BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Site Location:

The applicant seeks approval to convert what was once a row dwelling ("Property") into an apartment building to consist of four (4) apartments. The Property, located at 3221 Eleventh Street, NW, was recently acquired by its present owners, is now substantially deteriorated from lack of maintenance by former owners or responsible parties, vandalism, and at least one intervention involving partial demolition of the building by the Government of the District of Columbia. Formerly three stories, with a basement partly above grade, the former third story is no longer visible from the street, having been torn down. The Property is also known as Lot 27 within Square 2845.

The Property is located along the eastern edge of a larger area generally known as "**Columbia Heights**." Eleventh Street is one of several north-south streets that extend through this portion of Columbia Heights, approximately aligning with the grids and diagonals of streets and avenues laid out by Pierre L'Enfant in the early 1800's. The property is situated between two east-west streets, Lamont Street (to the south) and Kenyon Street (to the north). The property sits on the eastern side of Eleventh, slightly more than mid-way north.

Diagrams in the following pages establish the Property's location in increasing detail. These diagrams are provided inasmuch as there have been no recent zoning cases considered by either the Board of Zoning Adjustment ("BZA") or the Zoning Commission relating to this Square, or those surrounding it, for many years. The most recent BZA case was heard in the immediate area was BZA #16429 involving a property facing Sherman Avenue, NW in the Square immediately north of the Square in which the Property in this case is located, and the issue involved parking requirements. The only case the Board has heard on Square 2845 dates from 1970, BZA #10560, involving an area variance for a property on Lamont Street, Lot 101 (granted, property highlighted in yellow in detailed diagram that follows on Page 6). Accordingly, the diagrams in the following pages should serve to remind the Board of the location of the Property and the major features of the surrounding area.

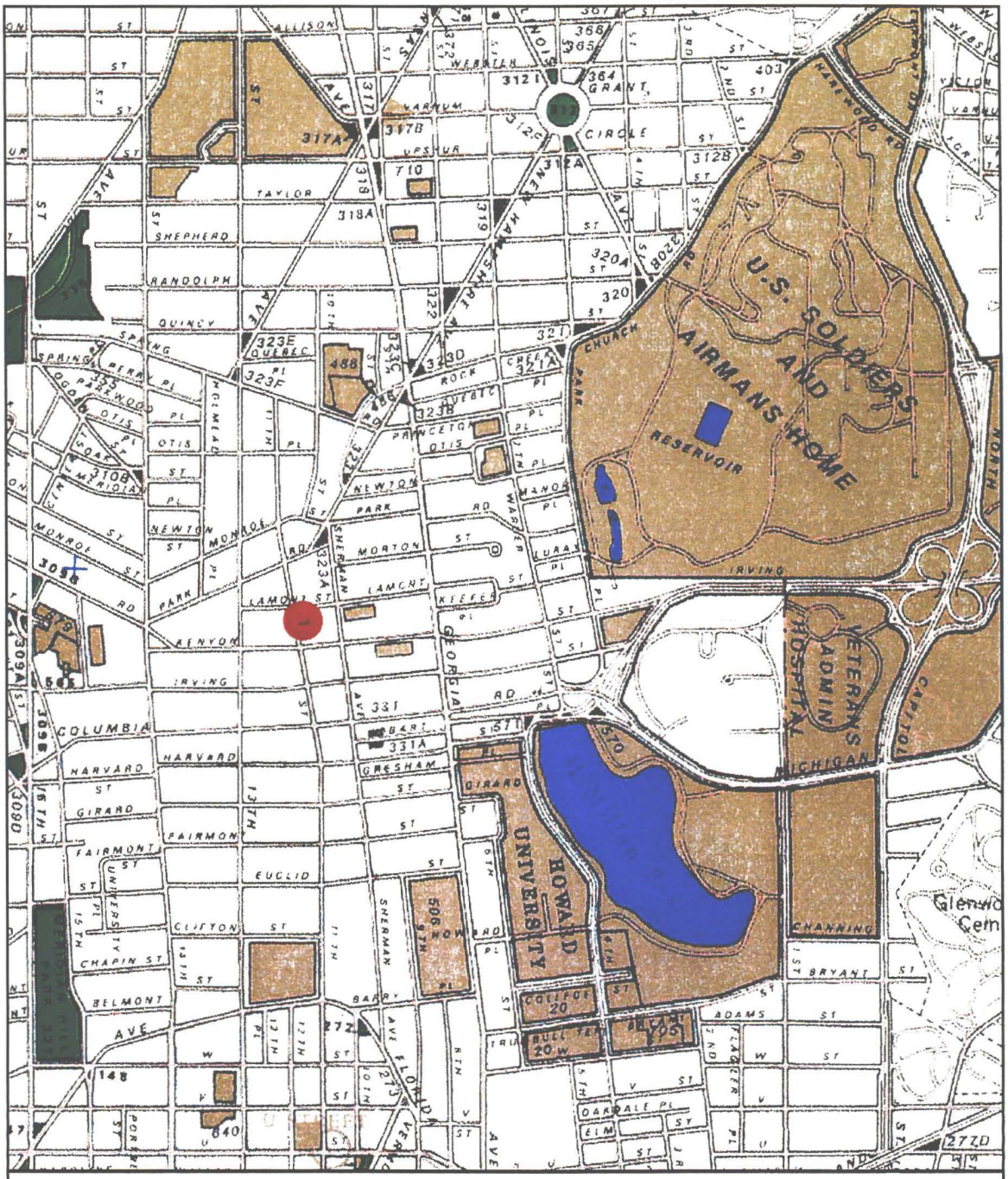
D.C. OFFICE OF ZONING
2012 JUN 25 PM 4:24

BZA
Case No. 16891
Exhibit No. 25

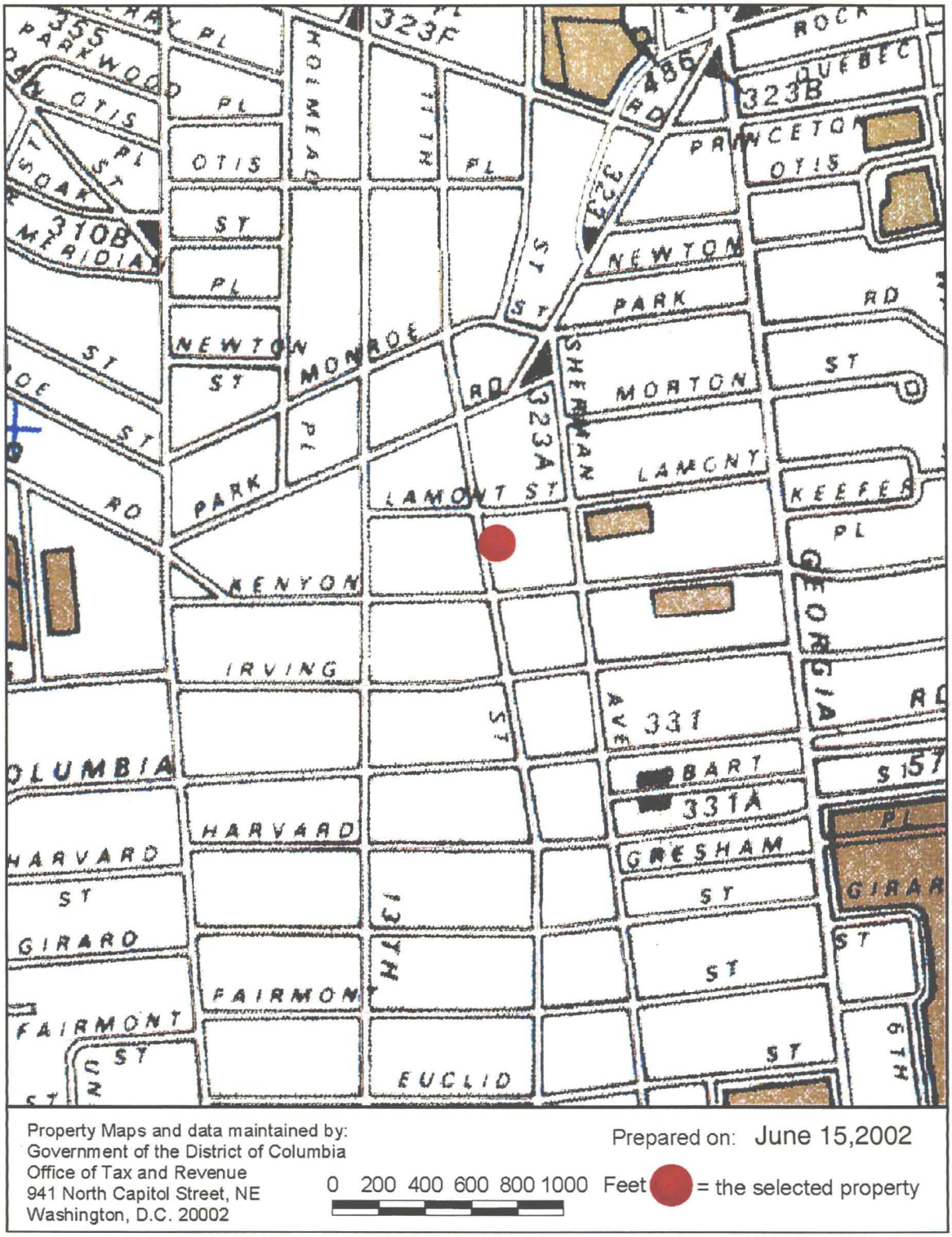
Board of Zoning Adjustment
District of Columbia
CASE NO.16891
EXHIBIT NO.25

BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Square 2845, Lot 27



Square 2845, Lot 27



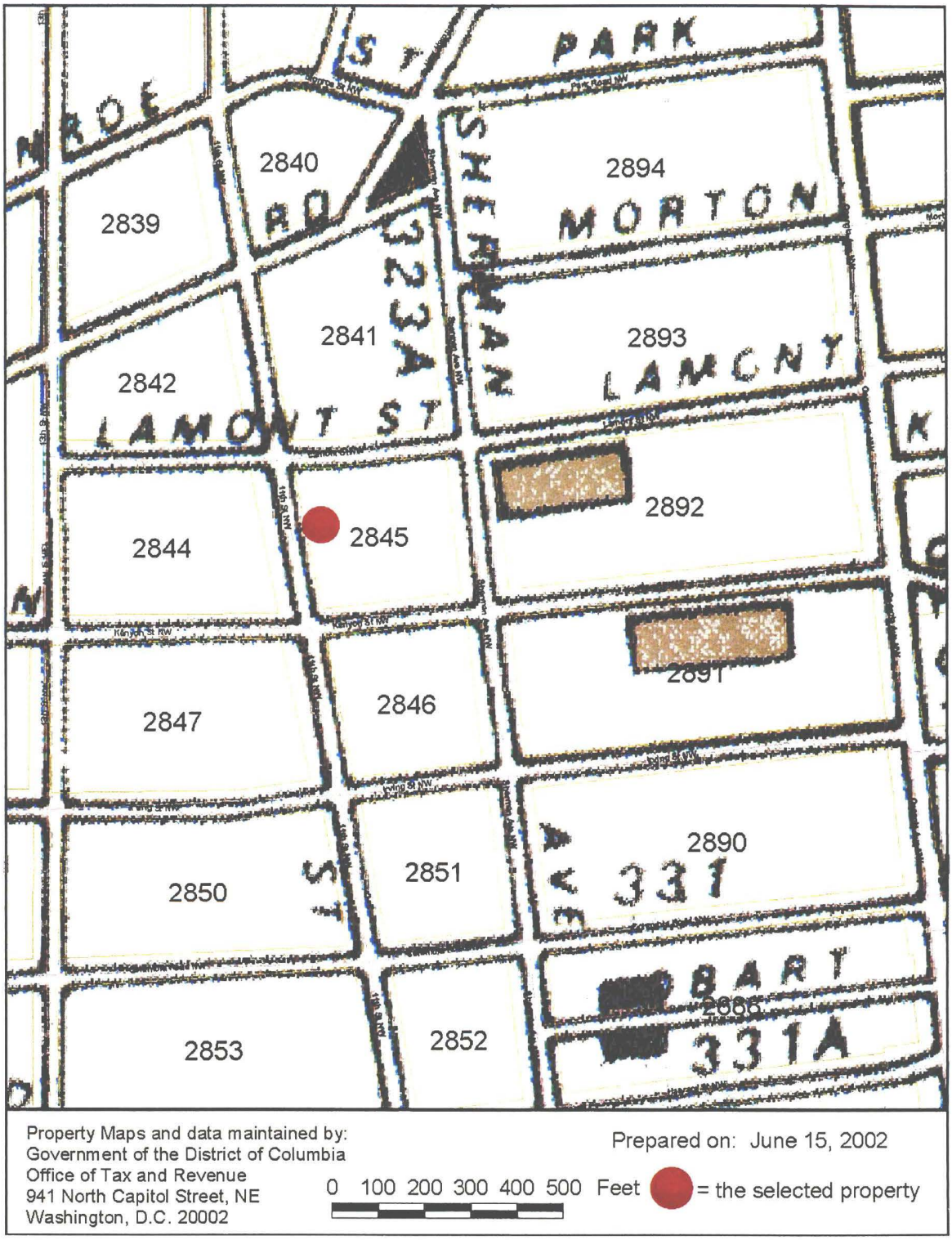
Property Maps and data maintained by:
Government of the District of Columbia
Office of Tax and Revenue
941 North Capitol Street, NE
Washington, D.C. 20002

Prepared on: June 15,2002

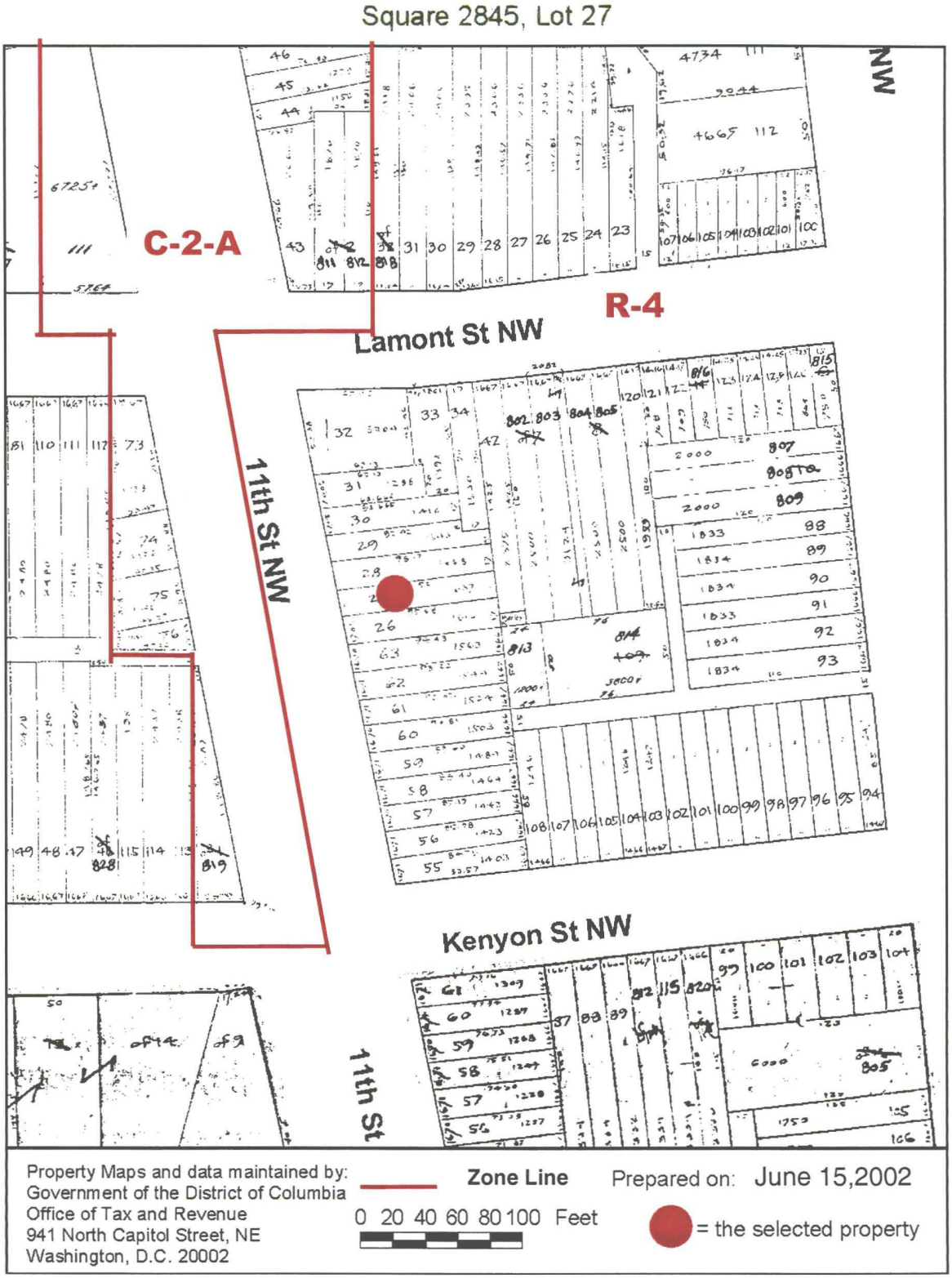
0 200 400 600 800 1000 Feet = the selected property

BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

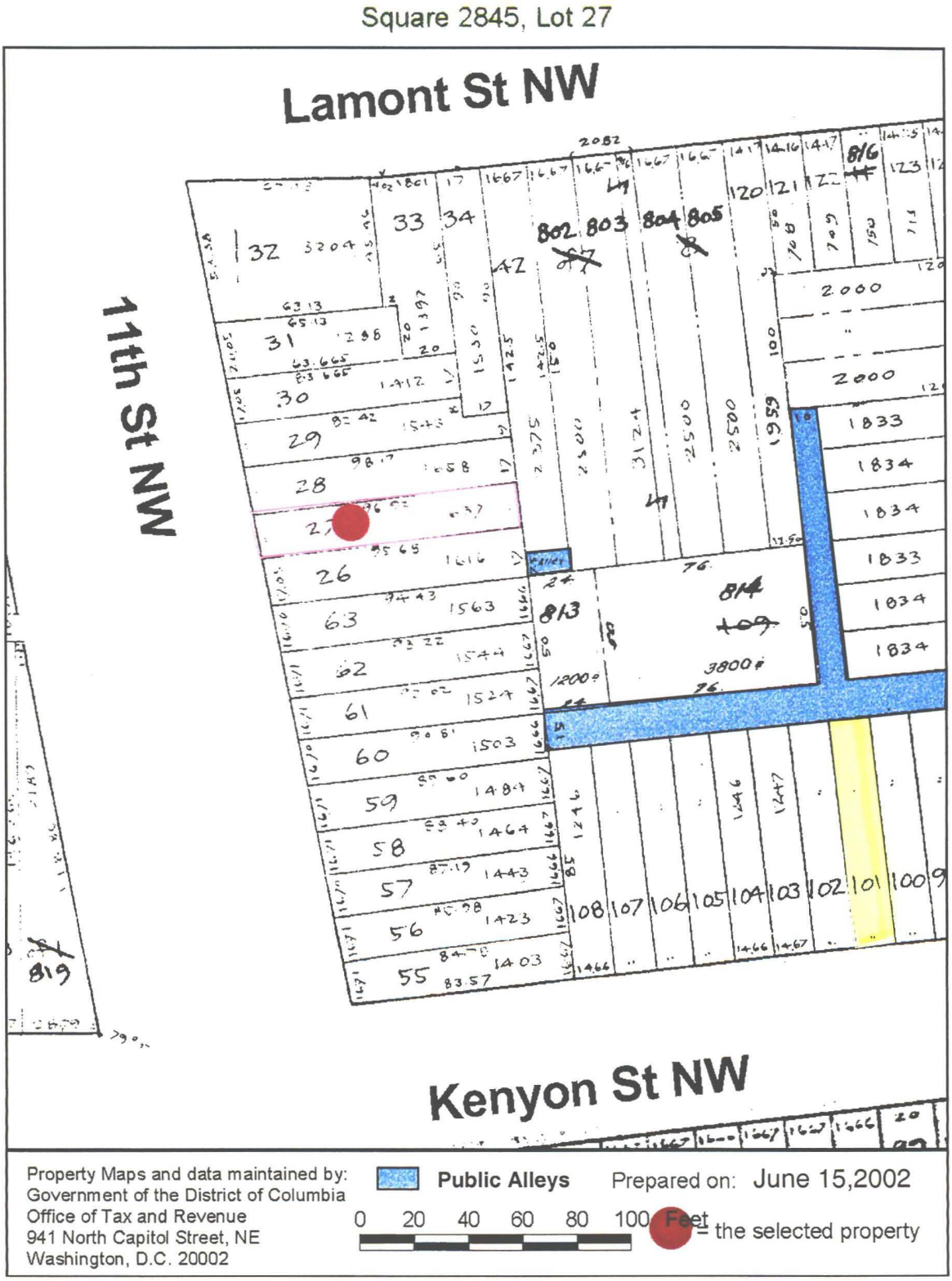
Square 2845, Lot 27



BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

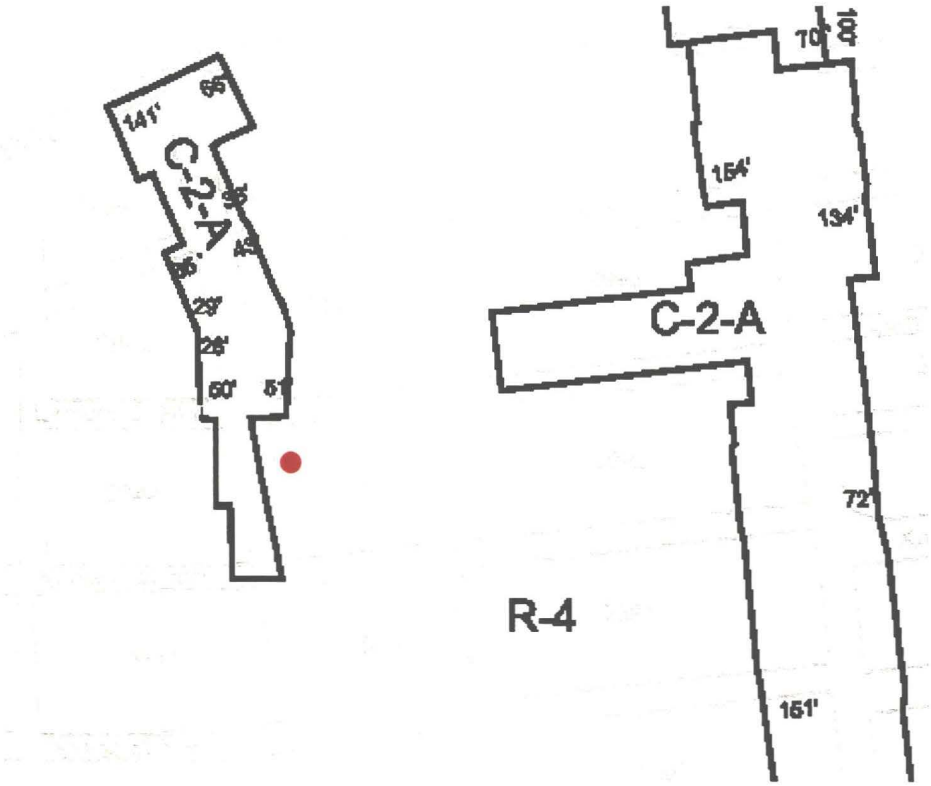


BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)



BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Zoning from the Office of Zoning Web Site (not certified); red circle added to depict location of Property.

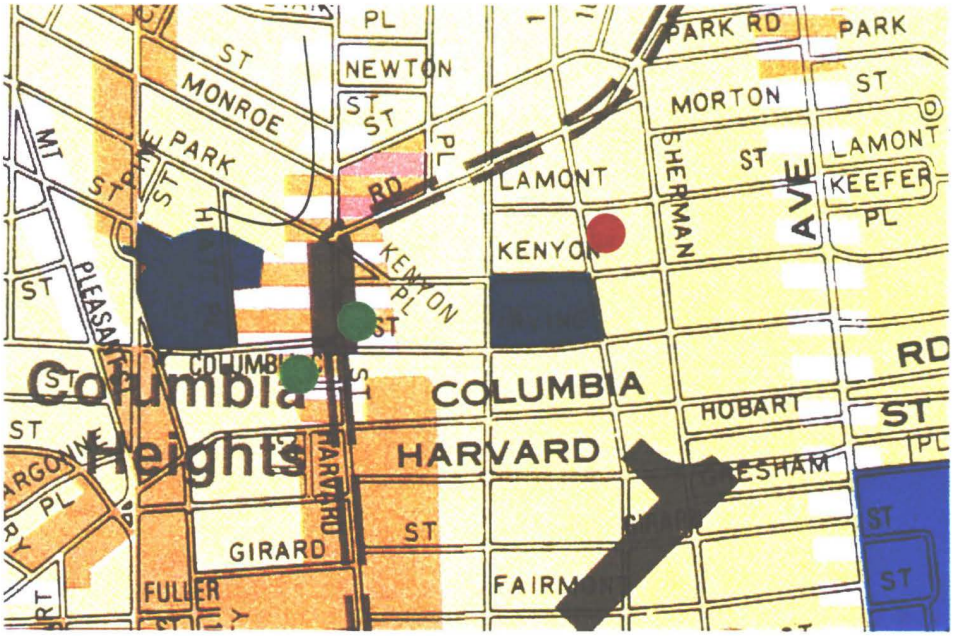


June 15,2002

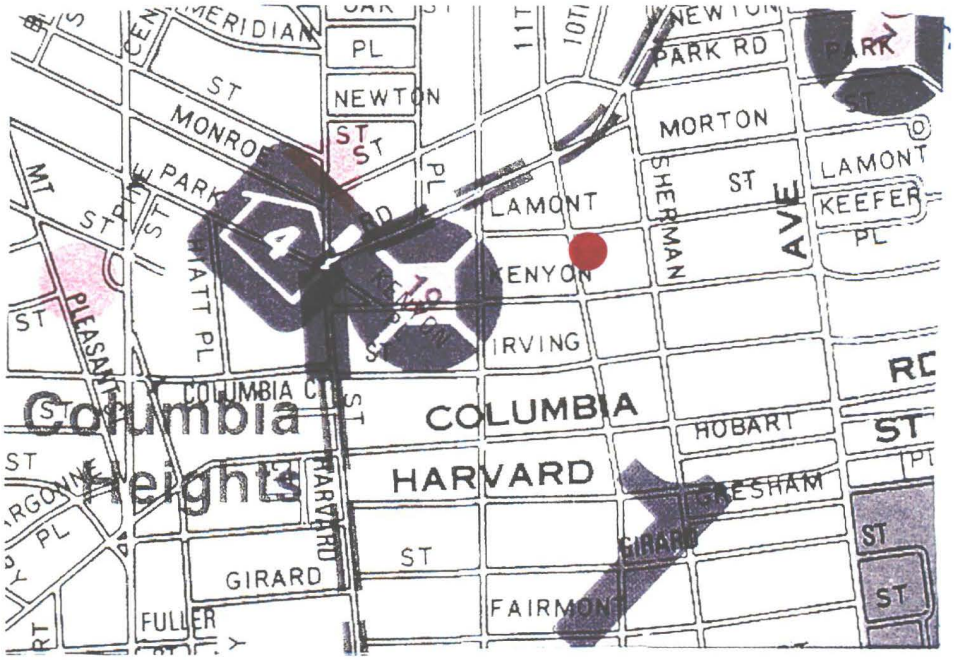
BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

The Maps of the Comprehensive Plan for the District of Columbia, as amended (red circles added to depict location of Property; green circles to depict location of entrances to and exits from Columbia Heights Metrorail Station (Green Line)):

District of Columbia Generalized Land Use Map (1998)



District of Columbia Generalized Land Use Policies Map (1998)

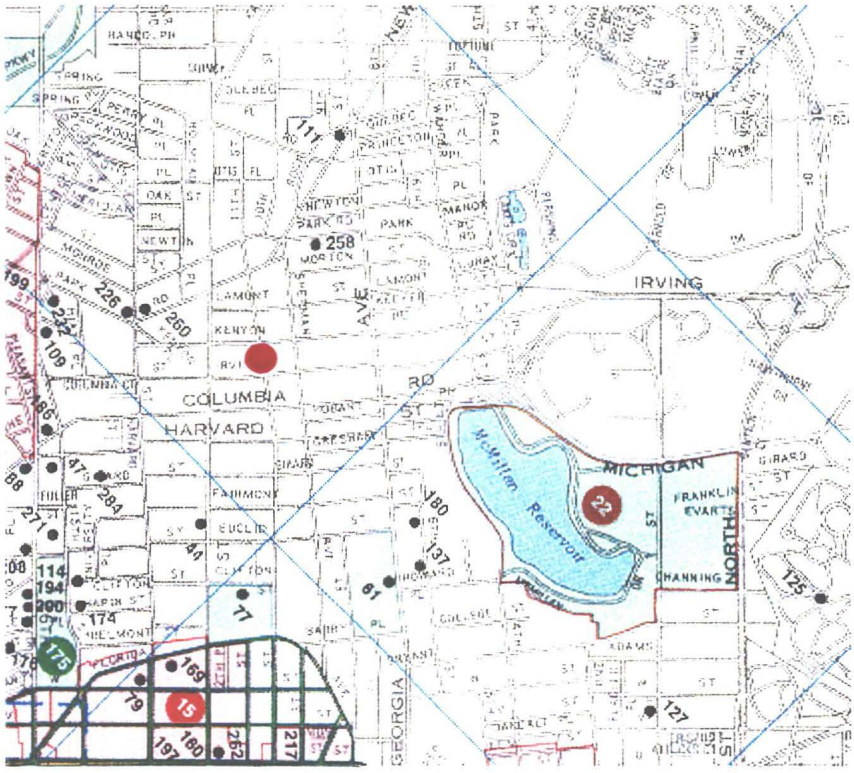


BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Historic Districts and Properties:

No property within Square 2845 or any of the eight Squares surrounding Square 2845 is within an historic district or any area nominated for such a designation at this time. Likewise, no property within the same area is established as or has been nominated for designation as an historic landmark. See excerpt from the overall map of historic landmarks and districts (as of the year 2000), below, where the ***solid*** red mark shows the approximate location of the Property at issue in this proceeding.

While this report largely focuses on issues in urban planning, the fact that the area is not among those formally designated as an historic district is not meant to suggest that it would not, if studied by those that make such recommendations and determinations, qualify for such designation and the benefits that flow from that.



BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Application Meets the Required Burden of Proof

The Applicant is seeking a variance from the limitation on number of apartment units allowed in a building erected prior to May 12, 1958, as limited by §§ 350.4(c) and 401.3. No additional relief is requested as part of this application, be it in the nature of a variance or Special Exception.

Section 350.4(c) requires that the accommodations only be provided to " . . . residents who stay at the premises a minimum of one month." The applicant does not seek a variance from that provision.

Section 401.3 establishes minimum lot area and width for a range of Residence zone districts and uses. Apartment conversions are allowed in the zone district applied to all of Square 2845, which is R-4. The Table within §401.3 prescribes that apartment conversions are allowed, ***provided the lot contains 900 square feet per apartment or bachelor apartment,*** and specifically prescribes no minimum lot width in this zone for that use.

Lot 27 contains 1,637 square feet of land. To be allowed as a matter-of-right, a lot in an R-4 district would have to contain 3,600 square feet to accommodate four (4) apartments or bachelor apartments. This is the core issue of the variance the applicant seeks.

BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Variances Pursuant to Section 3101 of the Zoning Regulations

In order to obtain approval of the requested variances, the Applicant must show that:

- the subject property suffers from an extraordinary or exceptional condition
- strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty to the Applicant; and
- 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.

1. Extraordinary or Exceptional Condition

The site is:

- extremely small, containing only 1,637 square feet of private land area (per official survey, plat diagram in this report)
- somewhat irregularly shaped
- adjacent to two other row dwellings, buildings that by definition abut the Property in question, precluding consideration of acquisition and use of land that might otherwise be vacant on this site or contiguous parcels
- located on a Square whose overall shape is itself almost square, where the properties facing the east-west streets, Lamont and Kenyon, most of which accommodate one-family row dwellings whose lots extend, particularly from the north (Lamont) deep inside the original Square creating a situation where depth and area cannot be simultaneously allocated to properties facing either its eastern or, in this case, western face. This stands in considerable contrast to typical lot configurations elsewhere on Squares laid out for semi-detached and row housing that are more rectangular, often bisected by a public alley, where residences typically face in two directions, typically north-and-south or east-and-west, with corner lots at each end of the rows but where the residences on the corners face the same direction as those they abut.
  - In addition, there is evidence within the Office of the Surveyor that Square 2845 was not subdivided or laid out in its entirety at one time, and that the western face (which is now Eleventh Street) was subdivided a dozen or more years after segments of what are now Lamont and Kenyon Streets were laid out part of the distance west from what is now Sherman Avenue. That, in itself, is exceptional in nature.
- at least as exceptional in its shape and character, if not more exception, than that of Lot 101, which was granted of a variance under the same legal standard in 1970 BZA Case #10560.

2. Strict Application Would Result in a Practical Difficulty to the Owner

The Applicant will testify or offer other evidence that –

- the project will be viable only with a certain critical mass of rentable space, which is extremely difficult to achieve on a site with this size and shape.
- the amount and complexity of construction needed to restore this property sufficient to allow human accommodation and its costs are much higher due to the adverse condition to which the property had fallen prior to its purchase by the applicant

Planning Analysis of Subject Property (Practical Difficulty Test)

- the original residence, dating from 1910 (per historic assessment directories) was three stories (photograph in record) and would have an interior space approaching 3,000 square feet, complete restoration of which would incur costs vastly outstripping the economic market for such a configuration at that location (applicant will testify as to economic argument). Moreover, single family dwellings of that scale would be expected to have a garage or off-street parking, and this property, which has no alley access, could not provide for either without a curb cut and entrance that would desecrate the front face of the building.
- The original residences along the portion of the Square facing Eleventh Street were larger and more elegant than those facing the other three sides.
- The instant lot, Lot 27, cannot be expanded in any direction as it is surrounded on three sides by other private properties not under control or ownership of the applicant and the fourth side is a public right of way, where existing (and proposed) development begins on the lot lines, sometimes extending into the public space.
- The original residence on the instant Property was among those in the northern half of the Eleventh Street face that rose to a height of three (3) stories; others along Eleventh Street are two (2) story, typically with an elegant turret (photos). To restore the block face to its original configuration requires that the Property again contain a building of three (3) stories, which would result in a property that, if in single-family use would greatly exceed the norms for such properties in the immediate area.
- Apartment usage is anticipated and supported within the R-4 zone district.

3. No Detriment to the Public Good Nor Impairment to the Intent, Purpose and Integrity of the Zone Plan

The requested variance relief will not be detrimental to the public good and will not substantially impair the intent, purpose or integrity of the zone plan.

- The proposed use, apartment units, is explicitly contemplated within the zone plan (§330.5(c)).
- The proposed use would exist within a range of other residential uses, including apartment units within other nearby buildings (Lots 30, 32, 33, 808, 809, and 93) on the same Square (assessment records, site visit). Apartments exist within most other contiguous Squares as well, in about the same density – other than Square 2847, which is entirely dedicated to a public elementary school and playground. While some of these apartments were conversions such as the one proposed for this Property, others (such as those facing Sherman Avenue to the north in Square 2841) were first built as apartments prior to World War II, well before the establishment of the current zoning regulations on May 12, 1958.
- The proposed use and design would be in keeping with the original scale of development of that portion of Square 2845.
- The mezzanine level, being setback approximately one third of the depth of the front and rear of the building and having other three-story buildings on each side, would not be visible from Eleventh Street or the alleys interior to Square 2845 and would not exceed the overall height limit allowed in the zone district, namely forty feet (40 ft.).
- There is adequate on-street parking and no parking is required for anything less than five (5) apartment units in the instant situation, with the one space presently "required" (but not provided) being "grandfathered" and parking being required at a rate of one (1) space for each three (3) units, the fourth unit contributing a need of less than half a space (1/3) and thereby not being required at all.
- The Columbia Heights Metro stop is located within two blocks of the subject site, at the corner of Fourteenth and Irving Streets, NW.
- The area is also served by both radial and cross-town Metrobus routes that run along Fourteenth Street (including Routes 52, 53, and 54), Georgia Avenue/7th Street (Routes 70-71) and crosstown routes westbound along Irving Street and eastbound along Columbia Road (Routes H2, H3, and H4).
- Eleventh Street is ninety (90-ft.) feet wide as a right of way, of which fifty (50-ft.) feet is dedicated to a four-lane roadway. Parking is allowed along both curbs. The sidewalk and public space totals twenty (20-ft.) feet on each side.
- By contrast, Lamont and Kenyon Streets each have a right of way of sixty feet. Most residences along them are two (2) stories, with buildings of three stories being those that are exposed to or face Eleventh Street.
- The proposed use would face a row of commercial uses on the western side of the same block of Eleventh Street, NW and would not detract from them or the adjacent residential uses.

- The proposed use would result in a restoration of a blighted, deteriorated, and partly demolished structure.
- The proposed use would not aggravate the existing unkempt conditions on the interior of the Square along its existing alley system (photographs) nor would it reduce any incentive to resolve that situation. Conversely, investments such as that proposed can promote cleanups of the sort that seem appropriate.

Eleventh Street, NW from western side of it between Lamont (to left) and Kenyon (right). Subject property is first residence on far side of nearest one with three stories.



Eleventh Street, NW from western side of it, as above, but looking southeasterly from a vantage point somewhat to north or prior image.



BZA #16891 – 3221 Eleventh St, NW LLP (Lot 27, Square 2845)

Commercial uses facing subject Property located along western face of Eleventh Street between Lamont and Kenyon Streets, NW



Character of Development Completed in Area by Applicant ("The Lamont")

Before



After



The proposed use and height are not only compatible with surrounding structures, they are consistent with the Comprehensive Plan and the Strategic Neighborhood Action Plan for the immediate area.

Selected Comprehensive Plan Elements (as amended through December 1998).

1231 WARD 1 ACTIONS TO IMPLEMENT LAND USE OBJECTIVES

1231.1 The actions to implement land use objectives are as follows:

(c) To recognize that there is an insufficient supply of vacant land in suitable locations to accommodate large-scale economic development projects by doing the following:

*(1) * * * * **

(2) Encouraging small scale and rehabilitation projects in existing buildings or on small infill parcels in Ward 1; and

(h) To determine the appropriate reuse for abandoned and vacant buildings, public and private, found throughout many areas of the ward by the following:

(1) Studying the appropriate reuse for abandoned and vacant buildings;

(2) Inventorying vacant and abandoned buildings in the ward and assisting with their rehabilitation;

(3) Supporting planned redevelopment as sites become available; analyses, where feasible, should be conducted to determine appropriate use;

(4) Requiring Howard University to expedite the update of its campus plan, indicate future use of its property holdings, and identify surplus properties for their rapid use or disposal;

(5) Discouraging the demolition of buildings which can be used as an alternative to cleared land; and

(6) Considering changes in zoning of school properties to residential to better control options for possible future use;

(m) To encourage appropriate height, bulk, and density so that new developments are designed to be harmonious with their surroundings by changes in the Zoning Regulations as necessary to make new development compatible with existing buildings in areas where rehabilitation or moderate density development goals are primary neighborhood goals, such as Sheridan-Kalorama, Woodley Park, Adams Morgan, Mount Pleasant, S to U Streets, 16th Street area, Columbia Heights, and LeDroit Park.

Selected Strategic Neighborhood Action Plan Elements (December 2001)

Neighborhood Priorities (Cluster 2, Ward 1):

- *Affordable housing*
- *Minimize displacement*
- *Secure vacant buildings*
- *Open abandoned properties*
- *Economic development*
- *Streetscape (at 14th, Park, and Fairmont Streets)*

The community supports development of this site as sought by the Applicant.

Conclusion: ***The applicant has met the tests and burden of proof, the application should be granted.***

Lindsley Williams is an experienced land use planner and has extensive knowledge of the comprehensive planning processes (with both Federal and "municipal" components), and the zoning regulations of the District of Columbia. He has appeared as an expert witness in before the Zoning Commission of the District of Columbia, and has provided assistance to clients with matters pending before the Board of Zoning Adjustment. Mr. Williams has also testified as an expert in the Superior Court of the District of Columbia and been deposed as an expert in zoning matters before that Court.

He also has extensive knowledge of the permitting process of the District of Columbia, and its relationship to the locally prevailing building code (BOCA), and the designation of historic areas and properties, and their relationship to both the permitting process and relevant aspects of zoning procedures where historic designations play a role.

For eight years, concurrent with his full-time Federal employment as a Commissioned Officer of the U.S. Public Health Service, Mr. Williams served on the Zoning Commission of the District of Columbia including serving as its Chairperson and Vice Chairperson. By virtue of that position, Mr. Williams also served, as did other Commission members, as one of the members of the Board of Zoning Adjustment.

While serving on the Commission itself, Mr. Williams participated in a wide variety of matters appropriate to its jurisdiction, which in the District of Columbia includes the approval (or disapproval) of rezonings and Planned Unit Developments -- matters most often decided in other jurisdictions by a local elective body such as a City or County Council. During his tenure, the Zoning Commission considered and decided an average of two cases per month. These included significant, and hotly debated, development proposals and complex reforms of the Zoning Regulations themselves in areas of policy (e.g., rules applicable within given zones, map changes) and technical matters (e.g., standards for parking and loading).

While serving as one of the "rotating" members of the Board of Zoning Adjustment, Mr. Williams considered typical requests for variances and special exceptions, along with appeals of decisions reached by the Zoning Administrator. Under District rules, the Board of Zoning Adjustment is the body that reviews and approves "campus plans" on which approval of individual development projects of local institutions of higher learning rest. He also suggested ways by which the Board could streamline its processes, which were adopted.

Mr. Williams is widely regarded in matters of land use, planning and zoning. After retiring from his career of active-duty as a PHS officer (August 1966 - September 1996), and in addition to providing planning advice to various clients, Mr. Williams served as Co-Chairperson of a Task Force designed to produce the legislative materials needed by which the Council of the District of Columbia could proceed to adopt reforms identified by the Business Regulatory Reform Commission (BRRC). This effort involved bringing together more than a dozen land use professionals (mainly attorneys), analyzing each of the nearly 100 recommendations, and preparing a written report for the Council and its committee on Consumer and Regulatory Affairs. That report, along with the underlying recommendations of the BRRC, formed the basis for statutory changes that were effected within six months of the start of the Task Force -- a remarkably short time in the District of Columbia where final approval of statutory changes includes normal review by the Mayor, but also additional reviews by the District of Columbia

Financial Responsibility and Management Assistance Authority (commonly called the "Control Board") and further layover before the United States Congress.

Mr. Williams served as one of two key individuals in the contract awarded by the "Control Board" to the law firm of Holland & Knight, LLP, which reviewed regulations and procedures affecting building and land use in the District of Columbia. Mr. Williams not only identified the processes but also the key organizing principles of the database in which findings were captured and then analyzed. This led to that firm's recommending, with input from Mr. Williams and others, a wide-ranging number of changes streamlining procedures and reducing requirements.

Mr. Williams served as Director for Land Use within the Office of the Deputy Mayor for Planning and Economic Development, Government of the District of Columbia. Mr. Williams provided guidance to staff of the Office of Planning at a time when it had no director, and helped the Director assume his duties once appointed. In the course of this, he provided advice on planning and zoning issues that formed the nucleus of the positions enunciated by municipal officials.

Mr. Williams is currently affiliated with the law firm of Holland & Knight LLP as a land use, planning, and zoning consultant. This relationship, which became effective March 1, 2002, followed a period of part-time employment by that firm (April 2000-Feburary 2002). He currently provides professional services to that firm's clients through their organization, while providing independent advice to others from time to time.

Mr. Williams is a member of the Economic Development Committee of the District of Columbia Building Industry Association. Mr. Williams has also served or as a member of the Board of several voluntary organizations, including Property Owners' Association of Deep Creek Lake (Garrett County, Maryland), and Cleveland Park Historic Society.

Within the domain of urban planning, Mr. Williams has not been involved solely in "land use" and zoning issues. For nearly thirty years, he has had substantial involvement in transportation issues in the communities in which he has resided, including: conducting comprehensive analysis of transportation issues generated by major hotel on surrounding residential community, including parking and many other issues resulting in improved plan and facilities; organizing and planning for the elimination of "reversible" lanes on a minor arterial (Reno Road – 34th Street, NW); recommending revisions to the configuration of Metro stations, and particularly elevator and escalator locations that the Washington Metropolitan Area Transit Authority (WMATA) accepted before construction (Van Ness, Cleveland Park, Woodley Park-Zoo); recommending design changes to WMATA, which were adopted, immediately following opening of its first major escalator (Rosslyn. Mr. Williams was appointed to Transportation Citizen's Advisory Committee, Washington Metropolitan Area Council of Governments for two two-year terms, elected within to serve as Vice Chairperson.

Mr. Williams received a Bachelor of Arts in Sociology with honors from Haverford College, and a Masters in Regional Planning from the University of North Carolina at Chapel Hill.