(b) of the DD overlay states, "The PUD process shall not be used to reduce requirements in this chapter for housing or preferred uses, specifically, retail, service, entertainment, arts and residential uses."

includes non-residential uses (including transient residential uses), the residential component must be provided concurrently with the commercial or nonresidential uses. The DD overlay zone also prohibits the conversion of an existing residential use to a nonresidential use and the demolition of an existing residential use.

Problem: With a rooming house C of O, currently defined as a true residential use requiring occupancies of 30 days or longer, a proposed demolition of the existing hostel would be deemed a removal of an existing residential use in violation of the DD overlay. Moreover, the density of the new building would be restricted to the commercial maximum of 6.0 FAR. This is only slightly more than the existing 5.55 FAR and thus not a feasible or desirable option for the hostel. And the project would be required to build on-site or account for off-site by Combined Lot Development, the required 3.5 FAR of residential use. This would make achievement of the necessary and desired density of 9.5 FAR for the hostel unachievable and financially infeasible for the hostel. A hostel is not a profitable real estate development in commercial terms. Most hostels require some private and/or public subsidy to be feasible as a new construction project especially. Hostelling International's large new hostel in Chicago was greatly assisted by a grant of \$3.5 million from the City of Chicago, \$1 million from the State of Illinois, and \$1.5 million from private sources.

V. Proposed Text Amendments and Rationale

To resolve these issues and enable the international hostel to continue and later rebuild on its present site in Downtown, the Petitioner proposes text amendments to the DD District, as set forth below. These include a definition of Hostel and a new provision allowing an existing hostel (including one with a Rooming House C of O) to redevelop to the full density of the zone.

Proposed New Definition – § 199

Hostel – an establishment providing transient sleeping and living accommodations, typically characterized by low cost, shared use of one or more self-service kitchens, common areas, meeting rooms, sleeping rooms and bathroom facilities. Sleeping rooms and bathroom facilities are typically dormitory style for multiple individuals, although private rooms with and without bathroom facilities may also be available.

Amend Definition of Inn -- § 199:

Remove “hostel” from the list of types of transient accommodations within the definition of “inn.” Note that an “inn” prohibits central dining other than breakfast.² This is a problem for hostels, which typically have one or more self-service kitchens. Some hostels also serve simple meals.

² *Inn – a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed.* (Definitions, § 199)

Amend the Use Provisions Regarding Inns and Hostels

If “hostel” has its own definition and is no longer within the “inn” classification, the applicable use regulations should simply be changed from “Hotel or inn” to “Hotel, inn or hostel ” The Petitioner does not propose any change in the zone districts where an inn or hostel is allowed, simply a definition of hostel that is more accurate and suitably regulates the use, and a use that is allowed in the same districts where hotels and inns are currently allowed. The applicable zone districts are indicated below Hotel or inn is a special exception in the SP District and is allowed as a matter of right in the other indicated zones

SP District	§ 512
Commercial Districts	§ 701 6(h)
CM and M Districts	§ 801 6
CR District	§ 601 1(d)
Waterfront District	§ 901 1(d)

Proposed Regulation – Sec. 1706.20, DD Overlay Zone

The Downtown Development District includes the mandatory residential requirement discussed previously and therefore presents a special case requiring an additional text amendment, proposed to be adopted as follows

1706 20 A hostel in existence and having a valid Certificate of Occupancy as a rooming house as of _____ [the effective date of this text amendment] shall be allowed to continue in operation as a conforming use and shall be allowed to expand or rebuild to the maximum height and FAR set forth in §§ 1706 4(a), 1706 5(a) or 1706 6(a), as applicable, and shall not be subject to the residential use requirements of §§ 1706 3 through 1706 6

Comments

- Specifying the section numbers (instead of stating “residential” or “mixed use”) avoids ambiguity that could arise from the DD provision that allows unlimited FAR for apartment buildings in DD. The Petitioner does not seek to rebuild the site with a hostel that would exceed 9.5 FAR, as authorized by § 1706 5(a). Any other new hostel would be by definition a transient use – the same as a hotel or inn – and would therefore be a non-residential use in the DD overlay, limited to the maximum commercial density of the particular location
- The Petitioner sees no reason for the Zoning Commission to be concerned about the proposed amendment resulting in unexpected or undesired development of hostels in the Downtown The modest rates charged by hostels do not enable construction when property must be newly acquired at the very high prices that prevail in Downtown today It should also be said that, if one or more other hostels were to prove feasible, they would likely make a positive contribution to the city’s goal of a

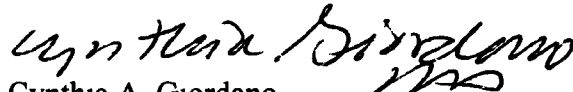
“living Downtown ” In any case, a hostel is already allowed using a C of O as an “inn,” albeit with the limitation against central dining and subject to the maximum commercial density of the location – the same as a hotel

- If the international hostel now in Downtown proves unable to rebuild at higher density pursuant to the text amendments, if adopted, no harm is done. The site will continue to be subject to existing DD overlay rules and development options. If the international hostel is able to rebuild and enlarge, a very useful and appealing educational and cross-cultural facility will be expanded and improved in an attractive new building designed for its purpose. If the hostel is unable to rebuild and sells the property at some point, the new owner would have three options: (a) continue to operate the hostel as a nonconforming use, (b) redevelop the site with a larger hostel, taking advantage of this text amendment; or (c) redevelop the property for residential or mixed residential-commercial uses subject to the existing DD/C-3-C overlay rules. Any of these outcomes
- There would appear to be little likelihood of any abuse of the amendments, in that the subject hostel is the only youth hostel in Downtown at present. Being a membership organization and offering inexpensive stays, the hostel is not really a threat to Downtown business hotels, and is probably complementary to the moderate-priced Harrington Hotel (more family-oriented) than in competition with it. There is probably excess demand for both types of moderate price accommodations

VI. Conclusion

Based on the preceding analysis and proposals, the Petitioner requests that the Commission schedule a public hearing on the proposed text amendments

Respectfully submitted,
ARNOLD & PORTER LLP


Cynthia A. Giordano

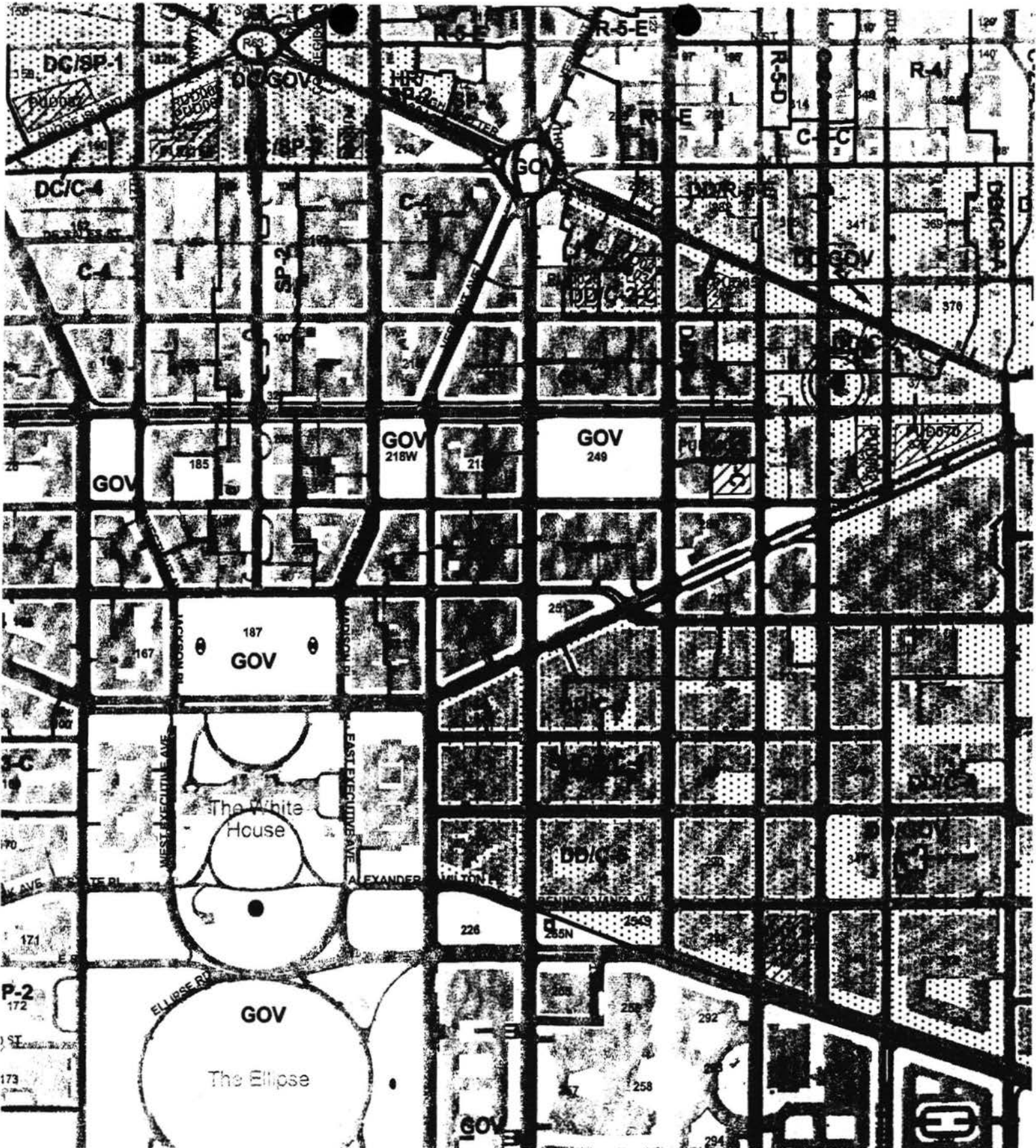

Nathan W. Gross, AICP

Attachments.

Maps

Letter to Office of Planning

cc Office of Planning



ZONING AND SITE LOCATION MAP