GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

DATE: November 24, 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. 17059
Sam Homes, LLC
1342 Montague Street, N.W.
Square 2796 Lot 46

Summary

The applicant requested a variance from the use provisions of §201.1 to allow a row house and semi-detached dwelling use in the R-1-B zone. The applicant seeks to subdivide the existing 10,625 square-foot lot into three lots to construct a set of three townhouses. The proposed lots will require lot area, lot width and side yard variances from §§401.3 and 405.9.

Subsequent to the original application, the applicant submitted a letter requesting a postponement and stating he would modify the proposal to construct two single-family detached homes and the only relief required would be an area variance from the lot width requirements of §401.3. At the time of this report no revised application has been received; therefore, this report addresses the original application as submitted to the Board.

Recommendation:

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

- The applicant has not shown an exceptional situation. The size of the existing lot may be large, but the applicant has shown no nexus between the size of the lot and the variance requested.

BZA
Case No. 17059
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO. 17059
EXHIBIT NO. 27

- The applicant has not substantiated that the strict application of the zoning regulations results in an undue hardship. The applicant states that "the cost of construction of a residence commensurate with the size of the property would cause a financial burden to the owner since the cost of such residence would be prohibitive." However, no construction cost data or market analysis has been provided to substantiate that there is no other reasonable matter-of-right use for this property.
- The use of this property as a rowhouse and two semi-detached dwellings will be a substantial detriment to the intent of the zone plan, and the character of the SSH/R-1-B zone. The ANC found and the Office of Planning concurs that the proposed higher density development is not compatible with the SSH/R-1-B Zone District. The ANC further found that the use variance would cause parking problems, impact negatively on property values of detached single family dwellings, and would be out of character with the architectural style of the existing homes.

Background

The applicant, Sam Homes, LLC, owns 1342 Montague Street, N.W. (Square 2796 Lot 46). The property lies in the SSH/R-1-B Zoning District and contains approximately 10,625 square feet of land. The lot is improved with a single-family detached dwelling of unknown date of construction. The 1892 Geodetic survey for the District shows a structure at this location, so the existing structure may have been built prior to that date. The structure is in a state of disrepair and may require substantial investment to make it habitable. The area contains mostly single-family detached housing to the west and flats, rowhouses and multi-family dwellings to the east (Attachment 1).

An alley abuts the rear of the property. The property to the east is developed with a semi-detached single-family dwelling and the eastern half of the square is mostly semi-detached dwellings in the R-5-A zone district. The property to the west, the western half of the square as well as the properties across the street are developed as detached single-family dwellings, in the SSH/R-1-B zone district.

Project Description

In the original application, the applicant seeks to subdivide the existing lot into three lots and construct three new dwellings. The construction would provide two new semi-detached dwellings and a row dwelling. Subsequently, the applicant submitted a letter requesting a postponement and stating he would modify the proposal to construct two single-family detached homes and the only relief required would be an area variance from the lot width requirements of §401.3.

However, at the time of this report no revised application has been received; therefore, this report addresses the original application as submitted to the Board.

Comprehensive Plan

The property is identified as Low Density Residential on the General Land Use map (See Attachment 2). The Low Density Residential land use category includes single-family detached and semi-detached housing as the predominant uses.

The Comprehensive Plan sets goals of encouraging the renovation and adaptive re-use of existing structures rather than demolition. Generally, the Comprehensive Plan seeks to stabilize and improve the District's neighborhoods. Incursions of higher density uses in low density neighborhoods tends to destabilize those neighborhoods. The Land Use Element of the Comprehensive Plan, §1104.1, sets forth policies to meet the residential neighborhoods objectives that includes conserving and maintaining the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights (§1104.1(b)).

Zoning

The proposed use is not permitted in the SSH/R-1-B Zone District and the applicant is seeking relief under 11 DCMR §3103 for a use variance from the provisions of §201.1.

The Sixteenth Street Heights Overlay District sets forth the following purposes (§1551.3):

(a) Promote the conservation, enhancement, and stability of this low-density, single-family neighborhood for housing and neighborhood-related uses;

(b) Control the further conversion of residential housing to nonresidential uses in order to maintain the housing supply and minimize the external negative impacts of new nonresidential uses that are permitted in the SSH/R-1-B District in order to preserve neighborhood quality; and

(c) Allow the neighborhood to continue to provide a range of health and social service facilities as well as private institutions that provide cultural and religious enrichment and economic vitality, but within the framework of improved public review and control over the external effects of nonresidential uses. The objective is to make more compatible the Comprehensive Plan's goals and policies for maintaining the quality and stability of residential neighborhoods with other policies related to the reasonable provision of human services throughout the District of Columbia.

"The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes." (§200.1)

The combination of Sixteenth Street Heights Overlay and R-1-B preserves and encourages low-density, single-family development. The proposed rowhouse and semi-detached dwelling development is not consistent with these purposes.

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.

To address the test of exceptional conditions of the property, the applicant's statement presents the argument that the property is 2-3 times larger than the contiguous lots on either side of the property. The Office of Planning does not find this compelling evidence that the burden of proof is met for this test, particularly because one of these contiguous lots lies in a different Zone District (R-5-A) which allows smaller lot sizes.

OP also notes that the size of the lot fully complies with the development standards of the R-1-B zone

Undue Hardship

The hardship identified by the applicant that results from the strict application of §201.1 are:

1. The property would be impractical to develop as a single family detached residence;
2. The construction of a residence commensurate with the size of the property would cause a financial burden to the owner since the cost of such residence would be prohibitive.

No evidence was provided by the applicant to support these statements or make the necessary connection between the relief required and the hardship claim. The Office of Planning cannot conclude that this test has been met.

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 the following points address this standard:

1) Granting the variance would allow construction that is in keeping with properties on either side of the subject property;
2) Since the contiguous houses are rowhouses in the R-1 zone the requested variance would not be inconsistent with the general intent and purposes of the zone plan.

OP cannot conclude that the expansion will not impair the intent of the Zoning Regulations or the integrity of the Plan. The contiguous three properties to the east are developed with two semi-detached dwellings and a row dwelling, in the R-5-A zone district. The properties to the west are detached single-family dwellings in the SSH/R-1-B zone district.

When considered in combination with the stated purpose of the SSH overlay and the intent of the R-1-B zone district which specifically addresses the "areas now developed with one-family detached dwellings" OP concludes that the requested variances would adversely impair the intent of the zoning regulations.

Community Comments

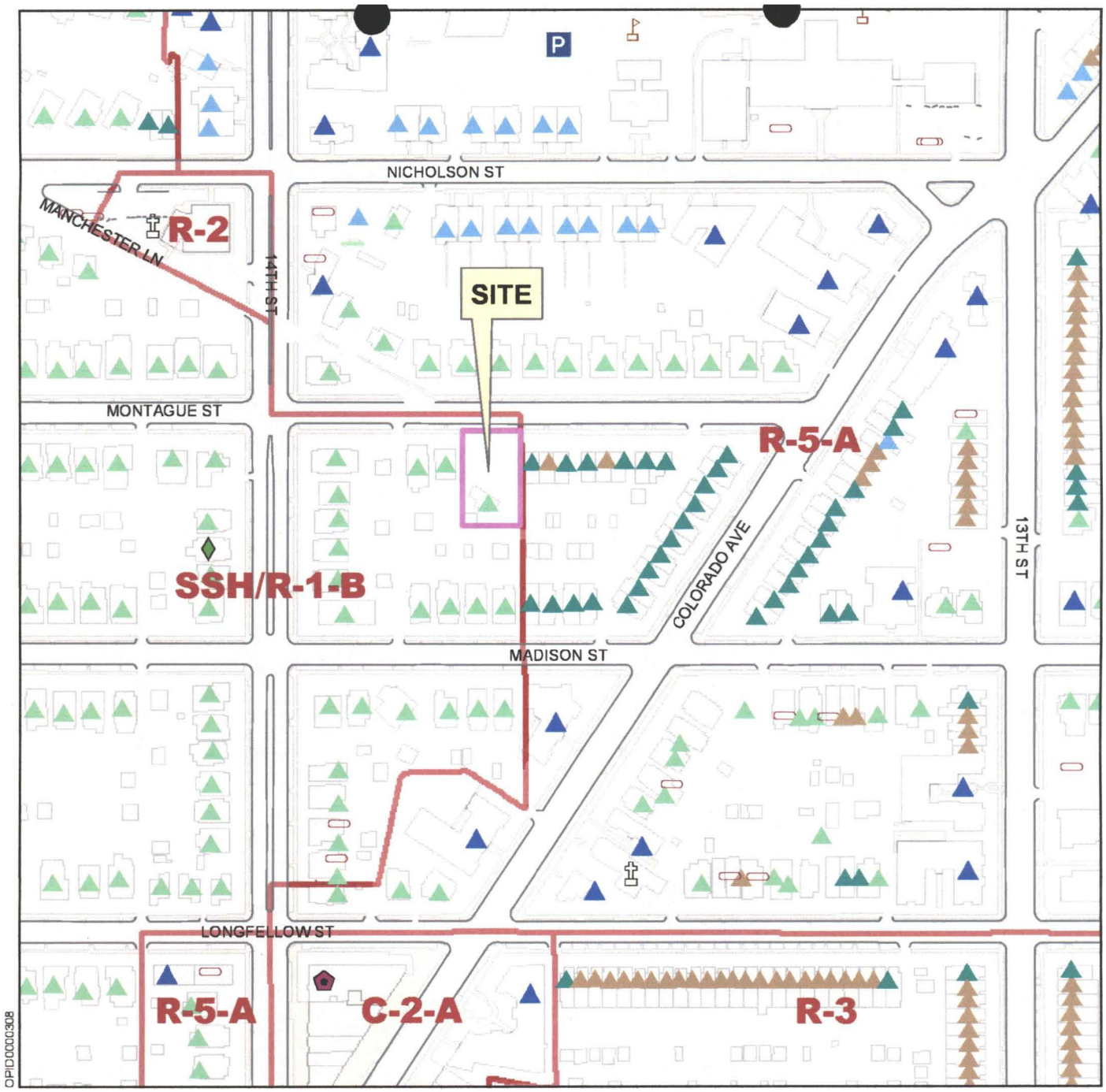
ANC 4A has submitted a well articulated argument against granting the proposed variances. The report cites traffic, parking and neighborhood character as its area of concern with the application.

Recommendation

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

Attachments:

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



Zoning and Land Use
BZA Application #17059

N

Feet

0 100 200 300

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Anthony A. Williams, Mayor

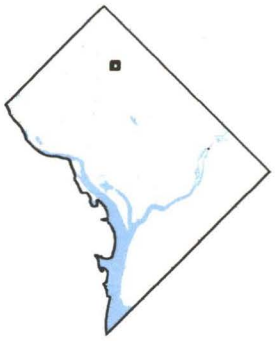
Office of Planning ~ November 25, 2003

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.

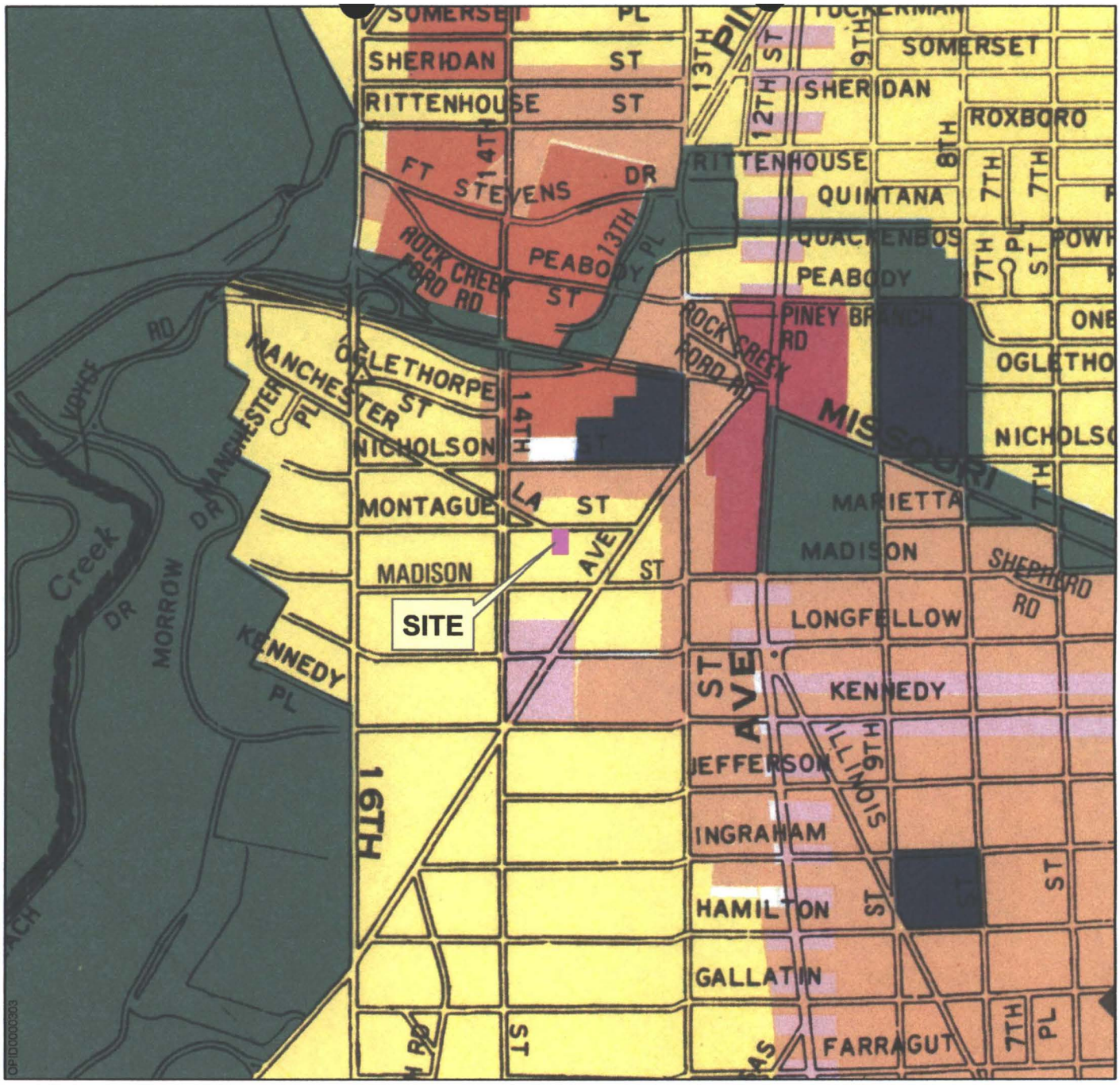
Note: Land Use Info based on OTR records.

Land Use Legend

- Single-family Detached
- Single-family Semi-detached
- Row house
- Accessory Garage
- Singlefamily Mixed Use
- Single-family Misc
- Multi-family Dwelling
- Flats
- Office
- Parking Garage/Lot
- Religious
- Educational
- Special Purpose
- Vacant



Attachment 1



Comprehensive Plan Map
BZA Application #17059

N

Feet

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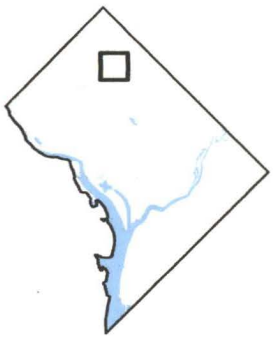
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Generalized Land Use Key

- 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 #17059

N

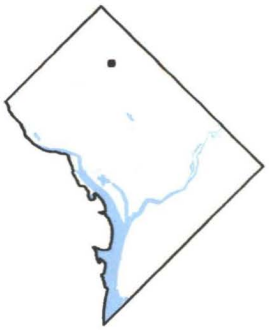
Feet

0 50 100 150

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Office of Planning ~ August 28, 2003

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Attachment 3