GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: July 23, 2001

SUBJECT: BZA Application No. 16904
Capitol Apartment Property Associates, LP
Special Exception @ 2nd Street and Mississippi Ave., SE
(Square 618, Lot 41)

I. APPLICATION SUMMARY

Applicant:	Capitol Apartment Property Associates, LP
Relief Sought:	Special Exception for the Construction of 30 Apartments (with 30 off-street parking spaces) in an R-5-A Zone
From Sections:	11 DCMR § 353.1 and § 410
Zoning:	R-5-A
Regulations Require:	Review by BZA of all new residential developments other than single-family detached and semi-detached
Relief South Under:	Section 3104.1

II. OFFICE OF PLANNING SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends the Board of Zoning Adjustment (the Board) approve the request.

III. SITE AND AREA DESCRIPTION *(See Attachments 1 and 2)*

Square 618 is located in the Ward 8 neighborhood of Washington Highlands, in southeast Washington, DC. The nearest major intersection is Mississippi Avenue and 4th Street, where Ballou Senior High School fields occupy the northwest corner and the front of Simons Elementary School occupies the southeast corner. Oxon Run Park is located just south of, and generally parallel to, Mississippi Avenue. The Square has challenging topography. Its center, which is accessible only by public alleys entered from 2nd Street, has not yet been developed.

The applicant's site, Lot 41, is bounded by:

BZA
Case No. 16904
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.16904
EXHIBIT NO.29

- West: a 15' public alley and unimproved land.
- North: a 15' public alley and the backyards of houses that front on Wilmington Place, S.E.
- East: 2nd Street, S.E.
- South: Mississippi Avenue, S.E.

It is currently developed with a vacant apartment building at 3817-19 2nd Street, and another vacant apartment building at 172-174 Mississippi Avenue. The applicant estimates that, together, these apartment buildings once contained approximately 30 units. These apartments hug the 2nd Street and Mississippi Avenue property lines and the interior of the lot is undeveloped.

The parcel is approximately one acre and generally shaped like a rectangle with an upside-down triangle at the bottom (south). The northern alley boundary is 177 feet, and the westernmost alley boundary is 238 feet. The property has 184.64 feet of frontage on 2nd Street, and 106 feet of frontage on Mississippi Avenue. The land slopes steeply from an elevation of 120' at its northern edge to 85' at its southern edge.

The site's surroundings are residences, parkland, schools and open space. Residential uses are a mix of single family houses and two to three story walk-up apartments. Several of the apartment complexes are abandoned and/or significantly under-maintained. Institutional uses are also significant. There is a large L-shaped academic complex along 4th Street and Mississippi Avenues. It is anchored by Ballou Senior High School to the north and Hart Middle School to the southeast. There are also daytime facilities for seniors and for the developmentally disabled to the north, on the west side of Ballou High School.

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

The site is zoned R-5-A, as is most of the general area for many blocks around.

There are no historic districts, or properties with historic designation, nearby.

V. PROJECT DESCRIPTION

The property is currently improved with two 40+ year-old vacant abandoned walk-up apartments. Each building is a three-story walk-up, with one entrance for each of the two buildings. They had once contained approximately 30 apartment units.

The applicant wishes to tear down these buildings and construct one new building containing 30 new units. The apartments would contain two bedroom and three bedroom units and would be marketed to families and individuals earning 60% of the metropolitan area's median income. The project would be partially funded by the proceeds of taxes and bonds and the awarding of 4% tax credits by the D.C. Housing Authority.

As the table on page 5 of the application indicates, the project meets the requirements of the Zoning Regulations with respect to FAR, lot coverage and building height.

The housing type would be somewhat of a cross between an apartment building and a series of row houses. The apartment building would have a façade that mimics townhouses. The building would have

five entry points. Two entry-points would face 2nd Street; one would face Mississippi Avenue; two-entry points would have doors that access the front of the building via a ground-level breezeway between 2nd Street and the western building front. Some units would have individual outside doors; no entry point would serve more than four units.

There would be projecting bays and gables, with porches between the bays. The first story would have brick facing. The upper stories would be vinyl-clad. Front and rear building facades would be similar. The entire site would have security fencing.

Thirty parking spaces would be accessed from a driveway with a curb-cut on the north side of Mississippi Avenue. The western side of the parking area would be screened with a combination of deciduous and coniferous trees. The units facing 2nd Street would have access to the parking lots via two ground-level breezeways.

At the Office of Planning's suggestion, the applicant will be submitting slightly revised plans for the project that move the two eastern modules closer to 2nd Street, and that will eliminate the "staggering" of the two modules. All three modules, including the module facing Mississippi Avenue will remain as one contiguous string. The slight shift will allow a larger separation between the parking lot and the western façade, and the introduction of some play equipment onto the site.

This project would be part of a larger development that would contain at least 126 apartments. One site (known as Parcel A) is located approximately one block to the northeast. This parcel would contain 96 units, a play area, recreation building, and sales and maintenance office. The development on Parcel A is also currently before the Board as case number 16905.

There is also the possibility that the applicant will renovate two apartment buildings near 3rd and Atlantic Streets, S.E. This is known as Parcel C.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN *(See Attachment 3)*

The District of Columbia Generalized Land Use Map designates the Square for Moderate Density Housing. This is the predominant designation for several surrounding square miles. The notable exceptions are small commercially designated areas to the west, along Martin Luther King, Jr. Avenue, to the east for institutional use (three schools, a center for the developmentally disabled, and a recreation and community center for seniors), and to the south for Oxon Run Park.

The application, and the proposed project, are also consistent with several written elements of the Comprehensive Plan:

- Housing
  - 10 DCMR §1903.3(i) states that "Washington Highlands is Ward 8's largest and most populous neighborhood. Most of the housing in this neighborhood is a mixture of walk-up and garden apartment units, many of which are contained in public housing complexes such as Valley Green and Highland Dwellings…". The provision of new

housing at this site is entirely consistent with objectives of the Ward 8 element of the Comprehensive Plan.

- Section 1909.1 (b) encourages "the rehabilitation of abandoned ...apartment buildings within Ward 8 or ...replac[ing] them with new and more appropriate residential uses... ".

The housing on the site is abandoned and in very poor conditions. The provision of new housing would be consistent with the Comprehensive Plan.

- Environment and Urban Design

§ 1911.1 (a) stresses the need to:

> *Protect the overall environmental quality of the District's land areas by preventing further soil erosion, promoting the restoration of eroded areas and enforcing prohibitions against illegal dumping and other destructive practices;*

§1919.1and §1919.2 note that:

> *The physical character of Ward 8 is unique within the city. Its rugged, wooded ridges and slopes have shaped the road system, in many places, into a network of twists and turns.*
>
> *Unfortunately, prior development in the ward has been insensitive to the ward's scenic amenities. Apartment buildings have literally turned their backs to the vistas at some locations, and site preparation at other locations has failed to include effective soil retention measures. As a result, soil erosion is evident at most of these locations. Proposed improvements must be carefully scrutinized to ensure that the physical integrity of the ward is protected.*

§1921.1 states objectives and actions in support of environmental and urban design objectives. These include:

> *(b) Encourage developers of new residential or nonresidential projects to incorporate design features that respect the ward's fragile, yet beautiful, natural environment:*
> (1) *Areas where development is strongly influenced by the ward's natural beauty, and where development should be sensitive to environmental constraints include: Oxon Run Creek and Parkway; Shepherd Parkway (bordering I-295); Saint Elizabeth Hospital; Buena Vista; Congress Heights; Belleview; and Washington Highlands;*

VII. REQUESTED ZONING RELIEF and ANALYSIS

The Zoning Regulations' section and language pertaining to the requested relief is shown in **bold**; the analysis follows immediately in regular type.

Pursuant to Section 3104.1, the applicant is requesting a Special Exception under Section 353 to construct a new residential development that is not one-family detached or semi-detached dwellings, in an R-5-A zone. This section of the regulations was first adopted in the late 1950's to ensure that larger-scale developments on vacant land did not overly burden existing schools and infrastructure, and the environment.

SECTION 353 NEW RESIDENTIAL DEVELOPMENTS (R-5-A)

353.1 In R-5-A districts, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment in accordance with the standards and requirements set forth in §410; the conditions specified in §3104 of chapter 31 of this title, and the requirements of this section.

353.2 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.

The Office of Zoning referred the application to the appropriate agencies. The record contained no statement from the Board of Education as to whether the proposed development would impose a burden on the existing school system. OP's opinion is that the replacement of 30 deteriorated apartment units with 30 new apartment units would not burden the nearby schools. However, OP will encourage the D.C. Public Schools to provide a memorandum to the Board.

353.3 The Board shall refer the application to the D.C. Departments of Public Works and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation end other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.

OP will pursue securing at least an oral response from the referral to the Department of Public Works (DPW), now more accurately, the Department of Transportation (D-DOT). OP has also asked the applicant to pursue comments from D-DOT. The areas most important for comment are:

- The acceptability of the proposed new curb cut located approximately 153 feet from the nearest intersection for the 30 parking spaces;
- Whether the site plan meets requirements for service and emergency vehicle access, particularly for fire and garbage.

The Department of Housing and Community Development (DHCD) has been working with the applicant, in conjunction with the D.C Housing Authority, to help secure financing that will make the units affordable for those at 60% of the Metropolitan Statistical Area's (MSA's) median income. DHCD has not registered an objection to the project.

353.4 The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, provisions of light, air, parking; recreation, landscaping and grading as they relate to the future residents of the project and the surrounding neighborhood.

OP reviewed the application for the general site environment and planning context:

- The development is not in conflict with the Comprehensive Plan;
- The new development would replace two dilapidated structures with new housing whose multiple points of entry would help to keep more "eyes on the street", whose design would be much more oriented to the traditional Washington rowhouse pattern, and whose height and mass would be consistent with the requirements of the R-5-A zone district.
- The applicant would be removing several trees and much underbrush, regrading a portion of the site and constructing a retaining wall along the westernmost public alley. Therefore, the applicant would be installing a new storm water interceptor at the site's low-point. OP has encouraged the applicant to consult further with both D-DOT and the Department of Health (DOH) on:
  - the possible installation of pervious pavers in the parking lot, and;
  - additional drainage and/or storm water retention in the southwestern portion of the site, at the base of a relatively steep slope.

The General Soils Map provided by the District of Columbia's Environmental Health Department indicates that the general soil type in this area is classified as Urban Land-Christiana-Sunnyside; characteristic of urban land with deep, well drained soils that are on top of unstable sediment with high: clay content. Slopes range from level to steep. The Department's Erosion Control Principles outline erosion and sediment control measures. This principles are important to this site, which has relatively stepp grades, ranging up to 25%.

The Department of Health reports that the applicant's proposal will be reviewed by the Department of Health's Storm Water Management, Erosion and Sediment Control Division during the building permit approval. If the proposed on-site parking lot is over 5,000 square feet, which it would be, the applicant must follow the Health Department guidelines for storm water management on site.

OP observed that the site is located on hilly terrain with mature trees both on-site and along 4th Street. The applicant should also retain an arborist to identify valuable trees on the property in an effort to enhance the existing natural amenities of the site.

OP concludes that the proposed development will not interfere with the provisions of light and air to the neighboring properties based on the consistent height and bulk of the buildings; the development will provide one parking space for one dwelling unit, which meets Code requirements (§2101.1); and the development will have access to the recreational lots and the community building proposed as part of this overall project but located across the street and addressed in BZA case number 16905.

353.5 In addition to other filing requirements, the developer shall submit to the Board with the application, four site plans and two (2) sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.

The applicant complied with the section and submitted the requisite number of plans.

SECTION 410 EXCEPTIONS FOR R-5 DISTRICTS

The applicant is also requesting relief from certain portions of Section 410 of the Zoning regulations. This section's requirements are very particular and generally govern the placement and number of entrances, exits, and stairways; and the measurement of building height.

410.2 All buildings in the group of buildings shall be erected simultaneously.

The buildings will be erected at the same time;

410.3 All front entrances of the group shall abut a street, front yard, or front court.

All front entrances will abut a street, front yard or front court (*albeit* via a breezeway or sally-port for some of the units) as shown in the units' addresses of record;

410.4 No rear or service entrance shall abut a street, front yard, or front court unless below the main floor.

No rear or service entrances will abut a street, front yard, or front court (§410.4);

410.5 No exterior stairway shall be constructed above the level of the joists of the main floor unless located entirely within the building area.

Section 410.5 is not relevant to this application.

410.6 No subdivision of the property shall be authorized until the Board has determined that the following requirements are met:

- **(a) There shall be adequate free access to the street from each separate dwelling, group of dwellings, or buildings resulting from the subdivision;**
- **(b) Adequate access for fire protection and other purposes shall be provided by easement, fee, alley, or street: and**
- **(c) There shall be adequate yards, courts, light, and air for each dwelling, group of dwellings, or group of buildings resulting from the subdivision.**

Section 410.6 is not relevant to this application.

410.7 The height of an individual building in a group of buildings may be measured as follows:

- **(a) Any building that does not have another building between it and a public street shall be considered to front on the street, and the building height shall be measured from the curb at the center of the front of the building; and**
- **(b) Any building that has another building between it and the public street may have its height measured from the proposed finished grade at the center of the front of the building, and the front shall be that side of the building providing access to the majority of the dwelling units within the building.**

The buildings are no more than three stories and do not exceed 40 feet in height. This comports with the R-5-A zoning regulations.

410.8 The front entrances of not more than four (4) one-family dwellings, nor more than four (4) dwelling units per floor, shall face any street that abuts the lot.

Although modular, the building grouping is one individual building. The front entrances of no more than four dwelling units per floor face a street that abuts the lot;

410.9 All front entrances of the group shall abut a street, front yard, or front court; Provided, that a front entrance may abut a side yard if all one-family dwellings or dwelling units to which the entrance is appurtenant are located no nearer a street upon which the lot abuts than the rear of any part of the group having a front entrance abutting a street, front yard, or front court.

It is OP's understanding that the Zoning Administrator has given an oral opinion regarding §410.9 entrance requirements, to the effect that the entrances to the westernmost units (those facing the parking lot) may be considered to have front entrances abutting a front yard or street or front court, via the use of a breezeway;

410.10 No rear or service entrance shall abut a street, front yard, or front court, unless located below the main floor.

No rear entrances abut a street, front yard, or front court; Section 410.10 is essentially the same as Section 410.4, in not allowing rear or service entrances to abut a street, front yard, or front court unless the entrance is below the main floor;

410.11 No exterior stairway shall be constructed above the level of the joists of the main floor, unless located entirely within the building area of the group.

Section 410.11 is not relevant to this project, which has no exterior stairways.

SECTIONS 350.4 (c) and SECTION 401.3

In an R-5-A district the following conditions must also be met.

- **§350.4 (c), which stipulates minimum occupancy of 30 days**
- **§401.3, which addresses minimum lot area and minimum lot widths**.

Section 350.4(c): The applicant has not specified a minimum lease, but, given the nature of the apartments being contemplated, OP is confident this omission can be cleared up during testimony. OP would not support a variance to this requirement.

Section 401.3: As noted in the table on page 5 of the application, the project meets the minimum lot area and lot widths.

VIII. AUTHORITY TO GRANT THE SPECIAL EXCEPTION

Under Section 3104.1, the Board may grant a special exception for apartments or row houses in an R-5-A district if:

- The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and
- It will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

In OP's opinion, the proposed development would not adversely affect the character of the neighborhood, the use of neighboring properties, or the intent of the Zoning Regulations or the Zoning Map. The neighborhood is zoned for moderate density housing and identified as such on the Generalized Land Use Map. As demonstrated above, the application meets all of the relevant zoning tests for special exception. The development would be likely to improve the neighboring properties' surroundings, by ridding the site of vacant, rundown buildings and introducing a substantial new residential presence in the neighborhood.

The Office of Planning is of the opinion that the proposal appears to meet the relevant tests of Sections 350.4(c), 353, 401.3, and 410. However, OP would prefer the Board to have written confirmation from several agencies on items noted both above, and below in Section X of this report, before the Board makes its decision on the application.

IX. COMMUNITY COMMENTS

It is OP's understanding that the full ANC 8C had not voted on the project and the time of this report. The applicant has presented the proposal to the community in forums that included a meeting of the ANC single member district representative.

As of July 16, 2002, OP was unaware of any opposition to the project.

X. OTHER AGENCY COMMENTS

The regulations governing the referrals for this type of development are anomalous, in specifying that the BZA shall refer the proposal to other agencies for comments. The Office of Zoning has made the necessary referrals.

As of the time this report was written, no agencies had provided formal comments. OP feels it would be desirable for the Board to receive formal, written, comments from several agencies before the Board's decision meeting. The agencies, and the areas of desired comment, are:

- Confirmation from D-DOT of the acceptability of the parking curb-cut location;
- Confirmation from the Zoning Administrator of the acceptability of the westernmost units' entrance locations;
- Confirmation from D-DOT and/or DOH of the acceptability of drainage and surface-permeability matters;
- Confirmation from D-DOT, and possibly from the Fire Department, of the acceptability of fire, trash and other service and emergency vehicle access.

XI. OP RECOMMENDATION

OP recommends that the APPLICATION BE APPROVED, CONTINGENT ON:

- Receipt of possible comments from the agencies noted immediately above in Section XI of this report. OP requests that the Board leave the record open for one month, for possible additional filings by other District agencies, and responses to these comments by the applicant and, possibly, the Office of Planning.
- The applicant's retention of an arborist and presentation of a proposal acceptable to the Department of Health's Storm Water Management, Erosion and Sediment Control division prior to obtaining a building permit, on how best to ensure that on-site trees and off-site street trees are protected during construction, and in the future.
- The applicant's adherence to DOH storm water management guidelines for any parking lot over 5,000 square feet.

Attachments (3)
AA/slc



Feature Key

- Zoning Boundaries
- Square Index

Board of Zoning Adjustment
Application No. 16904
Square 6118, Lot 41
2nd St. & Miss. Ave., SE

DC Office of Planning, July 15, 2002

Scale 1:6669

Attachment 1



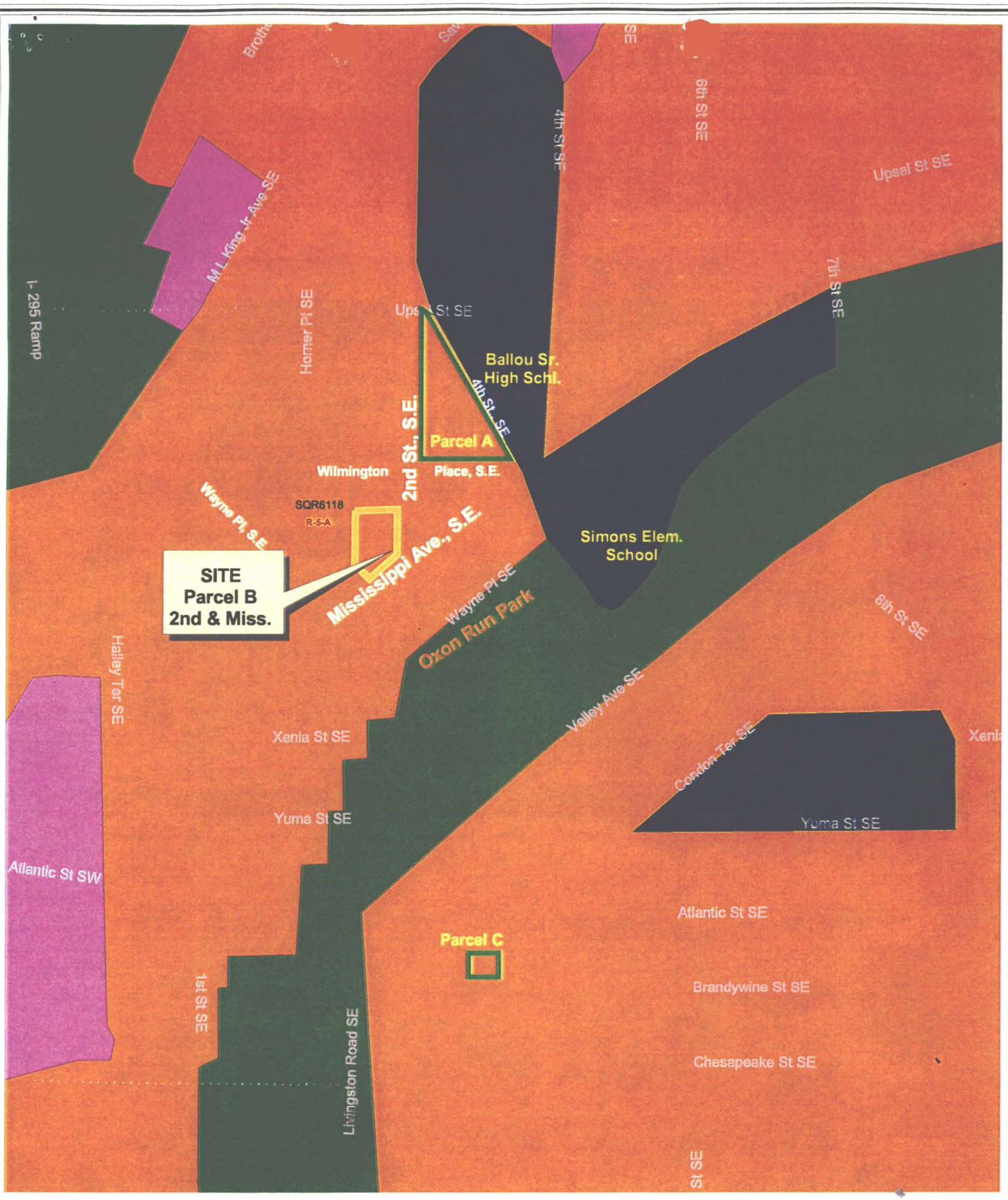
Feature Key

- Zoning Boundaries
- Square Index

Board of Zoning Adjustment
Application No. 16904
Square 6118, Lot 41
2nd St. & Miss. Ave., SE

DC Office of Planning, July 15, 2002

Attachment 2



Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med.-high Density
- Commercial High Density
- Federal
- Institutional
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment

Comprehensive Plan Landuse

DC Office of Planning
July 15, 2002

Scale 1:6669

Attachment 3