GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

D.C. BOARD OF ZONING
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MEMORANDUM

DATE: May 29, 2003

TO: District of Columbia Board of Zoning Adjustment

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

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17018
Nicol Property
1811 8th Street, N.W.
Square 417 Lot 804

Summary

The applicant seeks 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 two and half-story single-family row dwelling into an apartment building with a unit on each floor. Currently, the dwelling is vacant. The applicant intends to gut the structure, restore the façade and convert it to a 3-unit condominium with required parking. Section 403.2 requires that conversions of existing structures to apartments requires 900 square feet of lot area per unit. The existing lot area is 1900 square feet, which is 800 square feet (29.63%) short of the lot area requirement.

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 row houses. No evidence was provided that showed an exceptional situation that would warrant converting the existing single-family structure into a three-unit structure.

BZA
Case No. 17018
Exhibit No. 28

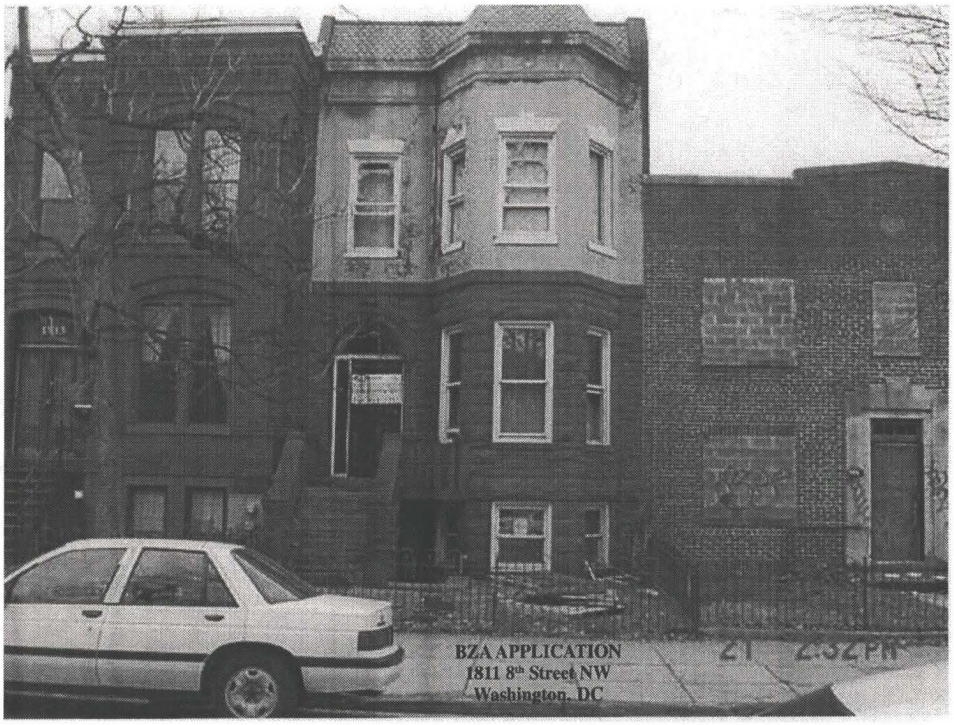
Board of Zoning Adjustment
District of Columbia
CASE NO. 17018
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would warrant converting the existing single-family structure into a three-unit structure.

- ❖ 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 single-family row house or 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, Frank E. Nicol, owns 1811 8th Street, N.W. (Square 417 Lot 804). The property lies in the R-4 Zoning District and contains approximately 1,900 square feet of land. The lot is improved with a two and half-story single-family row house with a basement. The property, an interior unit, is part of a set of historic row houses built around the turn of the century. The row house is a contributing structure to the Greater U Street Historic District. Rowhouses are the predominant uses in the area (Attachment 1).

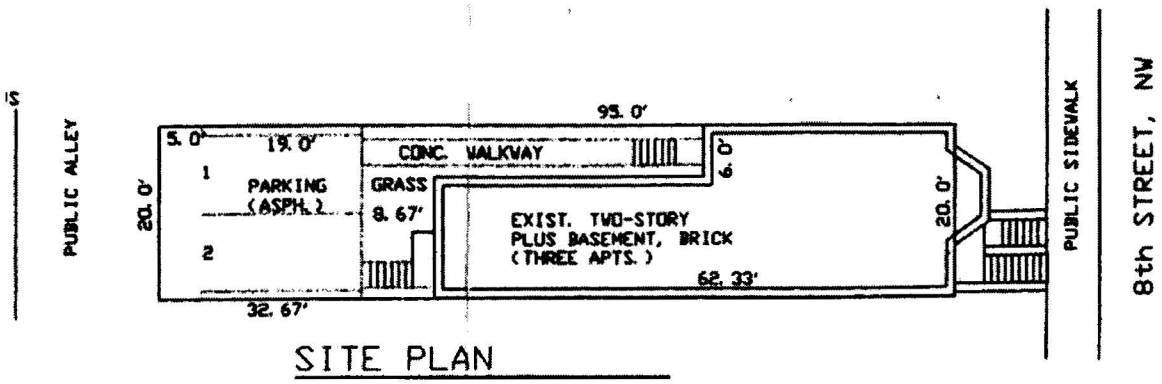


The existing structure is vacant and according to the applicant requires substantial interior renovation to bring the building up to code.

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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. A separate entrance is already provided for the basement and the first and second floor units would share the main entrance. The structure would be gutted and reconstructed to provide two bedrooms, living/dining area, a kitchen and 2½ baths on each floor. The rear 24' of the lot will provide two paved parking spaces.



SITE PLAN

Comprehensive Plan

The property is identified as mixed-use moderate density residential/low density commercial on the General Land Use map (See Attachment 2). Mixed-use areas that allow for different combinations of uses and intensities are defined to stimulate new housing and job opportunities and, at the same time, eliminate uses that are not appropriate in residential neighborhoods (§1100.7(e)). The moderate density designation includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density housing (§1103.2). The low-density commercial land use category includes shopping and service areas that are generally low in scale, character, and activity, and that provide a limited or specialized range of retail goods and services as the predominant uses (§1106.1).

A major theme of the Comprehensive Plan is to stabilize and improve District neighborhoods (§101.1(a)). The granting of a variance to §403.2 in the R-4 zone would set a precedent that could destabilize the neighborhood by creating a rash of conversions of single-family homes to multi-family structures. Therefore, granting this variance would be inconsistent with the objectives and policies of the Comprehensive Plan.

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 provide 900 square feet of lot area per unit. For three units a total of 2700 square feet would be required. The property only has 1,900 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 row house, a use that can be reasonably continued. The applicant's statement presents three arguments to address this test:

1) There is a disconnect between the intent of the R-4 district and the conversion limitations;
2) The relationship of the basement to the main structure; and,
3) The large floor plate is "outdated in this local market area", requiring the conversion to smaller units.

Regarding the first point, if there is a disconnect between the intent of the R-4 district and the conversion limitations, then this would be more appropriately addressed by the Zoning Commission. However, section 330.3 clarifies the intent of the R-4 District on this specific point by stating that 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 applicant's second point regarding the design of front and back entrances to the

basement would support conversion of the structure into a two-unit dwelling or flat, but does not establish a unique situation creating the need for a third unit. Finally, the claim regarding local market conditions is not substantiated by any evidence and, if true, would not be unique to this particular property as is required by the test.

Practical Difficulty

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

1. The high cost of material and labor prohibit returning the currently vacant property to residential use.
2. There is no vacant land available to purchase that would allow the applicant to comply with the regulation.

The applicant has not shown that there is no opportunity for a reasonable return from the use of the property as a flat. No cost of material or labor have been provided as evidence to support the practical difficulty claim. Even if provided, 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 issue, while perhaps true, is not related to any unique situation that must be established in this case. This argument assumes that conversion to three-units is necessary, which as discussed above has not been shown.

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 renovation of a vacant structure will help stabilize the neighborhood;
2) The renovation and conversion will add value to the block.
3) The provision of required on-site parking will be an asset to the community; and,
4) The granting of the variance will have no impact on the intent, purpose, and integrity of the zone plan.

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

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

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

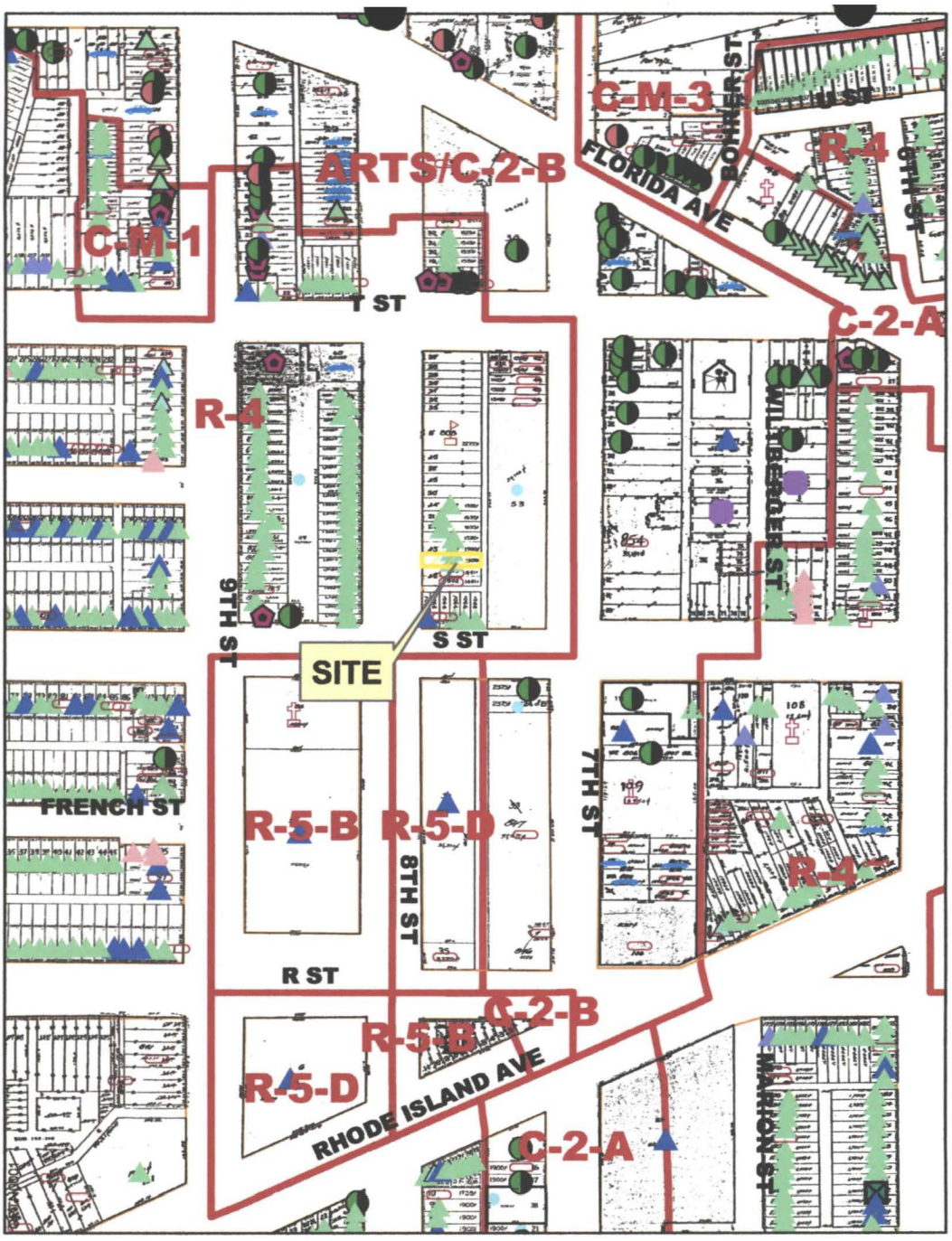
ANC 1B does not support the application. The Office of Planning also spoke to several neighbors, who expressed concern about the negative impacts of the proposal in terms of the character of the neighborhood, on-street parking availability, trash pickup and maintenance. There was concern that this variance, if granted, would set a precedent that would lead to the eventual destabilization of the neighborhood.

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



Legend

- Non-Conforming
- Single Family Dwelling
- SFD w/Home Occupation
- Res. Condo
- Multi-family Dwelling
- Flat
- Hotel/Motel/Inn
- Res. Transient
- Retail Store
- Restaurant
- Small Office
- Vehicle Sales
- Parking Garage
- Parking Lot
- Theater
- Industrial
- Religious
- Medical
- Educational
- Public Service
- Museum, Library, Gallery
- Recreational
- Special Purpose
- Vacant

Zoning and Use Map
BZA Application #17018

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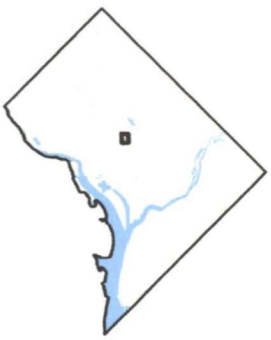
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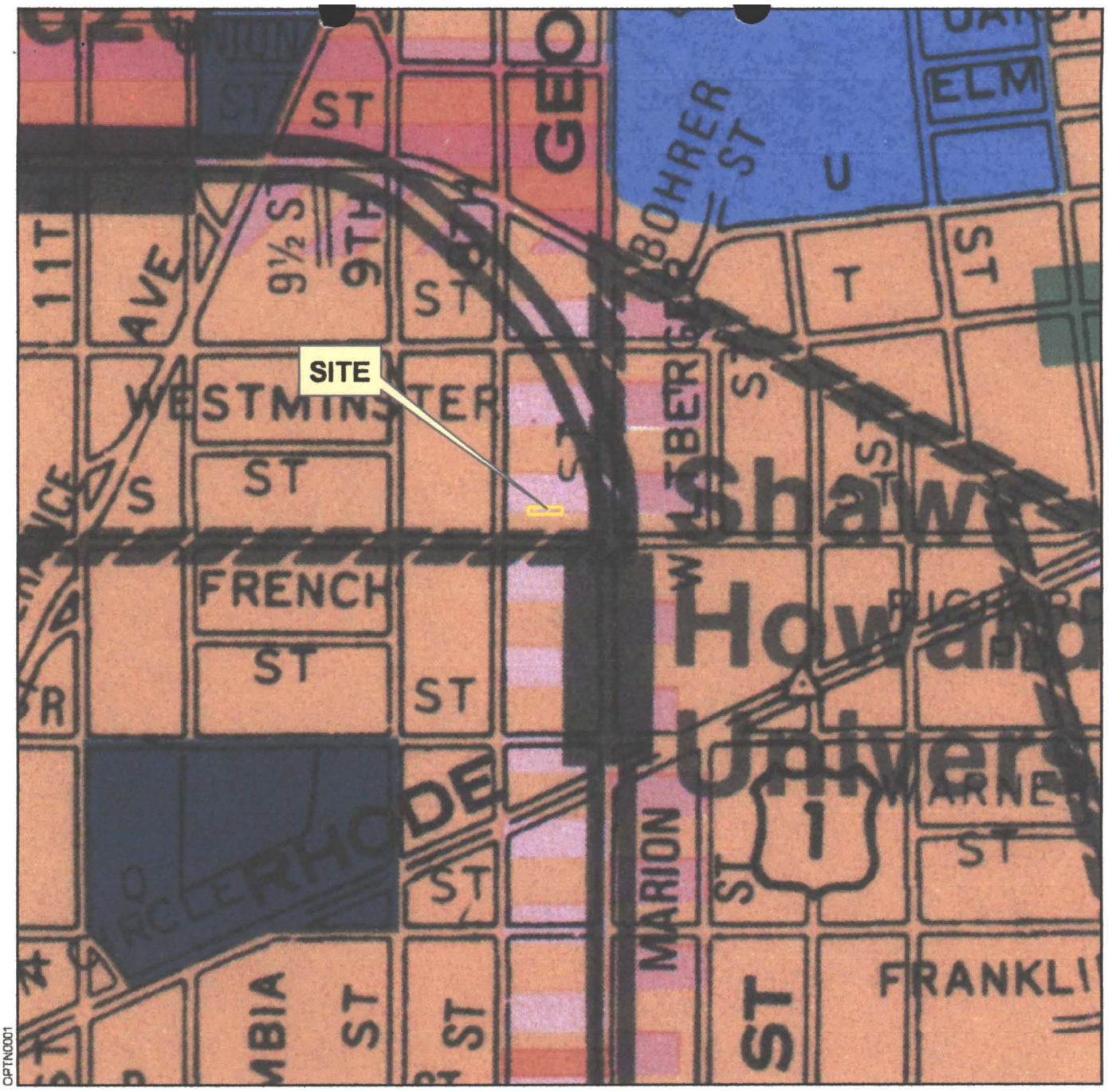
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District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ May 27, 2003

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.



Attachment 1



Comprehensive Plan Map
BZA Application #17018

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Feet

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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



Attachment 2



Aerial Photo
BZA Application #17018

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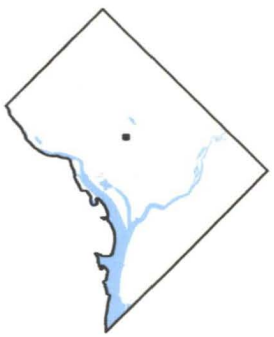
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Attachment 3