GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: January 15, 2002

TO: District of Columbia
Board of Zoning Adjustment

THROUGH: Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: BZA Case No. 16823
Humberto Gonzalez – 1720 16th St., NW
Square 178 Lot 800

Summary

The applicant, Humberto Gonzalez, the owner of 1720 16th St., NW, seeks approval of a use variance to convert 1720 16th St., NW to an 11-bedroom Bed and Breakfast. A Bed & Breakfast is permitted as an accessory use to a residential use in an R-5-D District. The building is a contributing structure to the 16th Street historic district; therefore, DCMR Title 11, §203.8(c), permits six (6) bedrooms to be used as sleeping rooms in the Bed and Breakfast subject to special exception approval.

Recommended Action:
The Office of Planning recommends that the Board approve the variance request for an 11-bedroom bed and breakfast.

BZA
Case No. 16823
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16823
EXHIBIT NO.22

Background

The subject property is located at 1720 16th Street, NW (Square 178, Lot 800) at the intersection of 16th and Riggs Place, NW (See below). The area is part of the Dupont Circle Overlay District and is zoned moderate density and height Residential District (R-5-D). The area contains predominately row house-style buildings, which contribute to its historic character. The site is in the 16th Street Historic District and subject to review by the Historic Preservation Review Board.

This corner lot is occupied by a 12,000 square foot mansion, carriage house and gardens and is a contributing structure to the historic district. To the north along 16th Street is a 22 unit condominium. To the west across an alley lie a series of row houses facing onto Riggs Place. To the south on either side of 16th Street are two high-rise apartment buildings. Across the street is the Scottish Rite Masonic Temple.

Project Description

Application No. 16823 requests a variance from the provisions of §203.8(c) to permit a bed and breakfast with 11 bedrooms. In accordance with the referral from the zoning administrator the applicant seeks a variance from §203.8(c) to permit an 11-bedroom bed and breakfast.

The applicant has made interior renovations to 1720 16th St., NW to preserve and restore the existing dwelling. A bed and breakfast is categorized as a home occupation and must meet the home occupation requirements set forth in §§203.4, 203.5, and 203.6. No major exterior alterations or additions are to be undertaken as part of this renovation. A new wrought iron staircase is proposed in the back garden to allow access to the garden from the second floor.

Comprehensive Plan

The Comprehensive Plan sets goals of encouraging the renovation and adaptive re-use of existing structures rather than demolition. Also, §805 outlines the following goals.

805.1 Every effort should be made to provide for the continued, appropriate use of all historic properties. If the original use or a reasonable intensification of the original use is no longer feasible, appropriate adaptive uses consistent with applicable land use regulations should be encouraged.

805.6 The landscaped green space on publicly owned, privately maintained front and side yards in historic districts and on historic landmarks should be preserved. Special care should be taken to protect these historic green areas from being paved over for vehicular access and parking.

805.8 Open space traditionally associated with privately owned historic properties, such as yards, gardens, and large estate grounds, should be retained whenever

possible. If additional development is permitted, sufficient open space should be retained to protect the essential integrity of the particular historic property and its sense of setting.

805.13 When possible, deteriorated historic landmarks or buildings that contribute to historic districts should be repaired rather than demolished.

These goals can be met by allowing a variance for a bed and breakfast in this historic structure. The use variance allows preservation and restoration of a historic interior that might not otherwise be preserved, thereby maintaining continued productive use of the historic building. The developer must satisfy the Historic Preservation Review Board that the proposed development is compatible with and has no adverse impacts on the historic district.

Zoning Analysis

The subject property is located in a DC/R-5-D zone. The Dupont Circle Overlay District (DC) has the following purposes:

1. To require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone;
2. To protect the integrity of "contributing buildings," as that term is defined by D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978, in the various historic districts within the overlay district; to require compatibility of development with the purposes of D.C. Law 2-144; and to preclude demolitions or partial demolitions which would lead to an increase in height and floor area ratio inappropriate to the area;
3. To enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location and density of commercial and residential development;
4. To ensure compatibility of development with the Comprehensive Plan;
5. To preserve areas planned as open gardens and backyards and to protect light, air, and the privacy that they provide;
6. To enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and
7. To encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

The proposed development meets the applicable purposes of the Overlay district by preserving the existing historic structure. The applicant proposes to preserve much of the interior and restore deteriorated parts of the structure. The applicant will preserve the existing gardens, walls and fences that have added to the character of this historic

structure. As part of the neighborhood for over 100 years the height and floor area ratio of the existing structures are appropriate for the area.

The R-5-D zone permits the following uses:

Use	**Matter -of-Right**	**Special Exception**
Antenna (limited)	201.2	
Antenna, commercial broadcast		211
Antenna, ground mounted to 12'	201.4	
Antenna, roof mounted to 12'	201.5	
Apartment house	350.4(c)	353.1
Art gallery		361
Bed and breakfast (limited)	203.8	
Boarders or roomers (up to 2) [accessory use]	202.5	
CBRF (Adult rehab. home: 1-20)		357
CBRF (Community res. facility: 16-25, w/ 500' radius)		358
CBRF (Community res. facility: 9-15, w/ 500' radius)	350.4(f)	
CBRF (Emergency shelter: 5-25, w/ 500' radius)		360
CBRF (Health care facility: 16-300, w/ 500' radius)		359
CBRF (Health care facility: 9-15, w/ 500' radius)	350.4(f)	
CBRF (Substance abusers home: 1-20)		357
CBRF (Youth rehab. home: 1-20)		357
CBRF (Youth res. care home: 16-25, w/ 500' radius)		358
CBRF (Youth res. care home: 9-15, w/ 500' radius)	350.4(f)	
Chancery		350.6
Child development center		205
Child development center in a church	330.5(e)	
Child development center: 16-25	350.4(g)	
Child development center: 6-15	330.5(d)	
Church	201.1(b)	
Church program		216
Clinic	330.5(f)	
Club, private (or lodge)	330.5(g)	
College and university (incl. dormitory, hospital, etc.)		210
Commercial adjunct to a hotel (100 rooms or more)	351.2	
Commercial adjunct to a hotel (less than 100 rooms)		356
Commercial adjunct to an apartment house		354
Community center (community organization)		209
Dormitory	330.5(g)	
Dwelling, multiple (family)	350.4(c)	353.1
Dwelling, one-family detached	201.1(a)	
Dwelling, *one-family* row	320.3(b)	202.9(a)(4)

Dwelling, one-family semi-detached	300.3(c)	
Dwelling, two-family (flat)	330.5(b)	
Embassy	201.1(j)	
Farm or truck garden	201.1(f)	
Fraternity or sorority house	330.5(g)	
Garage, private two-car [accessory use]	201.1(h, i)	
Greenhouse or horticultural nursery	350.4(b)	
Home occupation (limited)	203	
Home occupation (unlimited)		203.10
Hospital or sanitarium	330.5(f)	
Hotel (existing 5/16/80) - No expansion permitted	350.4(d)	
Mass transit facility	201.1(l)	
Museum	330.5(h)	
Non-profit org. (10,000 s.f./historic structure)		217
Parking garage		355
Parking lot		213
Parsonage, vicarage or rectory	202.1(c)	
Physician or dentist (home) [accessory use]	202.2	
Religious residence: more than 15 persons		215
Rooming or boarding house	330.6	
School, private		206
School, public	201.1(k)	
Stable, private		208
Storage or parking lot on an alley lot		333
Telephone exchange		332.1(b)
Utility substation		207

The proposed development does not require any relief from the area requirements of the zoning regulations as no improvements that would require relief are proposed. The only exterior improvement proposed is a staircase from the second floor down to the garden.

Residential zones permit a home occupancy use of a 6-bedroom bed and breakfast in a historic district as an accessory use in accordance with §203.8:

> An owner of a dwelling may operate a Bed and Breakfast facility, offering rooms and breakfast to guests on a daily basis: Provided, that the following requirements shall be met:
> (a) The use shall not be permitted in a multiple dwelling;
> (b) Breakfast is the only meal served, and is served only to overnight guests;
> (c) The maximum number of sleeping rooms shall be two (2), except as follows:
> (1) Pursuant to §203.10(b) of this section, the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling which is an historic landmark, or which is located in an historic district and is certified by the State Historic Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms

> may be increased to six (6); and
> (2) The number of sleeping rooms permitted as a matter of right or by special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling pursuant to §202.5 of this title;
> (d) The floor area limitations set forth in §203.4(b) shall not apply to this use;
> (e) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;
> (f) No cooking facilities shall be permitted in any of the rented rooms;
> (g) The dwelling shall be owned and occupied as the principal residence of the operator(s); and
> (h) Except as provided in paragraph (d) of this subsection, the Bed and Breakfast facility shall comply with the provisions of §§203.4 through 203.6 of this section.

The specific provisions of §203.8 are addressed as follows:

(a) The structure is a single-family dwelling.
(b) The applicant proposes breakfast to be the only meal served and only to overnight guests.
(c) The applicant is seeking relief from this provision to allow 11 sleeping rooms.
(d) This provision exempts the use from the requirement that only 25% of the FAR may be used for a home occupation.
(e) In accordance with §2100.5 no additional parking spaces are required for historic structures. However, the applicant has made a commitment to require employees to walk or take transit and provide valet parking to park vehicles off-site.
(f) No cooking facilities are proposed in the rented rooms.
(g) The dwelling will be owned and occupied as the principal residence of the operator
(h) The applicant will comply with all but 2 of the provisions of §§203.4 through 203.6.

The provisions of §203.10(b) permit the granting of a special exception by the Board as long as no more than two of the requirements of §§203.4 through 203.6 are to be modified. The provisions of §§203.4 through 203.6 are as follows:

> 203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§203.5 and 203.6 of this section, and with the following conditions and requirements:
> (a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;
> (b) Except as provided in paragraphs §§203.7(c) and 203.8(d) of this title, no more than the larger of two hundred fifty square feet (250 ft.') or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized in the home occupation;
> (c) The practitioners shall store all materials or finished products within the floor area, which is designated in paragraph (b) of this subsection, or in a basement or accessory structure;

(d) No more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;
(e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;
(f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use, which is exclusively residential;
(g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure:
(h) Neither the practitioner nor any other person shall use any equipment or process which creates visual or audible electrical interference in television or radio receivers outside the subject home, or which causes fluctuations in line voltage outside the subject home;
(i) The use shall produce no noxious odors, vibrations, glare, or fumes, which are detectable to normal sensory perception outside the subject home;
(j) The use shall not produce a level of noise, which exceeds the level which is normally associated with the category of dwelling or the immediate neighborhood;
(k) No more than two (2) vehicles may be used in the practice of the home occupation;
(l) Vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;
(m) The practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period; and
(n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.

203.5 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:
(a) Pursuant to the provisions of paragraphs (b) through (g) of this subsection, a person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;
(b) The sign shall not exceed one hundred forty-four square inches (144 in.') in area;
(c) The sign shall be flush-mounted;
(d) The sign shall not be illuminated;
(e) The sign may state only the name of the practitioner and the type of home occupation;
(f) The practitioner shall not display more than one (1) sign outside a dwelling or building; and
(g) The practitioner shall not display any sign which does not meet the requirements of paragraphs (b) through (e) of this subsection.

203.6 Sales shall be permitted, subject to the following conditions:
(a) A practitioner may make sales by telephone;
(b) A practitioner may perform and be paid for a service, even in the service results in the creation of a product;
(c) During a twelve-month (12) period, as many as five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling; and
(d) During a twelve-month (12) period, a person with a home occupation permit may hold six (6) or more sales in the nature of yard sales, garage sales, or home sale parties at a dwelling, if approved by the Board of Zoning Adjustment as a special exception pursuant to §203.10 of this section.

The two provisions above that must be modified are §203.4(d) and §203.4(m). The first

provision involves the number of employees. The applicant has stated he will hire 13 employees but that only a few will be on site at any one time. The second provision limits the number of clients to 8 at any one time. The bed and breakfast, having 11 sleeping rooms could have up to 22 clients at one time.

Variance Tests

Extraordinary or Exceptional Situation Resulting in an Undue Hardship

In considering this case, the Board must determine if by reason of some extraordinary or exceptional situation or condition of this property the strict application of zoning regulations would result in an undue hardship. In the case of a use variance the exceptional situation of the property should relate to the difficulty in establishing other reasonable uses. The existing historic mansion is extraordinarily large for a single-family home and the upkeep and maintenance of such a large structure would be a significant financial burden to a single family.

The unique, historic interior of the structure is worthy of preservation. Many of the other uses allowable in the zone would require extensive remodeling of the interior of the structure. In addition, many of the matter-of-right uses would require extensive changes to the yard areas of the building altering the historic landscape of the property. Matter-of-right uses that would not alter these historic features, such as use as a single-family dwelling, would be economically unfeasible due to the high acquisition, maintenance and restoration costs. These situations along with the character of the neighborhood combine to create an exceptional situation of this property.

Prior to the applicant's purchase of the property, it was on the market for four years. Restoration of this historic structure presents a substantial economic challenge and its unique, historic interior does not lend itself to a variety of economically viable uses. Due to the constraints imposed by Dupont Circle Overlay District and the 16th Street Historic District options to modify and use the building are limited. The interior could be significantly modified to convert the structure to a multifamily dwelling, which is allowed as a matter of right in the R-5-D Zone District. However, the proposed use would preserve more of the interior space than conversion to a multifamily dwelling. In addition, the interior, which was at one time a Washington Symphony Decorator's Showcase, will be more accessible to the public as a bed and breakfast than as a condominium or apartment.

Adversely Affect Use of Neighboring Property

The Board should determine if the variance could be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan. Though Riggs Place is a quiet residential street, the proximity of institutional and high-density residential uses to the subject property and 16th Street, NW, a major arterial, establish a more intense use to the south and east. Based on the minimal exterior improvements and the commitment by the applicant regarding valet parking, employee

transportation, and limitations on special events the proposed use will not be a substantial detriment to the public good or impair the intent, purpose and integrity of the zone plan.

ANC Recommendation

ANC2B considered the application on Wednesday, January 16, 2002 and requests a postponement of the case to allow time for the applicant to work out an agreement with the neighborhood. The neighborhood is concerned with parking, special events, loading, and trash pickup.

Recommendation

The Office of Planning recommends approval of BZA application 16823 requesting a variance from the restrictions of §203.8 in accordance with §3103. This recommendation is conditioned on a favorable recommendation from the Historic Preservation Review Board and suitable assurances regarding operation of the Bed and Breakfast regarding parking and special events, preferably in the form of a written agreement with the neighborhood.

Attachments:

1. Location Map
2. Zoning Map
3. Aerial Photo
4. Comprehensive Plan Map
5. Photographs

EXCERPT FROM TITLE 11 DCMR, "ZONING"

3106 APPEARANCE AND REPRESENTATION

3106.1 In a proceeding before the Board, any person or party may appear on his or her own behalf. Any person or party may be represented by any other person duly authorized in writing to do so. The authorization shall state specifically that the authorization includes the power of the agent or representation to bind the person in the case before the Board.

3106.2 Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Board, any affected person shall file with the Board, not less than fourteen (14) days prior to the date set for the hearing, the following information.

(a) The person's name and address;
(b) A request to appear and participate as a party;
(c) Whether the person will appear as a proponent or opponent of the application or appeal;
(d) Whether the person will appear through legal counsel and, if so, the name and address of such legal counsel; and
(e) A written statement setting forth why the person should be granted party status, including reference to the following:

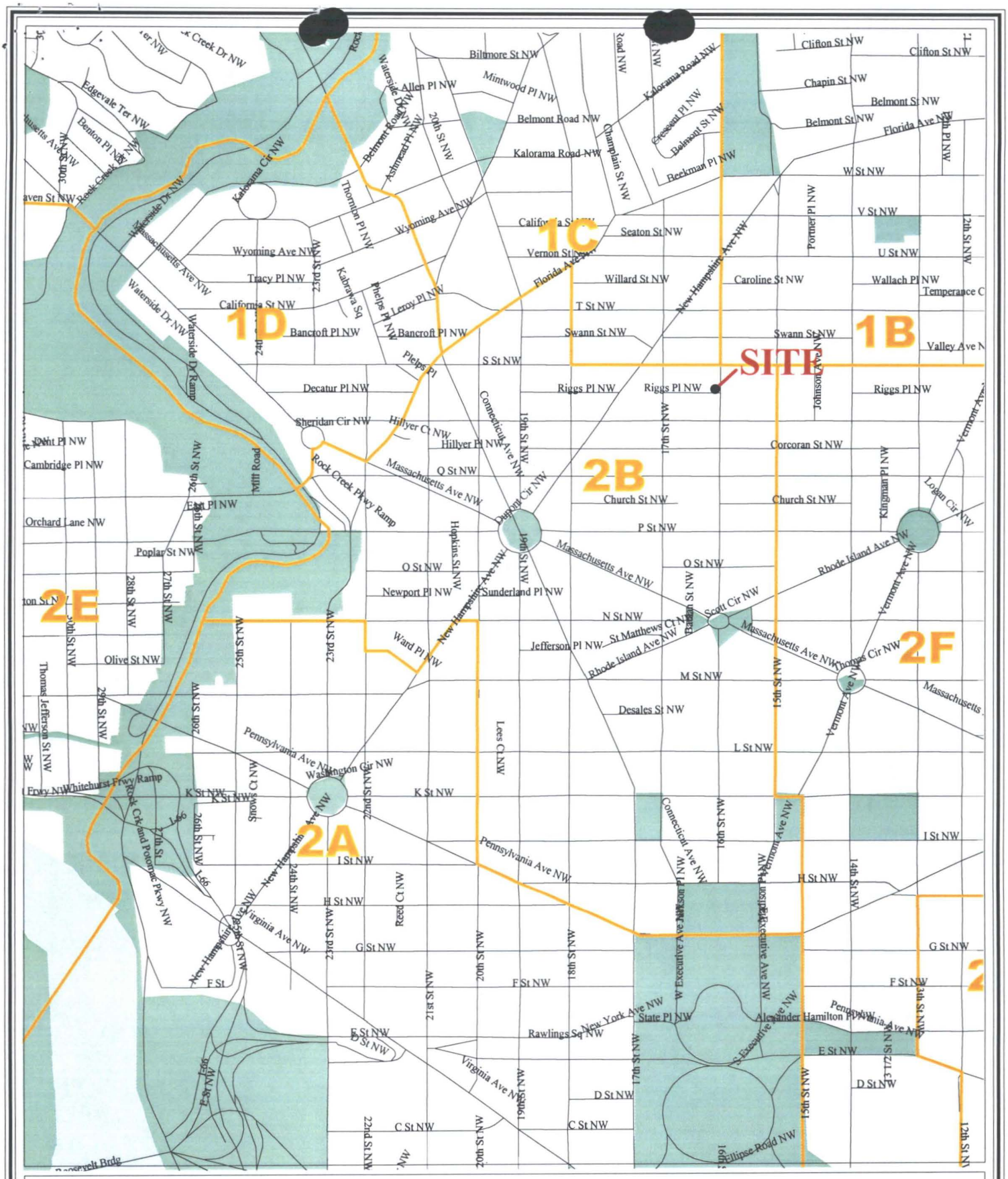
(1) The property owned or occupied by such person, or in which such person has an interest, that will be affected by the action requested of the Board;
(2) The legal interest such person has in such property, such as owner, tenant, trustee or mortgagee;
(3) The distance between such person's property and the property that is the subject of the application or appeal before the Board;
(4) The environmental, economic or social impacts that are likely to affect such person and/or such person's property if the action requested of the Board is approved or denied; and
(5) Any other relevant matters that demonstrate how such person likely will be affected or aggrieved if the action requested of the Board is approved or denied.

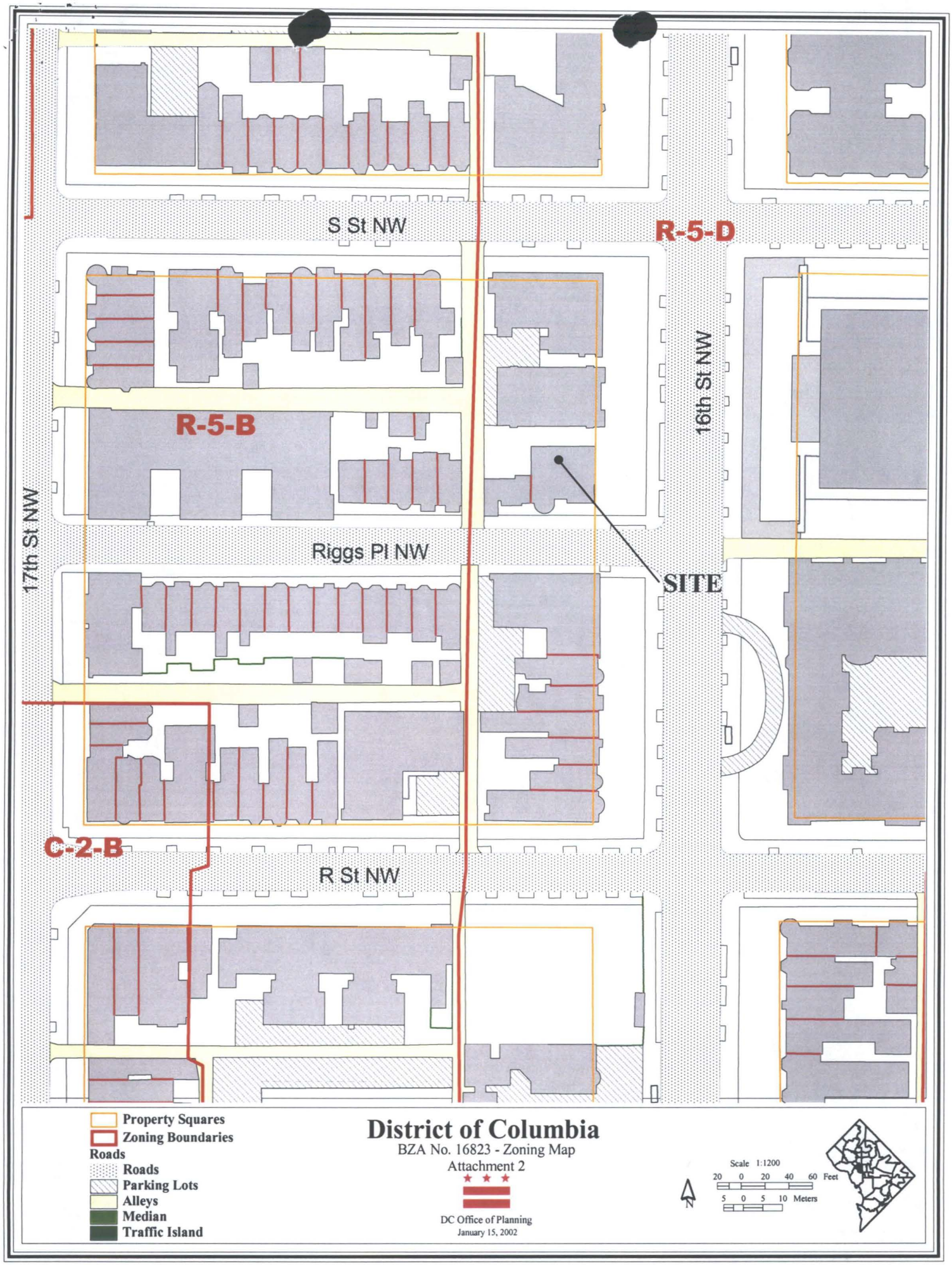
3106.3 In considering any request for party status pursuant to Subsection 3106.2, the Board shall grant party status only if the person has clearly demonstrated that his or her interests will be more significantly, distinctively or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

3106.4 No member of the Board or the Zoning Commission shall represent any person before the Board other than himself or herself while he or she is a member of the Board or the Zoning Commission.

3106.5 No former member of the Board or the Zoning Commission shall represent any person before the Board other than himself or herself for a period of six (6) months after the date that the member's service on the Board of Zoning Commission terminates.

3106.6 No former member of the Board or former employee of the Government of the District of Columbia shall represent any person other than himself or herself in a particular matter for which the member or employee had a substantial responsibility while he or she was a member of the Board or an employee of the District.


SITE
1B
1C
1D
2A
2B
2E
2F
Biltmore St NW
Mintwood Pl NW
Belmont Road NW
Kalorama Road NW
Clifton St NW
Chapin St NW
Belmont St NW
Florida Ave NW
W St NW
V St NW
U St NW
Seaton St NW
Vernon St NW
Willard St NW
Caroline St NW
Wallach Pl NW
T St NW
Swann St NW
Riggs Pl NW
S St NW
Decatur Pl NW
Sheridan Cir NW
Hillyer Ct NW
Hillyer Pl NW
Q St NW
Massachusetts Ave NW
Dupont Cir NW
Church St NW
P St NW
O St NW
Corcoran St NW
Rhode Island Ave NW
Scott Cir NW
N St NW
Jefferson Pl NW
M St NW
Thomas Cir NW
Desales St NW
L St NW
Pennsylvania Ave NW
Washington Cir NW
K St NW
I St NW
H St NW
G St NW
F St NW
E St NW
D St NW
C St NW
New Hampshire Ave NW
Connecticut Ave NW
Vermont Ave NW
16th St NW
17th St NW
15th St NW
14th St NW
12th St NW
Rock Creek Pkwy Ramp
Waterside Dr Ramp
Whitehurst Frwy Ramp
Rock Creek and Potomac Pkwy NW
Virginia Ave NW
Rawlings Sq NW
State Pl NW
New York Ave NW
Ellipse Road NW
Alexander Hamilton Pl NW
Pennsylvania Ave NW
Lees Ct NW
Reed Ct NW
Snows Ct NW
Thomas Jefferson St NW
Olive St NW
Orchard Lane NW
Cambridge Pl NW
Poplar St NW
Newport Pl NW
Sunderland Pl NW
St Matthews Ct NW
Logan Cir NW
Kingman Pl NW
Johnson Ave NW
Porter Pl NW
Wallach Pl NW
Valley Ave N
Temperance C
Vermont Ave
Massachusetts
Mifflin Road
Rock Creek Park
Roosevelt Bridge
Feature Key
ANC Boundaries
Street Centerlines
Parks
River
District of Columbia
BZA No. 16823 - Location Map
Attachment 1
DC Office of Planning
January 15, 2002
Scale 1:15000
200 0 200 400 600 Feet
50 0 50 100 150 Meters
N


S St NW
R-5-D
16th St NW
17th St NW
R-5-B
Riggs Pl NW
SITE
C-2-B
R St NW
Property Squares
Zoning Boundaries
Roads
Roads
Parking Lots
Alleys
Median
Traffic Island
District of Columbia
BZA No. 16823 - Zoning Map
Attachment 2
DC Office of Planning
January 15, 2002
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5 0 5 10 Meters
N



District of Columbia

BZA No. 16823 - Aerial Photo

Attachment 3

DC Office of Planning

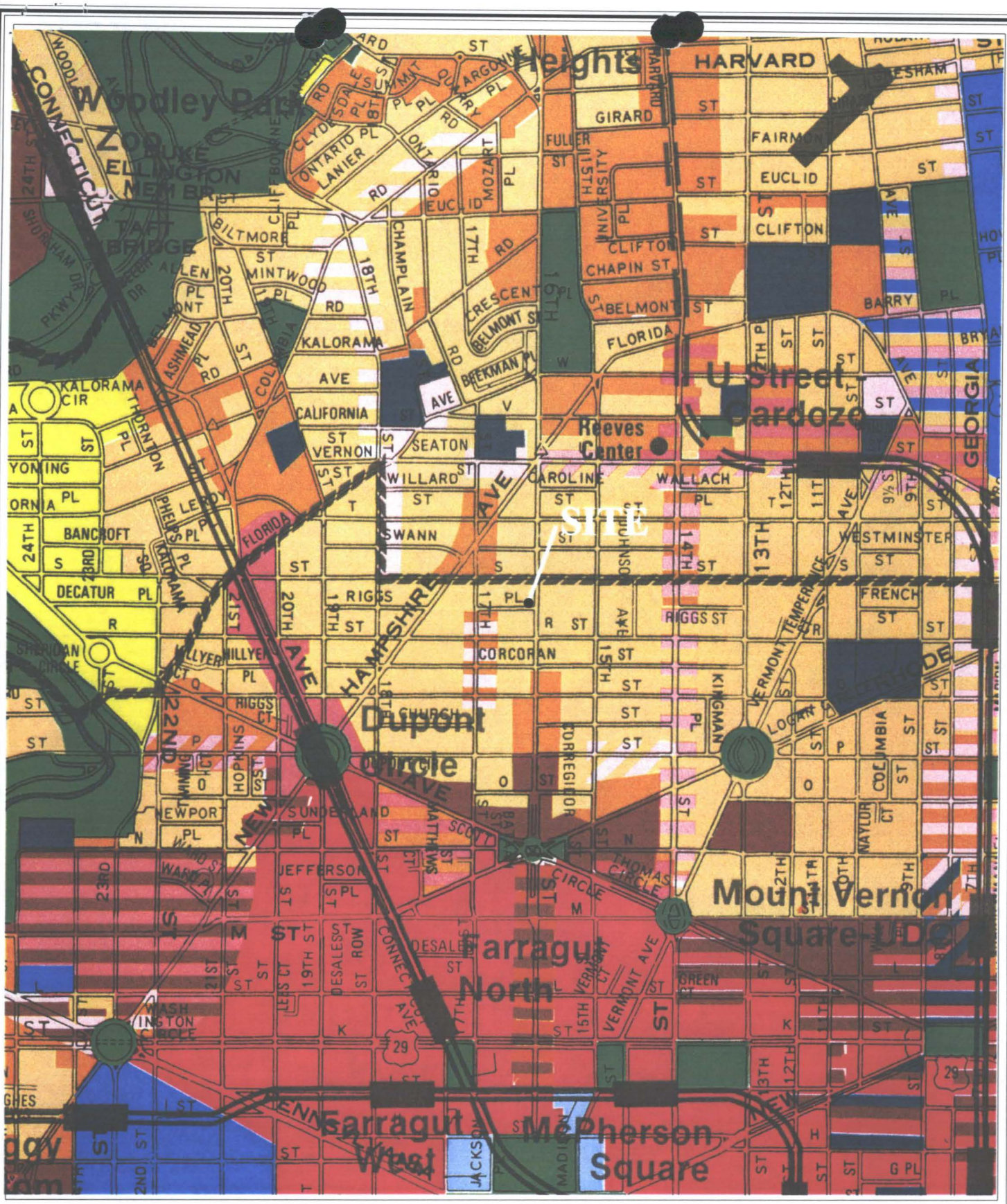
January 15, 2002

Scale 1:1200

20 0 20 40 60 Feet

5 0 5 10 Meters

N



District of Columbia

BZA No. 16823 - Comprehensive Plan

Attachment 4

DC Office of Planning

January 15, 2002

Scale 1:14400

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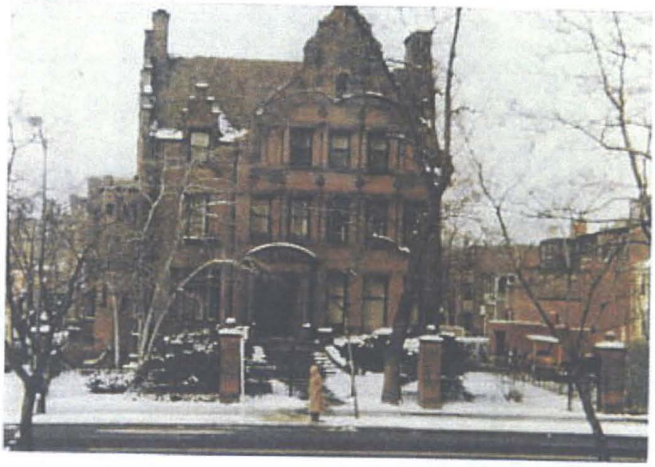
60 0 60 120 Meters

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District of Columbia

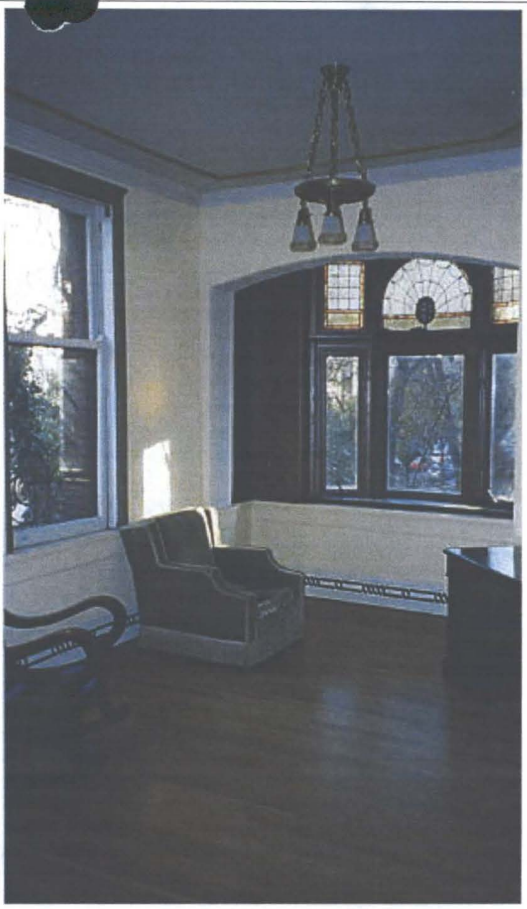
BZA No. 16823 - Photos

Attachment 5 (a)

DC Office of Planning

January 15, 2002











District of Columbia

BZA No. 16823 - Photos

Attachment 5 (b)

DC Office of Planning

January 15, 2002













District of Columbia

BZA No. 16823 - Photos

Attachment 5 (c)

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January 15, 2002