GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: April 8, 2003

TO: District of Columbia Board of Zoning Adjustment

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

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17004
Plat Property
244 12th Street, S.E.
Square 1015 Lot 213

Summary

The applicants seek a variance from the lot area provisions of §403.2 to allow a 3-unit multi-family dwelling in the R-4 zone. The applicant seeks to convert the existing 2-story with basement flat into an apartment building with a unit on each floor. Currently, the 2nd floor and basement are leased together and individually sublet. A recent areaway and door were added to the front of the structure to allow access to the basement from the front. The structure was originally constructed as a flat with two front doors in 1911 and is in the Capitol Hill Historic District.

Recommendation:
The Office of Planning recommends denial of the variance based on the following findings:

- The applicant has not shown an exceptional situation. No unique physical aspect or condition of the property exists. The structure is one in a set of similarly constructed houses, designed as flats. No evidence was provided that showed an exceptional situation that would warrant converting the existing 2-unit structure into a three unit structure.

BZA
Case No. 17004
Exhibit No. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 17004
EXHIBIT NO. 33

- ❖ No evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty. There remains reasonable use of the property as a flat.
- ❖ The intensified use of this property is not consistent with the intent of the zone plan, the character of the R-4 zone, or the public good. As stated in §330.3, the R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.

Background

The applicant, Penny Platt, owns 244 12th Street, S.E. (Square 1015 Lot 213). The property lies in the R-4 Zoning District and contains approximately 1,435 square feet of land. The lot is improved with a two-story flat with a basement. The property, a corner lot, anchors a row of flats built in the early 1900's. The flats are contributing structures to the Capitol Hill Historic District. Rowhouses and flats are the predominant uses in the area.

The 2nd floor and basement are leased together and individually sublet. A recent areaway



and door were added to the front of the structure to allow individual access to the basement. The current Certificate of Occupancy for the structure, dated October 9, 1985, provides for use of the structure as a flat: one unit basement and first; one unit second floor. The applicant has requested the Certificate of Occupancy be changed to a flat: one unit second floor and basement; one unit first floor. This change is currently under review.

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Project Description

The applicant proposes to allow the use of each floor of the structure as a separate unit, permitting a total of three units in the structure. Separate entrances are already provided for each floor and the floors each have a kitchen. The approval of the variance will permit use of the structure in a way that it has already been physically modified to function.

Comprehensive Plan

The property is identified as moderate density residential on the General Land Use map, which includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density housing. (See Attachment 2)

Zoning

The proposed number of units is not permitted in the R-4 Zone District and the applicant is seeking relief under 11 DCMR §3103 for an area variance from the provisions of §403.2. The R-4 District sets forth the following purposes:

> 330.1 The R-4 district is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two (2) or more families.
>
> 330.2 Very little vacant land shall be included within the R-4 district, since its primary purpose shall be the stabilization of remaining one-family dwellings,
>
> 330.3 The R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.

Section 403.2 requires that conversion of existing structures to apartments requires 900 square feet of lot area per unit. For three units a total of 2700 square feet would be required. The property only has 1,435 square feet.

Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

In accordance with §3103.2, which gives the Board the authority to grant a variance if, by reason of exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

There is no evidence provided that there is a unique or exceptional condition of this specific piece of property that would result in peculiar and exceptional practical

difficulties. The structure was designed to be used as a flat, a use that can be reasonably continued. The applicant's statement presents two elements to meet this test:

1) The structure is significantly larger than other homes on the block; and,
2) Historical architectural design, i.e., two front doors.

Regarding the first point, it can be seen from the GIS map (Attachment 3) that the structure has a bigger footprint than most of the row houses on the block, but is the same size as the contiguous set of flats it adjoins on 12th Street. This, however, only supports



its continued use as a flat and does not present a special situation resulting in the necessity of converting the structure to a 3-unit apartment. Similarly, the historic architectural design of having two doors is not unique and does not lend the structure to be better suited to a 3-unit structure over a two unit one, particularly since the attached buildings are likewise constructed as flats with two doors.

Practical Difficulty

The practical difficulties identified by the applicant that result from the strict application of §403.2 are:

1. The applicant is faced with a financial hardship.
2. The variance will "enable the uniqueness of the property—two front doors—to remain an anomaly in this Historic Capitol Hill neighborhood".

As discussed above the owner has not shown that there is no opportunity for a reasonable return from the use of the property as a flat. An area variance cannot be granted on the ground that the property, which produces a reasonable income when conforming to the regulations, will, if put to another use, yield a greater return.[1]

The second item listed implies that the historic preservation of two front doors necessitates conversion of the structure to three units. However, this is not the case as the

[1] Palmer v. Board of Zoning Adjustment, App. D.C., 287 A.2d 535 (1972).

two front doors provide for the use of the structure as a flat (see Attachment 4, Historic Preservation Office report).

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested could be granted, provided that it will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan. The application proposes that three points address this standard:

1) The proposed use is only a slight expansion;
2) The large structure can easily accommodate 3 units.
3) There will be not a negative impact due to traffic, noise and lighting; and,
4) There are several other homes in the general vicinity that have been converted to multi-family use.

However, OP cannot conclude the expansion will not impair the intent of the Zoning Regulations or the integrity of the Plan. As §330.3, specifically states, "*the R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.*" The minimum lot area per family requirement, found in §403.2, requires a minimum of 900 square feet of lot area per dwelling unit. The additional parking, loading and trip generation of the proposed use are not compatible with the existing neighborhood. Though the applicant indicates that these impacts are minimal they are still an increase over the matter-of-right use of this property and cumulative impacts of such "overcrowding" on the residential neighborhood could have substantial impacts.

ANC Recommendation

ANC 6B does not support the application. The Office of Planning also spoke to a neighbor, who expressed concern about the negative impacts of the proposal in terms of on-street parking availability, trash pickup and maintenance.

Recommendation

The applicant has not met the burden of proof for a variance and the Office of Planning recommends the case be denied.

Attachments:

1. Zoning and Use Map
2. Comp Plan Map
3. Aerial Photo
4. HPO Report

GOVERNMENT OF THE DISTRICT OF COLUMBIA
HISTORIC PRESERVATION OFFICE
OFFICE OF PLANNING

March 28, 2003

Mr. David McGettigan
Development Review Specialist
DC Office of Planning
801 North Capitol Street, NE
Washington, DC 20002

Dear David:

I am writing to clarify the DC Historic Preservation Office's position on the variance being sought to convert the building at 244 12th Street, SE from a two-unit flat to a three-unit flat.

Documentary evidence and visual inspection indicates that the property was constructed ca. 1911 as a flat. To that end, the Historic Preservation Office (HPO) supports retaining the building's historic use as a flat, as it both reflects its historic use and decreases the likelihood that a homeowner would propose changes or alterations incompatible with the building type. The HPO, however, takes no position on the conversion of the building from a two-unit to a three-unit.

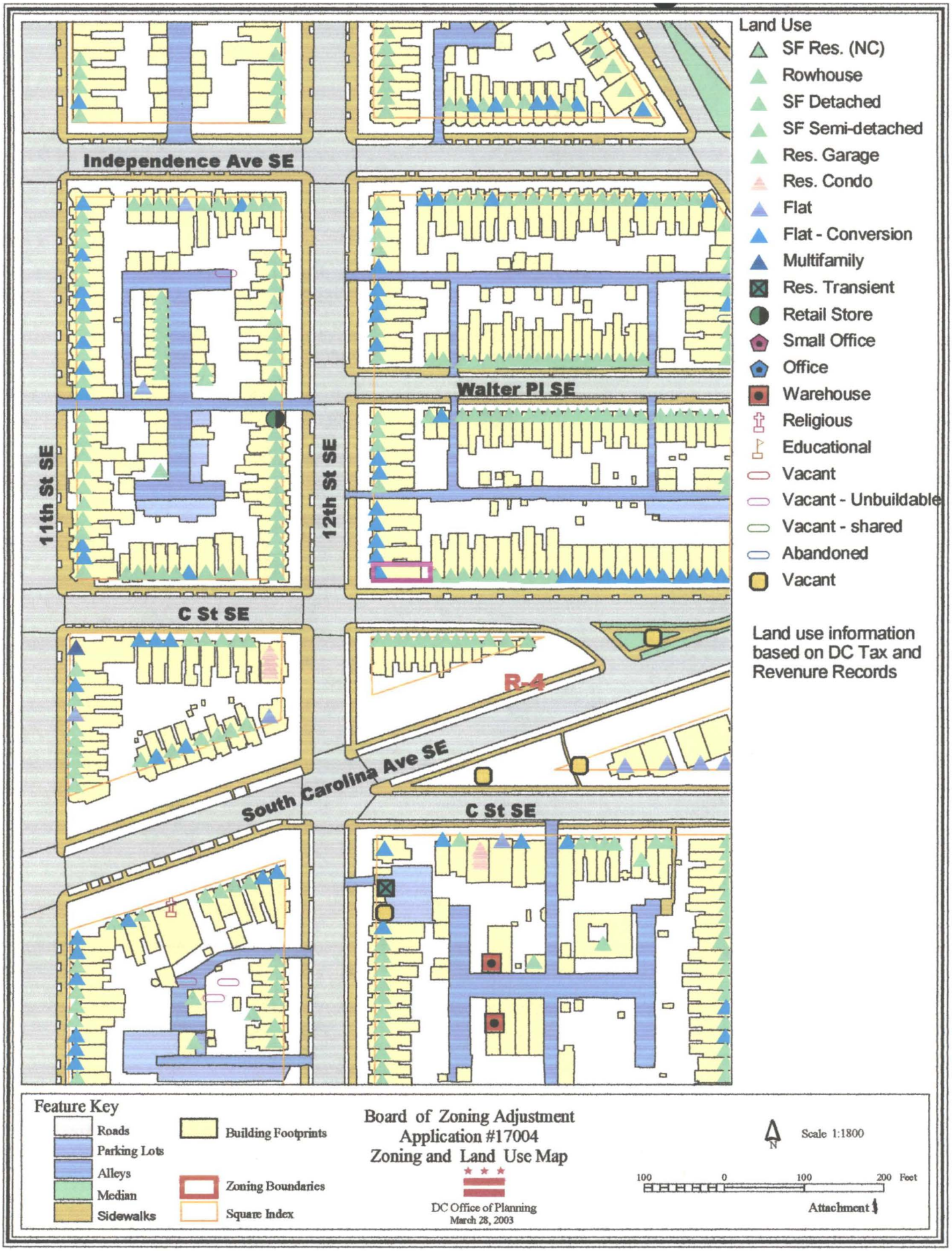
As stated by the applicant, the two side-by-side front doors are indeed an atypical feature within the Capitol Hill Historic District. However, both the HPO and the Historic Preservation Review Board would be unlikely to approve either the removal of one of the two front doors or their conversion into one door, as it would be considered an alteration that is inconsistent with the Board's adopted Guidelines and with the purposes of the DC Historic Landmark and Historic District Protection Act.

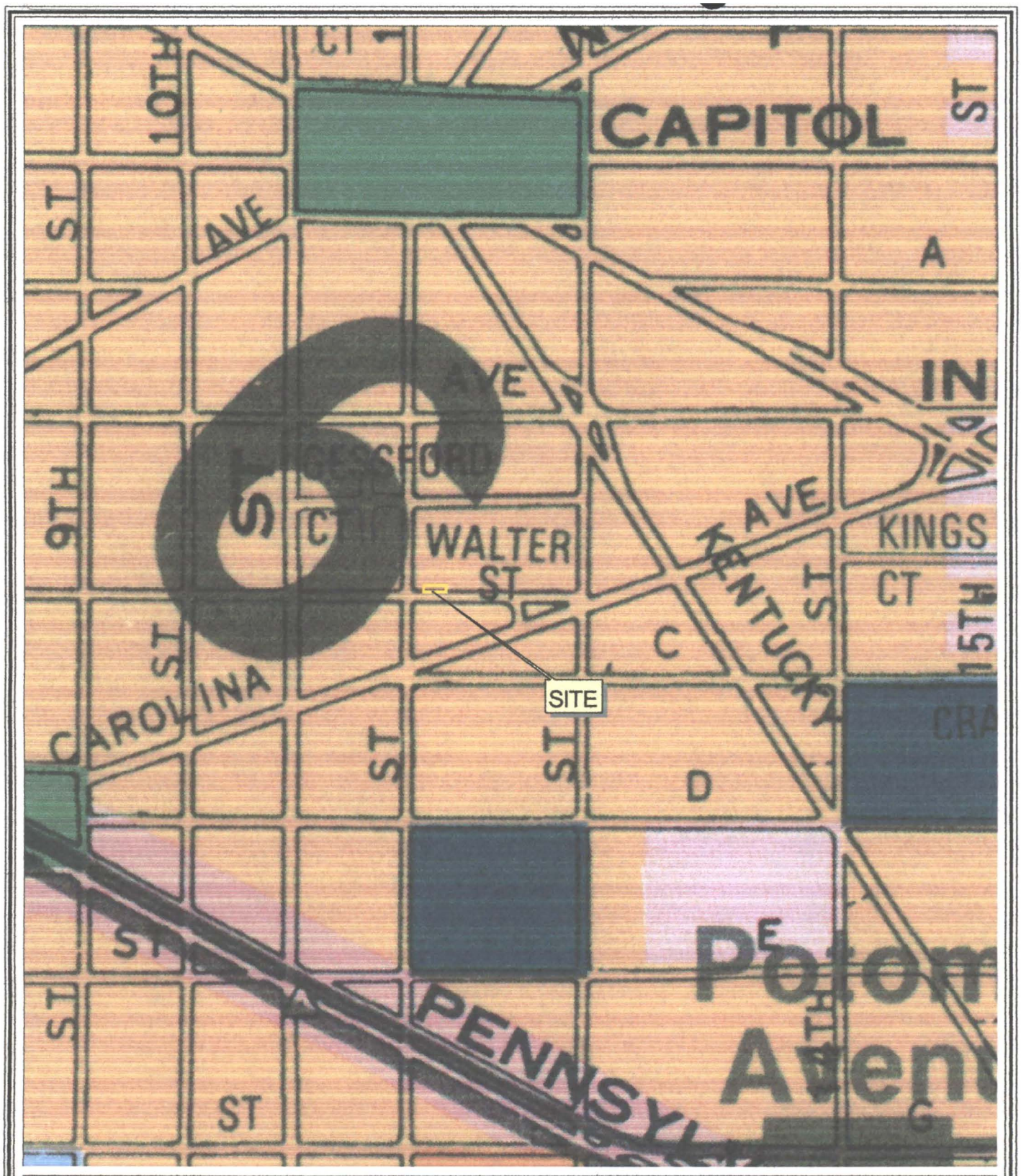
Thank You.

Sincerely,

Emily Paulus

Emily Paulus
Architectural Historian
DC Historic Preservation Office


Independence Ave SE
11th St SE
12th St SE
Walter Pl SE
C St SE
R-4
South Carolina Ave SE
C St SE
Land Use
SF Res. (NC)
Rowhouse
SF Detached
SF Semi-detached
Res. Garage
Res. Condo
Flat
Flat - Conversion
Multifamily
Res. Transient
Retail Store
Small Office
Office
Warehouse
Religious
Educational
Vacant
Vacant - Unbuildable
Vacant - shared
Abandoned
Vacant
Land use information based on DC Tax and Revenure Records
Feature Key
Roads
Parking Lots
Alleys
Median
Sidewalks
Building Footprints
Zoning Boundaries
Square Index
Board of Zoning Adjustment
Application #17004
Zoning and Land Use Map
DC Office of Planning
March 28, 2003
N
Scale 1:1800
100 0 100 200 Feet
Attachment 1



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

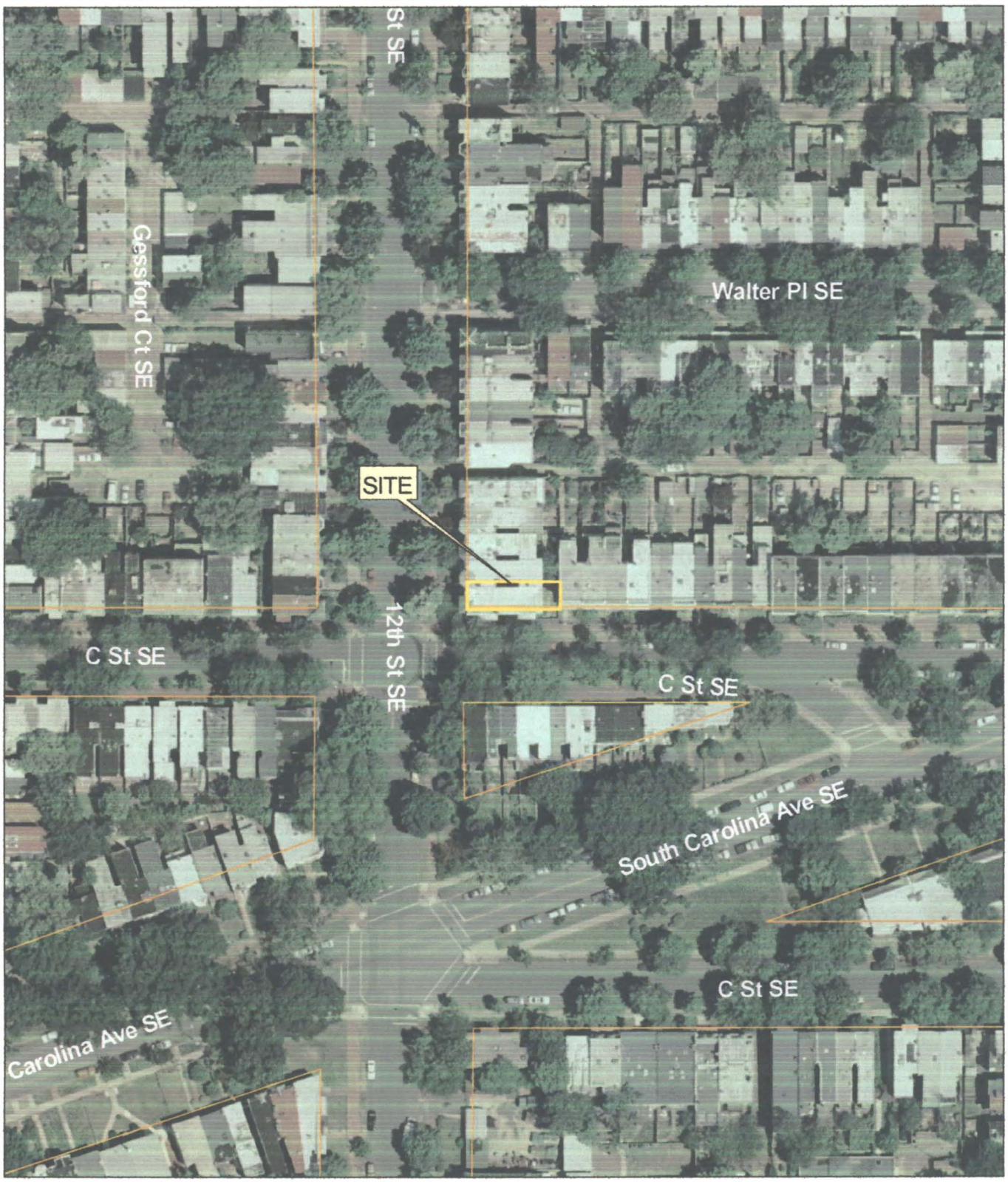
DC Office of Planning
March 28, 2003

N

Scale 1:4800

400 0 400 Feet

Attachment 2



Board of Zoning Adjustment
Application No. #17004
Aerial Photograph

DC Office of Planning
March 28, 2003

N

Scale 1:1200

25 0 25 50 75 100 Feet

Attachment 3