

Arent Fox

Memorandum

Kinley R. Bray
Attorney
202.715.8572 DIRECT
202.857.6395 FAX
bray.kinley@arentfox.com

Date: April 22, 2010

To: Karina Ricks, DDOT
Jeff Jennings, DDOT
Gabriela Vega, DDOT

Cc: Buwa Binitie, Dantes Partners
Ellen McCarthy, Arent Fox
Jeff Goins, PGN Architects

From: Kinley R. Bray

Re: Projections over Alleys, 1412 Chapin Street (the "Property"), ZC Case No. 09-15

Following our meeting of April 9, 2010, you asked us to provide certain additional information regarding the proposed projections above the public alleys adjacent to the Property. In addition to additional justification for a code modification allowing such modification, you specifically asked us to complete additional research regarding projections above other public alleys in the District of Columbia that are similar to what has been proposed in the above-referenced PUD Application for the Property.

This memorandum provides additional legal authority for granting code modifications allowing projections over the public alley; specifically, it addresses DDOT's interpretation that projections over a public alley, unlike projections above other public rights of way, are prohibited, and explains how the projections meet the requirements set forth in the building code for obtaining the appropriate waiver. Attached to this memorandum are revised plans, which show, as we discussed, a modified projection design that requires only 2 feet above the public alley, rather than the previously proposed 4 foot projection. This modified design allows the units to retain the spatial relationships we have sought to preserve, and allows for the balconies—a significant amenity in this affordable project—to be retained.

GENBUS/733485.1

Arent Fox

Finally, we have provided several examples of building permits granted in recent years that include projections above public alleys. Unfortunately, due to DCRA's recent move, the permit files (including zoning computation sheets and code modification paperwork) were not available for our review; we are still waiting for them and will provide that information when it is accessible at DCRA. Nonetheless, we attach a report from EHT Tracerics identifying the properties we looked at, all of which include projections above the alley. Each building's permit notes the approval of the projection.

Building Code Modifications

Title 12A, Section 3202A of the Construction Codes Supplement of 2008, notes that projections cannot be claimed as a matter of right, and establishes "limitations on the projections that the code official is authorized to grant." 12A DCMR § 3202.1. 12A DCMR § 3202.4.1 clearly states that the code official (elsewhere defined in Title 12A as DCRA) is "authorized to grant modifications of requirements on projections when *the modification is deemed in the general public interest*, as defined in Section 3202.4.1."

Section 3202.4.1 states:

Modifications in the general public interest are those requested to embellish the building, provided that:

- (1) *The primary object of the modification is not the occupation of additional public space;*
- (2) *The primary object of the modification is not changing of interior arrangements;*
- (3) *In the opinion of the code official, such modification will not interfere with adjacent buildings; and*
- (4) *In the opinion of the code official such modification will not interfere with the general public interest.*

There is no limitation on the type of modifications that the Code Official is authorized to grant. In fact, 12A DCMR § 3202.4.1 authorizes the code official to grant "modifications of requirements" on projections so long as the standards above are met. While projections above an alley are prohibited as a matter of right, as are all projections, the Code Official has the authority to waive or modify this restriction, just as he may waive or modify restrictions as to height or width of projections as provided elsewhere in Section 3202A of Title 12A.

GENBUS/733485.1

Arent Fox

The Applicant intends to seek a code modification pursuant to 12A DCMR § 3202.4.1 at permitting. The basis for the request is as follows:

The proposed projections create an articulation along the east façade of the proposed building, which is the largest façade and is currently most exposed to the street. Although a PUD for the site immediately east of the Property (known as the Level 2 site) was recently extended through 2011, construction has not yet commenced and we are unaware of any immediate plans to build that project. The proposed PUD on the Property will, on the other hand, be built immediately after approval and permitting. The new building will be, for some time, the only building fronting along 14th Street in this block. Our design team has approached the east façade as it would have had the building been located directly on the street. Moreover, the Zoning Commission explicitly said at set down of the proposed PUD application that the facades—both east and west—should be appropriately articulated to break up the mass and avoid a “box” effect. The east façade has been designed to create some articulation across the length of the building, and to provide a significant public amenity—a balcony that can be constructed within the cost constraints of an affordable project.

The proposed projections have, following our discussion on April 9, been reduced to project a maximum of two feet over the public alley running east west in the square. No building infrastructure (mechanical, electrical, or plumbing systems) will be located in the area projecting above the public alley. The projection will be constructed so that it may be removed in the future if required by the Code Official (meeting the requirements of 12A DCMR § 3202.2).

While we understand that price point is not a factor in DDOT’s analysis or in the determination by the Code Official that the projection is “in the general public interest,” it is important to note that the proposed development is a 100% affordable housing project, designed to meet the need for “workforce housing.” There is a stigma attached to “affordable housing” throughout the District of Columbia, and most affordable projects are utilitarian at best, and at worst cramped and uninviting. This project is being designed with superior architecture and urban planning, which is why we have pursued a PUD in the first place. The proposed development is designed to provide the feel of a market-rate project to users who could not otherwise afford to live in such a project. The proposed development aligns the majority of the units along the alley (the west side of the building cannot have windows because the zoning allows the building to the west to be redeveloped to the property line, placing any windows at risk). The proposed two foot projection is the minimum required to maintain a recessed balcony as previously proposed. Removal of the projections will result in the removal of all balconies from the project—thus eliminating a significant amenity in this affordable housing project.

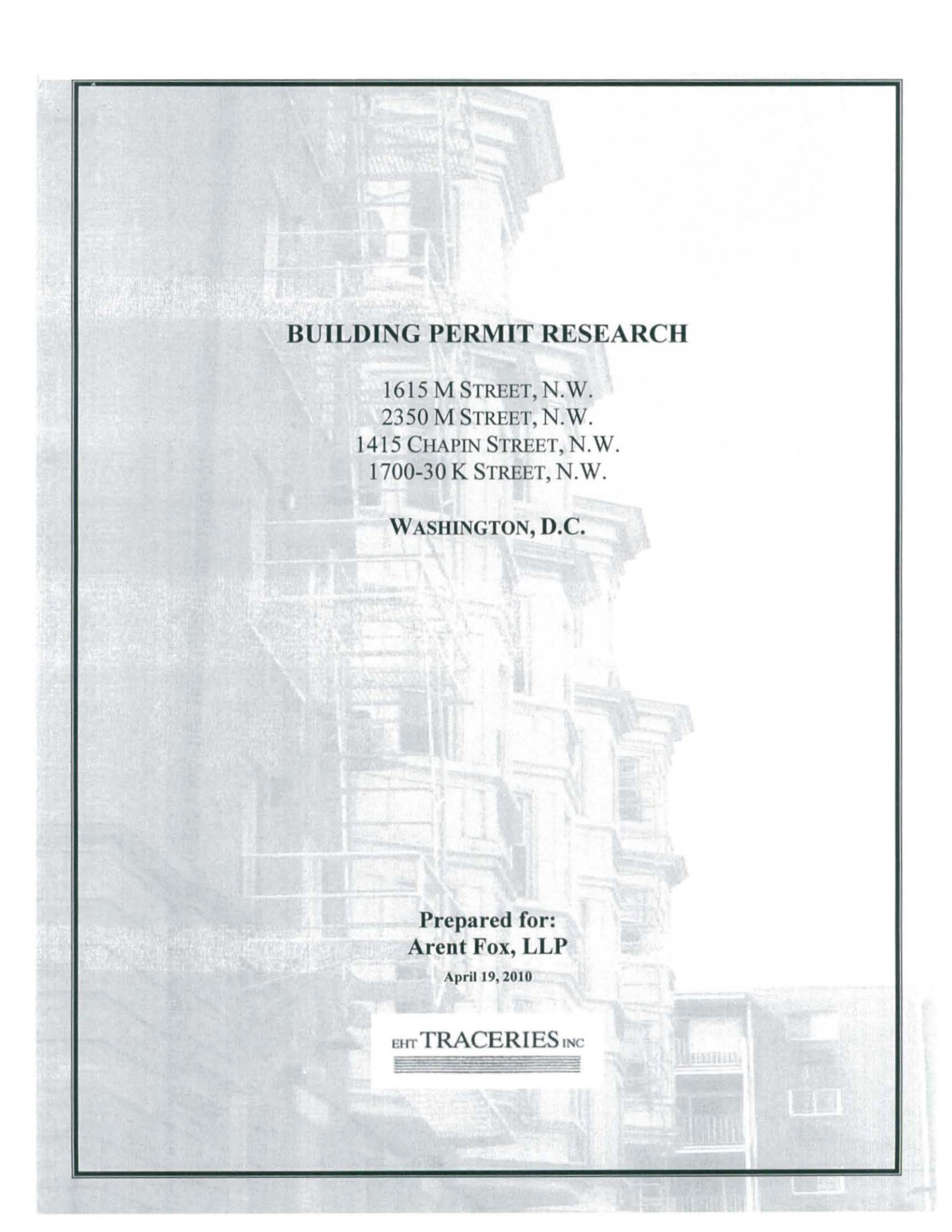
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The projection, as shown on the attached plans, does not interfere with adjacent buildings, as a separation of at least 18 feet between the nearest buildings will be maintained—wider than a typical alley in this neighborhood. Finally, the projections will not interfere with the general public interest. The alley is 20 feet wide, larger than many other alleys in the District of Columbia. The alley will continue to function as it does today, with two way traffic. The projections have been specifically designed so that there is no potential conflict between overheight or oversized vehicles using the alley system. DC FEMS has confirmed this assertion in approving the project.

There are many projects, including some in the immediate vicinity of the subject property, which have utilized bay and oriel projections over sidewalks¹ and over public alleys. Immediately north of the subject property, across Chapin Street, is a large residential project with a series of bay projections over the public alley running north-south and aligning with the public alley adjacent to the instant project. These projections were approved at the time of construction, and such approval is noted in the EHT Tracerics report, attached. We have also found examples of similar projections over public alleys at 1615 M Street, N.W., 2350 M Street N.W., and 1700 K Street, N.W. Details for those projects are also included in the EHT Tracerics report.

We do not argue that construction of the building as shown on the Applicant's most recent plans will require a modification from the Building Code. That is an issue for DCRA to review and decide at the appropriate time; however, we feel that the project meets the requirements in the building code for granting the projections, as indicated above. The Applicant submits that the projections are necessary to create a project of superior architecture and urban design, as required by the PUD standards, and requests that DDOT withdraw its objection to the PUD based on the proposed projections.

¹ See 1959 Sanborn Map attached, showing the Berkshire Apartments, formerly located on the Property, projecting over the right of way of Chapin Street, N.W.



BUILDING PERMIT RESEARCH

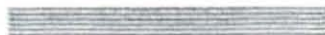
1615 M STREET, N.W.
2350 M STREET, N.W.
1415 CHAPIN STREET, N.W.
1700-30 K STREET, N.W.

WASHINGTON, D.C.

**Prepared for:
Arent Fox, LLP**

April 19, 2010

EHT TRACERIES INC



1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Tracerics, Inc.
April 2010

BUILDING PERMIT RESEARCH

METHODOLOGY	3
1615 M STREET, N.W.....	4
2350 M STREET, N.W.....	6
1415 CHAPIN STREET, N.W.....	8
1700-1730 K STREET, N.W.....	13
BIBLIOGRAPHY	14

*1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Tracerics, Inc.
April 2010*

METHODOLOGY

In order to document permit applications for projections, EHT Tracerics conducted permit research at the National Archives, Washington D.C. Office of Public Records, and the D.C. Department of Consumer Affairs (DCRA) for the following addresses: 1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., and 1700-30 K Street, N.W. in Washington D.C.

The National Archives holds permit application files from 1899-1948. The D.C. Office of Public Records now holds the original permit documents from 1949-2007. The Department of Consumer and Regulatory Affairs (DCRA) electronic permit index contains records for permits from 2000 to the present. Relevant permit index citations found at DCRA are attached and include descriptions of issued permits. Original permit files and plans from 1949-2007 were requested from the D.C. Office of Public Records for each property and the request is being processed (2-7 days).

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010

1615 M STREET, N.W.

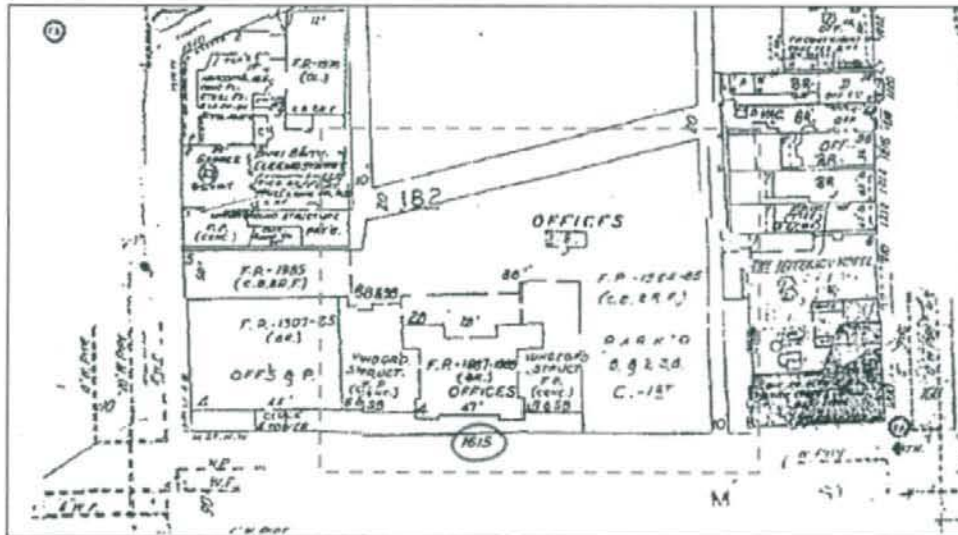


SQUARE:	182
LOT:	828
DATE OF CONSTRUCTION:	c.1984
RENOVATION:	2004 (Index file citation attached)



1615 M Street, looking northwest, EHT Traceries, 2010

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
 EHT Traceries, Inc.
 April 2010



1999 Sanborn Map, Vol. 1, p.66

Address	
St No: 1615	St Name: M
Suffix: ST	Quad: NW
Suite:	
Zip:	Square: 0182 Suffix: 0000 Lot 1: 0828 Lot 2: Lot 3: Lot Ext:
Cluster:	Ward: ANC Parcel Key: 12174
Address:	
Building Permit	
Rec Type: BUILDING	App. Date: 06/16/2004 Issued Date: 08/02/2004 File Job #: 1673B
Blgd Permit No: B464343	Permit Type: ALT/REP
Use Group: BUSINESS	Use: OFFICE
Permit Fee: 5,030.26	Valuation: 263,213.00 Filing Fee: 264.00
Owner Name: 17 MASS ASOC.	Phone No: () -
Agent: JOHN GIUSSPPE	Phone No: (703) 934-4606
Address: 3900 JERMANTOWN RD	City: FAIRFAX State: VA Zip: 22030
Comments: RENOVATION TO EXSISTING OFFICE BLDG. PARKING GARAGE AS PER ATTACHED PLANS.	
Record No: 15933	
Added By: AMERRITT	Added Date: 08/10/2004 Updated By: Updated Date:

1615 M Street, N.W., DCRA Permit Index Citation

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010

2350 M STREET, N.W.

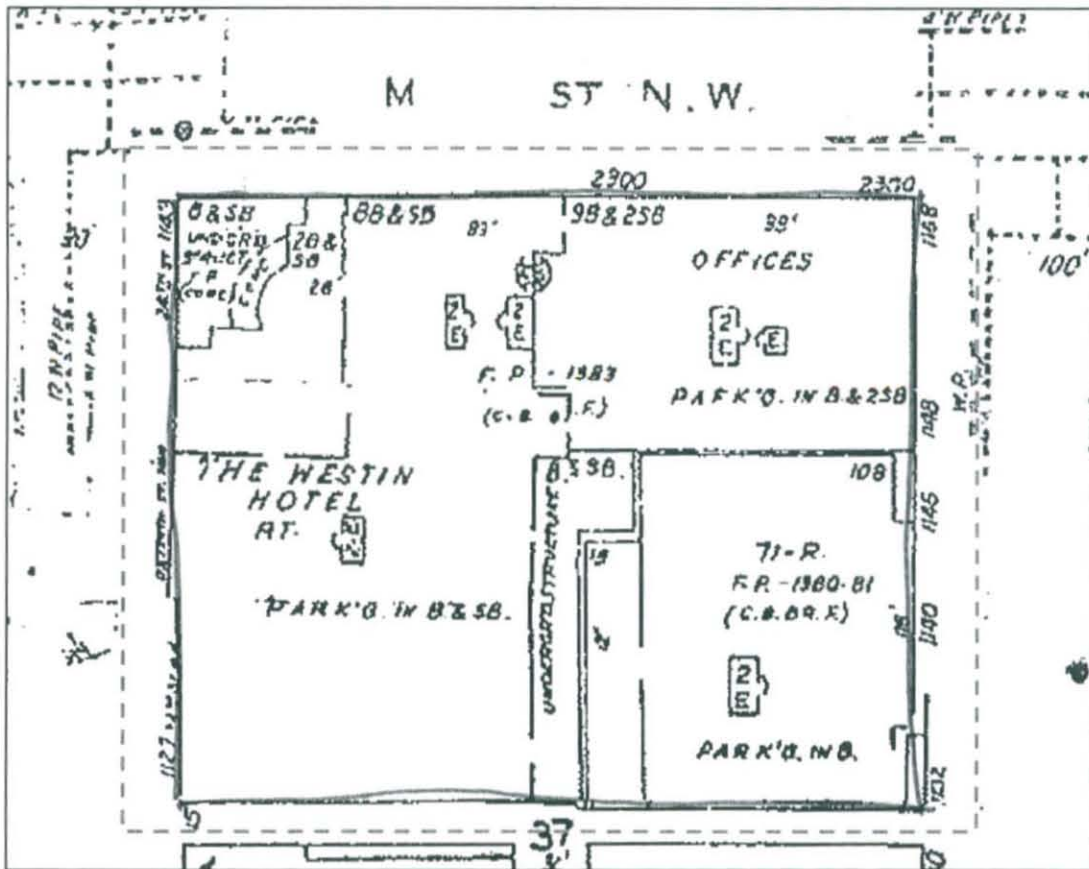


SQUARE:	37
LOT:	854
DATE OF CONSTRUCTION:	c.1984
TENANT INTERIOR ALTERATION:	2004 (Index file citation attached)



2350 M Street, looking northeast, EHT Traceries, 2010

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
 EHT Traceries, Inc.
 April 2010



1999 Sanborn Map, Vol. 1, p.61

Address	
St No: 2350	St Name: M
Suffix: ST	Quad: NW
Suite:	
Zip:	Square: 0037
Suffix: 0000	Lot 1: 0854
Lot 2:	Lot 3:
Lot Ext:	
Cluster:	Ward: 2
ANC:	Parcel Key: 3117
Address:	
Building Permit	
Rec Type: BUILDING	App. Date: 01/17/2005
Issued Date: 01/21/2005	File Job #: 827B
Blgd Permit No: B469280	Permit Type: ALT/REP
Firs:	Units:
Storage Loc:	
Use Group: HOTELS, MOTEL BOARDING	Use: HOTEL
Permit Fee: 6,680.00	Valuation: 350,000.00
Filing Fee: 350.00	
Owner Name: THE WESTIN GRAND	Phone No: () -
Agent: JASON BENTLEY	Phone No: () -
Address:	City:
State:	Zip:
Comments: INTERIOR ALTERATIONS AND REPAIR TO SUIT TENANT THE WESTIN GRAND.	
Record No: 27482	
Added By: AMERRITT	Added Date: 01/26/2005
Updated By:	Updated Date:

2350 M Street, N.W., DCRA Permit Index Citation

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010

1415 CHAPIN STREET, N.W.



SQUARE: 2662

LOT: 823

**DATE OF
CONSTRUCTION:** 1900

(See original permit attached –
April 12, 1900 - #1369)

2 Octagonal 3' Projections on
Chapin Street

1959 Sanborn Map shows 4
additional projections on alley.

REPAIR PERMITS: 1941 - #248569
1947 - #297856

ALTERATIONS: 1999-2000 (permits requested)



1415 Chapin Street, NW, looking northwest, EHT Traceries, 2010

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010



1415 Chapin Street, NW, looking northwest, EHT Traceries, 2010

Form 11-145-2-1-10

FILL OUT APPLICATION IN COPYING INK.

Special Application for Projections Beyond the Building Line.

Washington, D.C., *Febr. 23, 1910*

TO THE
HON. COMMISSIONERS, DISTRICT OF COLUMBIA,

GENTLEMEN: I hereby apply for a permit to construct the following
projections beyond the building line, in accordance with the plan herewith annexed, to building on lot
MC 20 square *Hamlin College Land* to be known as
No. *1415* *Thompson* Street.
Number of buildings *One* Width of front *56.0* feet.

NO.	DESCRIPTION.	PROJECTION.	WIDTH.	REMARKS.
<i>Two</i>	Arms	<i>4' 6"</i>	<i>12' and 14'</i>	
<i>Two</i>	Bay windows	<i>3.0</i>	<i>12' 0"</i>	
	Show windows			
	Tower			
	Corner tower			
	Oriel window			
	Porch cocher			
	Cover porch			
	Colonnades			
<i>One</i>	Steps	<i>7.0</i>	<i>9.6</i>	
	Vault			
	Widths			

Very respectfully,
E. M. Gustenrieder
A. G. Gossamer
Per *Alfred Aldy*

E. M. Gustenrieder
for Consulting Engineer

- 10 -

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
 EHT Traceries, Inc.
 April 2010

25736
 MAY 1 41 34
 WAR DEPARTMENT
 SPECIAL APPLICATION
 PROJECTIONS BEYOND THE BUILDING LINE
 C. M. Detmold Owner
 OFFICE, CHIEF OF ENGINEERS
 24617
 OFFICE OF THE
 DIRECTOR OF BUILDINGS
 WASHINGTON, D. C.
 WAR DEPARTMENT
 Feb. 26 - 1900
 Respectfully referred to the Hon. Commissioners, with the statement that the within plan complies with the regulations governing projections, and I recommend that a permit be granted therefor.
 Inspector of Buildings
 John B. Wright
 John H. Cross
 L. H. Beach
 Assistant Secretary of War
 MAR 1 1900
 25736 Enclosed with H. 1900

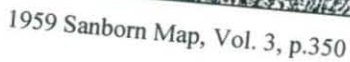
Permit for Projections beyond Bldg. Line. Received Office P. B. G. MAR 1 - 1900

1103 Permit for Projections beyond Bldg. Line. Received Office P. B. G. MAR 1 - 1900

March 3, 1900. Under Sec. 1-2

1415 Chapin Street, N.W., D.C. Permit Application #1369, April 2, 1900

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010



1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Tracerics, Inc.
April 2010

1700-1730 K STREET, N.W.



SQUARE: 126
LOT: 62
DATE OF CONSTRUCTION: 2002-2003
(Index file citation attached-
Permit # B474944 w/
projection)

(Z.C. Case No. 01-07C)



1700 K Street, NW, looking southeast, EHT Tracerics, 2010

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010

Address	
St No: 1700	St Name: K
Suffix: ST	Quad: NW
Suite:	
Zip:	Square: 0126
Suffix: 0000	Lot 1: 0056
Lot 2:	Lot 3:
Lot Ext:	
Cluster:	Ward: 2
ANC:	Parcel Key: 7027
Address:	
Building Permit	
Rec Type: BUILDING	App. Date: 09/16/2002
Issued Date: 06/24/2003	File Job #: 1373-A
Bldg Permit No: B474944	Permit Type: MISC
Firs: 13	Units:
Storage Loc:	
Use Group: UTILITY MISCELLANEOUS	Use: RAZE
Permit Fee: 113,236.40	Valuation: 37,000,000.00
Filing Fee: 2,000.00	
Owner Name: 1700 K ST ASSOC LLC	Phone No: (202) 833-5800
Agent: WDG ARCHITECHTS	Phone No: (202) 857-8300
Address:	City:
State:	Zip:
Comments: CONSTRUCT NEW 12 STORY COMMERCIAL OFFICE BLDG. WITH ONE VAULT PROJECTION AT REAR ALLEY, AND ONE ABOVE GRADE BLDG. PROJECTION AT REAR ALLEY AS PER PLANS.. PODORDER#961 CASE #01-07C APPROVED 6/28/02.	
Record No: 780	
Added By: LADAMS	Added Date: 06/25/2003
Updated By:	Updated Date:

1700 K Street, N.W., DCRA Permit Index Citation

1615 M Street, N.W., 2350 M Street, N.W., 1415 Chapin Street, N.W., & 1700-30 K Street, N.W.
EHT Traceries, Inc.
April 2010

BIBLIOGRAPHY

Building Permits

D.C. Building Permits, Washington, D.C., District of Columbia, Office of Public Records, Washington, D.C.

Maps

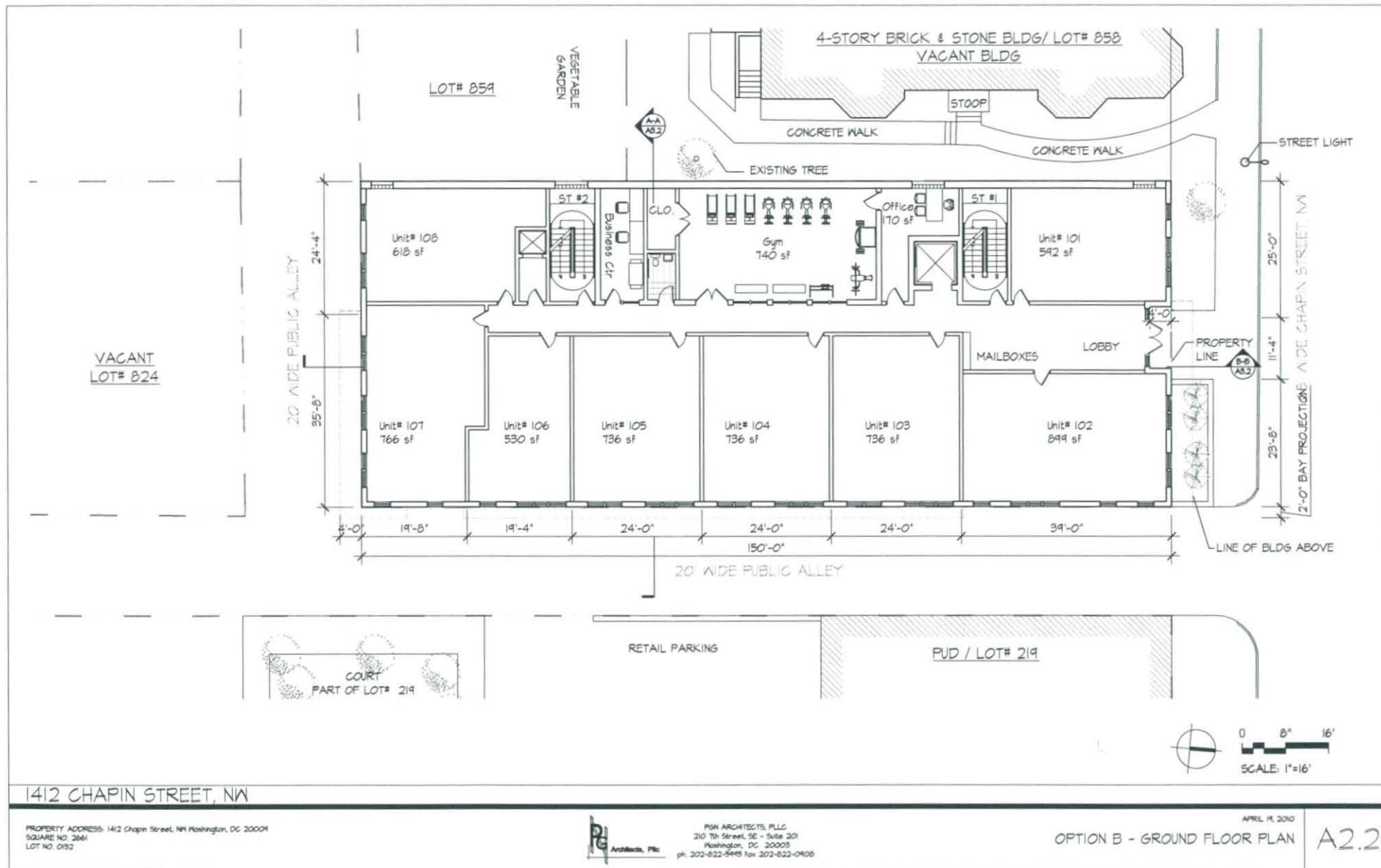
Sanborn Map Company, *Insurance Maps, Washington, D.C.* New York: 1959 and 1999.

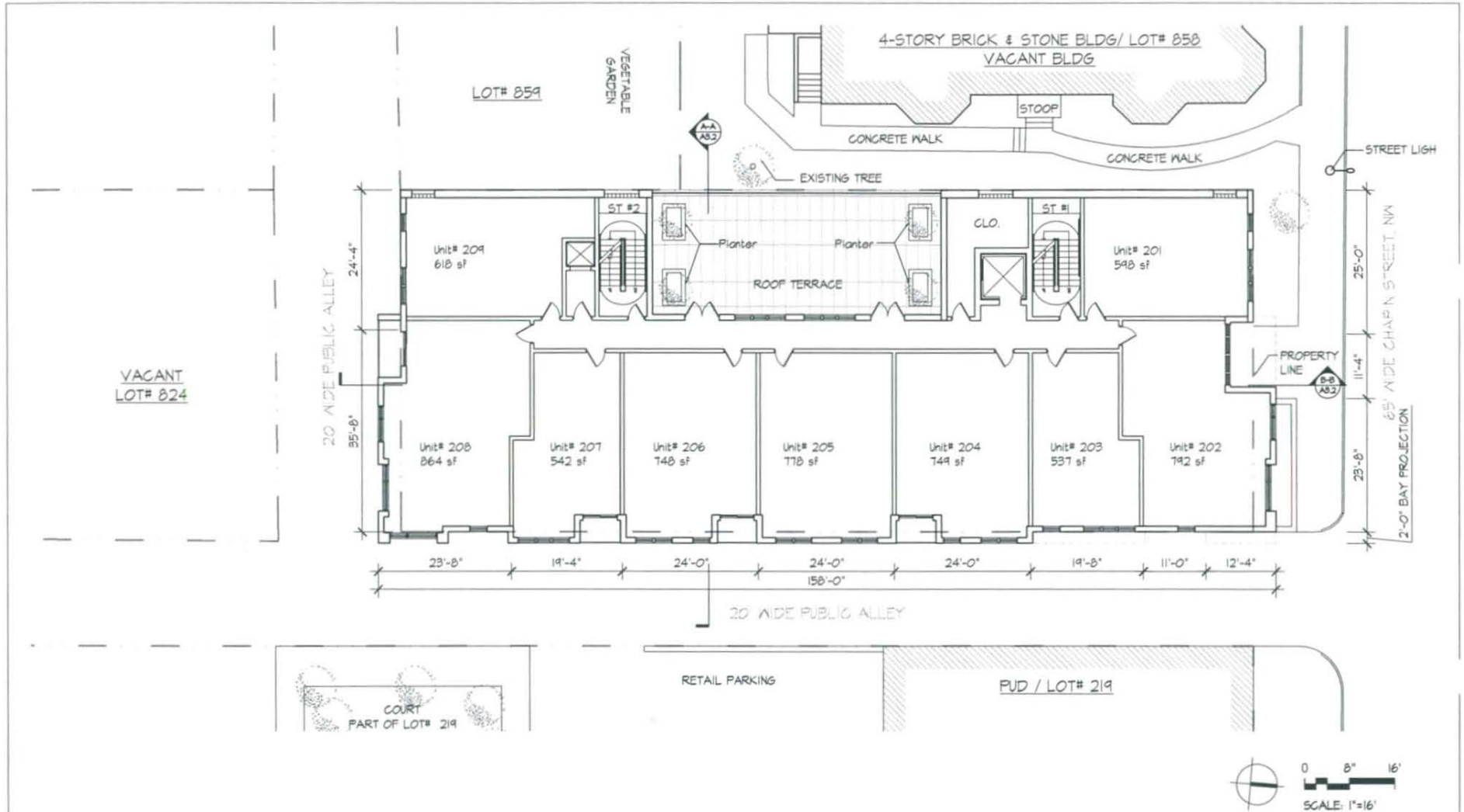
Repositories and Databases Consulted

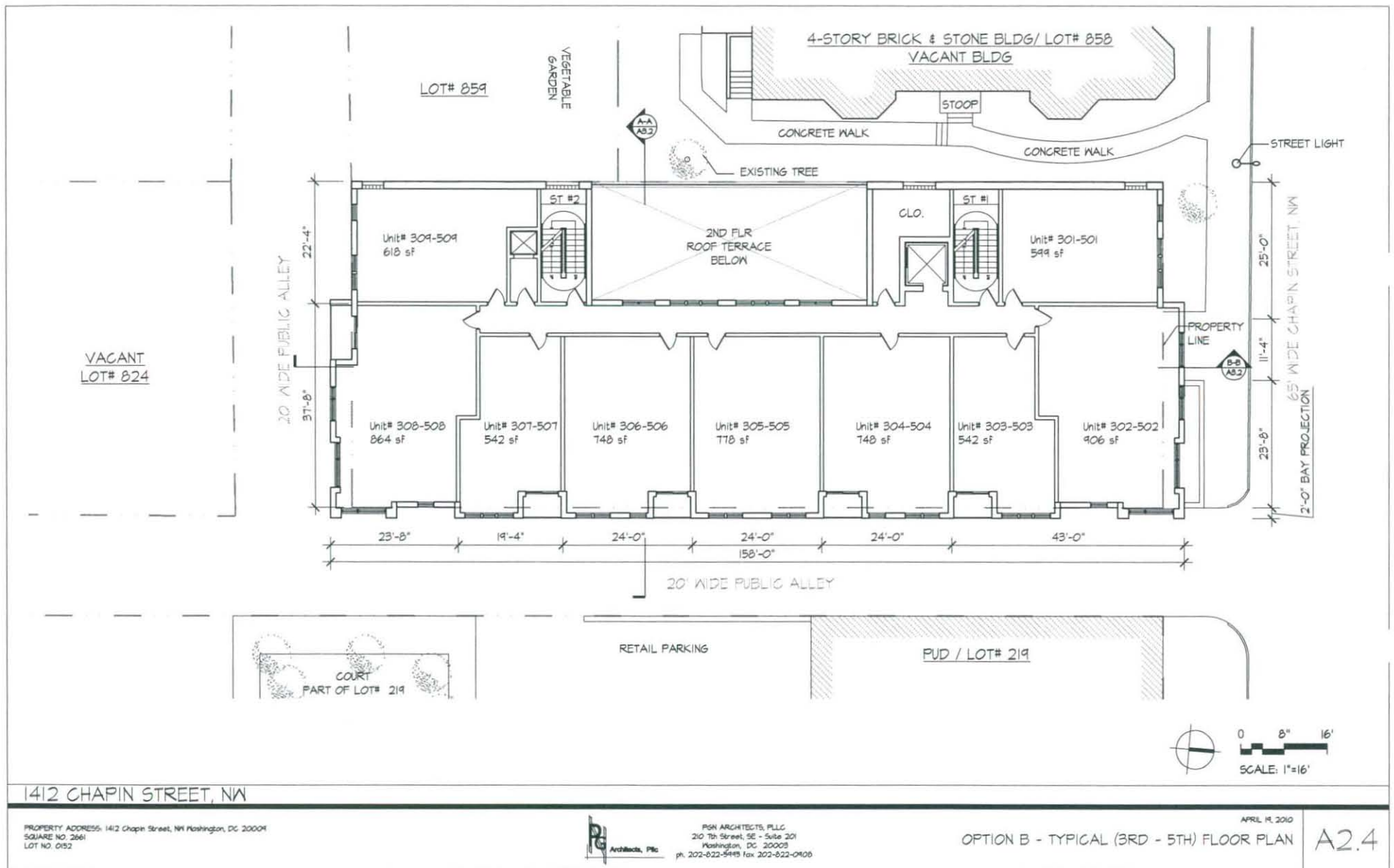
Department of Consumer & Regulatory Affairs, Washington, D.C.

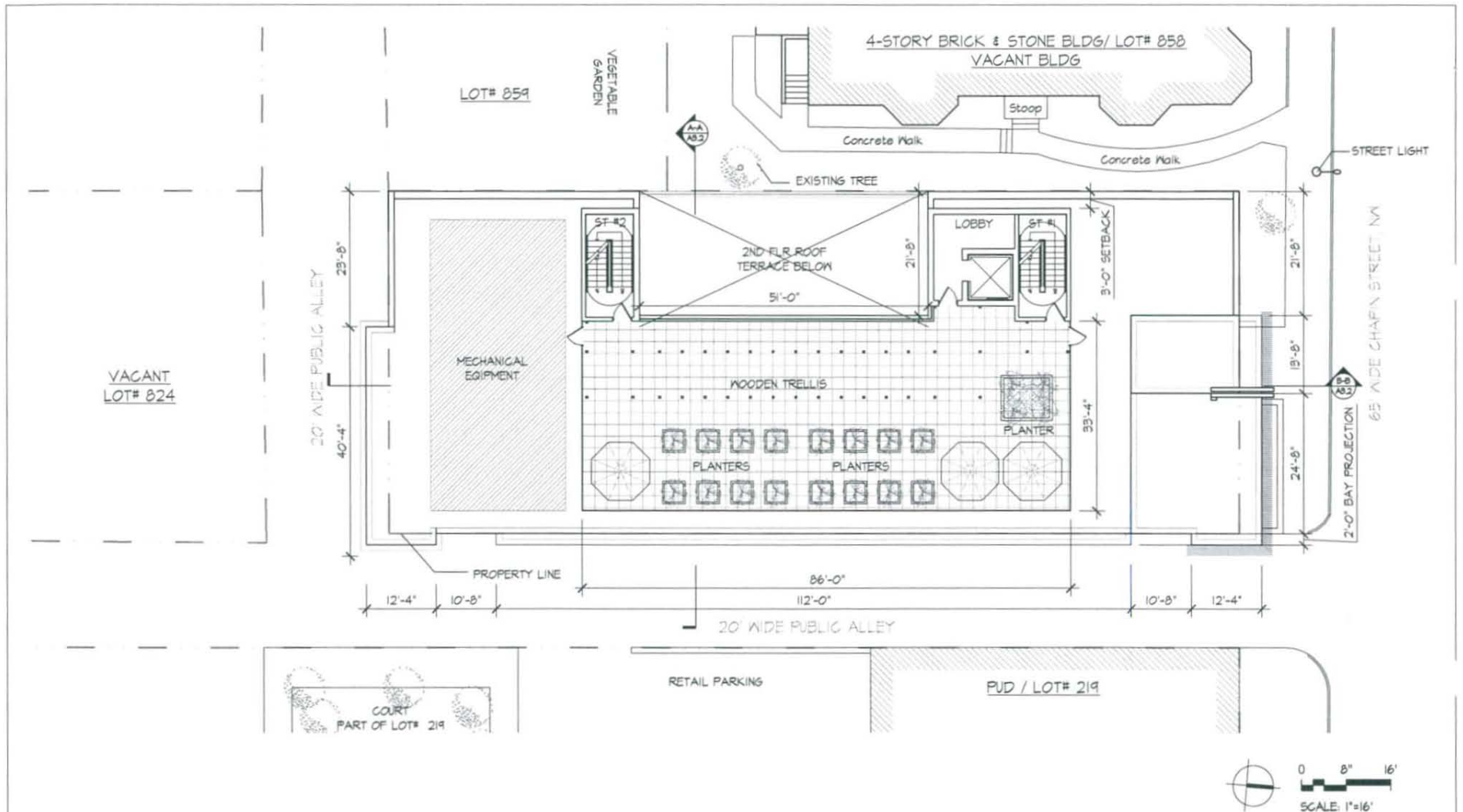
National Archives, Washington, D.C.

Washington, D.C. Office of Public Records









1412 CHAPIN STREET, NW

PROPERTY ADDRESS: 1412 Chapin Street, NW Washington, DC 20004
 SQUARE NO. 2661
 LOT NO. 0152

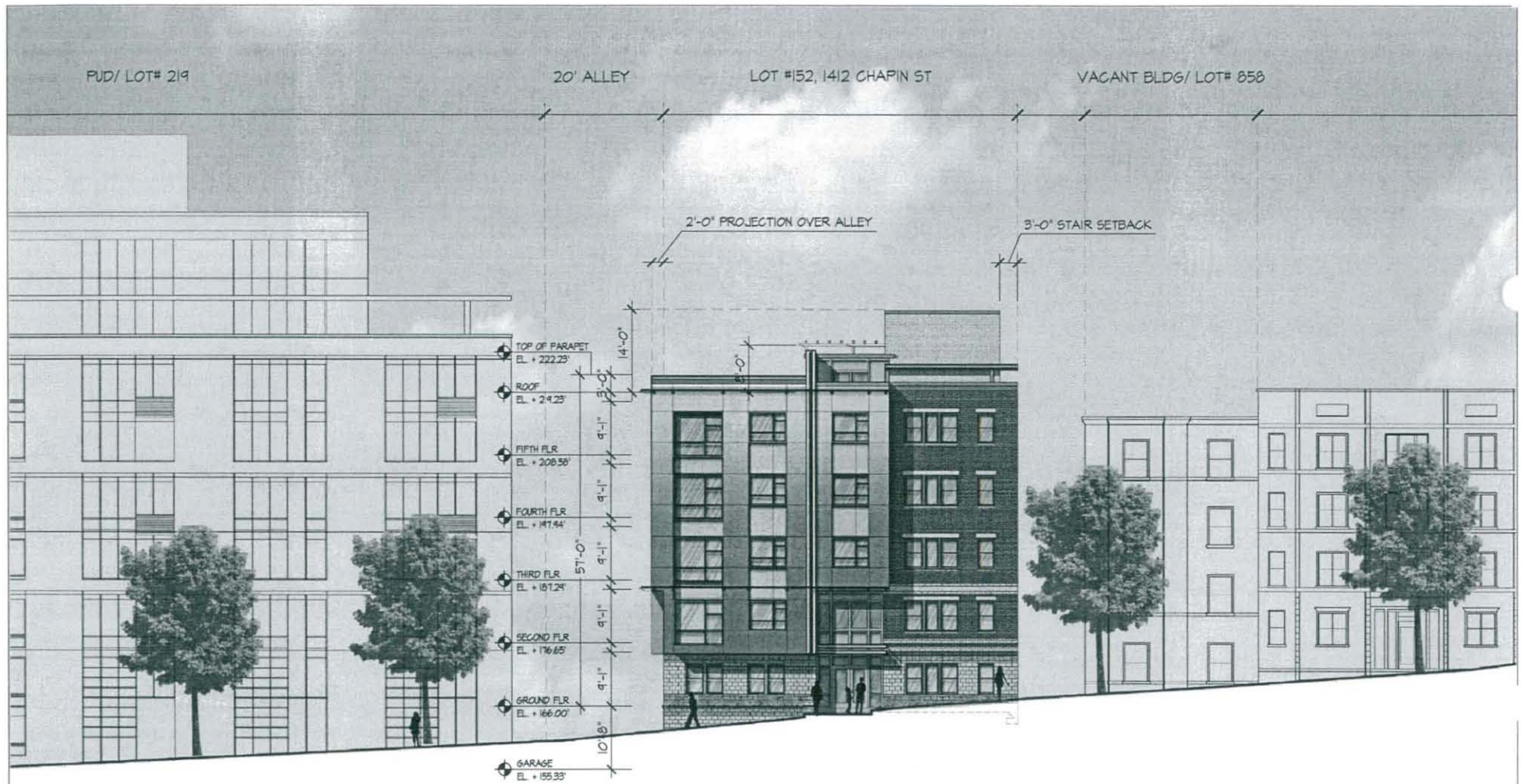


Architects, PLLC

PGN ARCHITECTS, PLLC
 210 7th Street, SE - Suite 201
 Washington, DC 20003
 ph. 202-822-6449 fax 202-822-0406

APRIL 19, 2010
 OPTION B - ROOF FLOOR PLAN

A2.5



Option B - NORTH ELEVATION - CHAPIN STREET, NW
SCALE: 1/16"=1'-0"

1412 CHAPIN STREET, NW

PROPERTY ADDRESS: 1412 Chapin Street, NW Washington, DC 20004
SQUARE NO. 2661
LOT NO. 0152



PGN ARCHITECTS, PLLC
210 7th Street, SE - Suite 201
Washington, DC 20003
ph. 202-622-5445 fax. 202-622-0406

APRIL 19, 2010
Option B - NORTH ELEVATION - CHAPIN ST, NW

A4.1

VACANT
LOT# 824

20' ALLEY

LOT # 152

SIDEWALK

CHAPIN ST, NW

SIDEWALK

65' ROW



EAST ELEVATION - PUBLIC ALLEY
SCALE: 1/16"=1'-0"

1412 CHAPIN STREET, NW

PROPERTY ADDRESS: 1412 Chapin Street, NW Washington, DC 20004
SQUARE NO. 2661
LOT NO. 012



POK ARCHITECTS, PLLC
200 7th Street, SE - Suite 301
Washington, DC 20003
ph. 202-622-6449 fax 202-622-0408

APRIL 16, 2010
EAST ELEVATION - PUBLIC ALLEY

A4.2