GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: November 20, 2001

SUBJECT: BZA Application #16800 (Application of Sheila Rae Strain)
1913 13th St., NW
Square 274, Lot 128

I. APPLICATION-IN-BRIEF

Applicant:	Sheila Rae Strain of Washington, DC
Relief Sought:	Variance from Land Area Requirements for Apartment Units
From Section:	11 DCMR § 330.5(c) and §401.3
Regulations Require:	More Land Area Per Apartment Unit
Relief Sought Under:	§3103.1
Case Summary:	Ms. Strain purchased property while tenant in property, and still lives there. Applicant assumed property had valid C of O for the 4 existing apartments, but it has a C of O for a rooming house. Property was renovated in 1988 and appears to comply with Building Code. 1988 owner has written letter that '88 renovation was done in compliance with the law, but DCRA has no records of building permits and there is no record of variance request at Office of Zoning.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends the application for an area variance be Approved.

III. SITE AND AREA DESCRIPTION *(See Attachment 1)*

BZA
Case No. 16800
Exhibit No. 25

Square 85 in northwest Washington is bounded by:

- South: T Street
- East: 12th Street
- North: U Street
- West: 13th Street.

A 10-foot wide alley serves the Square, with entrances from 12th and 13th Streets.

Board of Zoning Adjustment
District of Columbia
CASE NO.16800
EXHIBIT NO.25

The parcel comprises 1,667 square feet, and is located on the east side of 13th Street, one-half block south of the U Street Metro station. It is improved with a late 19th century, 3-story row house, with an English basement. The building has four separately metered apartments, and is occupied by eight people. The owner occupies one apartment. Two apartments have two tenants in each apartment. The fourth apartment has three tenants. The apartments' sizes average just over 840 square feet each.

The surrounding area is a rapidly revitalizing mixed-use neighborhood, with rowhouses, mid-rise apartments, low and medium density offices, plus retail and entertainment.

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 1)*

The site is zoned R-4, as is the most of the nearby residential area. There are pockets of more intensive R-5-B, D and E residential zoning within a 5-block radius. The nearby commercial corridors on U and 14th Streets are zoned either C-2-B or C-2-A with an Arts Overlay.

The property is in the Greater U Street Historic District. There are individual landmarks nearby.

V. APPLICATION DESCRIPTION

The applicant is applying to "make legal" a situation that already exists. She wishes to obtain an area variance that would permit the four apartments currently occupying the building to be located there legally. This would enable the owner to obtain an accurate and legal certificate of occupancy (C of O) for a property that now has a C of O for a rooming house with 4 units – 1 unit per floor.

The apartments already exist. They were created when a previous owner converted the four-unit rooming house into a four-unit apartment building in 1988. At that time, according to the 1988 owner, the house was substantially rehabilitated. Each living unit was equipped with a new kitchen and bathroom. New plumbing and central air conditioning was installed. A code-compliant fire escape was constructed and interior fire-pulls and alarms were installed. All of this is documented with photographs in the application. The application also includes a letter from the 1988 owner stating that she "worked closely with several DCRA officials in relation to this renovation. Signs were posted on the property during the renovation period and the District approved all documents." She also lists names of contractors and references Pepco to substantiate the claim that the 1988 work was done legitimately. Further evidence of the legitimacy of the work is given by a copy of the February, 1998 exemption from the District's Rental Accommodations Act, based on there being four or fewer apartment units owned by the property's then-current owner.

The above notwithstanding, DCRA has no records of permits for the conversion, nor for a C of O for anything other than an apartment house with four rooming units. The Office of Zoning has no record of a previous request for a variance to convert the structure to apartments.

DCMR Title 11, Section 330.5 (c) allows a pre-1958 building in an R-4 zone to be converted to an apartment building as a matter of right provided the building has at least 900 square feet of lot area for each of the proposed apartments. The applicant's property has just under 418 square feet of lot area per existing unit. For a 1,667 square foot lot, a structure in the R-4 zone is entitled to only one dwelling unit as a matter of right.

The applicant, who was a tenant in the building for three years prior to purchase, had sought legal counsel when the building was up for sale, and knew that it did not have a valid C of O. Because of the fast-moving real estate market, the applicant chose to move ahead quickly with exercising her purchase option and to rectify the C of O situation later. This, the applicant is now trying to do with this application.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The Comprehensive Plan's Generalized Land Use Map *(See Attachment 2)* shows the general area as being suitable for moderate density residential, with corridors of commercial and retail uses along 14th Street and U Street. Moderate Density Residential is typically associated with zone districts ranging from R-3 to R-5-B. Row houses and garden apartments are the predominant uses.

The Ward 1 Element of the Comprehensive Plan stresses the provision of additional housing, the preservation of the area's historic resources, and the need for neighborhood stabilization. It stresses the creation of additional housing near Metro stations. The granting of the area variance would be consistent with at least three of these Comprehensive Plan objectives. It would retain housing within a half-block of a Metro station. It would help stabilize the neighborhood by not requiring the displacement of seven people currently occupying three rental units, and the re-conversion of the building back to a single-family house.

VII. REQUESTED ZONING RELIEF

Pursuant to Sections 3103.2 of the Zoning Regulations, the applicant is requesting a variance from the area requirements of Sections 330.5 (c) and, by cross-reference, Section 401.3.

Other requirements having been satisfied, a pre-1958 building may be converted to apartment use in an R-4 zone. However, only one apartment unit may be created for each 900 square feet of land area. The applicant would thus be entitled to no more than one dwelling unit on the 1,667 square foot property. Because there are already four relatively recently-created, well maintained, occupied apartments in the building, the applicant has filed for an area variance in order to make these apartments legal.

VIII. AUTHORITY TO GRANT VARIANCES

11 DCMR, Sec. 3103.2 cites the D.C. code provision that authorizes the BZA to grant the requested variances *"where, by reason of*

- *exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption or the regulations, or by reason of*
- *exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,*

the strict application of any regulation … would result in

- *peculiar and exceptional practical difficulties to or*
- *exceptional and undue hardship upon the owner of the property…;*

Provided, that the relief can be granted

- *without substantial detriment to the public good and*
- *without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning regulations and Map".* (bullets added)

IX. DOES THE APPLICATION MEET THE VARIANCE TESTS?

A. With respect to exceptional conditions that create a significant practical difficulty in using or developing the property under the strict application of the existing zoning:

It does meet the test.

1. The exceptional conditions are:
   - The property's already having been converted into four apartments;
   - The conversion seemingly meeting Building Code standards;
   - The conversion, according to a previous owner, have been done with the permission of the District government *(see record)*;
   - The property's having received an exemption from the Rental Accommodations Act and that application's having clearly indicated the subject property contained four apartment units;
   - There being no record at DCRA to document the conversion permission that would enable the change of the C of O from 4-unit rooming house to 4 dwelling-unit apartment house.

2. The *"practical difficulties" that would be "unnecessarily burdensome"* to the Applicant should the application for are variance not be approved are:
   - Re-conversion of a four-unit apartment building to a single family house;
   - Significant changes in income and the mortgage financing circumstances of the property;
   - The displacement of seven tenants, in a neighborhood with a very tight market, and the likely legal fees attending from that.

B. Can The Relief Be Granted Without Substantial Detriment to the Public Good?

It can.

The four apartment units have existed for the last 12 years without any record of complaint. They appear to meet building and fire code requirements. When they were constructed, they represented a substantial upgrading of the quality of housing in the building.

Ward 1, the area of the District in which this structure is located, has already experienced considerable tenant displacement for reasons ranging from building abandonment to gentrification to stepped-up Code enforcement. Upper Shaw and Columbia Heights would likely be better served by maintaining decent housing units, than by re-converting a modest apartment building into an inevitably more expensive single-family structure.

Retention of the units also comports with the District's high-priority objective of retaining existing residents, and gaining 50,000 to 100,000 more residents within the next ten years.

C. Can the Relief Be Granted and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?

It can.

The existence of four apartments in one 3,300 square foot row house is not unusual in a 19th century row house in an R-4 zone. The zone district is mapped primarily in denser, older, often historic areas surrounding the central employment area of the District. As is the case with the applicant's property, these areas are frequently convenient to Metro stations. The existing density of a building of this size, in this location, and this district is congruent with the R-4 district's intent to create moderate density neighborhoods with row house, flats and garden apartments. In addition, the area is categorized in the "Moderate Density Residential" land use classification of the Generalized Land Use Map, which encompasses housing types from row houses up to garden apartments.

X. COMMUNITY COMMENTS

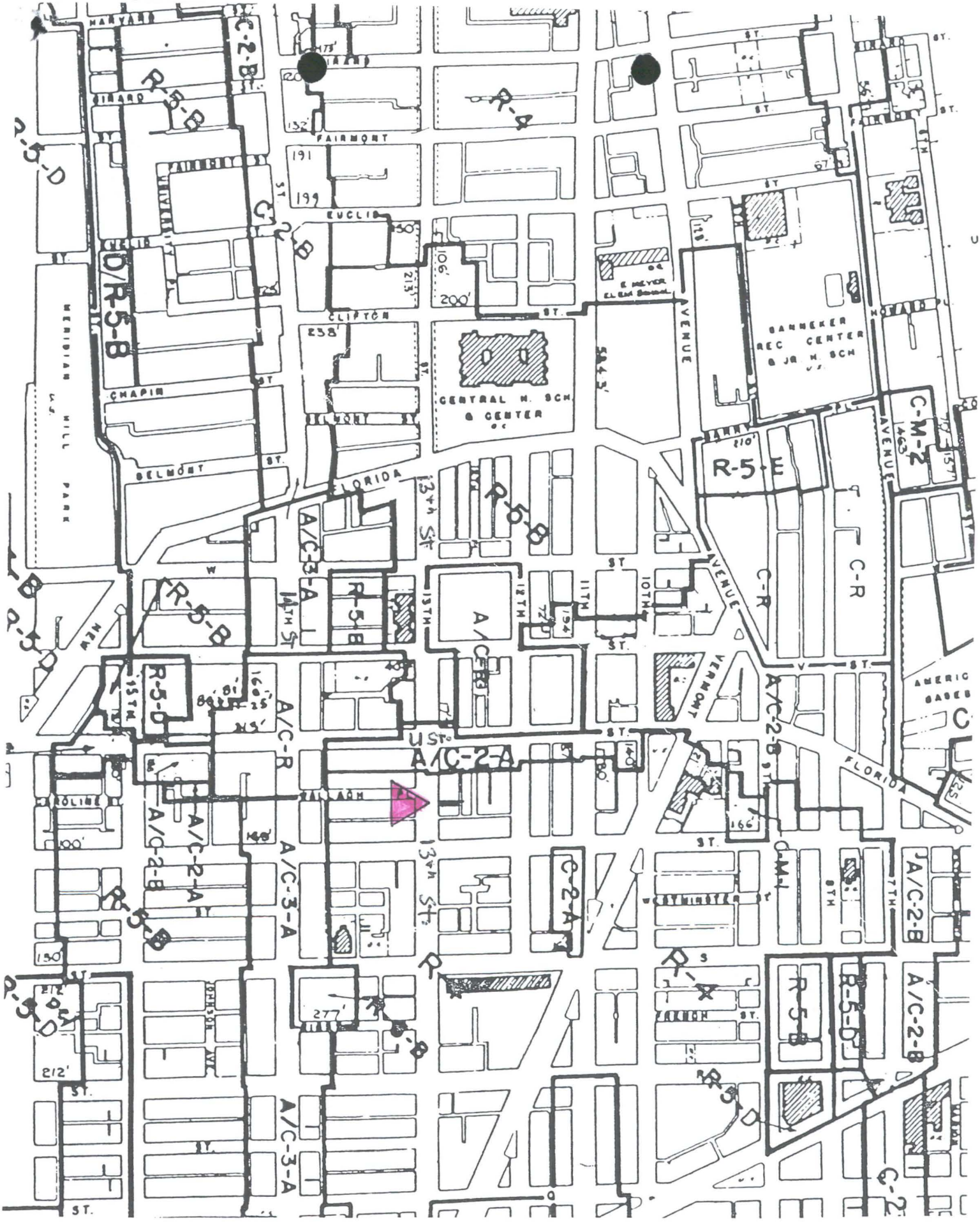
There had been no comment from ANC 1B as of November 16, 2001. However, the record contains letters of support from both adjacent neighbors 1915 and at 1911 13th Street.

XII. OTHER AGENCY COMMENTS

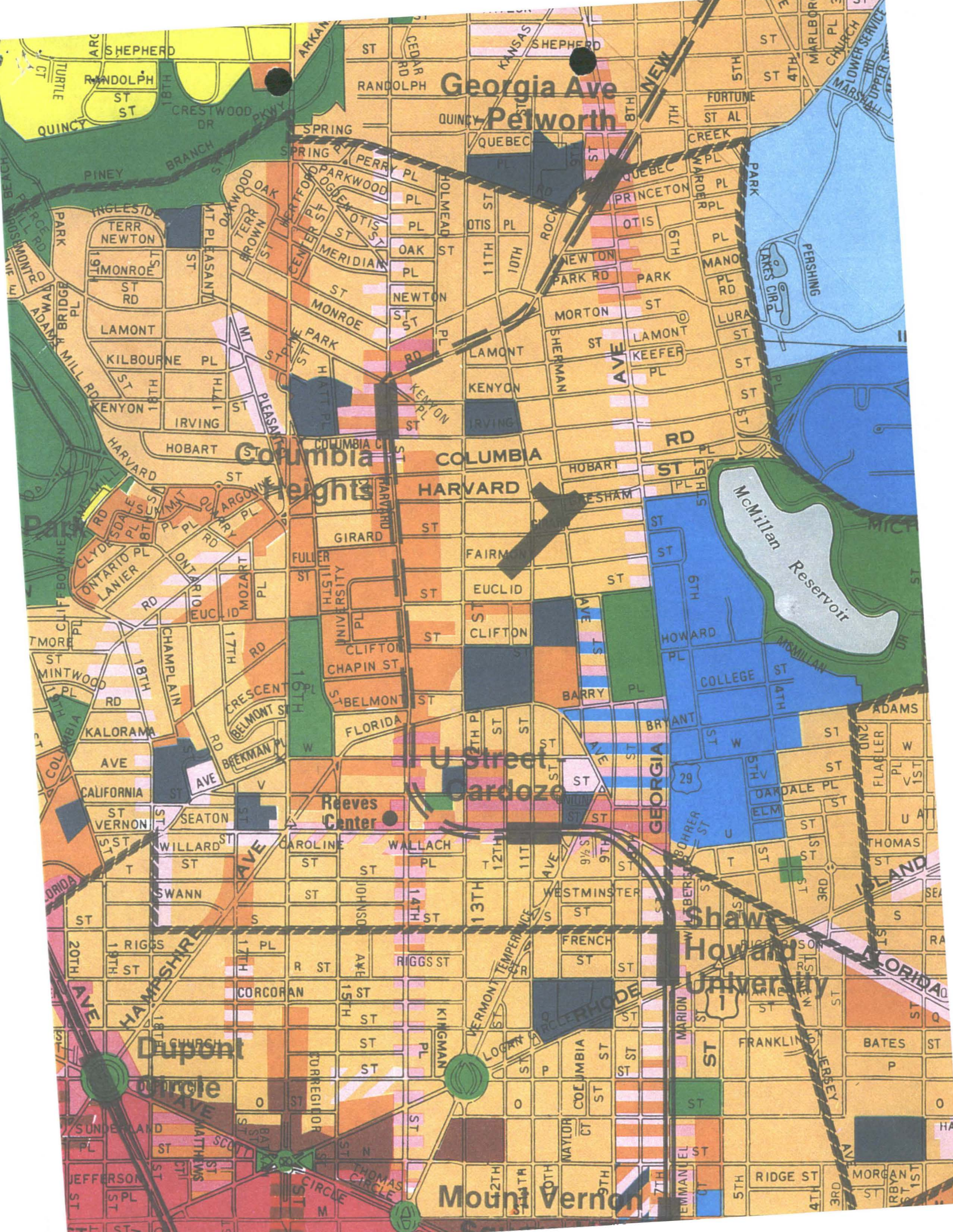
No agency comments had been received as of November 16, 2001.

Aa/slc

Attachments (2)



ZONING AND SITE LOCATION MAP


Georgia Ave
Petworth
Columbia Heights
U Street
Cardozo
Reeves Center
Shaw
Howard University
Dupont Circle
Mount Vernon
McMillan Reservoir
SHEPHERD
RANDOLPH
QUINCY
CRESTWOOD DR
PINEY BRANCH PKWY
SPRING
QUEBEC
PERRY PL
PARKWOOD PL
INGLESIDE TERR
NEWTON
MONROE
LAMONT
KILBOURNE PL
KENYON
IRVING
HOBART
HARVARD
GIRARD
FULLER
FAIRMONT
EUCLID
CLIFTON
CHAPIN ST
BELMONT
FLORIDA
CALIFORNIA
SEATON
VERNON
WILLARD
CAROLINE
WALLACH
SWANN
RIGGS
CORCORAN
CHURCH
SUNDERLAND
JEFFERSON
OTIS
MORTON
KEEFER
PARK RD
COLUMBIA RD
HOWARD
COLLEGE
BARRY
BRYANT
ADAMS
FRENCH
WESTMINSTER
FRANKLIN
BATES
RIDGE ST
MORGAN
OAKDALE PL
ELM
THOMAS
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17TH
18TH
20TH
NEW
GEORGIA
HAMPSHIRE
RHODE ISLAND
FLORIDA
VERMONT
KINGMAN
LOGAN
CIRCLE
MASS
NAYLOR CT
EMMANUEL CT
MARION
JERSEY
PERSHING
LAKES CIR
MARLBORO
CHURCH
MARSHALL
LOWER SERVICE RD
UPPER SERVICE RD
MANOR PL
LURA
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