GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

DATE: March 5, 2004

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 DM

SUBJECT: Board of Zoning Adjustment Case No. 17124
Heu Property
601 Massachusetts Avenue, N.E.
Square 866 Lot 809

Summary

The applicant seeks an area variance from the lot occupancy provisions of §403.2 to allow lot occupancy of 85% where 40% is permitted and an area variance from the provisions of §2100.1 to allow zero parking spaces where one is required in the R-4 zone. The applicant seeks to add a flat to the top and rear of an existing laundry. The existing laundry was granted a use variance in 1996 in BZA Application No. 16125 and will remain.

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

- The applicant has not shown an exceptional situation that creates the need for the relief sought. Although the lot is a unique shape that narrows to an approximately 12-foot wide strip, a substantial portion of the property remains at a sufficient width and therefore the excessive extent of relief requested is not justifiable. No evidence was

BZA
Case No. 17124
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
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EXHIBIT NO. 26

provided that showed an exceptional situation that would limit reasonable development of the property with a structure that would conform to the lot occupancy requirements.

- ❖ No evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty to the extreme extent of relief requested. There remains reasonable use of the property as its current legally non-conforming commercial use or through abandoning the commercial use and constructing a new conforming structure for a matter-of-right use.
- ❖ 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. This application proposes, essentially three units, although one is given over to a commercial use. The intensity of the use proposed is not appropriate in the R-4 Zone.

The Office of Planning recommends approval of the parking variance based on the following findings:

- ❖ The lot is a unique shape, a small size and does not have alley access.
- ❖ The shape, size and limited access create a practical difficulty in providing an on-site parking space for any matter-of-right development of the property.
- ❖ The matter-of-right use of this property is consistent with the intent of the zone plan, the character of the R-4 zone, or the public good. Redevelopment of this property with an attractive structure that is compatible with the character of the neighborhood would be beneficial to the neighborhood, but such redevelopment could not occur without the granting of a variance from the parking requirements of §2100. The creation of a curb cut on 6th Street would be required to provide parking on the site and such a curb cut would be incompatible with the character of the neighborhood and contrary to the policies of the Historic Preservation Act.

In summary, the Office of Planning recommends that the project, as proposed by the applicant, cannot be approved, but a proposal of less intensity (i.e., a new flat without the commercial component or a single dwelling unit on top of the existing commercial building) and a lot occupancy of 60% could be approved if the applicant chose to revise his proposal to this extent.



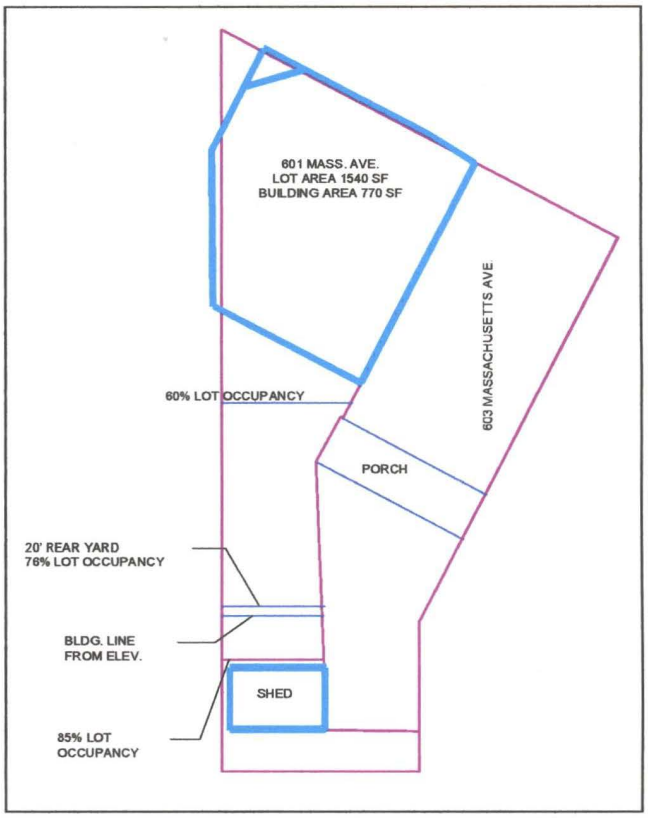
Figure 1 601 Massachusetts Ave., NE

Background

The subject property is located at the southeast corner of Massachusetts Avenue and 6th Street, NE. The lot contains approximately 1540 square feet of lot area (according to tax records) and is occupied by a small one-story structure used as a dry cleaning drop off facility. The property is located in the Capitol Hill Historic District, but is not a contributing structure to the District. The existing rear yard is approximately 50 feet. A 4' wide by 24' deep strip at the rear of the property serves as a connecting pedestrian alley to the two properties to the east. A 7.5' x 11.56' shed abuts the alley. A six-foot wall extends the length of the 6th Street frontage from the gate to the pedestrian alley to the existing building. To the east the adjoining property has a contiguous shed and a board fence running coincident with the property line to the corner of the back porch on 603 Massachusetts Avenue. The property turns at this point and is perpendicular to Massachusetts Avenue. Following the property line the porch is approximately 6 feet deep and the western wall of the rowhouse at 603 runs approximately 6-feet before reaching the rear of the existing laundry. The two buildings share a common wall up to their front facades on Massachusetts Avenue.

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The existing structure runs 27 feet along the 34-foot Massachusetts Avenue frontage before angling in slightly leaving a small triangle of unoccupied lot area at the northwest corner of the property. Due to discrepancies in the applicant's survey and lot occupancy calculations, the Office of Planning has reconstructed the property with the dimensions given by the Office of the Surveyor and the additional measured dimensions of the existing structure provided by the applicant at the request of the Office of Planning in a computer-aided drafting program. The diagram below shows the approximate relationship of the building to the lot.



The computer generated lot has a lot area of 1540 square feet, which is the record lot area. Based on this 2D computer model of the property the area of the existing building on the lot is 770 square feet (50%). With the addition of the existing shed the total lot coverage is 857 square feet or 56%.

Project Description

The applicant proposes to construct two residential units above the existing laundry. The addition would extend back to within 18.89 feet of the rear property line (based on the architectural drawings supplied), the applicant has not requested a variance from the rear yard requirements, so presumably the design would be slightly revised to provide the required 20-foot rear yard. The existing shed would be removed. The completed structure would be three stories with several bay projections into public space and three sets of stairs projecting into public space, one on Massachusetts and two on 6th Street. Each of the two upper floors would contain a dwelling unit. The completed mixed-use building would be approximately 3700 square feet (excluding proposed projections into public space) and occupy approximately 1231 square feet of lot area for a total lot occupancy of 80%.

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Comprehensive Plan

The property is identified as moderate density residential on the General Land Use map (See Attachment 2). 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).

A major theme of the Comprehensive Plan is to stabilize and improve District neighborhoods (§101.1(a)). The granting of a large variance to §403.2 in the R-4 zone would allow an increase in the intensity of the use of this property that would increase parking and traffic, though minimally, in an area experiencing traffic congestion and parking shortages. Therefore, granting this variance would be inconsistent with the objectives and policies of the Comprehensive Plan.

Zoning

The R-4 Zone District permits a maximum lot occupancy of 40% for structures that are not row dwellings, flats, churches or public schools and the applicant is seeking relief under 11 DCMR §3103 for an area variance from the provisions of §403.2 to permit a lot occupancy of 85%. 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.

The proposed project is not a permitted use in the zone. The presence of the commercial use keeps the structure from being a flat. It is essentially a 3-unit apartment with one unit converted to commercial use.

Section 403.2 requires that no structure, including its accessory building, shall occupy it lot in excess 60% for a row dwelling, flat, church or public school and 40% for all other structures. Based on the applicant's self-certification the following table summarizes the area requirements:

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Area Req.	Existing	Required/Allowed	Proposed	Variance	Code Ref.
Height	10'	40'/3 Stories	40'[1]/3 Stories	None	§400.1
Min. Lot Area	1540 SF	1800 SF[2]	1540 SF	None[3]	§401.3
Min. Lot Width	23.5'	18'[2]	23.5'	None[3]	§401.3
Lot Occupancy	39%[4]	60%[5]	85%[6]	25%[7]	§403.2
Rear yard	50'+	20'	20'	None[8]	§404.1
Side yard	None	None	None	None	§405.9
Parking	0	1	0	1	§2100
Loading	0	None	0	None	§2200

[1] The elevations presented with the application show a proposed building height of slightly less than 31'.
[2] Figure shown is for a flat. See discussion below regarding possible additional relief.
[3] See discussion below regarding possible additional relief.
[4] OP calculates 56%. See discussion below regarding possible additional relief.
[5] OP believes this should be 40%. See discussion below regarding possible additional relief.
[6] OP calculates 76%. See discussion below regarding possible additional relief.
[7] OP calculates 36%. See discussion below regarding possible additional relief.
[8] See discussion below regarding possible additional relief.

Possible Additional Relief

In the R-4 zone, the minimum lot area requirement of 1800 square feet applies to row dwellings and flats, one-family semi-detached dwellings have a minimum lot area requirement of 3,000 square feet, conversions to an apartment house require 900 square feet per apartment and all other structures require a minimum lot area of 4,000 square feet. For lot width the minimum lot width for row dwellings and flats is 18 feet, for one-family semi-detached dwellings is 30 feet, no lot width is prescribed for conversions and all other structures require a minimum lot width of 40 feet. The existing structure, not being one of the enumerated uses falls into the category of all other structures. Section 401.1 states:

> *Except as provided in chapters 20 through 25 of this title, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.*

The Office of Planning believes additional relief is needed from this provision.

The Office of Planning believes the existing lot occupancy is approximately 56%; therefore, relief from §2001.3 would also be required. Since the structure falls under the category of "all other structures" and is required to have a lot occupancy of 40%.

Contrary to the application, the Office of Planning believes the actual lot occupancy

proposed with a 20' rear yard to be closer to 76% with the inclusion of the small triangle of unoccupied area at the northwest corner of the lot. Therefore, the Office of Planning believes the actual relief from lot occupancy required to be approximately 36% (76-40). If the 85% lot occupancy requested is applied to the lot the rear yard is reduced to 13.5'; however, the applicant did not request a variance from the rear yard setback.

The proposed use of the site will be two-dwelling units and a commercial laundry. The proposed mixed-use structure does not meet the definition of a flat and is most similar to a 3-unit apartment with one unit given over to commercial use. Therefore, the Office of Planning believes the proposed use requires a use variance.

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

The applicant has not shown an exceptional situation that creates the need for the lot occupancy relief sought. Although the lot is a unique shape that narrows to an approximately 12-foot wide strip, a substantial portion of the property remains at a sufficient width and therefore the excessive extent of relief requested is not justifiable. No evidence was provided that showed an exceptional situation that would limit reasonable development of the property with a structure that would conform to the lot occupancy requirements.

The applicant's statement presents four arguments to address this test:

1) The unusual shape of the lot;
2) The narrow width of the lot for a majority of its depth.

The Office of Planning concurs that the shape and width of the lot present an exceptional situation regarding the parking variance. In addition, the small lot size, the lack of alley access and the limitations on curb cuts due to the historic district also present additional constraints to providing parking on this property.

Practical Difficulty

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

1. The difficulty in achieving a design for the intended use;
2. The difficulty in maintaining an historical balanced appearance
3. The narrowing of the lot down to 11.56 feet "pushes" the building to occupy more land to accommodate a reasonable size room.

Regarding the first point there is no intent in the R-4 zoning district to provide a mixed-use building with a ground floor commercial use and two dwelling units above. The applicant states that not being able to cover more of the lot is a waste of the lot. Although Mr. Heu sees no value in having unoccupied space on the lot, the zoning regulations do see value in unoccupied lot area in providing air and light and preventing the overcrowding of land.

Regarding the second point, there is no documented historical value to occupying 80% of the lot. Breaks in the building wall between the rear of a structure and the buildings facing the side street are a common configuration in the historic district. No evidence is provided that the Historic Preservation Review Board would "require" this design solution.

As to the third point, no evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty to the extreme extent of relief requested. There remains reasonable use of the property as its current legally non-conforming commercial use or through abandoning the commercial use and constructing a new conforming structure for a matter-of-right use. Adequate space and lot width are available for a less intensive development.

The practical difficulties identified by the applicant that result from the strict application of the parking requirements of §2100 are:

1. The narrow rear yard could not accommodate a parking space;
2. There is no access from an alley and a curb cut along 6th Street would not be permitted because of the Historic District.

The shape, size and limited access create a practical difficulty in providing an on-site parking space for any matter-of-right development of the property. The Office of Planning concludes that the exceptional situation of the property does cause a practical difficulty in meeting the strict application of the parking regulations.

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. The proposed development will "bring a significant historical value, image and elegant appearance to the neighborhood";
2. The lack of parking and excessive lot occupancy are common in the neighborhood;
3. The proposed mixed use building is commonly found on corner lots in the district; and,
4. There is no increase in traffic or noise due to the proposed development.

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." This application proposes, essentially three units, although one is given over to a commercial use. The intensity of the use proposed is not appropriate in the R-4 Zone. 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.

Additionally, light and air to the adjoining property will be substantially impaired by the proposed development. The adjoining property to the east at 603 Massachusetts Avenue has a 32-foot rear yard The proposed structure will present an approximately 40' high blank wall to 55% of the western side of the yard.

Regarding the parking variance, a less intense redevelopment of this property would be consistent with the intent of the zone plan, the character of the R-4 zone, or the public good. Redevelopment of this property with an attractive structure that is compatible with the character of the neighborhood would beneficial to the neighborhood, such redevelopment could not occur without the granting of a variance from the parking requirements of §2100. The creation of a curb cut on 6th Street would be required to provide parking on the site and such a curb cut would be incompatible with the character of the neighborhood and contrary to the policies of the Historic Preservation Act.

ANC Recommendation

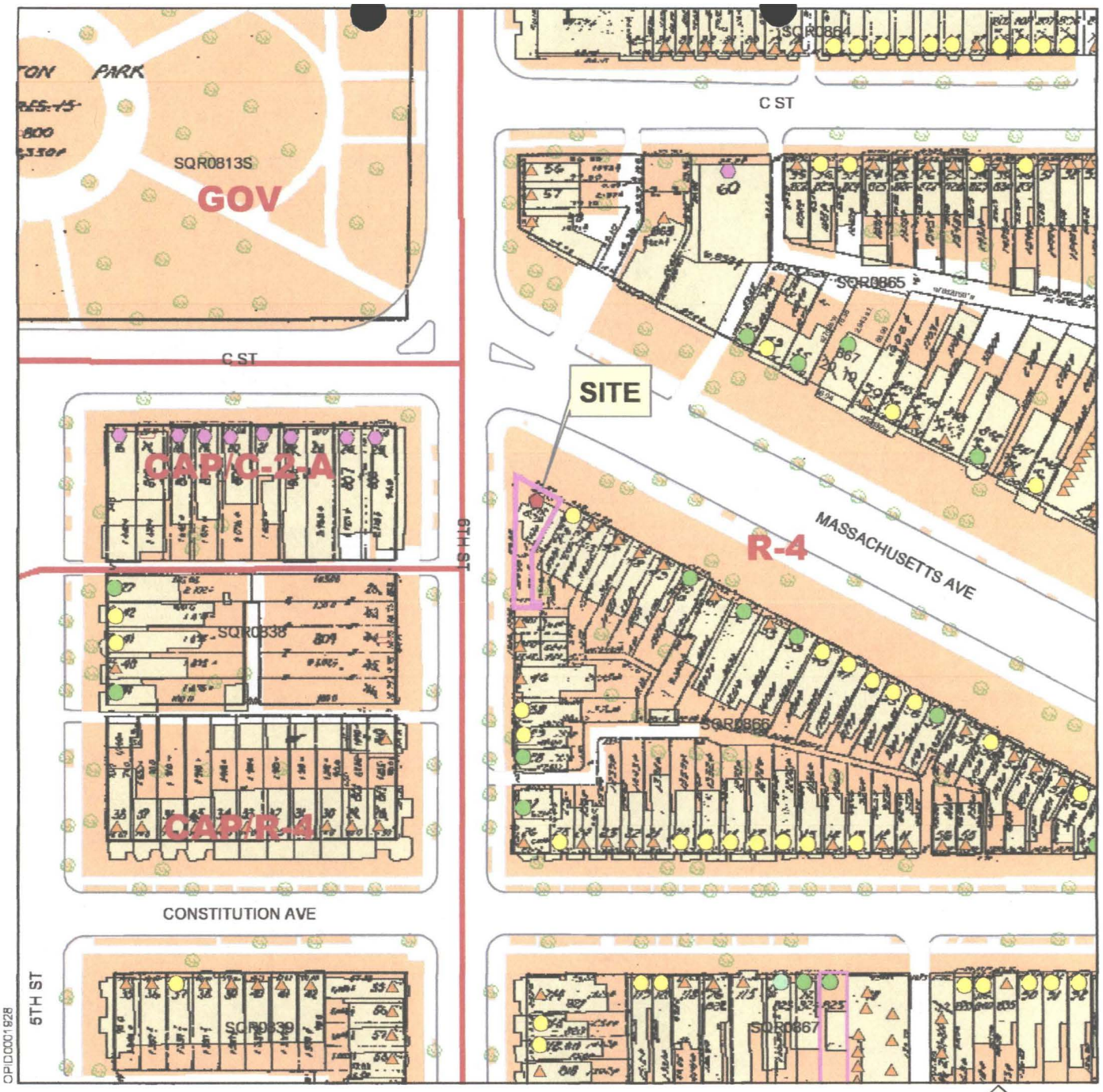
ANC 6C is reviewing the application and has concerns with the impact on the neighboring property. The ANC is supportive of a parking variance to allow the attractive redevelopment of the property.

Recommendation

In summary, the Office of Planning recommends that the project, as proposed by the applicant, **cannot be approved**, but a proposal of less intensity (i.e., a new flat without the commercial component or a single dwelling unit on top of the existing commercial building) and a lot occupancy of 60% could be approved if the applicant chose to revise his proposal to this extent. 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



Zoning and Land Use
BZA Application #17124
601 Massachusetts Avenue, NE

N

Feet

0 50 100 150

★ ★ ★ **Government of the District of Columbia**
Anthony A. Williams, Mayor

Office of Planning ~ February 24, 2004

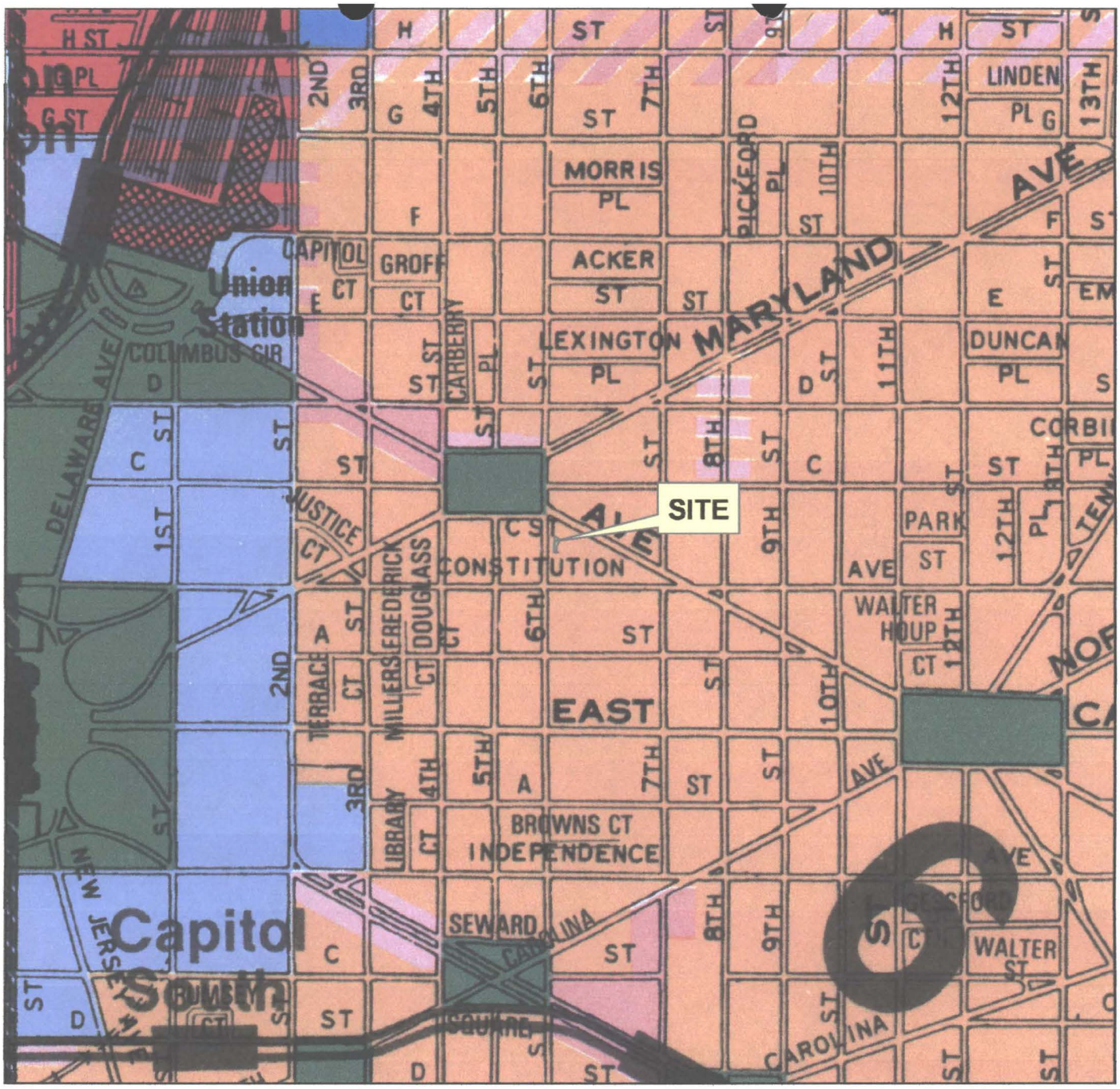
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Land Use Legend

- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Multi-family
- *Multi-Resid. Garage*
- Hotel
- Club
- Dormitory
- Fraternity/Sorority House
- Resid. Transient
- Store
- Office
- Parking - Special Purpose
- Restaurant
- *Religious*
- Medical
- Educational
- Embassy or Chancery
- Museum, Library, Gallery
- Special Purpose
- Vacant
- Vehicle Service Station

Note: Land Use Info based on OTR records.

Attachment 1



Comprehensive Plan Map
BZA Application #17124
601 Massachusetts Ave., NE

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Feet

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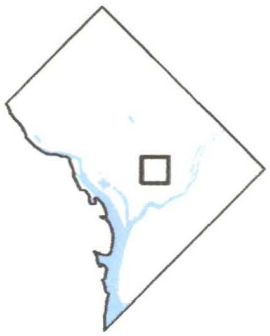
★ ★ ★ Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ December 11, 2003

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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



QP:D0002060

Aerial Photo
BZA Application #17124
601 Massachusetts Ave., NE

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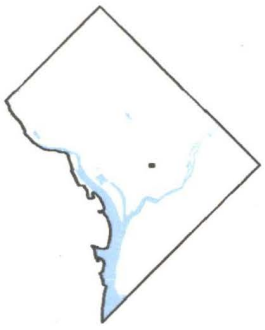
Feet

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District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ January 22, 2004

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Attachment 3



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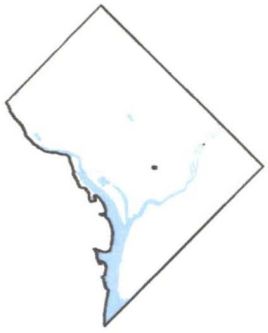
Aerial Oblique Photos
BZA Application #17124
601 Massachusetts Ave., NE

Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ March 9, 2004

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☆ Subject Site



Attachment 4